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Papers Relating to the  
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of the  
United States  
1930

(In Three Volumes)  
Volume III



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## ADMISSION TO THE UNITED STATES OF GERMAN STUDENT LABORERS—Continued

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1930 Mar. 24	<p><i>To the Secretary of Labor</i></p> <p>Request for Labor Department's decision regarding admission of German student laborers referred to in German Embassy's note of March 21; also whether previous arrangements for admission of 100 students annually will be discontinued entirely, or whether a small number will be admitted annually on individual basis.</p>	111
Mar. 31	<p><i>From the Second Assistant Secretary of Labor</i></p> <p>Advice that order terminating student laborer agreement has been modified to provide for admission of not more than 35 applicants during 12 months beginning April 1, 1930, and that extension of temporary stay will be considered on basis of individual application.</p> <p>(Footnote: Notation that German Embassy was advised accordingly.)</p>	111
June 28	<p><i>From the German Embassy</i></p> <p>Fear that Labor Department's decision that no assurance can be given for continuation of student exchange may mean end of institution; request for reconsideration of decision.</p>	112
Sept. 3	<p><i>To the German Embassy</i></p> <p>Advice that competent authorities are unable to determine number of students which may be admitted during year beginning April 1, 1931, in view of unemployment situation in United States.</p>	113
Dec. 4	<p><i>From the German Embassy</i></p> <p>Application addressed to the Department of Labor by the German Students' Cooperative Association, December 3 (text printed), requesting the admission of 50 students for the year 1931.</p>	113
1931 Jan. 5	<p><i>To the German Embassy</i></p> <p>Information that German Students' Cooperative Association has been advised by appropriate authorities that no action can be taken with regard to the admission of additional students until just previous to April 1, 1931, when existing arrangement expires.</p>	115

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

1930 Jan. 8 (St. D. 2)	<p><i>From the German Ambassador</i></p> <p>Request for opinion whether the United States would agree to the classification of the middle group of the German consular service as "consular officers", subject to the reciprocal tax exemption under article 27 of the U. S.-German commercial treaty of December 8, 1923.</p>	116
Mar. 27 (121)	<p><i>From the Ambassador in Germany</i></p> <p>Foreign Office <i>note verbale</i> of March 21 (text printed) acknowledging American note of January 2, which stated that German consular officers and clerks in United States enjoyed free importation privileges, and outlining matters still to be agreed on in interpretation of article 27.</p> <p>(Footnote: Information that U. S. State and Treasury Departments could reach no agreement as to arrangement to be proposed to Germany, and negotiations between the two Governments were discontinued.)</p>	118

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EXTRADITION TREATY BETWEEN THE UNITED STATES AND GERMANY, SIGNED  
JULY 12, 1930

Date and number	Subject	Page
1928 Dec. 1 (2604)	<i>To the Chargé in Germany</i> U. S. willingness to expedite long pending negotiations for conclusion of extradition treaty by sending representative to Berlin for oral discussions whenever German Government indicates readiness to begin.	120
1929 May 14 (33)	<i>To the Ambassador in Germany (tel.)</i> Desire for postponement of discussions until end of June, because of delay in arrival of American representative.	121
May 16 (89)	<i>From the Ambassador in Germany (tel.)</i> Agreement of German Government to requested postponement.	122
1930 Jan. 20 (3377)	<i>To the Ambassador in Germany</i> Instructions to submit to Foreign Office draft treaty based on agreement reached at Berlin conferences, with a view to prompt conclusion of treaty.	122
July 8 (79)	<i>From the Ambassador in Germany (tel.)</i> Foreign Office suggestion for expediting signature of treaty by having written powers witnessed by German Ambassador in Washington and confirmation cabled by him.	123
July 10 (68)	<i>To the Ambassador in Germany (tel.)</i> Information that full powers were shown German Embassy for cable confirmation; instructions to proceed to signature.	123
July 12	<i>Treaty Between the United States of America and Germany</i> Text of extradition treaty signed at Berlin.	123

## EXPULSION FROM GERMANY OF JACK DIAMOND

1930 Sept. 2 (458)	<i>From the Ambassador in Germany</i> Facts regarding arrest of Jack Diamond (American wanted by New York police) by German authorities at suggestion of American Embassy; explanation that request was made on ground that Diamond could be regarded as undesirable alien, and that no request for extradition was made, since German-American extradition treaty has not yet been ratified.	129
Sept. 8	<i>From the Consul at Bremen (tel.)</i> Information that Diamond sailed for United States from Hamburg on September 6, and was held in police custody before sailing.	132
Sept. 18 (184)	<i>To the Chargé in Germany</i> Department's desire that no requests of the nature made in this case should be presented except under Department's instructions.	132

## GREAT BRITAIN

## SUPPLEMENTARY TREATY ON TENURE AND DISPOSITION OF REAL AND PERSONAL PROPERTY BETWEEN THE UNITED STATES, GREAT BRITAIN, AUSTRALIA, AND NEW ZEALAND

Date and number	Subject	Page
1930 Mar. 25 (761)	<i>From the Ambassador in Great Britain</i> Foreign Office note of March 24 (text printed) listing British Colonies and Protectorates which have not adhered to the convention between the United Kingdom and the United States, March 2, 1899, for the disposal of real and personal property.	134
Oct. 6 (520)	<i>To the Ambassador in Great Britain</i> Instructions to ascertain whether British Government intends to adhere to convention on behalf of any of the Colonies and Protectorates listed in note of March 24, 1930.	135
1931 Jan. 26 (1594)	<i>From the Ambassador in Great Britain</i> Foreign office note of January 23, 1931 (text printed), concurring in Ambassador's suggestion of supplementary convention, and suggesting insertion of provisions regarding right of application to British colonies and territories without time limit.	136
Mar. 3 (694)	<i>To the Ambassador in Great Britain</i> Instructions to advise British Government of U. S. agreement to application of convention to non-adhering British dependencies, and to additional proposals.	138
Mar. 13 (1752)	<i>From the Ambassador in Great Britain</i> Note to Foreign Office dated March 13 (text printed) in accordance with Department's instruction No. 694, of March 3. (Note: Information that supplementary treaty on tenure and disposition of real and personal property was concluded on May 27, 1936.)	139

## REFUSAL OF THE BRITISH GOVERNMENT TO EXEMPT AMERICAN CONSULAR OFFICERS FROM INCOME TAX ON NONOFFICIAL INCOME DERIVED FROM SOURCES OUTSIDE THE UNITED KINGDOM

1930 Jan. 28 (610)	<i>From the Ambassador in Great Britain</i> Request for instructions whether American Consul at Bristol should be advised to complete income tax form on income other than official emoluments, which has been requested by local tax officials.	141
Feb. 19 (40)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to advise Foreign Office of U. S. tax regulations granting tax exemption to foreign consular officers on income derived outside United States, and to request reciprocal exemption.	142
May 10 (97)	<i>From the Ambassador in Great Britain (tel.)</i> Foreign Office reply (excerpt printed) refusing requested exemption to American consular officers.	142
Aug. 1 (458)	<i>To the Ambassador in Great Britain</i> Instructions to bring to attention of British Government U. S. regulations governing classification of consular officers for taxation purposes, and possibility of request for change in classification of British consular officers in event of denial of tax relief to American consular officers.	143

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## REFUSAL OF THE BRITISH GOVERNMENT TO EXEMPT AMERICAN CONSULAR OFFICERS FROM INCOME TAX ON NONOFFICIAL INCOME DERIVED FROM SOURCES OUTSIDE THE UNITED KINGDOM—Continued

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1930 Oct. 22 (1317)	<p data-bbox="242 371 632 395"><i>From the Ambassador in Great Britain</i></p> <p data-bbox="242 395 887 506">Letter to Foreign Office of August 25 (text printed) regarding treatment of consular officers in matter of income tax; Foreign Office reply of October 20 (text printed), stating that there appears no possibility, for certain specified reasons, of meeting the wishes of the United States.</p> <p data-bbox="242 506 887 593">(Note: Treasury Department's decision of December 27, 1930, to adhere to policy of treating British consular officers as non-resident aliens and taxing private income only if derived within the United States.)</p>	144
CONVENTION BETWEEN THE UNITED STATES AND GREAT BRITAIN AND EXCHANGE OF NOTES REGARDING THE BOUNDARY BETWEEN THE PHILIPPINE ARCHIPELAGO AND THE STATE OF NORTH BORNEO, SIGNED JANUARY 2, 1930		
1930 Jan. 2	<p data-bbox="242 736 887 788"><i>Convention Between the United States of America and Great Britain</i></p> <p data-bbox="268 788 706 812">Text of convention signed at Washington.</p>	147
Jan. 2 (679)	<p data-bbox="242 822 536 847"><i>From the British Ambassador</i></p> <p data-bbox="242 847 887 937">Terms of arrangement supplementary to boundary convention, to provide for continued administration by British North Borneo Company of certain islands recognized as pertaining to the United States.</p>	150
Jan. 2	<p data-bbox="242 944 514 968"><i>To the British Ambassador</i></p> <p data-bbox="268 968 855 992">U. S. adherence to terms of supplementary arrangement.</p>	153
PROPOSED REVISION, WITH RESPECT TO ZANZIBAR, OF THE TREATY OF AMITY AND COMMERCE BETWEEN THE UNITED STATES AND MUSCAT (OMAN), SIGNED SEPTEMBER 21, 1833		
1929 Jan. 31 (52)	<p data-bbox="242 1135 536 1159"><i>From the British Ambassador</i></p> <p data-bbox="242 1159 887 1263">Request for favorable consideration by United States of revision of articles 2, 3, and 9 of the treaty of 1833 between United States and Muscat, which conflict with the proper administration of Zanzibar as a British Protectorate.</p>	155
Feb. 25	<p data-bbox="242 1274 514 1298"><i>To the British Ambassador</i></p> <p data-bbox="242 1298 887 1336">Acknowledgment of note of January 31, and promise of sympathetic consideration of proposals made therein.</p>	159
1930 June 27 (8)	<p data-bbox="242 1354 525 1378"><i>From the Consul at Nairobi</i></p> <p data-bbox="242 1378 887 1451">Opinion that British proposals to revise obsolete clauses of Muscat treaty will not hamper American consular rights or discriminate unduly against American trade with Zanzibar.</p>	160
July 31	<p data-bbox="242 1468 695 1492"><i>Memorandum by Assistant Secretary of State</i></p> <p data-bbox="242 1492 887 1597">Conversation with British Ambassador in which he stated belief that British Government would not be interested in negotiating a consular convention with United States; unlikelihood of American action in Zanzibar case in event of British nonaction on consular convention.</p>	160

## GREAT BRITAIN

## INQUIRY REGARDING ALLEGED OPPOSITION TO AMERICAN INVESTMENTS IN INDIA

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1930 Jan. 9 (9)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to ascertain from British authorities facts regarding Indian Government's opposition to American investments in India and action contemplated by Calcutta Electric Supply Corporation to retain control of company in hands of British subjects.	161
Jan. 11 (16)	<i>From the Ambassador in Great Britain (tel.)</i> Probability of adoption by Calcutta Electric Supply Corporation of proposal to restrict holdings of foreign shareholders to maximum of 20 percent; statement by chairman that Bengal Government consider British or Indian control of company essential.	162
Mar. 3	<i>From the British Secretary of State for Foreign Affairs to the American Ambassador in Great Britain</i> Assurance that Bengal Government's action in wishing to retain control of Calcutta Electric Supply Corporation in British or Indian hands was entirely to protect vital public utility and involved no discrimination against American investments.	163
Apr. 9	<i>To the Consul General at Calcutta</i> Instructions to investigate discreetly and report on several questions regarding legal and actual powers of Bengal Government and attitude of Government of India toward investment of American capital. (Footnote: No despatch in reply found in Department files.)	164

## GREECE

## TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND GREECE, SIGNED JUNE 19, 1930

1928 Apr. 23	<i>To the Greek Minister</i> Submittal of draft treaties of arbitration and conciliation as basis for negotiations.	166
1930 June 6	<i>To the Greek Minister</i> Acknowledgment of information that Greek Government is ready to conclude treaty of arbitration and treaty of conciliation.	167
June 19	<i>Treaty Between the United States of America and Greece</i> Text of arbitration treaty signed at Washington.	168
June 19	<i>Treaty Between the United States of America and Greece</i> Text of conciliation treaty signed at Washington.	170

## GUATEMALA

## REVOLUTION IN GUATEMALA

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1930 Dec. 12 (95)	<i>From the Chargé in Guatemala (tel.)</i> Illness of President Lazaro Chacon, who has been declared incapacitated by physicians; Cabinet decision, to be submitted for approval of Legislative Assembly, to name Second Designate Baudilio Palma as Acting President; seriousness of political situation.	172
Dec. 12 (96)	<i>From the Chargé in Guatemala (tel.)</i> Threats against life of General Ubico, and granting of asylum to him in Legation in order to avoid bloodshed and disorder.	172
Dec. 13 (98)	<i>From the Chargé in Guatemala (tel.)</i> Indication that new Government is doubtful of loyalty of Army.	173
Dec. 13 (99)	<i>From the Chargé in Guatemala (tel.)</i> Departure of General Ubico from Legation upon assurance of protection by Provisional President.	173
Dec. 13 (73)	<i>To the Chargé in Guatemala (tel.)</i> Desire of Department that Ubico not be given shelter in Legation beyond the period of emergency.	174
Dec. 13 (101)	<i>From the Chargé in Guatemala (tel.)</i> Receipt of official notice of appointment by Legislative Assembly of Baudilio Palma as Provisional President.	174
Dec. 13 (102)	<i>From the Chargé in Guatemala (tel.)</i> Opinion that new Government seems to have control of the situation.	174
Dec. 13	<i>From the Secretary to the President</i> Communication of December 12 (text printed) to the President of the United States from Baudilio Palma regarding his assumption of office as Provisional President of Guatemala.	175
Dec. 15	<i>From President Hoover to the Acting President of Guatemala (tel.)</i> Acknowledgment of communication of December 12.	175
Dec. 15 (103)	<i>From the Chargé in Guatemala (tel.)</i> Opinion that new Government appears to be legal continuation of former Government.	175
Undated [Rec'd. Dec. 15]	<i>From General Jorge Ubico (tel.)</i> Expression of gratitude for protection granted him.	176
Dec. 16 (104)	<i>From the Chargé in Guatemala (tel.)</i> Report of outbreak of revolution about 4 p. m., December 16, believed to be revolt of Army against Government.	176
Dec. 16 (105)	<i>From the Chargé in Guatemala (tel.)</i> Request for dispatch of U. S. warship to San José or Puerto Barrios, in view of seriousness of situation.	176
Dec. 17 (74)	<i>To the Chargé in Guatemala (tel.)</i> Request for report on American interests requiring protection; inquiry as to whether Foreign Service Inspector Edwin C. Wilson has arrived.	177

## GUATEMALA

## REVOLUTION IN GUATEMALA—Continued

Date and number	Subject	Page
1930 Dec. 17 (106)	<i>From the Chargé in Guatemala (tel.)</i> Temporary cancellation of request for warship because of armistice between Government and revolutionists; information that revolutionary forces are in control and Provisional President has submitted his resignation to the Assembly; advice that Mr. Edwin C. Wilson is expected to arrive that night.	177
Dec. 17 (109)	<i>From the Chargé in Guatemala (tel.)</i> Acceptance by Congress of Palma's resignation and appointment of General Orellana, head of revolutionary movement, as Provisional President, which appointment is contrary to the Constitution and the 1923 treaties.	177
Dec. 17 (110)	<i>From the Chargé in Guatemala (tel.)</i> Details of revolution, and armistice leading up to resignation of Palma and appointment of Orellana; observation that Department will not wish to grant recognition to a government established by violence.	178
Dec. 18 (111)	<i>From the Chargé in Guatemala (tel.)</i> From Wilson: Report on political situation; opinion that present Government, through desire for recognition, might be induced to work out plan for election of constitutionally qualified President.	180
Dec. 18 (103)	<i>From the Guatemalan Minister</i> Notification of appointment by the Legislative Assembly of General Orellana as Acting President of Guatemala.	181
Dec. 19 (114)	<i>From the Chargé in Guatemala (tel.)</i> Four-point declaration by General Orellana's representatives of reasons for overthrow of Government; Government's reply to points mentioned. Belief that Palma government was constitutional.	181
Dec. 20 (117)	<i>From the Chargé in Guatemala (tel.)</i> President Chacon's request for visas for himself and family, and presentation of diplomatic passport issued on this date by the present government; request for instructions.	182
Dec. 20 (76)	<i>To the Chargé in Guatemala (tel.)</i> Instructions to inform present government orally and informally, without making public statement, of Department's policy of upholding 1923 treaties in recognizing new governments in Central American Republics; desire to have Minister study situation and report on possibility of restoration of constitutional government.	182
Dec. 20 (31)	<i>To the Minister in El Salvador (tel.)</i> Instructions to make known informally to Government officials and political leaders, U. S. policy of support of 1923 treaties in recognition of new Central American governments. (Footnote: The same to the diplomatic missions in Costa Rica, Honduras, and Nicaragua.)	183
Dec. 22 (77)	<i>To the Minister in Guatemala (tel.)</i> Instructions regarding conditions under which diplomatic visas may be granted President Chacon and family; request for telegraphic report on final action.	184



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## REVOLUTION IN GUATEMALA—Continued

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1930 Dec. 22 (120)	<i>From the Minister in Guatemala (tel.)</i> Information that Department's policy of non-recognition under 1923 treaty has been announced to officials of Orellana government.	184
Dec. 23 (130)	<i>From the Chargé in Honduras (tel.)</i> Intention of Honduran Government to conform to U. S. policy regarding recognition of Guatemalan government.	185
Dec. 23 (121)	<i>From the Minister in Guatemala (tel.)</i> Agreement among various officials on plan for returning to constitutional regime, provided General Orellana will agree to be eliminated.	186
Dec. 24 (124)	<i>From the Minister in Guatemala (tel.)</i> Meeting with General Orellana in which Department's decision not to recognize his government was made clear.	186
Dec. 24 (78)	<i>To the Minister in Guatemala (tel.)</i> Information that Department's attitude was fully explained to Guatemalan Minister, who agreed to make suggestion to Guatemalan authorities of plan to restore constitutional regime.	187
Dec. 26 (125)	<i>From the Minister in Guatemala (tel.)</i> Agreement by General Orellana to plan for restoring constitutional regime.	188
Dec. 27 (126)	<i>From the Minister in Guatemala (tel.)</i> Information that Congress will meet December 30 to elect new Provisional President; request for instructions regarding recognition.	188
Dec. 27 (79)	<i>To the Minister in Guatemala (tel.)</i> Request for information regarding resignation of second and third designados.	189
Dec. 28 (127)	<i>From the Minister in Guatemala (tel.)</i> Information requested in Department's telegram No. 79, of December 27.	189
Dec. 28 (128)	<i>From the Minister in Guatemala (tel.)</i> Four recommendations made to General Orellana as of importance in securing constitutional government; request for Department's views, especially regarding point 2, that no one involved in recent events should be a member of the Provisional Government.	189
Dec. 29 (129)	<i>From the Minister in Guatemala (tel.)</i> Resignation of President Chacon; uncertainty of political situation; suggestion that presence of warship at San José would be helpful in preventing disorders.	190
Dec. 29 (80)	<i>To the Minister in Guatemala (tel.)</i> Department's concurrence in four points set forth in telegram No. 128, of December 28, especially second point; permission to inform General Orellana of Department's attitude.	190
Dec. 29 (81)	<i>To the Minister in Guatemala (tel.)</i> Instructions to keep Department informed of developments in election of Provisional President, but not to extend recognition until instructed to do so.	191

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## REVOLUTION IN GUATEMALA—Continued

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Dec. 30 (82)	<i>To the Minister in Guatemala (tel.)</i> Inadvisability of dispatching warship to Guatemala at this time; request for telegraphic report of American citizens and American interests which may be endangered.	191
Dec. 30 (132)	<i>From the Minister in Guatemala (tel.)</i> Estimate of number of American citizens and list of principal American interests in Guatemala.	192
Dec. 31 (134)	<i>From the Minister in Guatemala (tel.)</i> Meeting of Assembly at which resignations of Chacon and Palma were accepted and Reina Andrade was elected First Vice President; information that Andrade will assume Provisional Presidency on January 2, 1931.	192

INABILITY OF THE GOVERNMENT OF THE UNITED STATES TO UNDERTAKE TO  
EXTEND DIRECT ASSISTANCE TO THE GOVERNMENT OF GUATEMALA TO OBTAIN  
A LOAN

1930 Feb. 5 (2753)	<i>From the Chargé in Guatemala</i> Request by President Chacon for U. S. assistance in obtaining loan for funding of certain debts.	193
Feb. 20 (1234)	<i>To the Chargé in Guatemala</i> Instructions to inform President Chacon of Department's inability to extend direct assistance in matters of this kind.	196

## HAITI

THE PRESIDENT'S COMMISSION FOR THE STUDY AND REVIEW OF CONDITIONS IN  
THE REPUBLIC OF HAITI

1930 Feb. 28 (27)	<i>From the High Commissioner in Haiti (tel.)</i> Arrival in Haiti of members of President's Commission.	198
Mar. 7 (1)	<i>From the Chairman of the President's Commission for the Study and Review of Conditions in the Republic of Haiti to President Hoover (tel.)</i> Plan to satisfy demand for return of representative government by election of compromise candidate as President until duly elected body can be convened and a new President elected.	198
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THE PRESIDENT'S COMMISSION FOR THE STUDY AND REVIEW OF CONDITIONS IN  
THE REPUBLIC OF HAITI—Continued

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Mar. 10	<i>From the President of Haiti to the High Commissioner in Haiti</i> Approval of compromise plan only on formal condition that its execution will be in conformity with Constitution of Haiti and treaty of 1915.	201
Mar. 12 (31)	<i>From the High Commissioner in Haiti (tel.)</i> Résumé of President Borno's letter of March 10; opinion that proposed plan should strictly observe provisions of Constitution of Haiti and treaty of 1915, and that President Borno's prestige should be preserved to the end of his term.	202
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Mar. 13 (2)	<i>To the Chairman of the President's Commission (tel.)</i> Probability of recognition of new President, but unwillingness to make secret promise binding U. S. Government; instructions to examine constitutional questions involved and suggest a solution.	203
[Mar. 14] (7)	<i>From the Chairman of the President's Commission to President Hoover and the Acting Secretary of State (tel.)</i> Opposition's claim that President Borno violated Constitution by not calling elections, and their support of compromise plan as way of securing elections before 1932; desire to know whether U. S. Government will insist on 1932 elections, which will mean jeopardizing compromise plan.	204
[Mar. 14] (8)	<i>From the Chairman of the President's Commission to President Hoover and the Acting Secretary of State (tel.)</i> Progress of negotiations under compromise plan; belief that matters can soon be settled on receipt of favorable reply to telegram No. 7 of March 14.	205
Mar. 14 (3)	<i>To the Chairman of the President's Commission (tel.)</i> Department's attitude regarding Constitutional provisions for holding elections; advice that Department neither objects to holding of early elections nor insists on it.	206
[Mar. 15] (9)	<i>From the Chairman of the President's Commission (tel.)</i> Hope of Commission, all matters having been settled, to get necessary documents signed March 15 and to leave Haiti March 16.	207

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THE REPUBLIC OF HAITI—Continued

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Mar. 15	<i>From the Chairman of the President's Commission (tel.)</i> Texts of the four documents signed at Port-au-Prince.	208
Mar. 16	<i>From the Chairman of the President's Commission (tel.)</i> Statement to the press, March 15 (text printed), announcing the putting into effect of the plan set forth in press release of March 9.	211
Mar. 20 (36)	<i>From the High Commissioner in Haiti (tel.)</i> Report of situation provoked by radical members of Opposition through issuance of invitations to a meeting to elect a Provisional President, instead of a candidate for the Presidency; efforts to adjust the difficulty.	211
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Mar. 21 (40)	<i>From the High Commissioner in Haiti (tel.)</i> Newspaper account of Opposition meeting and letter from Mr. Vilaire, president of assembly of delegates of <i>arrondissements</i> , referring to election of Eugene Roy as temporary President; request for authorization to reply to Mr. Vilaire's letter that U. S. Government only recognizes Roy as candidate of Federated Patriotic Groups, his name to be submitted to Council of State to be voted on, on April 14.	213
Mar. 21 (41)	<i>From the High Commissioner in Haiti (tel.)</i> Note from Foreign Minister (excerpts printed) protesting violation of Hoover plan by Opposition, and stating Haitian Government considers itself relieved of its obligations under plan.	214
Mar. 22 (30)	<i>To the High Commissioner in Haiti (tel.)</i> Instructions for replying to letters referred to in telegrams Nos. 40 and 41 of March 21, indicating U. S. Government's expectation that compromise plan will be carried out as accepted by both sides.	215
Mar. 25 (45)	<i>From the High Commissioner in Haiti (tel.)</i> Assurance by President Borno of his desire to see plan carried out, and belief that Mr. Roy will be elected by Council of State, provided he makes no statement which will obligate him to violate the Constitution.	216

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THE REPUBLIC OF HAITI—Continued

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Mar. 28 (46)	<i>From the High Commissioner in Haiti (tel.)</i> Assertion by President Borno that Council of State will not elect Mr. Roy without a declaration by him that he will not call legislative elections until January 1932.	238
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Mar. 31 (50)	<i>From the High Commissioner in Haiti (tel.)</i> Information that President Borno was informed of contents of Department's telegram No. 35, of March 29, and that he intends to urge the Council of State to elect Mr. Roy.	240
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Apr. 2 (51)	<i>From the High Commissioner in Haiti (tel.)</i> Advice that situation at present is not serious; also that High Commissioner is hopeful that Roy will be elected on April 14 without difficulty.	241
Apr. 4 (53)	<i>From the High Commissioner in Haiti (tel.)</i> Feeling that Roy now has a majority in the Council of State, whose members have been informed that Roy's administration is expected to be a coalition one.	242
Apr. 8 (41)	<i>To the High Commissioner in Haiti (tel.)</i> Request for suggestions from the head of each treaty service for program to be put into effect upon inauguration of permanent President; approval of recommendation that no changes except minor ones be made until then.	242
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Apr. 9 (58)	<i>From the High Commissioner in Haiti (tel.)</i> Report of meeting of 16 members of Council of State in secret session, at which suggestion to adopt plan of President's Commission and elect Roy was vigorously opposed.	244
Apr. 10 (42)	<i>To the High Commissioner in Haiti (tel.)</i> Hope that President Borno will be able to carry out plan, as U. S. Government will not recognize a temporary President elected in violation of the agreement.	244
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ARBITRATION TREATY BETWEEN THE UNITED STATES AND ICELAND, SIGNED  
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## CONVENTION BETWEEN THE UNITED STATES, GREAT BRITAIN, AND IRAQ REGARDING THE RIGHTS OF THE UNITED STATES AND OF ITS NATIONALS IN IRAQ, SIGNED JANUARY 9, 1930

1929 Feb. 20 (3388)	<i>From the Ambassador in Great Britain</i> Foreign Office note of February 18 (text printed) regarding delay in signing of proposed tripartite convention between United States, Great Britain, and Iraq, because of resignation of Iraqi Cabinet and fact that acting Ministers do not feel that they possess authority to conclude treaties with foreign powers.	291
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## CONVENTION BETWEEN THE UNITED STATES, GREAT BRITAIN, AND IRAQ REGARDING THE RIGHTS OF THE UNITED STATES AND OF ITS NATIONALS IN IRAQ, SIGNED JANUARY 9, 1930—Continued

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## GOOD OFFICES TO AMERICAN FIRMS INTERESTED IN ENTERING THE IRAQ OIL FIELDS

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## JAPAN

## THE EXCLUSION CLAUSE OF THE AMERICAN IMMIGRATION ACT OF MAY 26, 1924

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TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND  
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REPRESENTATIONS AGAINST THE APPLICATION OF A RESIDENCE OR SOJOURN TAX  
ON AMERICAN CITIZENS IN LATVIA

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1931 July 9 (7864)	<i>From the Minister in Latvia</i> Note to the Foreign Office, May 22 (text printed), requesting exemption from registration fee, as a form of sojourn tax, for American nationals; memorandum of conversation with Foreign Office official, July 6 (text printed), in which the latter stated that complete exemption from sojourn tax could not be granted but arrangements would be made to make fee for American nationals same as that for British nationals, thus according most-favored-nation treatment.	325

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REPRESENTATIONS AGAINST THE APPLICATION OF A RESIDENCE OR SOJOURN TAX  
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DENIAL OF REPORTS REGARDING POSSIBILITY OF INTERVENTION IN LIBERIA BY  
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DENIAL OF REPORTS REGARDING POSSIBILITY OF INTERVENTION IN LIBERIA BY  
THE UNITED STATES OR OTHER POWERS—Continued

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INVESTIGATION OF FORCED LABOR CONDITIONS IN LIBERIA BY AN INTERNATIONAL  
COMMISSION; OPPOSITION TO PROPOSED REFORMS; RESIGNATION OF PRESIDENT  
KING

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June 18 (86)	<i>From the Chargé in Liberia (tel.)</i> Report of mass meeting held on previous day, in spite of Government's opposition, at which resolution was adopted condemning present administration for participation in slave trade, and requesting removal of officials responsible.	347
Sept. 8 (114)	<i>From the Chargé in Liberia (tel.)</i> Submission of joint report of International Commission, indicting Liberian Government for suppression and intimidation of natives.	348
Sept. 8 (115)	<i>From the Chargé in Liberia (tel.)</i> Summary of findings and recommendations of the Commission, emphasizing need for outside assistance and drastic internal improvements for Liberia.	348
Sept. 11 (116)	<i>From the Chargé in Liberia (tel.)</i> Expression of mortification by President King over the Commission's findings, and belief that recommendations can be fulfilled; indication that Vice President will be used as the administration scapegoat, and that the President's chances of renomination appear favorable.	350
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Sept. 21 (125)	<i>From the Chargé in Liberia (tel.)</i> Presentation by Financial Adviser of 8-point reform program; belief that President King will agree to put it into effect but that he will meet with strong opposition from all the other political factions and may later weaken.	351
Sept. 25 (129)	<i>From the Chargé in Liberia (tel.)</i> Intention of President King, subject to Cabinet approval, to send note assuring U. S. Government of his intention to fulfill recommendations of Commission and to ask aid of United States; information that President has sanctioned in writing the reforms proposed by the Financial Adviser.	352
Sept. 29 (131)	<i>From the Chargé in Liberia (tel.)</i> Recommendations by Cabinet committee appointed to examine Commission's report, which promise partial reforms but lack measures for enforcement.	352
Sept. 30 (84)	<i>To the Chargé in Liberia (tel.)</i> Instructions to confer with President King regarding the proposed partial reforms and to convey information that such incomplete measures would not meet the criticisms of the Commission and that United States would not consider extending assistance unless program seemed likely to be successful.	353



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## INVESTIGATION OF FORCED LABOR CONDITIONS IN LIBERIA BY AN INTERNATIONAL COMMISSION; OPPOSITION TO PROPOSED REFORMS; RESIGNATION OF PRESIDENT KING—Continued

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1930 Sept. 30 (133)	<i>From the Chargé in Liberia (tel.)</i> Note from President King for U. S. Secretary of State (text printed) stating Liberian acceptance of recommendations and suggestions of International Commission, and requesting good offices of United States in establishing reforms. Information that Section 2 follows as telegram No. 134.	353
Sept. 30 (134)	<i>From the Chargé in Liberia (tel.)</i> Section 2 of Liberian note, setting forth program of major reforms.	354
Oct. 1 (135)	<i>From the Chargé in Liberia (tel.)</i> Suggestion to postpone interview proposed in Department's telegram No. 84, of September 30, until after acknowledgment of President King's note.	355
Oct. 1 (86)	<i>To the Chargé in Liberia (tel.)</i> Request for comments on proposed program and for suggestions regarding nature of reply to President King.	355
Oct. 2 (137)	<i>From the Chargé in Liberia (tel.)</i> Request for permission to inform President King of the receipt in Washington of his communication and to discuss with him methods of executing proposed reforms.	356
Oct. 3 (138)	<i>From the Chargé in Liberia (tel.)</i> Issuance of Presidential proclamation declaring domestic servitude and pawning illegal; public meeting on October 1st at which resolutions were approved calling for resignation of present Government and establishment of Provisional Government, and for constitution of a non-partisan league to petition Legislature for reform.	356
Oct. 3 (87)	<i>To the Chargé in Liberia (tel.)</i> Note for President King from Secretary of State (text printed) containing assurances of friendly interest of United States and promise to study plans for reform measures, whenever submitted, with view to rendering all possible assistance.	357
Oct. 7 (140)	<i>From the Chargé in Liberia (tel.)</i> Delivery of note from Secretary of State to President King, at which time Department's views were explained regarding necessity of enforcement measures; reluctance of President to discuss the program of reform in other than general terms.	357
Oct. 9 (20)	<i>From the Chargé in Liberia</i> Exchange of correspondence between President King and Financial Adviser outlining provisions of reform program referred to in Legation's telegram No. 125 of September 21, details of which President King states he will submit to Legislature after its opening on October 13.	358
Oct. 13 (142)	<i>From the Chargé in Liberia (tel.)</i> Growing strength of Citizens League, now controlled by anti-white faction; plan for meeting on October 20 to prepare petition to Legislature to demand resignations of the President and Cabinet.	361

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Oct. 17 (145)	<i>From the Chargé in Liberia (tel.)</i> Information that, as precautionary measure, British Chargé is requesting British warship to be close at hand on October 20 and 21.	362
Oct. 17 (89)	<i>To the Chargé in Liberia (tel.)</i> Department's nonobjection to summoning of British warship.	363
Oct. 20 (147)	<i>From the Chargé in Liberia (tel.)</i> Submission to Legislature of Citizens' League petition, demanding impeachment of President. Information that British sloop <i>Daffodil</i> is at Freetown, within 24 hours' sail of Monrovia.	363
Oct. 22 (92)	<i>To the Chargé in Liberia (tel.)</i> Information that copy of Commission's report was delivered to Department by Dr. Johnson on October 21 and is being studied, and that President King may be so informed.	363
Oct. 23 (148)	<i>From the Chargé in Liberia (tel.)</i> Information that President King is submitting reform program to Legislature on October 30, before deciding on details, and that he may endeavor to modify program.	364
Oct. 30 (152)	<i>From the Chargé in Liberia (tel.)</i> President King's message to Congress covering text of Commission's report and his reform program.	364
Nov. 3 (97)	<i>To the Chargé in Liberia (tel.)</i> Note to be delivered to Liberian Government (text printed) regarding report of Commission; instructions also to seek an audience with President King and present to him an unsigned copy of the note, stressing need for complete reform. Information that summary of the findings and recommendations is being released for publication, to be followed by publication of full report later.	365
Nov. 5 (153)	<i>From the Chargé in Liberia (tel.)</i> Information that Department's instructions of November 3 have been carried out and that President King promised a report in a few days on action taken in effecting reforms.	366
Nov. 12 (155)	<i>From the Chargé in Liberia (tel.)</i> Fear that reported pillaging of native villages along Kru Coast by frontier force soldiers may be act of retaliation for testimony before International Commission; request for authorization to inquire informally of President King regarding incident and to express Department's disapproval of such action.	367
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Nov. 14 (157)	<i>From the Chargé in Liberia (tel.)</i> Interview with President King in which he promised report on investigation now being made into alleged depredations by soldiers in Kru coast towns.	368
Nov. 15 (158)	<i>From the Chargé in Liberia (tel.)</i> Objection of Liberian Government to publication of Commission's report; information that President stated he is awaiting legislative approval of a resolution authorizing him to carry out reform program.	369
Nov. 17	<i>To the Liberian Consulate General at Baltimore</i> Memorandum setting forth U. S. attitude toward findings of the Commission of Inquiry and toward failure of the Liberian Government to institute effective reforms.	369
Nov. 17 (102)	<i>To the Chargé in Liberia (tel.)</i> Inability of U. S. Government to agree with Liberian Government's objections to publishing of Commission's report.	371
Nov. 17 (103)	<i>To the Chargé in Liberia (tel.)</i> Transmittal of summary and extracts from memorandum handed to Liberian Consul General on November 17.	372
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Nov. 22	<i>To the American Member of the International Commission of Inquiry</i> Expression of appreciation for services on Commission and acknowledgment of receipt of signed copy of report of Commission and supplementary documents.	373
Nov. 22 (162)	<i>From the Chargé in Liberia (tel.)</i> Suggestion, in face of President King's continued excuses that reform program is being delayed by Legislature, that Legation be authorized to present to President King copy of Department's memorandum of November 17, as he has not yet received report from Consul General.	374
Nov. 24 (106)	<i>To the Chargé in Liberia (tel.)</i> Authorization to advise President King of contents of Department's telegram No. 100 of November 13 and inform him that he will receive from Liberian Consul General full text of the memorandum of November 17.	375

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Nov. 29 (165)	<i>From the Chargé in Liberia (tel.)</i> Attacks by Legislature on President King for his acceptance of Commission's report, and pressure for his resignation or repudiation of reform program.	376
Nov. 29	<i>Memorandum by the Chief of the Division of Western European Affairs</i> Conversation with British Ambassador concerning conditions in Liberia and possibility of action by League of Nations.	377
Dec. 1 (108)	<i>To the Chargé in Liberia (tel.)</i> Substance of conversation with British Ambassador on November 29, and authorization to discuss situation with British colleague.	377
Dec. 2 (168)	<i>From the Chargé in Liberia (tel.)</i> Report and recommendations of committee of the Legislature; resignation of Vice-President and probability of President's resignation during week.	378
Dec. 3 (169)	<i>From the Chargé in Liberia (tel.)</i> Information that President King stated he would resign this afternoon, because of opposition to his reform program, and that Edwin Barclay, Secretary of State, will assume Presidency; Legation's intention to await Department's instructions before calling on new President.	378
Dec. 3 (109)	<i>To the Chargé in Liberia (tel.)</i> Instructions to continue informal dealings with Liberian Government, but not to address new officials by title; request for information regarding constitutionality of change of Government.	379
Dec. 4 (171)	<i>From the Chargé in Liberia (tel.)</i> Information that Constitution provides for succession to Presidency of Secretary of State in case of resignation of President and Vice President; acceptance by both Houses of President's resignation and appointment of Barclay as successor.	379
Dec. 4 (172)	<i>From the Chargé in Liberia (tel.)</i> Information that President King submitted to Legislature at time of his resignation a copy of Department's memorandum of November 17, which may weaken position of Barclay, whose strength is based on his anti-foreign attitude and opposition to reform program.	379
Dec. 5 (173)	<i>From the Chargé in Liberia (tel.)</i> Receipt from Liberian Acting Secretary of State of reply to the November 17 memorandum.	380

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1930 Dec. 5 (110)	<i>To the Chargé in Liberia (tel.)</i> Instructions to address note to Liberian Government requesting information on certain points as to resignation of President and Vice President and appointment of successor.	380
Dec. 5 (111)	<i>To the Chargé in Liberia (tel.)</i> Instructions to convey informally to Barclay that United States would be more disposed to acceptance of new Liberian Government if declaration is received accepting International Commission report and establishing necessary machinery to carry out recommendations.	381
Dec. 5 (663/D)	<i>From the Liberian Acting Secretary of State to the American Chargé in Liberia</i> Acknowledgment of receipt of U. S. memorandum of November 17 to the Liberian Consulate General at Baltimore, which was transmitted by the Legation to Liberian Government on December 3; comments on certain statements contained in document.	382
Dec. 8 (112)	<i>To the Chargé in Liberia (tel.)</i> Opinion that Liberian Government's reply has not fulfilled Department's expectations and has disregarded official declaration of President King of September 30; authorization to convey Department's opinion informally to Edwin Barclay.	383
Dec. 8 (114)	<i>To the Chargé in Liberia (tel.)</i> Official notice from Liberian Consul General on December 6 of resignation of President and Vice President and appointment of Barclay as President; information that no acknowledgment will be made for the present.	384
Dec. 10 (174)	<i>From the Chargé in Liberia (tel.)</i> Liberian Government's reply (text printed) to U. S. inquiry on points raised in Department's telegram No. 110 of December 5; information that no response has been made to suggestion for declaration of policy by new Government, but that Barclay is attempting minor reforms.	384
Dec. 10	<i>Memorandum by the Secretary of State of an Interview With Mr. Harvey S. Firestone of Akron, Ohio</i> Conversation concerning Firestone investments in Liberia and seriousness of conditions.	385
Dec. 13 (175)	<i>From the Chargé in Liberia (tel.)</i> Proposed law to authorize appointment of two qualified foreigners to supervise administration of the hinterland; comment that law does not satisfactorily carry out Commission's recommendations or provide adequate system of administration and is further example of Government's policy of merely partial and unsatisfactory reforms.	386
Dec. 18 (635/D)	<i>From the Liberian Acting Secretary of State to the American Chargé in Liberia</i> Request for nomination by U. S. Government of two qualified Americans to be appointed by Liberian Government as Commissioners in Liberian Hinterland Administration.	387

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1930 Dec. 18 (177)	<i>From the Chargé in Liberia (tel.)</i> Transmittal of text of Liberian Government's Note No. 635/D, December 18. Desire of Barclay to discuss his complete program with Chargé before submitting it to United States.	387
Dec. 20 (119)	<i>To the Chargé in Liberia (tel.)</i> Authorization to convey to Barclay informally Department's viewpoint that there is no necessity for discussion of Liberian program of merely partial compliance with Commission's recommendations.	388
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Dec. 23 (1204)	<i>To the Minister in Switzerland</i> Instructions to transmit to Acting Secretary General of the League of Nations a note concerning representations which U. S. Government has already made to Liberian Government regarding investigation of International Commission of Inquiry.	389
Dec. 23 (670/D)	<i>From the Liberian Acting Secretary of State to the American Chargé in Liberia</i> List of legislative acts providing for reform measures in accordance with report of Commission, with request that they be communicated to U. S. Government with a view to securing American cooperation and assistance.	389
Dec. 24 (181)	<i>From the Chargé in Liberia (tel.)</i> Transmittal of Liberian Government's note of December 23; intention to point out to Barclay, in informal meeting, unsatisfactory nature of reforms, and to remind him that U. S. offer of assistance was predicated on Liberian acceptance of Commission's report and effective carrying out of recommendations; intention of British Chargé to express similar opinion on inadequacy of reforms.	390
Dec. 26	<i>From the Consul at Geneva (tel.)</i> Information that British Government has requested that Liberian inquiry report be placed on agenda of next meeting of the Council of the League.	391
Dec. 27 (120)	<i>To the Chargé in Liberia (tel.)</i> Instructions to make no acknowledgment of Liberian note of December 23, as it in no way changes Department's position as previously stated.	391
Dec. 27	<i>Memorandum by Mr. Ellis O. Briggs, of the Division of Western European Affairs</i> Outline of Liberian situation and conclusion that achievement of reforms depends on substitution of external for Liberian control; three possible courses of action: (1) United States to take full responsibility; (2) some other nation to take control; (3) joint international control, with American participation on basis of membership in International Slavery Convention of 1926.	391

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Date and number	Subject	Page
1930 Dec. 30	<p data-bbox="270 383 930 430"><i>Memorandum by the Chief of the Division of Western European Affairs</i></p> <p data-bbox="270 430 930 539">Request by British Ambassador for U. S. attitude on international control for Liberia, with view to action by Council of League of Nations at forthcoming meeting; Ambassador's suggestion that request for a commission of control might be made by Liberian Government itself.</p>	393
FINANCIAL DIFFICULTIES OF THE GOVERNMENT OF LIBERIA AND ITS ALLEGED FAILURE TO PERFORM ITS OBLIGATIONS UNDER THE LOAN AGREEMENT OF 1926		
1930 Apr. 10 (48)	<p data-bbox="270 696 594 722"><i>From the Chargé in Liberia (tel.)</i></p> <p data-bbox="270 722 930 808">Serious financial situation of Liberian Government and prospect of default on May 1st bond interest; intention of President to appoint investigating committee to determine what economies can be effected in government departments.</p>	394
Apr. 25 (52)	<p data-bbox="270 821 609 847"><i>From the Chargé in Liberia (tel.)</i></p> <p data-bbox="270 847 930 907">Discussion with President King of financial situation; opinion that U. S. friendly intervention may be necessary at some future time.</p>	395
May 3 (58)	<p data-bbox="270 921 609 947"><i>From the Chargé in Liberia (tel.)</i></p> <p data-bbox="270 947 930 1052">Discussion of Liberian financial conditions with Secretary of State Barclay, who presented, for Department's information, copy of a memorandum which is being sent to the Fiscal Agents in America requesting their good offices in assisting Liberian Government to obtain loan from Bank of British West Africa.</p>	396
May 9 (48)	<p data-bbox="270 1064 583 1090"><i>To the Chargé in Liberia (tel.)</i></p> <p data-bbox="270 1090 930 1218">Request for brief summary of cause of present Liberian financial crisis and any suggestions for informal advice to Liberian Government; advice, however, that this Government has no intention of intervening in Liberia and that Legation should make no commitments nor express views until instructed to do so by Department.</p>	397
May 12 (65)	<p data-bbox="270 1223 598 1249"><i>From the Chargé in Liberia (tel.)</i></p> <p data-bbox="270 1249 930 1343">Information requested in Department's telegram No. 48 of May 9, with comment that intervention intended was simply intensifying of American control at request of Liberian Government.</p>	398
May 15 (66)	<p data-bbox="270 1348 613 1374"><i>From the Chargé in Liberia (tel.)</i></p> <p data-bbox="270 1374 930 1461">Disadvantages resulting from withholding by Fiscal Agents of loan money which was due April 1; recommendation that it be made available to Liberian Government for essential projects.</p>	399

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## FINANCIAL DIFFICULTIES OF THE GOVERNMENT OF LIBERIA AND ITS ALLEGED FAILURE TO PERFORM ITS OBLIGATIONS UNDER THE LOAN AGREEMENT OF 1926—Continued

Date and number	Subject	Page
1930 June 24	<p><i>From the Finance Corporation of America at Cleveland</i>            Communication dated June 14, 1930 (text printed), from Finance Corporation to National City Bank of New York, Fiscal Agent in loan agreement of 1926 between Finance Corporation and Liberian Government, setting forth various ways in which Liberian Government has failed to observe terms of loan agreement and stating refusal to forward loan installment due April 1st until Liberian Government takes steps to comply with terms of agreement. Disapproval of Liberian Government's request for good offices in obtaining loan from Bank of British West Africa; willingness to relieve situation by loan of \$18,000 for certain specific purposes.</p>	399
Aug. 20 (104)	<p><i>From the Chargé in Liberia (tel.)</i>            Liberian plan for formation of government treasury under control of American fiscal officers.</p>	404
Aug. 22 (71)	<p><i>To the Chargé in Liberia (tel.)</i>            Request for cabled report on proposed legislation for government treasury; also on various phases of the political situation.</p>	404
Aug. 24 (108)	<p><i>From the Chargé in Liberia (tel.)</i>            Information requested in Department's telegram No. 71 of August 22.</p>	405
Sept. 15 (120)	<p><i>From the Chargé in Liberia (tel.)</i>            Interest of President King in securing establishment of a national bank in Monrovia; failure of Financial Adviser to interest foreign banks in such an institution.</p>	407
Oct. 1	<p><i>President King of Liberia to the National City Bank of New York</i>            Belief that it will not be necessary to arbitrate alleged breaches of Loan Agreement contained in Finance Corporation's communication of June 14, and enumeration of certain corrective measures, with assurances of cooperation in settling all such questions.</p>	407
Oct. 17 (26)	<p><i>From the Chargé in Liberia</i>            Transmittal of annual report of Financial Adviser as submitted to President of Liberia for year ending September 30, 1930, which stresses necessity of fiscal reform to reduce budget deficit.</p>	410
Nov. 13 (35)	<p><i>From the Chargé in Liberia</i>            Negotiations resulting in a depository agreement between the Liberian Government and the United States Trading Company, a subsidiary of the Firestone Plantations Company of Liberia, and the opening on November 7 of a bank for the receipt of Government deposits and certain commercial transactions.</p>	411
Dec. 19 (178)	<p><i>From the Chargé in Liberia (tel.)</i>            Information that Financial Adviser is holding up delivery, pending Department's advice, of Finance Corporation's telegram for Liberian Secretary of Treasury requesting prosecution of officials whose accounts are delinquent; comment that such prosecution, which would include President Barclay, would threaten stability of Government at this time.</p>	414



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## FINANCIAL DIFFICULTIES OF THE GOVERNMENT OF LIBERIA AND ITS ALLEGED FAILURE TO PERFORM ITS OBLIGATIONS UNDER THE LOAN AGREEMENT OF 1926—Continued

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1930 Dec. 20 (118)	<i>To the Chargé in Liberia (tel.)</i> Opinion that Department should not be called on officially to pass on communications between the Liberian Government and the Finance Corporation.	415

## INTEREST OF THE DEPARTMENT OF STATE IN SANITARY REFORMS FOR LIBERIA

1930 May 25 (68)	<i>From the Chargé in Liberia (tel.)</i> Substance of health survey report by Dr. Howard F. Smith, Chief Medical Adviser to Liberia; uncooperative attitude of Government, which has advised that no funds will be available for health program after June 1.	415
May 27 (509)	<i>To the Chargé in Liberia</i> Intention of Public Health Service to withdraw Dr. Smith at the end of one year's service and not to replace him by another Public Health Officer; instructions to offer Department's unofficial good offices in recommending names of qualified persons in case Liberian Government desires to appoint sanitary engineer to replace Dr. Smith.	416
June 3 (74)	<i>From the Chargé in Liberia (tel.)</i> Report of yellow fever case next to Legation premises, said to be first of the year.	417
June 6	<i>From the Assistant Surgeon General to Mr. James P. Moffitt of the Division of Western European Affairs</i> Telegram from Dr. Smith, June 5 (excerpt printed), stating he has neither funds nor authority for sanitary program; request for arrangements for return of Dr. Smith from Liberia in view of Liberian Government's uncooperative attitude.	417
June 7	<i>Mr. James P. Moffitt of the Division of Western European Affairs to the Chief of the Division</i> Information that Advisory Committee on Education in Liberia is sending \$2,000 to its representative in Liberia, Bishop Campbell, for Dr. Smith's use in sanitary program, and that Public Health Service advised that its request of June 6 for Dr. Smith's return need not be acted on until Department has found solution for situation in Liberia.	418
June 7 (55)	<i>To the Chargé in Liberia (tel.)</i> Information that Advisory Committee is sending \$2,000 today for Liberian sanitary relief.	419
July 15 (363/D)	<i>From the Liberian Secretary of State to the American Chargé in Liberia</i> Regret at notification that Dr. Smith's services will be terminated at end of year; intention to continue with development of sanitary system but inability, in view of limited resources, to accept Department's offer to recommend names of sanitary engineers at salary of \$6,000 a year, and decision to secure such services elsewhere.	419

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INTEREST OF THE DEPARTMENT OF STATE IN SANITARY REFORMS FOR LIBERIA—  
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Date and number	Subject	Page
1930 Aug. 4	<i>From the Acting Secretary of the Treasury</i> Request for arrangement by Department of State with Liberian Government for immediate release of Dr. Smith, since he has fulfilled his mission of demonstrating control of yellow fever and improving sanitary conditions but Liberian Government has not arranged for necessary financial support and legal authority to continue work.	420
Aug. 20 (103)	<i>From the Chargé in Liberia (tel.)</i> Information that Dr. Smith is today cabling Surgeon General his belief that further time spent in Liberia would be wasted owing to failure of Government to cooperate in any way; opinion that this is only way of compelling Liberian Government to comply with terms of the memorandum agreement of 1929.	421
Aug. 21 (69)	<i>To the Chargé in Liberia (tel.)</i> Request for comments and recommendations for securing Liberian Government's compliance with terms of memorandum agreement in order that sanitary program may be continued; inquiry whether Government has anyone in view to replace Dr. Smith.	421
Aug. 21 (70)	<i>To the Chargé in Liberia (tel.)</i> From Surgeon General Cumming to Dr. Smith: Instructions to remain until completion of Liberian financial reorganization in October; authorization, meanwhile, to make visits of inspection to neighboring countries, returning to Monrovia by end of September.	422
Aug. 23 (106)	<i>From the Chargé in Liberia (tel.)</i> Plan to discuss with President measures necessary to secure funds and authority for sanitation work.	422
Aug. 25 (72)	<i>To the Chargé in Liberia (tel.)</i> Authorization for proposed interview with President, with instructions to stress concern of United States over success of sanitary program.	423
Aug. 26 (109)	<i>From the Chargé in Liberia (tel.)</i> Interview with President King, who promised to discuss with Treasury question of funds for sanitary campaign and gave assurances that necessary authority will be granted when money is available.	423
Aug. 28 (111)	<i>From the Chargé in Liberia (tel.)</i> Information that President has instructed Secretary of Treasury to accept Fiscal Agents' offer of \$11,000 for sanitation, even though other financial questions have not been settled.	423
Sept. 8 (113)	<i>From the Chargé in Liberia (tel.)</i> Information that Dr. Smith is awaiting reply to Liberian Secretary of Treasury's request to Fiscal Agents for funds before renewing sanitary campaign and that meanwhile he is working on a bill to establish a Public Health Service.	424
Sept. 10 (10)	<i>From the Chargé in Liberia</i> Report on developments in sanitation campaign, which has been suspended since May 31 for lack of funds and authority.	424

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INTEREST OF THE DEPARTMENT OF STATE IN SANITARY REFORMS FOR LIBERIA—  
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Date and number	Subject	Page
1930 Sept. 12 (77)	<i>To the Chargé in Liberia (tel.)</i> Instructions to discuss with Financial Adviser, Medical Adviser, and Firestone representative, recommendations for giving legal authority to Sanitary Adviser, the recommendations to be incorporated in statement accompanying \$11,000 loan of Finance Corporation for sanitary program.	427
Sept. 15 (119)	<i>From the Chargé in Liberia (tel.)</i> Recommendations desired by Financial and Medical Advisers for inclusion in statement accompanying \$11,000 loan.	428
Sept. 17 (122)	<i>From the Chargé in Liberia (tel.)</i> Information that Dr. Smith is about to start visit of inspection to neighboring countries and expects to be gone about 23 days.	429
Sept. 19 (79)	<i>To the Chargé in Liberia (tel.)</i> Opinion of Firestone representative and Financial Adviser that sanitary issue should be kept separate from breaches of Loan Agreement and other questions between Finance Corporation and Liberian Government; request for cabled report and recommendations on subject.	429
Sept. 19 (80)	<i>To the Chargé in Liberia (tel.)</i> Instructions to discuss with Financial Adviser certain provisions regarding sanitary program which Firestone representative in Akron believes should be included in Finance Corporation's answer to Liberian Government.	429
Sept. 22 (126)	<i>From the Chargé in Liberia (tel.)</i> Agreement of Financial Adviser and Firestone representative with points mentioned in Department's telegrams 79 and 80, but feeling that it would be wise to await President's attitude toward suggested reform program before insisting on separate sanitation agreement.	430
Sept. 23 (357)	<i>From the British Ambassador</i> Intention of British Government to request French and German cooperation in urging Liberian Government to enforce sanitary regulations and improve health conditions in Monrovia; hope that U. S. Chargé will be instructed to join with his colleagues in this action.	431
Sept. 24 (5 PCE)	<i>From the Financial Adviser of the Republic of Liberia to President King of Liberia</i> Understanding regarding terms of sanitation program agreed to by President King, which extends memorandum agreement of 1929 for 5 years, and for which funds will have to be provided in budget arrangements.	432
Sept. 27 (82)	<i>To the Chargé in Liberia (tel.)</i> Transmittal of substance of British note of September 23; non-objection to representations similar to those proposed in the British note if they do not interfere with arrangements with Financial Adviser and Firestone representative.	433
Oct. 2 (136)	<i>From the Chargé in Liberia (tel.)</i> Consultation with British Chargé and decision to discuss informally with President King interest of other nations in successful outcome of proposed sanitation program, reserving protest in case of failure of Liberian Government to carry out program.	433

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INTEREST OF THE DEPARTMENT OF STATE IN SANITARY REFORMS FOR LIBERIA—  
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Date and number	Subject	Page
1930 Nov. 5 (98)	<i>To the Chargé in Liberia (tel.)</i> Information that Finance Corporation has decided to make advance of \$11,000 requested by Liberian Government for sanitary purposes and that \$3,000 will be made immediately available to Fiscal Agent.	434
Nov. 17 (159)	<i>From the Chargé in Liberia (tel.)</i> Message from Dr. Smith (text printed) for transmission to Surgeon General setting forth lack of funds and cooperation, and recommending that Liberian Government be requested to hire own sanitary officer.	434
Nov. 29 (166)	<i>From the Chargé in Liberia (tel.)</i> Agreement with Dr. Smith's feeling that Liberian Government has no further interest in sanitation, and the work, if reopened, could not be successful.	435
Dec. 8 (47)	<i>From the Chargé in Liberia</i> Summary of efforts to renew sanitary campaign and failure of Liberian Government to comply with its agreements; suggestion for international cooperation as only means of compelling local government to carry out effective sanitary control.	436
Dec. 11 (115)	<i>To the Chargé in Liberia (tel.)</i> Communication for Liberian Acting Secretary of State, to be addressed to him without title (text printed), stating that Dr. Smith is being recalled by U. S. Government because of lack of cooperation by Liberian Government and that British and French Governments have been informed of this action; authorization for Dr. Smith to sail at once.	440
Dec. 12	<i>To the British Embassy</i> Notification that Dr. Smith has been recalled from Liberia because of Liberian Government's failure to support sanitation program. (Footnote: The same to the French and German Embassies.)	441
Dec. 12	<i>Memorandum by the Chief of the Division of Western European Affairs</i> Conversation with British Ambassador concerning Liberian situation and probability of some form of foreign control.	442
Dec. 16 (176)	<i>From the Chargé in Liberia (tel.)</i> Communication from Acting Secretary of State (excerpt printed) expressing regret at withdrawal of Medical Adviser, inquiring whether decision is irrevocable, and stating that law recommended by Dr. Smith is now before Legislature.	442
Dec. 17 (117)	<i>To the Chargé in Liberia (tel.)</i> Advice that it is unnecessary to reply to question raised in Liberian note.	443
Dec. 27 (182)	<i>From the Chargé in Liberia (tel.)</i> Request by Liberian Government that United States nominate an individual to serve as Director of Public Health and Sanitation under new law; information that Dr. Smith has left Monrovia for England.	443

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INTEREST OF THE DEPARTMENT OF STATE IN SANITARY REFORMS FOR LIBERIA—  
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Date and number	Subject	Page
1930 Dec. 29 (121)	<i>To the Chargé in Liberia (tel.)</i> Message to be conveyed informally to Liberian Acting Secretary of State (or orally to President Barclay) that American Government cannot enter into discussion of Liberian Government's request before Dr. Smith's return to Washington and submission of his report.	444
Dec. 31 (183)	<i>From the Chargé in Liberia (tel.)</i> Intention to deliver message orally to President Barclay stressing at the same time the importance of delaying further discussion pending receipt of Dr. Smith's report in Washington and study of the situation.	444

APPOINTMENT OF GEORGE W. LEWIS AS MAJOR IN THE LIBERIAN FRONTIER  
FORCE UNDER THE 1926 LOAN AGREEMENT

1929 Feb. 25	<i>To the National City Bank of New York</i> Efforts of United States Government to secure suitable candidate, at request of Liberian Government, for nomination to fill vacancy in Frontier Force; suggestion for discussion between parties to Loan Agreement to settle questions of color, salary, and powers of American officers serving in Frontier Force.	445
Nov. 23 (49)	<i>To the Chargé in Liberia (tel.)</i> Note for Liberian Secretary of State (text printed) informing him that George W. Lewis has been nominated for appointment as Major in Liberian Frontier Force under provisions of 1926 Loan Agreement at yearly salary of \$7,500; explanation of factors taken into consideration in making the nomination.	449
Dec. 3 (69)	<i>From the Chargé in Liberia (tel.)</i> Compliance with Department's instructions of November 23; desire of Secretary Barclay to know whether note may be construed as offer of Fiscal Agents for new salary agreement under article 12, paragraph 3 of Loan Agreement.	450
Dec. 13 (54)	<i>To the Chargé in Liberia (tel.)</i> Instructions to advise Liberian Government that Fiscal Agents do not consider it necessary to make any change in terms of Loan Agreement at present but, when another officer is appointed, making total amount of salary exceed \$8,000, they will take up question of revising article 12, paragraph 3; instructions to urge importance of agreement to appointment of Lewis at \$7,500 salary at an early date.	450
Dec. 26 (77)	<i>From the Chargé in Liberia (tel.)</i> Liberian nonobjection to nomination of Lewis, but insistence on salary proportionate to total amount mentioned by Loan Agreement for two American officers.	451
1930 Jan. 13 (3)	<i>To the Chargé in Liberia (tel.)</i> Arrangement whereby Finance Corporation agrees to reimburse Liberian Government for difference in salary between the \$7,500 promised to Lewis and the \$5,000 which will be allowed by Liberian Government; request for cabled reply,	451

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APPOINTMENT OF GEORGE W. LEWIS AS MAJOR IN THE LIBERIAN FRONTIER  
FORCE UNDER THE 1926 LOAN AGREEMENT—Continued

Date and number	Subject	Page
1930 Jan. 15 (8)	<i>From the Chargé in Liberia (tel.)</i> Belief that Liberian Government would reject Department's proposal of January 13 as making Lewis a National City Bank employee rather than nominee of U. S. Government and Liberian Government appointee; counter-suggestion for acceptance of Lewis as senior military adviser at \$7,500 now and postponement of all questions regarding appointment of second officer for future consideration; request for instructions.	452
Jan. 23 (8)	<i>To the Chargé in Liberia (tel.)</i> Nonagreement of Department that offer contains implications mentioned in Legation's telegram No. 8; authorization, however, to hold instructions in abeyance and make proposal suggested.	453
Feb. 13 (22)	<i>From the Chargé in Liberia (tel.)</i> Written confirmation by Secretary Barclay (text printed) accepting nomination of Lewis, subject to withdrawal of nomination of Captain Outley, U. S. nominee under 1912 loan agreement; suggestion of provision for Outley by reinstatement in American regular army with seniority for service in Liberia.	454
Feb. 19 (20)	<i>To the Chargé in Liberia (tel.)</i> Information that since expiration of 1912 agreement Outley has been employed directly by Liberian Government and question of U. S. withdrawal of his nomination does not arise; that there is no objection to Liberian Government's dispensing with his services. Request for information regarding arrangements for paying expenses of Lewis and understanding reached with him regarding a contract.	455
Feb. 22 (28)	<i>From the Chargé in Liberia (tel.)</i> Liberian Government's position that Outley is <i>de facto</i> U. S. nominee, and suggestion that withdrawal of his nomination by U. S. Government is most practical means of settling the question; Legation's opinion that no contract is required for Lewis and that his status is governed by terms of Loan Agreement and Executive Order.	456
Feb. 26 (22)	<i>To the Chargé in Liberia (tel.)</i> Authorization to inform Liberian Government of U. S. withdrawal of nomination of Outley as made under 1912 loan agreement.	457
Feb. 28 (23)	<i>To the Chargé in Liberia (tel.)</i> Information that War Department will authorize Outley's reinstatement at former grade, but under law his service in Liberia cannot count for seniority.	458
Mar. 17 (35)	<i>From the Chargé in Liberia (tel.)</i> Note from Secretary Barclay stating approval by Liberian Government of Lewis' nomination as Major at \$7,500; also that all obligations to Outley will be discharged and arrangements made for Lewis' transportation expenses.	458
July 2 (92)	<i>From the Chargé in Liberia (tel.)</i> Report of commissioning of Lewis as Major in Liberian Frontier Force on July 1; attitude of Liberian Government that he is merely military adviser with little actual authority.	458

## LIBERIA

APPOINTMENT OF CHARLES I. McCASKEY AS ACTING FINANCIAL ADVISER TO THE  
REPUBLIC OF LIBERIA IN THE ABSENCE OF JOHN LOOMIS

Date and number	Subject	Page
1930 Jan. 30	<i>To Mr. Nelson Stuart, Assistant Trust Officer of the National City Bank of New York</i> Acknowledgment of notification that Financial Adviser in Liberia is recommending James I. McCaskey as Acting Financial Adviser during the former's absence on leave; request for information as to whether formality of nomination of Acting Financial Adviser by President of United States is desired.	459
Feb. 6	<i>From Mr. Nelson Stuart, Assistant Trust Officer of the National City Bank of New York</i> Advice that there appears to be no provision in the 1926 loan agreement as to appointment of an Acting Financial Adviser during absence of the Financial Adviser, but opinion that confirmation by State Department would strengthen official status of Acting Financial Adviser and would establish precedent for future cases.	459
Feb. 13 (16)	<i>To the Chargé in Liberia (tel.)</i> Instructions, upon receipt of formal letter of recommendation from Financial Adviser, and if it is believed that McCaskey is satisfactory to President of Liberia, to notify Liberian Government of U. S. Government's approval of appointment.	460
Mar. 12 (33)	<i>From the Chargé in Liberia (tel.)</i> Information that McCaskey was commissioned Acting Financial Adviser on March 11 by President of Liberia; viewpoint of Liberian Government that in absence of Financial Adviser, the next in command should become Acting Financial Adviser and nomination by President of United States is not necessary.	461

## MEXICO

PROPOSED AGREEMENT BETWEEN MEXICO AND THE INTERNATIONAL COMMITTEE  
OF BANKERS ON MEXICO

1930 July 17 (2632)	<i>From the Ambassador in Mexico</i> Memorandum of a telephone conversation with Mr. T. W. Lamont, Chairman of the International Committee of Bankers on Mexico, on July 10 (text printed), in regard to conversations now proceeding in New York with Mr. Montes de Oca, Mexican Minister of Finance, regarding a reorganization of the National Railways of Mexico and payments on bonded debt to bondholders represented by International Committee.	462
July 23 (157)	<i>From the Ambassador in Mexico (tel.)</i> Report of contemplated agreement between International Committee and Mexican Government which is of an independent nature and not conditional upon the adoption of a general program providing for all creditors.	466
July 25 (195)	<i>To the Ambassador in Mexico (tel.)</i> Authorization to convey informally to Mexican officials viewpoint that U. S. Government must consider any agreement with regard to its bearing on general Mexican financial stability and its effect on claims of Americans not represented by the International Committee.	467

## MEXICO

## PROPOSED AGREEMENT BETWEEN MEXICO AND THE INTERNATIONAL COMMITTEE OF BANKERS ON MEXICO—Continued

Date and number	Subject	Page
1930 July 25 (2647)	<i>From the Ambassador in Mexico</i> Memoranda of telephone conversations (texts printed) of American Ambassador and Naval Attaché in Mexico with members of International Committee outlining progress of negotiations and proposed plan for an immediate cash payment for debt reduction as preliminary to an agreement which will be part of a general financial program.	467
July 28 (160)	<i>From the Ambassador in Mexico (tel.)</i> Discussion with President Ortiz Rubio concerning agreement signed July 25 between United Mexican States and International Committee of Bankers on Mexico; Rubio's assertion that he would not submit the agreement to Congress without a plan for the debt as a whole. Request that information be kept confidential, pending developments.	472
Aug. 4	<i>To the Ambassador in Mexico</i> Memorandum on the Mexican debt dated August 3 (text printed) by the Under Secretary of State, outlining his objections to the Lamont-Montes de Oca agreement and requesting Ambassador's views as to whether Mexican Government would find it feasible at present to undertake negotiations for a general financial plan.	473
Aug. 21 (187)	<i>From the Ambassador in Mexico (tel.)</i> Comments on points raised in Under Secretary's memorandum of August 3; opinion that, in case of adoption of the agreement without regard to other obligations of the Government, it would be best for United States to reserve right to take the stand that new agreement is not good against U. S. Government claims; belief that Department need not take any action until the matter has proceeded further.	475
Aug. 22 (2710)	<i>From the Ambassador in Mexico</i> Letter from the Chairman of the International Committee of Bankers on Mexico to the Ambassador, dated July 24, and reply of August 18 (texts printed), explaining their different viewpoints on Mexican financial and debt problems.	477
Sept. 25	<i>From the Chairman of the International Committee of Bankers on Mexico</i> Memorandum (text printed) giving outline of history of unsecured debt of Mexican Government and refunding arrangements under agreement of July 25.	487
Oct. 6	<i>To the Chairman of the International Committee of Bankers on Mexico</i> Department's desire that its silence in regard to the terms of the agreement of July 25 should not be interpreted as expressing acquiescence, since, in the event that the agreement should impair the resources available for meeting balance of Mexican foreign debt, Department will feel free to disregard the terms. (Footnote: Copy sent to the Mexican Ambassador on November 14.)	490
Oct. 21 (269)	<i>From the Chargé in Mexico (tel.)</i> Report of press interview with President Ortiz Rubio, who stated that Congress had been requested to study carefully the various aspects of the Lamont-Montes de Oca agreement; information that agreement has not yet been formally submitted to Congress.	492



## MEXICO

## PROPOSED AGREEMENT BETWEEN MEXICO AND THE INTERNATIONAL COMMITTEE OF BANKERS ON MEXICO—Continued

Date and number	Subject	Page
1930 Undated	<i>Memorandum by the Chief of the Division of Mexican Affairs of a Conversation Between the Under Secretary of State and the Mexican Ambassador, November 5, 1930</i> Request of Mexican Ambassador to be allowed to return a letter of October 31, 1930, from the Under Secretary of State, enclosing copy of Secretary's letter of October 6 to the Chairman of the International Committee of Bankers on Mexico, because of implication which would arise that U. S. Government was attempting to interfere in Mexican domestic affairs; acceptance of letter by Under Secretary with comment that letter and enclosure were intended to be purely informative.	492
Dec. 2 (13)	<i>From the Ambassador in Mexico</i> Report of conversation between member of Embassy staff and Mexican Minister of Finance, regarding two problems affecting ratification of the July 25 agreement and their proposed solution.	493
Dec. 27 (357)	<i>From the Ambassador in Mexico (tel.)</i> Probability that a modified form of the agreement will be submitted for ratification at a special session of Congress to be called in February 1931. (Footnote: Information that on December 22, 1931, authorization of the refunding plan under the agreement was postponed for 3 years.)	495

## CONSIDERATION OF EN BLOC SETTLEMENT OF CLAIMS BETWEEN THE UNITED STATES AND MEXICO AND ARRANGEMENT REGARDING MEETINGS OF THE CLAIMS COMMISSIONS

1930 July 16 (148)	<i>From the Ambassador in Mexico (tel.)</i> Request for instructions as to whether to initiate concurrent yet independent negotiations on (1) en bloc settlement of claims between the United States and Mexico, and (2) river rectification project.	495
July 17 (182)	<i>To the Ambassador in Mexico (tel.)</i> Authorization to initiate concurrent negotiations on questions mentioned in telegram No. 148 of July 16.	496
Aug. 7 (2678)	<i>From the Ambassador in Mexico</i> Memorandum by the Counselor of Embassy (text printed) giving views expressed by Mexican Foreign Minister in regard to non-functioning of the Special Claims Commission of United States and Mexico; importance of reaching an en bloc settlement before expiration of existing Claims Conventions.	496
Sept. 4 (2741)	<i>From the Ambassador in Mexico</i> Discussion with Foreign Minister regarding steps which could best be taken to bring about an en bloc settlement.	498
Nov. 29 (2)	<i>From the Ambassador in Mexico</i> Conversation of member of Embassy staff with Finance Minister, who indicated that he was still in favor of an en bloc settlement and would discuss subject with Foreign Minister Estrada at an early date.	498

## MEXICO

## CONSIDERATION OF EN BLOC SETTLEMENT OF CLAIMS BETWEEN THE UNITED STATES AND MEXICO AND ARRANGEMENT REGARDING MEETINGS OF THE CLAIMS COMMISSIONS—Continued

Date and number	Subject	Page
1930 Dec. 5 (26)	<i>From the Ambassador in Mexico</i> Memorandum of conversation with the Foreign Minister on December 1 (extract printed), in which it was proposed to leave question of en bloc settlement in abeyance during anticipated absence of Foreign Minister until January.	499
Dec. 10 (38)	<i>From the Ambassador in Mexico</i> Memorandum of conversation with the Foreign Minister on December 9 (text printed) regarding a proposed meeting of Special Claims Commission in February and arrangements for discussions by agents to settle certain preliminary questions.	501
Dec. 15 (351)	<i>From the Ambassador in Mexico (tel.)</i> Suggestions made at meeting of Ambassador and Counselor of Embassy with Acting Foreign Minister and his advisor regarding plans for future sessions of General and Special Claims Commissions, and for the exclusion of certain cases from hearings for reasons of expediency.	504
Dec. 16 (344)	<i>To the Ambassador in Mexico (tel.)</i> Approval of suggested arrangements, with instructions to make clear that postponement of certain cases is for a limited time, because of Mexican desire, and does not constitute a waiver of U. S. position regarding these cases.	506
Dec. 22 (354)	<i>From the Ambassador in Mexico (tel.)</i> Receipt from Foreign Office of memorandum dated December 17 which agrees substantially with Legation's memorandum to Foreign Office of same date, as summarized in telegram No. 351 of December 15.	506
Dec. 23 (69)	<i>From the Ambassador in Mexico</i> Memorandum of December 17 from Mexican Foreign Office (text printed) regarding time and place of meeting of General and Special Claims Commissions.	507

## TEMPORARY CLOSING OF THE MEXICAN CONSULATE AT LAREDO, TEXAS, IN REPRISAL FOR THREATENED ARREST OF GENERAL CALLES, FORMER PRESIDENT OF MEXICO

1929 July 20	<i>To the Governor of Texas (tel.)</i> Request for action to prevent disturbances during passage of General Calles, former President of Mexico, through Texas en route to New York, in view of reported threats by former District Attorney John A. Valls to arrest him for complicity in death of two Mexican citizens in Laredo on June 7, 1922.	508
July 22	<i>From the Governor of Texas (tel.)</i> Information that District Attorney R. L. Bobbitt of Laredo states no charges are pending there and none have ever been filed there against General Calles.	509
July 23 (140)	<i>From the Consul at Nuevo Laredo</i> Details of General Calles' arrival in Laredo, Texas, and greeting by committee of welcome.	509

## MEXICO

## TEMPORARY CLOSING OF THE MEXICAN CONSULATE AT LAREDO, TEXAS, IN REPRISAL FOR THREATENED ARREST OF GENERAL CALLES, FORMER PRESIDENT OF MEXICO—Continued

Date and number	Subject	Page
1929 Nov. 28	<i>From the Consul at Nuevo Laredo (tel.)</i> Reported intention of John A. Valls, who is again Prosecuting Attorney of Webb County, to arrest General Calles on his return trip from New York to Mexico.	511
Dec. 3	<i>To the Consul at Nuevo Laredo (tel.)</i> Request for telegraphic report on developments in threatened arrest of General Calles; information that General Calles has diplomatic passport and visa.	511
Dec. 4	<i>From the Consul at Nuevo Laredo (tel.)</i> Information that Valls has sufficient evidence for arrest of Calles as material witness and has stated he will not recognize diplomatic passport or visa unless Calles has special diplomatic mission recognized by President of United States.	512
Dec. 5 (372)	<i>From the Ambassador in Mexico (tel.)</i> Request to be kept informed of Department's action to prevent threatened arrest of Calles.	512
Dec. 5	<i>To the Governor of Texas (tel.)</i> Report of renewed threats of arrest against General Calles on his return to Mexico; request that suitable steps be taken to prevent interference with General Calles' liberty and safety while travelling through Texas.	512
Dec. 6	<i>From the Governor of Texas (tel.)</i> Opinion that Department can rely on statements made last July by Judge Valls that he would not try to arrest or otherwise embarrass General Calles on his trip through Texas.	513
Dec. 6	<i>To the Consul at Nuevo Laredo (tel.)</i> Request for comment on Governor Moody's telegram of December 6.	514
Dec. 7	<i>From the Consul at Nuevo Laredo (tel.)</i> Opinion that Governor is not informed on case, and that Valls intends to swear out warrant as soon as he has information as to when and where Calles will pass through Texas.	514
Dec. 9	<i>To the Consul at Nuevo Laredo</i> Information that General Calles carries a diplomatic passport and U. S. visa and that his diplomatic status is recognized by President of United States; authorization so to inform Mr. Valls or other interested persons and to show this instruction to Mr. Valls if he requests it.	514
Dec. 13	<i>From the Consul at Nuevo Laredo (tel.)</i> Information that Valls has issued warrant and is determined to arrest Calles in spite of Department's instruction and that U. S. Government should be prepared to handle situation in case Calles comes through Texas.	515
Dec. 14 (541)	<i>To the Chargé in Mexico (tel.)</i> Arrangements for armed guard to escort Calles party across Mexican border, for which, in view of urgency, Department had not secured permission from Mexican Government; instructions to explain to Acting Foreign Minister and telegraph his acquiescence.	515

## MEXICO

## TEMPORARY CLOSING OF THE MEXICAN CONSULATE AT LAREDO, TEXAS, IN REPRISAL FOR THREATENED ARREST OF GENERAL CALLES, FORMER PRESIDENT OF MEXICO—Continued

Date and number	Subject	Page
1929 Dec. 14	<i>To the Consul at Nuevo Laredo (tel.)</i> Information that General Calles will be accompanied by Mexican Ambassador, who has diplomatic immunity under international law, and that United States must not fail to fulfill its obligations under international law; instructions that interested parties may be so advised.	516
Dec. 14	<i>To the Governor of Texas (tel.)</i> Request, in view of evidence that Valls intends to attempt arrest of General Calles, for precautions requested in Department's telegram of December 5.	516
Dec. 14	<i>From the District Attorney of Webb County, Texas (tel.)</i> Intention to attempt to arrest General Calles unless his diplomatic immunity is protected by Government with armed force.	517
Dec. 15	<i>To the District Attorney of Webb County, Texas (tel.)</i> Information that Government is prepared to take steps necessary to protect General Calles from arrest or molestation while in United States.	517
Dec. 15 (378)	<i>From the Chargé in Mexico (tel.)</i> Request of Foreign Minister that armed escort for General Calles stop on International Bridge, since Senate permission would be necessary for armed forces to enter Mexican territory.	518
Dec. 15	<i>From the District Attorney of Webb County, Texas (tel.)</i> Acknowledgment of Department's telegram of December 15.	518
Dec. 16 (380)	<i>From the Chargé in Mexico (tel.)</i> Intention of Mexican Government to close Mexican Consulate at Laredo, Texas, as protest against actions and threats of Attorney Valls.	518
Dec. 16	<i>From the Governor of Texas (tel.)</i> Belief that Valls will not attempt arrest of General Calles.	519
Dec. 17 (544)	<i>To the Chargé in Mexico (tel.)</i> Hope that closing of Mexican Consulate at Laredo may be deferred until Foreign Minister has discussed matters with General Calles, in view of friendly attitude of citizens of Laredo to Mexican Government and General Calles.	519
Dec. 17	<i>From the Consul at Nuevo Laredo (tel.)</i> Information that General Calles passed unmolested through Laredo; also that Mexican Consulate has been closed.	520
Dec. 18 (545)	<i>To the Chargé in Mexico (tel.)</i> Telegram of December 17 from the Governor of Texas and Department's reply (texts printed) concerning possibility of action by Department to secure reopening of Consulate and port of Laredo by Mexican Government; permission to show this telegram to Foreign Minister Estrada.	520

## MEXICO

## TEMPORARY CLOSING OF THE MEXICAN CONSULATE AT LAREDO, TEXAS, IN REPRISAL FOR THREATENED ARREST OF GENERAL CALLES, FORMER PRESIDENT OF MEXICO—Continued

Date and number	Subject	Page
1929 Dec. 20 (2071)	<i>From the Chargé in Mexico</i> Information that no action has been taken on Department's telegram No. 544 of December 17, and that telegram No. 545, December 18, was shown to Mr. Estrada, who made no comment.	521
Dec. 20 (550)	<i>To the Chargé in Mexico (tel.)</i> Exchange of telegrams between Governor of Texas and Department (texts printed) regarding Laredo incident, in which Department requested information regarding Governor's relations with Valls and inquired what assurances could be given Mexican Government that similar unfriendly incidents would not occur in future.	522
Dec. 21 (551)	<i>To the Chargé in Mexico (tel.)</i> Telegram from Governor of Texas (text printed) giving information requested in Department's telegram No. 550 and stating that Mexican Government can be assured of friendly attitude of people of Laredo and need not anticipate any unpleasantness upon reestablishment of relations.	523
1930 Jan. 4 (2)	<i>To the Chargé in Mexico (tel.)</i> For J. Reuben Clark, Jr.: Instructions to press actively with the Mexican Government for reopening of Mexican Consulate at Laredo, on basis of promises made by Attorney Valls through the Governor of Texas.	524
Jan. 4	<i>From the Governor of Texas (tel.)</i> Assurances by District Attorney Valls (excerpts printed) of just and courteous treatment of Mexican citizens in his district. Serious commercial situation resulting from closing of Consulate and port at Laredo; assertion that this is an international problem, and request for diplomatic negotiations to reopen the Consulate and port.	525
Jan. 6	<i>To the Governor of Texas (tel.)</i> Comment that telegram of January 4 strengthens U. S. position with Mexico.	526
Jan. 8 (5)	<i>From the Chargé in Mexico (tel.)</i> For Cotton from Clark: Discussion with Acting Foreign Minister Estrada of Mexican attitude toward the Laredo situation; suggestion that Estrada draft a statement covering assurances desired by Mexican Government from United States before reopening Consulate.	526
Jan. 9 (7)	<i>To the Chargé in Mexico (tel.)</i> For Clark: Comments on wording of proposed draft statement.	529
Jan. 10 (8)	<i>To the Chargé in Mexico (tel.)</i> For Clark: Report that economic situation at Laredo is getting worse.	529
Jan. 10 (7)	<i>From the Chargé in Mexico (tel.)</i> For Cotton from Clark: Intention to submit for informal discussion at interview with Estrada today draft statement which Department might use.	529

## MEXICO

## TEMPORARY CLOSING OF THE MEXICAN CONSULATE AT LAREDO, TEXAS, IN REPRISAL FOR THREATENED ARREST OF GENERAL CALLES, FORMER PRESIDENT OF MEXICO—Continued

Date and number	Subject	Page
1930 Jan. 10 (9)	<i>From the Chargé in Mexico (tel.)</i> For Cotton from Clark: Draft statements received from Estrada and draft American statement submitted to him (texts printed) as basis for discussion; request for draft of satisfactory statement to be submitted at next appointment with Estrada.	530
Jan. 11 (12)	<i>To the Chargé in Mexico (tel.)</i> For Clark: Dissatisfaction with Estrada's proposal; approval of American proposal, with certain specified changes in wording, and authorization for the Chargé to sign and deliver the statement.	532
Jan. 13 (11)	<i>From the Chargé in Mexico (tel.)</i> For Cotton from Clark: Presentation of statement (text printed) to Estrada, who requested amendment of one clause, eliminating reference to diplomatic passports; request for Department's decision by telephone.	532
Jan. 14 (13)	<i>From the Chargé in Mexico (tel.)</i> Note delivered to Acting Foreign Minister containing revised statement authorized by Department, and note of acceptance from Acting Foreign Minister (texts printed).	533
Jan. 15	<i>To the Governor of Texas (tel.)</i> Information that Mexican Government has ordered opening of Consulate at Laredo.	534
Jan. 16	<i>From the Governor of Texas (tel.)</i> Appreciation of Department's efforts in securing reopening of Consulate at Laredo.	535

## RENEWED NEGOTIATIONS FOR A SETTLEMENT OF THE DISPUTE OVER THE RIO GRANDE BOUNDARY

1930 Jan. 20	<i>To the Mexican Ambassador</i> Information that American Commissioner on International Boundary Commission has been instructed to commence immediately with elimination of pending banco cases, in accordance with understanding that Mexican Commissioner will be instructed to prepare final plan for river rectification as soon as possible.	535
Feb. 22 (00684)	<i>From the Mexican Chargé</i> Information that Mexican Commissioner has been instructed to cooperate with the American Commissioner in preparation of river rectification plan following elimination of banco cases.	535
Mar. 20 (78)	<i>To the Chargé in Mexico (tel.)</i> Instructions to deliver note to Foreign Office proposing negotiation of a treaty covering points set forth in Minute 111 of the International Boundary Commission as soon as final plans for river rectification have been received by both Governments; instructions to consult with Mr. Clark, Special Representative of the Department; information that Commissioner Lawson would be sent to Mexico City for negotiations if considered advisable.	536

## MEXICO

## RENEWED NEGOTIATIONS FOR A SETTLEMENT OF THE DISPUTE OVER THE RIO GRANDE BOUNDARY—Continued

Date and number	Subject	Page
1930 Mar. 24 (62)	<i>From the Chargé in Mexico (tel.)</i> For Cotton from Clark: Suggestion, in view of anticipated relinquishment of his post by Ambassador Morrow, that proposal be changed to the effect that treaty negotiations will be undertaken after final plans have been received and studied by the two Governments; belief that Commissioner Lawson's presence is essential to negotiations.	537
Mar. 25 (83)	<i>To the Chargé in Mexico (tel.)</i> Authorization to make change suggested.	538
Mar. 26 (65)	<i>From the Chargé in Mexico (tel.)</i> Information that note was delivered to Foreign Office today.	538
May 16 (2459)	<i>From the Chargé in Mexico</i> Note from Foreign Minister, May 7 (text printed), in reply to Embassy's note of March 26, stating willingness of Mexican Government to examine means for putting into practice points contained in Minute 111, subject to certain previously specified exceptions.	538
May 20 (134)	<i>To the Chargé in Mexico (tel.)</i> Instructions to inquire of Foreign Office whether Mexican Government is willing to begin negotiations in Mexico City early in July.	540
May 29 (2495)	<i>From the Chargé in Mexico</i> Note from Foreign Minister, May 27 (text printed), suggesting July 10 as date for Boundary Commissioners to meet and begin negotiations, but pointing out that no agreement has been reached to negotiate a treaty but only to come to a satisfactory arrangement.	540
May 29 (144)	<i>To the Chargé in Mexico (tel.)</i> Information that Commissioner Lawson is being instructed to arrive in Mexico City shortly before July 10; instructions to use own discretion as to advisability of urging negotiation of a treaty at present.	541
May 31 (109)	<i>From the Chargé in Mexico (tel.)</i> Belief that it would be best to proceed with Mexican Government's proposal in note of May 27.	542
June 6	<i>To the Mexican Ambassador</i> Suggestion that the two Governments might now agree on interpretation that transfer of sovereignty over a banco takes place one month from the date the Commission gives its decision, unless such decision has meanwhile been disapproved by either or both Governments.	542
July 9 (140)	<i>From the Ambassador in Mexico (tel.)</i> Information that Commissioners are completing final report of rectification project; proposal to initiate negotiations at first propitious moment.	543
July 11 (176)	<i>To the Ambassador in Mexico (tel.)</i> Authorization to initiate negotiations whenever moment seems propitious.	543

## MEXICO

## RENEWED NEGOTIATIONS FOR A SETTLEMENT OF THE DISPUTE OVER THE RIO GRANDE BOUNDARY—Continued

Date and number	Subject	Page
1930 Aug. 5 (2670)	<i>From the Ambassador in Mexico</i> Minutes Nos. 128 and 129 of the International Boundary Commission (texts printed) regarding project for the rectification of the Rio Grande.	543
Aug. 7	<i>From the Mexican Ambassador</i> Acceptance of interpretation proposed in Department's note of June 6 regarding date of transfer of sovereignty over bancos.	550
Aug. 21 (219)	<i>To the Ambassador in Mexico (tel.)</i> Instructions to begin negotiations with Mexican Government for agreement to effect recommendations outlined in report by International Boundary Commission, and containing certain specified provisions.	551
Aug. 22 (189)	<i>From the Ambassador in Mexico (tel.)</i> Interview with President of Mexico, who indicated his accord with the project and his intention of giving instructions to commence negotiations at once.	552
Aug. 28 (196)	<i>From the Ambassador in Mexico (tel.)</i> Agreement with Foreign Office's desire that Mexican Government should initiate negotiations for agreement and that negotiations be kept informal at this stage.	552
Aug. 29 (223)	<i>To the Ambassador in Mexico (tel.)</i> Instructions to endeavor to include in agreement, in limited form only, Boundary Commissioners' recommendation regarding immunity from claims.	553
Aug. 29 (225)	<i>To the Ambassador in Mexico (tel.)</i> Concurrence in recommendation for informal status of negotiations contained in Legation's telegram No. 196, August 28.	554
Sept. 9 (208)	<i>From the Ambassador in Mexico (tel.)</i> Proposal by Mexican Government for Boundary Commission to meet at Ciudad Juarez in near future to approve draft minute, copy of which has been sent to Mexican Commissioner for consultation with American Commissioner; information that copy of this telegram is being sent to American Commissioner by air mail.	554
Sept. 9 (2751)	<i>From the Ambassador in Mexico</i> Text of the minute prepared by the Foreign Office to be approved by the International Boundary Commission (copy of which is also being sent to the American Commissioner).	554
Sept. 10	<i>To the Consul at Ciudad Juarez (tel.)</i> For Commissioner Lawson: Instructions to consult with Mexican Commissioner regarding draft minute and to send observations to Department.	557
Sept. 20	<i>From the American Commissioner, International Boundary Commission, United States and Mexico</i> Suggestion by Commissioners for conference at which representatives of State Department and Mexican Foreign Office can act with Boundary Commissioners to reach final agreement to be submitted for approval of both countries.	557



## MEXICO

## RENEWED NEGOTIATIONS FOR A SETTLEMENT OF THE DISPUTE OVER THE RIO GRANDE BOUNDARY—Continued

Date and number	Subject	Page
1931 Jan. 2 (1)	<i>From the Ambassador in Mexico (tel.)</i> Belief that negotiations for river rectification agreement should begin as soon as possible; request that Commissioner Lawson be instructed to come to Mexico City immediately to assist in preparations for discussions with Mexican Foreign Office.	559
PROTECTION IN MEXICO OF THE TRADEMARKS OF THE PALMOLIVE COMPANY AND OF CHICKERING AND SONS		
1929 Nov. 4 (500)	<i>To the Ambassador in Mexico (tel.)</i> Instructions to bring informally to attention of Foreign Office adverse decision of Mexican Supreme Court in Palmolive Company's suit for infringement of trademark, which decision would appear to violate provisions of article 2 of the Convention for the Protection of Industrial Property.	560
Nov. 5 (351)	<i>From the Ambassador in Mexico (tel.)</i> Foreign Office promise to investigate point raised of possible violation of article 2 and to make informal representations to court if they appear to be justified; inquiry as to interpretation given in United States to article 2.	560
Nov. 7 (505)	<i>To the Ambassador in Mexico (tel.)</i> Reply to telegram No. 351 of November 5, giving Department's opinion as to interpretation of article 2.	561
Nov. 12 (1994)	<i>From the Ambassador in Mexico</i> Foreign Office reply of November 11 (text printed) to Embassy's informal representations in regard to Palmolive Company's suit, advising that Court decision was that article 2 was not applicable.	561
1930 Jan. 11 (2132)	<i>From the Chargé in Mexico</i> Letter of January 10 from Palmolive Company's attorneys, enclosing translation of Supreme Court's decision (texts printed) and stating that they cannot agree that decision gives due compliance to the convention.	562
May 9 (1101)	<i>To the Chargé in Mexico</i> Department's opinion that Supreme Court decision is contrary to article 2 of convention and to Mexican legislation and will affect adversely American business dealings in Mexico; instructions to try to obtain satisfactory adjustment, avoiding discussion of legal questions if possible; transmittal of a memorandum prepared by the Solicitor's Office (text printed) regarding statutory and treaty provisions involved.	570
June 6 (2514)	<i>From the Chargé in Mexico</i> Information that Embassy has not complied with Department's instructions of May 9 because of new Supreme Court decision apparently reversing that in Palmolive Company case, and is awaiting further instructions.	579
June 17 (2555)	<i>From the Chargé in Mexico</i> Translation of Supreme Court decision (text printed) in case of <i>Chickering and Sons vs. Munquia</i> , which seems to be a reversal of the opinion as laid down in Palmolive case.	580

## MOROCCO

REPRESENTATIONS REGARDING AMERICAN RIGHTS WITH RESPECT TO CONCESSION  
BY THE TANGIER ADMINISTRATION IN MOROCCO

Date and number	Subject	Page
1930 May 19	<i>From the American Diplomatic Agent and Consul General at Tangier to the French Resident General in Morocco</i> Protest against possible granting by the Tangier Legislative Assembly of electric power concession applied for by certain French and Spanish concerns, without public adjudication, in violation of American treaty rights.	587
July 7	<i>From the American Diplomatic Agent and Consul General at Tangier to the French Resident General in Morocco</i> Request for official notification as to whether protest contained in communication of May 19 has been brought to attention of authorities concerned.	588
July 15 (201-D)	<i>From the French Minister in Morocco to the American Diplomatic Agent and Consul General at Tangier</i> Information that contents of letter of May 19 were communicated to Administrator of Zone of Tangier, who gave assurance that sufficient delays would be provided to permit American nationals to participate in adjudications for supplies for the equipment of the concessionary enterprise on equal basis with other competitors.	588
July 18	<i>From the American Diplomatic Agent and Consul General at Tangier to the French Resident General in Morocco</i> Dissatisfaction with assurances of opportunity to bid on contract for materials and supplies only; request that proper authorities be informed as to the necessity for full and entire observance of provisions of Act of Algeciras and related regulations in the awarding of this or any other contract or concession by the Tangier Administration.	589
Aug. 26 (303)	<i>To the Ambassador in France</i> Instructions to discuss with French officials question of prospective violation of Act of Algeciras by Tangier Administration, stating position of U. S. Government in the matter. (Footnote: The same, <i>mutatis mutandis</i> , to the Ambassadors in Great Britain, Italy, and Spain.)	590
Aug. 26 (607)	<i>To the Diplomatic Agent and Consul General at Tangier</i> Approval of action taken and instructions to continue efforts; information that American Missions at London, Paris, Madrid, and Rome have been instructed to take up matter informally with respective Foreign Offices.	591
Aug. 29 (538)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Account of deliberations of Committee of Control in regard to a resolution passed by Legislative Assembly according concession to Franco-Spanish combine; suggestion that identic notes be addressed to France, Spain, Great Britain, and Italy protesting violation of American treaty rights; letter dated August 25 to the French Resident General (text printed) protesting against further instance of violation of Act of Algeciras.	591
Sept. 10 (1197)	<i>From the Ambassador in Great Britain</i> Advice from Foreign Office that legal representative is investigating British position in regard to illegal action of Tangier Administration; informal advice that the British favor open adjudication of contracts and will support American position.	598

## MOROCCO

## REPRESENTATIONS REGARDING AMERICAN RIGHTS WITH RESPECT TO CONCESSION BY THE TANGIER ADMINISTRATION IN MOROCCO—Continued

Date and number	Subject	Page
1930 Sept. 23 (175)	<i>From the Ambassador in Spain</i> Informal interview with Ministry of State official, who stated that concession in question was not a new one but an amplification of one already existing.	598
Sept. 24 (293D)	<i>From the French Minister in Morocco to the American Diplomatic Agent and Consul General at Tangier</i> Explanations in reply to Diplomatic Agent's protest of August 25 against apparent violation of Act of Algeciras in granting of a certain supplies contract.	599
Sept. 25 (1229)	<i>From the Ambassador in Great Britain</i> Further Foreign Office report indicating agreement with U. S. Government's position; information that British Government has taken no position, however, but is awaiting a note which is being prepared by the French Government, apparently justifying actions of French Administrator of Tangier Zone.	600
Sept. 26 (537)	<i>From the Ambassador in Italy</i> Discussion with Foreign Office of question of Tangier concession, and advice that Italian Government does not feel called upon to issue any instructions in matter at this time.	601
Nov. 19 (1406)	<i>From the Ambassador in Great Britain</i> Foreign Office note reconsidering the British position, and proposing possibility of compromise grant to Franco-Spanish merger in the interests of the Tangier Zone.	601

## INABILITY OF AN AMERICAN COMPANY TO WAIVE CAPITULATORY RIGHTS ENJOYED BY THE UNITED STATES IN MOROCCO

1930 Mar. 3 (477)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Inquiry by French firm as to possibility of waiver of capitulatory rights in Morocco by an American concern.	602
April 3 (586)	<i>To the Diplomatic Agent and Consul General at Tangier</i> Advice that an American company has no authority to waive capitulatory rights, as only the United States Government has that power.	603

## RESTRICTIONS ON MISSIONARY ACTIVITIES IN THE FRENCH ZONE IN MOROCCO

1930 Nov. 7 (559)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Protest by an American missionary against opposition by French authorities to work of American missionaries in Morocco; request for instructions as to measure of support to be given to such appeals.	603
Dec. 8 (616)	<i>To the Diplomatic Agent and Consul General at Tangier</i> Instructions, if it appears that restrictions have been applied to all nationalities and with no discrimination against American missionaries, and if measures seem reasonable and necessary, to advise American missionaries to conform to the restrictions of the French authorities.	604

## MOROCCO

## NEGOTIATIONS CONCERNING CLAIMS AND PROPOSED RECOGNITION BY THE UNITED STATES OF THE SPANISH ZONE IN MOROCCO

Date and number	Subject	Page
1930 Jan. 18 (5)	<i>To the Ambassador in Spain</i> Attitude of Department regarding settlement of American claims in Spanish Zone of Morocco; request for suggestions before further action is taken. (Copy to the Diplomatic Agent at Tangier.)	605
Feb. 27 (49)	<i>From the Ambassador in Spain</i> Note dated January 22 (text printed) from the Spanish Secretary General of Foreign Affairs, conciliatory in tone but making no real concessions, except minor ones in second class of claims. (Copy of despatch and enclosure to Diplomatic Agent at Tangier.)	607
Mar. 13 (584)	<i>To the Diplomatic Agent and Consul General at Tangier</i> Reasons for rejection of proposal to make payment of awards to Spanish claimants contingent upon settlement of American claims in Spanish Morocco; belief that a request for restitution by Spanish Government of taxes illegally collected from American citizens and protégés in Spanish Morocco would be inexpedient at the present time. (Copy to Embassy in Spain.)	616
Aug. 6 (75)	<i>To the Ambassador in Spain</i> Instructions to present <i>aide-mémoire</i> to Spanish authorities stating U. S. Government's views in matter of American claims in Spanish Morocco as outlined in this and previous instructions. (Copy to Diplomatic Agent at Tangier.)	617
Aug. 7 (77)	<i>To the Ambassador in Spain</i> Instructions to advise Spanish authorities that application of certain Dahirs to American nationals and protégés in Spanish Zone of Morocco cannot be admitted until this Government has accorded its recognition of Spanish Zone, which recognition is contingent upon equitable settlement of American claims in that region.	619
Sept. 23 (174)	<i>From the Ambassador in Spain</i> Conversation with Spanish Under Secretary of State in effort to reach an understanding in matter of American claims in Spanish Zone in Morocco and Spanish desire for recognition of their sphere of influence; desire to discuss matter at Department in Washington during leave in October.	620

## NETHERLANDS

ARBITRATION TREATY BETWEEN THE UNITED STATES AND THE NETHERLANDS,  
SIGNED JANUARY 13, 1930

1929 May 9 (1333)	<i>From the Netherlands Minister</i> Request for certain changes in terminology of proposed U. S.—Netherlands arbitration treaty.	622
June 14	<i>To the Netherlands Minister</i> Nonagreement with certain changes suggested in <i>aide-mémoires</i> No. 1949, of June 27, 1928, and No. 1333 of May 9, 1929.	624

## NETHERLANDS

ARBITRATION TREATY BETWEEN THE UNITED STATES AND THE NETHERLANDS,  
SIGNED JANUARY 13, 1930—Continued

Date and number	Subject	Page
1929 Aug. 29 (3160)	<i>From the Netherlands Legation</i> Willingness to accept text of treaty as proposed by United States; request for exchange of notes at the time of signature of the treaty in regard to interpretation of article I.	627
Nov. 23	<i>To the Netherlands Legation</i> Agreement with proposed interpretation of article I and inquiry if this is sufficient assurance; nonobjection to exchange of notes, however, if Netherlands Government deems it necessary.	630
Dec. 10 (4274)	<i>From the Netherlands Legation</i> Information that Netherlands Government regards statement of November 23 as sufficient assurance of the interpretation and does not insist upon exchange of notes; information that full power for Netherlands Minister to sign the treaty will be forwarded as soon as possible, as well as the Dutch language text of treaty.	631
Dec. 30	<i>To the Netherlands Legation</i> Acknowledgment of Netherlands Legation's note of December 10, 1929.	632
1930 Jan. 13	<i>Treaty Between the United States of America and the Netherlands</i> Text of arbitration treaty signed at Washington.	633

## NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN  
NICARAGUA

1930 May 8 (39)	<i>To the Minister in Nicaragua (tel.)</i> Designation of Captain Alfred Wilkinson Johnson, U. S. Navy, for appointment as Chairman of National Board of Elections of Nicaragua; information that Department is considering necessary changes in 1923 electoral law.	636
May 9 (53)	<i>From the Minister in Nicaragua (tel.)</i> Information that President Moncada is pleased with designation of Captain Johnson, and that an extra session of Congress will be convened in June to consider changes in electoral law.	636
May 10 (55)	<i>From the Minister in Nicaragua (tel.)</i> Inquiry by ex-President Diaz as to whether United States will supervise Nicaraguan elections; suggestion that Department's intentions be made public in Washington immediately.	637
May 12 (41)	<i>To the Minister in Nicaragua (tel.)</i> Press release for publication May 13 (text printed) regarding supervision of Nicaraguan Congressional elections.	637
May 24 (61)	<i>From the Minister in Nicaragua (tel.)</i> Appointment by Supreme Court of Captain Johnson as President of National Board of Elections.	638

## NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN  
NICARAGUA—Continued

Date and number	Subject	Page
1930 June 13	<i>To the Personal Representative of the President in Nicaragua</i> Transmittal to Captain Johnson of commission as Personal Representative of the President of the United States in Nicaragua, with the rank of Envoy Extraordinary and Minister Plenipotentiary.	638
June 25 (75)	<i>From the Minister in Nicaragua (tel.)</i> Opinion of President Moncada that amendments to electoral law should be made by Executive decree and not submitted to Congress, because of his belief that Congress would consult Supreme Court on question of constitutionality, and the court would give adverse opinion.	639
June 27 (58)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to discuss fully with President Moncada the question of amendment of electoral law, and to report telegraphically.	640
June 29 (76)	<i>From the Minister in Nicaragua (tel.)</i> Memorandum by President Moncada and the Minister of Fomento (text printed) of principal points in favor of amendment of electoral law by Executive decree.	640
June 30 (77)	<i>From the Minister in Nicaragua (tel.)</i> Belief that plan to make amendments by Executive decree will meet with opposition among President's advisers, and that he may change his attitude.	643
July 2 [81]	<i>From the Minister in Nicaragua (tel.)</i> Request of President Moncada that the Minister and Captain Johnson confer informally with Supreme Court members in regard to plan for amending electoral law, and advise him as to conclusions reached.	643
July 3 (61)	<i>To the Minister in Nicaragua (tel.)</i> Attitude of Department that final decision as to method of amending electoral law rests with Nicaraguan Government, but desire that all measures affecting election shall be free from possibility of serious challenge; instructions to deliver proposed amendments to President Moncada either now or after discussion with Captain Johnson upon his arrival.	643
July 11 (85)	<i>From the Minister in Nicaragua (tel.)</i> Meeting of Minister, Captain Johnson, and seven members of Supreme Court, at which prevailing opinion was that amendments should be made by Executive decree.	644
July 22 (90)	<i>From the Minister in Nicaragua (tel.)</i> Report of satisfactory agreement with Nicaraguan authorities regarding amendments to electoral law, which will be promulgated by Executive decree if Department approves.	645
July 23 (70)	<i>To the Minister in Nicaragua (tel.)</i> Approval of action reported in telegram No. 90 of July 22.	645
Aug. 13 (103)	<i>From the Minister in Nicaragua (tel.)</i> Message from Captain Johnson (text printed) stating intention to follow principle of free and fair election, which will necessitate issuing of amnesty decree and other guarantees by President Moncada; request for Department's concurrence.	645

## NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN  
NICARAGUA—Continued

Date and number	Subject	Page
1930 Aug. 15 (107)	<i>From the Minister in Nicaragua (tel.)</i> Provisions of amnesty decree to be made public by President Moncada in near future. (Footnote: Information that decree was made public on August 20.)	647
Aug. 15 (122)	<i>From the Minister in Nicaragua</i> Discussion at Legation regarding cooperation of marines and Guardia with the electoral mission, and decision that every effort should be made to afford necessary protection without increasing marine force.	648
Aug. 16 (84)	<i>To the Minister in Nicaragua (tel.)</i> Concurrence in views expressed in telegram No. 103, August 13; authorization to remind President Moncada again, if considered advisable, of the serious responsibility which this Government has assumed by cooperating in electoral problems and of the necessity that conditions pertaining to the elections should be free from possibility of challenge in the future.	650
Aug. 18 (124)	<i>From the Minister in Nicaragua</i> Report of arrival of Captain Johnson, who took oath as Chairman of National Board of Elections on July 3; transmittal of changes in electoral law; information that under amended law, registrations will be held on September 21, 24, and 28, and elections on November 2.	651
Sept. 27 (98)	<i>To the Minister in Nicaragua (tel.)</i> Explanation, given in reply to a query by Nicaraguan Minister in connection with municipal elections, that American Minister and Captain Johnson are fully authorized to cooperate in dealing with these questions in so far as they bear on national elections; request for report on present status of matter.	652
Sept. 29 (124)	<i>From the Minister in Nicaragua (tel.)</i> Information that attitude of Legation and Captain Johnson has been, as stated by Department to Nicaraguan Minister and that matter is now ended; assurance by Captain Johnson that municipal situation will not impair fairness of Congressional elections.	652
Oct. 8 (106)	<i>To the Minister in Nicaragua (tel.)</i> Attitude of Department in regard to effect of difficulties in municipal elections on Congressional elections.	653
Oct. 11 (191)	<i>From the Minister in Nicaragua</i> Information that municipal election situation terminated on September 27, and that Department's views were explained to Conservative leader who agreed that situation would not prevent guaranteeing of free elections by electoral mission.	653
Nov. 3 (139)	<i>From the Minister in Nicaragua (tel.)</i> Report that Congressional elections were held throughout country on November 2 without disorder.	654
Nov. 6 (145)	<i>From the Minister in Nicaragua (tel.)</i> Report on election returns, showing gains by Liberals.	655
Nov. 14 (155)	<i>From the Minister in Nicaragua (tel.)</i> Report on evacuation of personnel of electoral mission and additional marines who assisted in election supervision.	655

## NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN  
NICARAGUA—Continued

Date and number	Subject	Page
1930 Nov. 21	<p><i>From the Chairman of the American Electoral Mission</i></p> <p>Information that official report to Nicaraguan Congress of election results has been sent to Minister of Gobernacion, and a copy to American Minister, and that final report on political and military situation is being delivered to State Department by official courier.</p>	655

## PROPOSALS FOR AMENDING THE AGREEMENT ESTABLISHING THE GUARDIA NACIONAL DE NICARAGUA AND FOR REDUCING ITS EXPENSES

1930 Apr. 18 (50)	<p><i>From the Minister in Nicaragua (tel.)</i></p> <p>Information that annual budget now before Congress contains a reduced estimate for the Guardia, which will provide for a force of approximately 1,500 men.</p>	656
Apr. 19 (37)	<p><i>To the Minister in Nicaragua (tel.)</i></p> <p>Instructions to suggest to President Moncada, or Foreign Minister, advisability of withholding final action on budget until Department's views, which are being forwarded by air mail, can be presented.</p>	657
[Apr. 19] (4)	<p><i>To the Minister in Nicaragua</i></p> <p>Instructions to discuss with Nicaraguan Government question of adequate financial support for Guardia Nacional, including means of supplying funds, and of reducing costs. Desire that situation regarding amended Guardia agreement be taken up again with Nicaraguan Government.</p>	657
May 23 (45)	<p><i>From the Minister in Nicaragua</i></p> <p>Memorandum transmitted to President Moncada on May 5, and draft notes to be exchanged by Nicaraguan Government and American Minister (texts printed) covering the amendments to the Guardia agreement to which Department has raised objections; information that after discussion with President Moncada, a new draft was made of note from Nicaraguan Government to include certain changes desired by the President.</p>	659
May 30 (63)	<p><i>From the Minister in Nicaragua (tel.)</i></p> <p>Information that President Moncada has approved draft note as amended and will instruct Foreign Office to submit note.</p>	668
June 7 (49)	<p><i>To the Minister in Nicaragua (tel.)</i></p> <p>Authorization to proceed with exchange of notes as proposed.</p>	668
June 26 (72)	<p><i>From the Minister in Nicaragua</i></p> <p>Nonacceptance of draft note by Nicaraguan Government because of objections of Supreme Court to certain portions; revised draft (excerpt printed) submitted with understanding that it is to be subject to Department's approval.</p>	669
July 18 (68)	<p><i>To the Minister in Nicaragua (tel.)</i></p> <p>Instructions to continue discussions and keep Department informed.</p>	672



## NICARAGUA

## PROPOSALS FOR AMENDING THE AGREEMENT ESTABLISHING THE GUARDIA NACIONAL DE NICARAGUA AND FOR REDUCING ITS EXPENSES—Continued

Date and number	Subject	Page
1930 July 30 (73)	<i>To the Minister in Nicaragua (tel.)</i> Inquiry by Dr. Carazo, Counselor of Nicaraguan Legation, as to whether Guardia salaries could be reduced in accordance with 20 percent reduction of all Government salaries being planned in economic crisis; instructions to consult with General McDougal and cable views.	672
Aug. 2 (97)	<i>From the Minister in Nicaragua (tel.)</i> Belief that understanding regarding Guardia agreement should be reached before taking up question of salary reduction.	672
Aug. 8 (80)	<i>To the Minister in Nicaragua (tel.)</i> Concurrence in opinion expressed in Legation's telegram No. 97 of August 2, and intention to inform Dr. Carazo accordingly.	674
Aug. 9 (100)	<i>From the Minister in Nicaragua (tel.)</i> Hope that Department's message to Dr. Carazo will not be transmitted by the Nicaraguan Legation in a form which would prove irritating to President Moncada.	674
Aug. 11 (81)	<i>To the Minister in Nicaragua (tel.)</i> Authorization to take such steps as appear desirable to prevent President Moncada's misunderstanding the Department's attitude.	674
Nov. 7 (222)	<i>From the Minister in Nicaragua</i> Delivery of message from U. S. Secretary of State to President Moncada, dated November 6 (text printed), containing suggestions for reducing cost of Guardia in which U. S. Government is willing to cooperate.	675
Nov. 7 (33)	<i>From the President of Nicaragua</i> Résumé of conditions affecting maintenance of Guardia and plan for annual allotment of \$800,000 to provide for Guardia force of 1,700 men.	679
Nov. 24 (89)	<i>To the Minister in Nicaragua</i> Letter from the Secretary of State to President of Nicaragua (text printed) agreeing to reduction of Guardia forces to 160 officers and 1,650 men, an annual budget allotment of \$799,652, with specified additional allotments for Military Academy and prison maintenance, and willingness to agree to salary reductions for officers who will serve in Guardia in future.	683
Dec. 13 (268)	<i>From the Minister in Nicaragua</i> Transmittal of copy of communication from President Moncada to General McDougal, dated December 10, accepting suggestions made in Secretary's letter of November 24, transmitted in instruction No. 89.	691
Dec. 16 (274)	<i>From the Minister in Nicaragua</i> Transmittal of copy of General McDougal's reply to President Moncada's letter of December 10, submitting plan for carrying into effect proposed reduction in strength of Guardia.	692

## NICARAGUA

## ASSISTANCE OF THE DEPARTMENT OF STATE IN REORGANIZING THE FINANCES OF NICARAGUA

Date and number	Subject	Page
1930 Jan. 28 (9)	<i>To the Chargé in Nicaragua (tel.)</i> Information that Nicaraguan Minister has terminated negotiations with Otis and Company and that he is understood to be negotiating with Bank of Manhattan and Trust Company.	693
Apr. 16	<i>From the Vice President of the International Manhattan Company</i> Advice that International Acceptance Bank, Inc., has been appointed American Depositary and Fiscal Agent of the National Bank of Nicaragua and the Pacific Railroad of Nicaragua, in an informal agreement which may be terminated at any time by either side.	694

## DISAPPROBATION BY THE DEPARTMENT OF STATE OF PROPOSED CONSTITUTIONAL AMENDMENTS TO EXTEND THE TERM OF OFFICIALS AT THE TIME IN OFFICE

1930 Mar. 14 [137] (32)	<i>From the Chargé in Nicaragua (tel.)</i> Request for instructions as to attitude to be taken in regard to project for partial reform of the Constitution reported to have been introduced in Senate which provides, among other things, for extension of term of office of various officials now in office.	695
Mar. 14 (33)	<i>From the Chargé in Nicaragua (tel.)</i> Opinion that reform project of character proposed could not be introduced without knowledge of President Moncada, or passed without his consent.	696
Mar. 15 (29)	<i>To the Chargé in Nigaragua (tel.)</i> Instructions to advise President Moncada informally that the adoption of amendment extending term of officials at the time in office would be unwelcome to United States Government.	697
Mar. 18 (38)	<i>From the Chargé in Nicaragua (tel.)</i> Delivery of Department's message to President Moncada, who said he could not intervene in matter; proposal to make informal and friendly suggestion to Moncada for substitution, in place of present project, of one embodying essential and desirable reforms agreed upon by both parties.	697
Mar. 28 (41)	<i>From the Chargé in Nicaragua (tel.)</i> Statement issued by Conservative Party (text printed) declaring inability of Party to accept amendments to Constitution being discussed in Senate.	699
May 10 (53)	<i>From the Minister in Nicaragua (tel.)</i> Information that regular session of Congress ended May 9 and that proposed amendments to Constitution have not been approved.	699

## NICARAGUA

CONCERN OF THE DEPARTMENT OF STATE OVER REPRESSIVE MEASURES OF  
PRESIDENT MONCADA

Date and number	Subject	Page
1930 Dec. 9 (262)	<i>From the Minister in Nicaragua</i> Arrest and detention of number of Nicaraguans all said to be members of Conservative Party, by President Moncada's order, without formal charges, and expulsion of several; indications that President Moncada fears plot against his life.	700
Dec. 16 (270)	<i>From the Minister in Nicaragua</i> Reference by President Moncada in his message to Congress (excerpt printed) to recent arrest and expulsion of several Nicaraguans for complicity in disturbing public order; manifesto of Executive Committee of Conservative Party (text printed) protesting these arbitrary acts.	703
1931 Jan. 3 (108)	<i>To the Minister in Nicaragua</i> Concern of U. S. Government, in view of its active military cooperation in Nicaragua, over situation reported; instructions to request President Moncada to discontinue arrests and deportations based on mere suspicion and to employ ordinary processes of law against suspected persons.	708

## AGREEMENT BETWEEN THE UNITED STATES AND NICARAGUA REGARDING TRANSPORTATION FOR UNITED STATES ARMY ENGINEERS AND SURVEY OF A RAILROAD ROUTE

1930 Feb. 11 (1317)	<i>From the Chargé in Nicaragua</i> Notes exchanged between Legation and Foreign Office (texts printed) concerning agreement under which Nicaraguan Government will grant free transportation to United States Army Engineers in Nicaragua in return for which Engineers will carry out survey of rail route from Lake Nicaragua to Atlantic Coast.	709
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## NORWAY

## TREATY BETWEEN THE UNITED STATES AND NORWAY FOR EXEMPTION FROM MILITARY SERVICE OR OTHER ACT OF ALLEGIANCE OF PERSONS HAVING DUAL NATIONALITY, SIGNED NOVEMBER 1, 1930

1930 Mar. 10 (1602)	<i>From the Minister in Norway</i> Willingness of Norwegian Government to enter into special agreement exempting certain persons having dual nationality from military duty, in accordance with wishes of United States Government.	711
May 6 (517)	<i>To the Minister in Norway</i> Instructions to suggest to Norwegian Government that proposed agreement be put into a treaty, as powers granted Congress under Constitution preclude conclusion of any international agreement on this subject by Executive power only.	712
Nov. 1	<i>Treaty Between the United States of America and Norway</i> Text of treaty signed at Oslo.	713

## PANAMA

## AUTHORIZATION TO THE PANAMANIAN GOVERNMENT TO REMOVE THE STATUE OF COLUMBUS FROM THE GROUNDS OF THE WASHINGTON HOTEL AT COLON

Date and number	Subject	Page
1930 Apr. 26 (37)	<i>From the Minister in Panama</i> Suggestion that moment appears propitious for transfer to Panama of statue of Columbus now standing on grounds owned by United States.	715
May 29 (29)	<i>To the Minister in Panama (tel.)</i> Nonobjection to immediate removal of Columbus statue, and authorization to inform Panamanian Government accordingly.	717
June 5 (81)	<i>From the Minister in Panama</i> Note to Panamanian Secretary of State for Foreign Affairs, May 31, conveying information that U. S. Government agrees to transfer of Columbus Statue, and reply, June 3, expressing appreciation (texts printed).	717

## PERU

## REVOLUTION IN PERU

1930 Aug. 22 (143)	<i>From the Chargé in Peru (tel.)</i> Revolt of artillery regiment near Arequipa in south against President Leguía.	720
Aug. 23 (144)	<i>From the Chargé in Peru (tel.)</i> Presidential decree closing port of Mollendo, which has also been taken by revolutionists, to all merchant vessels, and closing city of Arequipa to commercial air traffic; despatch of planes to drop literature, but not to bomb revolutionists.	720
Aug. 24 (146)	<i>From the Chargé in Peru (tel.)</i> Anti-Government demonstrations in north; rumors of resignation of President Leguía and Cabinet and creation of new military Cabinet; efforts to inquire concerning safety of two American citizens held by revolutionists—Captain Grow, reserve officer on inactive duty under private contract with Peruvian Government, and Faucett, of Faucett Aviation Company, a Peruvian corporation.	721
Aug. 25 (147)	<i>From the Chargé in Peru (tel.)</i> Efforts of President and officers to select governing junta from Army and Navy.	722
Aug. 25 (148)	<i>From the Chargé in Peru (tel.)</i> Resignation of President Leguía and report that he has departed, with family and military suite, on cruiser <i>Almirante Grau</i> ; assumption of control by military Junta which Colonel Sanchez Cerro in Arequipa is being invited to join.	722
Aug. 25 (149)	<i>From the Chargé in Peru (tel.)</i> Report that President Leguía has raised the Presidential flag on the <i>Almirante Grau</i> , which is now anchored off San Lorenzo Island near Callao, and has radioed Naval College at La Punta that he is President and his orders should be obeyed.	723

## PERU

## REVOLUTION IN PERU—Continued

Date and number	Subject	Page
1930 Aug. 25 (151)	<i>From the Chargé in Peru (tel.)</i> Request by diplomatic body for Junta's assurance of protection for their nationals, business interests, and diplomatic missions; information that asylum has been granted by the missions to a number of refugees; belief that American naval force should be sent to protect American lives and interests.	723
Aug. 25 (88)	<i>To the Chargé in Peru (tel.)</i> Appreciation of recent reports; instructions to exert appropriate efforts to effect release of Grow.	724
Aug. 26 (153)	<i>From the Chargé in Peru (tel.)</i> Message from President Leguía that he did not desire to return to power but was acting in hope of maintaining a constitutional government in Peru which could continue to be recognized by United States; decree just issued by Junta giving the <i>Grau</i> 48 hours to submit to new regime.	724
Aug. 26 (155)	<i>From the Chargé in Peru (tel.)</i> Report from Arequipa as to safety of Grow and Faucett; efforts of diplomatic corps to obtain assurances from Junta that Mr. Leguía's life will be protected.	725
Aug. 27 (89)	<i>To the Chargé in Peru (tel.)</i> Approval of efforts in behalf of safety of ex-President Leguía.	727
Aug. 27 (157)	<i>From the Chargé in Peru (tel.)</i> Discussions with British, Chilean, Argentine, and Brazilian colleagues as to advisability of having Chilean, British, and U. S. war vessels come to Callao.	727
Aug. 27 (158)	<i>From the Chargé in Peru (tel.)</i> Information that Junta is resigning in favor of Sanchez Cerro, just arrived from Arequipa; intention to discuss with him advantage of continuing as successor to Leguía Government, maintaining constitutional continuity, rather than attempting to carry on as <i>de facto</i> government; request for telegraphic instructions.	728
Aug. 27 (159)	<i>From the Chargé in Peru (tel.)</i> Suggestion that efforts to save Leguía's life would be assisted by creation in Washington of favorable press sentiment on basis of humanity apart from political aspects of situation.	729
Aug. 28 (161)	<i>From the Chargé in Peru (tel.)</i> Decree published in morning press (text printed) creating new military Junta headed by Sanchez Cerro, who arrived in Lima in plane piloted by Faucett.	730
Aug. 29 (93)	<i>To the Chargé in Peru (tel.)</i> Disinclination to send American war vessel to Peruvian waters; willingness to consider matter further if American lives appear to be in imminent danger.	730
Aug. 29 (94)	<i>To the Chargé in Peru (tel.)</i> Desire of Department to avoid interference in internal affairs of Peru; instructions to make no suggestions regarding constitution of new government.	731

## PERU

## REVOLUTION IN PERU—Continued

Date and number	Subject	Page
1930 Aug. 29	<i>Memorandum by the Secretary of State</i> Discussion with Peruvian Ambassador, who brought up question of recognition of new Government; advice to him that in question of recognition it would be necessary to consider, among other things, whether members of former Government were properly protected from persecution and mob violence.	731
Aug. 29 (95)	<i>To the Chargé in Peru (tel.)</i> Hope that new authorities at Lima will deal with members of former Government so as to reflect credit on Government and people of Peru in eyes of the world; authorization to show telegram to Sanchez Cerro unless considered inadvisable.	733
Aug. 29 (166)	<i>From the Chargé in Peru (tel.)</i> Establishment of cordial relations between diplomatic body and present Government, with understanding that no question of recognition is implied.	733
Aug. 29 (167)	<i>From the Chargé in Peru (tel.)</i> Question of disposition of persons granted asylum by various diplomatic missions; information that most of South American representatives will follow provisions of Treaty of Montevideo; recommendation that Department authorize same procedure in cases of persons sheltered in American Embassy.	734
Aug. 29 (169)	<i>From the Chargé in Peru (tel.)</i> Account of certain difficulties in connection with Grow case and request for immediate instructions as to Department's view of his legal status and any further directions.	735
Aug. 30 [297] (170)	<i>From the Chargé in Peru (tel.)</i> Intention to comply strictly with instructions contained in Department's telegram No. 94, August 29.	736
Aug. 29 (171)	<i>From the Chargé in Peru (tel.)</i> Informal and friendly interview with Colonel Montagne, Secretary for Foreign Affairs, who gave assurances as to safety of Grow and an American engineer, Sutton, who has also been arrested.	736
Aug. 29 (172)	<i>From the Chargé in Peru (tel.)</i> Belief that in view of strong feeling against Leguía regime any appeals for his safety must be phrased carefully; suggested communication for Sanchez Cerro (text printed) in accordance with Department's telegram No. 95, August 29.	736
Aug. 30 (96)	<i>To the Chargé in Peru (tel.)</i> Approval of proposed change in wording contained in telegram No. 172, August 29.	737
Aug. 30 (97)	<i>To the Chargé in Peru (tel.)</i> Information that Grow appears to be in same position as any other private American citizen; desire that Embassy should continue to make all appropriate efforts for release of Grow and Sutton.	737

## PERU

## REVOLUTION IN PERU—Continued

Date and number	Subject	Page
1930 Aug. 30 (175)	<i>From the Chargé in Peru (tel.)</i> Inquiry whether to follow previous directions from Department to effect Grow's release, or the press report (text printed) that Department desires only that Grow be given a fair hearing by local authorities.	738
Aug. 30 (93)[99?]	<i>To the Chargé in Peru (tel.)</i> Authorization to proceed with arrangements for political refugees along informal lines and to make no effort to justify action under any formal treaty or convention.	738
Aug. 30 (42)	<i>To the Minister in Colombia (tel.)</i> Instructions to express to President Olaya gratification at message conveyed through Colombian Chargé that Colombian Government would gladly cooperate with United States and other Governments in friendly representations to protect the life of Leguía.	739
Aug. 30 (100)	<i>To the Chargé in Peru (tel.)</i> Attitude of Department that, while welcoming action of other American Governments to prevent execution of political prisoners, it does not feel it advisable to take part in joint representations.	739
Aug. 30 (177)	<i>From the Chargé in Peru (tel.)</i> Opinion that assurances received as to Grow's safety are satisfactory; receipt of permission to dispatch clothing to him.	740
Sept. 1 (178)	<i>From the Chargé in Peru (tel.)</i> Decision of diplomatic body to make no further representations in behalf of Leguía other than to send the dean to the new Foreign Minister to remind him of the diplomatic body's previous action with the former Junta; information that Leguía is to be moved to San Lorenzo Island.	740
Sept. 1 (179)	<i>From the Chargé in Peru (tel.)</i> Decision to act independently of other missions in arrangements for refugees who were given asylum in the Embassy.	741
Sept. 1 (182)	<i>From the Chargé in Peru (tel.)</i> Information that Leguía and Juan Leguía have been taken to San Lorenzo Island, and that Dr. MacCornaek accompanied them because of the condition of Leguía's health.	741
Sept. 2 (52)	<i>From the Ambassador in Brazil (tel.)</i> Advice that Brazilian Government is not sympathetic to Cuban proposal for joint representations to Peru for lenient measures toward ex-President Leguía, believing that individual representations will be more effective.	742
Sept. 2 (183)	<i>From the Chargé in Peru (tel.)</i> Doubt as to advisability of joining in formal representation to Peruvian authorities to send Leguía out of the country.	742
Sept. 3 (184)	<i>From the Chargé in Peru (tel.)</i> Issuance of decree whereby military Junta assumes executive and legislative powers; press announcement of mutual recognition between Juntas of Bolivia and Peru.	743

## PERU

## REVOLUTION IN PERU—Continued

Date and number	Subject	Page
1930 Sept. 3 (103)	<i>To the Chargé in Peru (tel.)</i> Instructions to obtain definite indication of action which <i>de facto</i> authorities propose to take with regard to Grow and Sutton.	743
Sept. 4 (186)	<i>From the Chargé in Peru (tel.)</i> Discussion of Grow and Sutton cases with Foreign Minister, who stated that there were further accusations against Grow besides airplane expedition.	744
Sept. 4 (104)	<i>To the Chargé in Peru (tel.)</i> Concurrence in view as to inadvisability of formal joint representations to Peruvian authorities regarding Legufa; instructions not to communicate with <i>de facto</i> authorities unless considered necessary to save lives of political prisoners.	746
Sept. 5 (188)	<i>From the Chargé in Peru (tel.)</i> Arbitrary attitude of Peruvian authorities in classification of political refugees; committee named by diplomatic body to try to devise basic formula for similar but individual replies to Foreign Office.	746
Sept. 5 (189)	<i>From the Chargé in Peru (tel.)</i> Intention to make vigorous protest in case of Sutton, if promised notification of charges is not forthcoming, and the same in case of Grow, if there is no action in his regard within next few days.	747
Sept. 6 (190)	<i>From the Ambassador in Peru (tel.)</i> Junta's order for release of Mr. Sutton and Captain Grow, with understanding that legal proceedings will be carried out in usual way.	747
Sept. 9 (193)	<i>From the Ambassador in Peru (tel.)</i> Recognition of Junta by Italy and Ecuador.	748
Sept. 9 (196)	<i>From the Ambassador in Peru (tel.)</i> Release of Sutton and Grow.	748
Sept. 10 (199)	<i>From the Ambassador in Peru (tel.)</i> Desire of Junta to retain services of Admiral Pye and certain other members of American Naval Mission.	748
Sept. 10 (201)	<i>From the Ambassador in Peru (tel.)</i> Recognition of Peruvian Government by Chile.	748
Sept. 11 (202)	<i>From the Counselor of Embassy (tel.)</i> Recognition by Paraguay; information that British, French, and Papal representatives have recommended recognition by their respective Governments and that German Minister may do the same.	749
Sept. 11 (203)	<i>From the Ambassador in Peru (tel.)</i> Recognition of Junta by the Holy See.	749
Sept. 12 (159)	<i>From the Minister in Guatemala</i> Desire of Guatemalan Foreign Minister to be informed as soon as U. S. decision is taken regarding recognition of Peruvian Government, as he intends to postpone his decision until after that of United States.	749
Sept. 13 (208)	<i>From the Ambassador in Peru (tel.)</i> Recognition of Junta by Japan.	749



## PERU

## REVOLUTION IN PERU—Continued

Date and number	Subject	Page
1930 Sept. 13 (207)	<i>From the Ambassador in Peru (tel.)</i> Detailed report on conditions in Peru under Junta and suggestion that early consideration be given question of recognition; belief that advantages are on side of early recognition; request for instructions.	750
Sept. 16 (213)	<i>From the Ambassador in Peru (tel.)</i> Recognition of Junta by China and Austria.	755
Sept. 16 (214)	<i>From the Ambassador in Peru (tel.)</i> Removal of Leguía and son Juan to jail in Lima; information that question of asylum is still pending and may create serious situation between Government and diplomatic body.	755
Sept. 16 (215)	<i>From the Ambassador in Peru (tel.)</i> Announcement by British Chargé that Great Britain will on September 18th simultaneously recognize Juntas in Peru and Argentine Republic and that action is due to information given British Ambassador in Washington that United States would shortly accord recognition to Peru and Argentina.	756
Sept. 16 (109)	<i>To the Ambassador in Peru (tel.)</i> Instructions to notify Foreign Minister on September 18 of U. S. recognition of new Peruvian Government; information that similar action is being taken in regard to Argentina and Bolivia.	756
Sept. 17 (217)	<i>From the Ambassador in Peru (tel.)</i> Recognition of Junta by Germany and Holland.	757
Sept. 17 (111)	<i>To the Ambassador in Peru (tel.)</i> Instructions to take steps at an early moment to terminate asylum granted by Embassy.	757
Sept. 17 (65)	<i>To the Minister in Guatemala (tel.)</i> Authorization to inform Foreign Office that United States will recognize new Government of Peru on September 18.	757
Sept. 17	<i>To the Ambassador in Peru</i> Appreciation of information contained in telegram No. 207 of September 13.	757
Sept. 18 (220)	<i>From the Ambassador in Peru (tel.)</i> Press announcement that Great Britain, France, Spain, Cuba, and Costa Rica have recognized Junta as Government of Peru.	758
Sept. 18 (113)	<i>To the Ambassador in Peru (tel.)</i> Willingness of Department that members of Naval Mission shall continue to serve Peruvian Government.	758
Sept. 18 (221)	<i>From the Ambassador in Peru (tel.)</i> Notification to Foreign Minister of U. S. recognition of new Peruvian Government.	758
Sept. 19 (223)	<i>From the Ambassador in Peru (tel.)</i> Information that refugees have departed from Embassy, thus terminating asylum situation.	759
Sept. 19 (224)	<i>From the Ambassador in Peru (tel.)</i> Press announcement of recognition of Junta by Argentina, Belgium, Colombia, and Panama; report that Brazil is waiting to see what disposition will be made of Leguía.	759

## PERU

## REVOLUTION IN PERU—Continued

Date and number	Subject	Page
1930 Sept. 20 (58)	<i>From the Chargé in Brazil (tel.)</i> Information that Brazil will recognize Peruvian Government today.	759
Sept. 22 (108)	<i>From the Ambassador in Peru</i> Attitude of Peruvian Navy toward new Government; report by Admiral Pye of satisfactory relations between Naval Mission and new regime.	759

## POLAND

## CONVENTION BETWEEN THE UNITED STATES AND POLAND FOR THE PREVENTION OF SMUGGLING OF INTOXICATING LIQUORS, SIGNED JUNE 19, 1930

1930 May 14 (1512/30)	<i>From the Polish Ambassador</i> Desire of Polish Government to conclude convention with Government of United States to aid in prevention of smuggling of intoxicating liquors into United States; submission of preliminary draft treaty.	761
June 4	<i>Memorandum by the Assistant Chief of the Treaty Division of a Conversation With the Commercial Counselor of the Polish Embassy</i> Agreement regarding a number of verbal changes which it seemed desirable to make in the draft convention.	761
June 14	<i>To the Polish Ambassador</i> Willingness of U. S. Government to enter into treaty, and acceptance of draft with indicated verbal changes; likelihood that U. S. Government will wish to take advantage of right granted under article V to propose modifications in terms of treaty, at appropriate time.	762
June 17 (2260/30)	<i>From the Polish Ambassador</i> Acknowledgment of U. S. note of June 14 and accompanying draft treaty; transmittal of Polish text and request that a date be set for signing of convention.	763
June 19	<i>Convention Between the United States of America and Poland</i> Text of convention signed at Washington.	764

## AGREEMENT BETWEEN THE UNITED STATES AND POLAND REGARDING MUTUAL RECOGNITION OF SHIP MEASUREMENT CERTIFICATES

1930 Jan. 17 (1635/29)	<i>From the Polish Ambassador</i> Polish Government's desire to negotiate agreement with United States regarding reciprocal acceptance of certificates of tonnage measurement in respect to levying of harbor duties and taxes; submittal of documents regarding Polish regulations as to tonnage measurement of vessels.	767
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## POLAND

AGREEMENT BETWEEN THE UNITED STATES AND POLAND REGARDING MUTUAL  
RECOGNITION OF SHIP MEASUREMENT CERTIFICATES—Continued

Date and number	Subject	Page
1930 Mar. 14	<i>To the Polish Ambassador</i> Willingness of U. S. Government to recognize certificates carried by Polish vessels in return for extension of similar recognition to U. S. vessels by Polish authorities; request to be informed when appropriate steps have been taken to effect the reciprocal exemption in favor of U. S. vessels; understanding that this note and Polish reply will constitute agreement.	767
Apr. 22 (1030/30)	<i>From the Polish Ambassador</i> Acknowledgment of U. S. note of March 14, and advice that Polish Government is being informed that by this exchange of notes the agreement has been concluded; intention to inform U. S. Government when appropriate steps have been taken to effect reciprocal exemption in favor of U. S. vessels.	768
1934 Oct. 5 (99/SZ-3)	<i>From the Polish Ambassador</i> Transmittal of Proclamation, dated July 10, 1930 (text printed), issued by Polish Ministry of Industry and Commerce, stating recognition of tonnage measurement certificates of U. S. vessels equally with Polish certificates.	769

## PORTUGAL

REPRESENTATIONS BY THE UNITED STATES AGAINST THE ESTABLISHMENT IN  
PORTUGAL OF A MONOPOLY FOR THE MANUFACTURE OF PETROLEUM  
DERIVATIVES

1929 Nov. 29 (39)	<i>From the Minister in Portugal (tel.)</i> Information that Vacuum Oil Company represents it will be driven out of business in Portugal if newly organized Portuguese company, backed by Atlantic Refining interests, is allowed to exploit monopolistic concession for the manufacture of petroleum derivatives, and that it intends to lay situation before the Department.	770
Dec. 9 (2903)	<i>From the Minister in Portugal</i> Further report from Vacuum Oil Company officials, who were advised to lay the Company's case before the Department so that suitable instructions could be given.	770
1930 Feb. 3 (11)	<i>From the Minister in Portugal (tel.)</i> Telegram, dated January 31, from local Vacuum Oil Company general manager to New York office (text printed) stressing importance of protest by U. S. Minister to Portuguese Foreign Office on grounds that technical Portuguese character of <i>concessionnaire</i> warrants U. S. Government's protest in behalf of Vacuum Oil Company.	772
Feb. 5 (8)	<i>To the Minister in Portugal (tel.)</i> Authorization to explain orally to appropriate official that U. S. Government regrets to see monopolies created in other countries which would injure American interests established in good faith; authorization to inform British Ambassador of U. S. position.	773

## PORTUGAL

## REPRESENTATIONS BY THE UNITED STATES AGAINST THE ESTABLISHMENT IN PORTUGAL OF A MONOPOLY FOR THE MANUFACTURE OF PETROLEUM DERIVATIVES—Continued

Date and number	Subject	Page
1930 Feb. 7 (2976)	<i>From the Minister in Portugal</i> Interviews with Portuguese Ministers of Commerce and Foreign Affairs to explain U. S. attitude regarding oil monopoly; indications that action in case will be deferred for time being; information that British Ambassador protested against monopolistic concession as being unfair to British trade.	774
Feb. 26 (16)	<i>From the Minister in Portugal (tel.)</i> Information that application for extension of concession has been denied by Minister of Commerce.	777

## REPRESENTATIONS REGARDING DISCRIMINATORY CHARGES IN PORTUGUESE PORTS

1930 Jan. 6 (1)	<i>To the Minister in Portugal (tel.)</i> Instructions to call to attention of Portuguese Government question of shipping discriminations, such as tariff situation in Angola now threatening American-West African Line; request for comments on wisdom of refusing national treatment to Portuguese ships in United States, which might, however, bring to an end commercial agreement of 1910.	777
Jan. 10 (1065)	<i>From the American Minister in Portugal to the Portuguese Minister for Foreign Affairs</i> Representations concerning loss to American-West African Line on shipping to Angola because of discriminations; hope that means can be found to settle this controversial question.	778
Jan. 11 (3)	<i>From the Minister in Portugal (tel.)</i> Information that several countries are planning action in question of shipping discriminations, and opinion that results should be awaited before any reprisals are planned; view that benefits of 1910 agreement should not be sacrificed without being sure of greater advantages.	779
Jan. 29 (2962)	<i>From the Minister in Portugal</i> Belief that early favorable results in shipping situation cannot be expected, but that until commercial treaty can be negotiated, disadvantages of discontinuing 1910 agreement would outweigh any advantages that might be gained.	780
Feb. 12 (2980)	<i>From the Minister in Portugal</i> Information that new customs tariff which went into effect in Portugal on January 6, 1930, did not alter customs tariff of Angola.	781
Mar. 21 (3027)	<i>From the Chargé in Portugal</i> British proposal for similar representations by interested powers on subject of flag discrimination. Suggestion that Department follow up its note No. 1065 of January 10 with further note quoting passages from statement by Secretary Hughes in 1923 (excerpts printed) regarding policy of United States.	782

## PORTUGAL

## REPRESENTATIONS REGARDING DISCRIMINATORY CHARGES IN PORTUGUESE PORTS—Continued

Date and number	Subject	Page
1930 Apr. 11 (21)	<i>From the Minister in Portugal</i> Copy of French note protesting against shipping discriminations sent to Portuguese Foreign Minister on April 3; information that similar notes have been sent by British, Dutch, Italian, Norwegian, and German representatives.	784
July 11 (105)	<i>From the Minister in Portugal</i> Note from Foreign Minister, July 8 (text printed), replying to Legation's note No. 1065, January 10, and stating that Portuguese Government is investigating matter of shipping discrimination in hope of finding a more satisfactory system.	784

## AMELIORATION OF LEGISLATION AFFECTING AMERICAN RELIGIOUS MISSIONS IN PORTUGUESE EAST AFRICA

1929 Nov. 8	<i>To the Vice Consul at Lourenço Marques, Mozambique</i> Lack of basis for representations concerning legislative enactment in Portuguese East Africa affecting religious missions; authorization to point out to authorities, on grounds of comity, objections of American missionaries to these regulations and hope that action will be reconsidered.	785
1930 Jan. 14	<i>To the Vice Consul at Lourenço Marques, Mozambique (tel.)</i> Instructions to take up again with Governor General matter of legislation affecting religious missions in Mozambique.	787
Jan. 14 (2)	<i>To the Minister in Portugal (tel.)</i> Instructions to confer with Foreign Office in sense of Department's instruction to Lourenço Marques of November 8, 1929.	787
Jan. 15 (4)	<i>From the Minister in Portugal (tel.)</i> Information that decree objected to by foreign missions has been indefinitely suspended.	787
Jan. 20	<i>From the Vice Consul at Lourenço Marques, Mozambique (tel.)</i> Information that British Consul General has received telegraphic instructions from London that Portuguese Government has suspended mission laws and instructed Governor General to adjust dispute with Consuls and missionaries.	788

## RUMANIA

## PROVISIONAL COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND RUMANIA PROVIDING FOR MOST-FAVORED-NATION TREATMENT, SIGNED AUGUST 20, 1930

1930 Jan. 16 (3)	<i>From the Minister in Rumania (tel.)</i> Advice from Foreign Office that owing to numerous commercial treaties under negotiation, Rumanian Government will not be able to begin negotiations with United States until February, at which time it is desired also to conclude a consular convention.	789
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## RUMANIA

## PROVISIONAL COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND RUMANIA PROVIDING FOR MOST-FAVORED-NATION TREATMENT, SIGNED AUGUST 20, 1930—Continued

Date and number	Subject	Page
1930 Jan. 21 (3)	<i>To the Minister in Rumania (tel.)</i> Assumption that time for conclusion of treaty will be extended in view of postponement of negotiations until February; belief that need for commercial treaty is more pressing and that negotiations for new consular convention should be subordinated.	789
Feb. 17 (6)	<i>From the Minister in Rumania (tel.)</i> Information, received orally from Foreign Office, that time for conclusion of treaty will be extended until May 1 and further if necessary.	790
Feb. 24 (686/ P-26)	<i>From the Rumanian Chargé</i> Desire of Rumanian Government to have agreement according mutual unconditional most-favored-nation treatment in customs matters, signed February 26, 1926, remain in force until May 1 instead of March 1.	790
Feb. 27	<i>To the Rumanian Chargé</i> Willingness of U. S. Government that agreement referred to shall remain in force until May 1, 1930. (Footnote: Agreement later extended from May 1 to July 1, 1930.)	791
June 6 (13)	<i>From the Minister in Rumania (tel.)</i> Information from Foreign Office that proposals will be made for exchange of notes providing for indefinite extension of time for negotiation of commercial treaties not yet concluded.	791
July 1 (22)	<i>From the Minister in Rumania (tel.)</i> Foreign Minister's proposal to conclude general provisional agreement to be valid until regular treaty can be concluded.	791
July 3 (14)	<i>To the Minister in Rumania (tel.)</i> Advice for Foreign Office that U. S. Government agrees, in accordance with Rumanian desire, that agreement of February 26, 1926, shall remain in force until September 1, 1930; request for report as soon as practicable, on exact nature of Rumanian proposals for new provisional agreement.	792
July 5 (24)	<i>From the Minister in Rumania (tel.)</i> Information that draft provisional agreement is in form of a treaty, with clause requiring ratification omitted; unwillingness of Rumanian Government to consent to arrangement by exchange of notes, as not allowable under tariff law.	792
July 5 (461)	<i>From the Minister in Rumania</i> Rumanian draft of provisional agreement (text printed).	793
July 9 (15)	<i>To the Minister in Rumania (tel.)</i> Information that Department will send detailed instructions after study of provisions of draft agreement; comment that commercial agreement of 1926 with Latvia affords precedent for concluding agreement in present form without Senate approval.	795
July 28 (17)	<i>To the Minister in Rumania (tel.)</i> Instructions to endeavor to obtain agreement to certain changes in Rumanian draft agreement.	795

## RUMANIA

## PROVISIONAL COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND RUMANIA—Continued

Date and number	Subject	Page
1930 Aug. 4 (29)	<i>From the Minister in Rumania (tel.)</i> Acceptance by Rumanian Government of proposed changes, with exception of proposal for national treatment for shipping instead of most-favored-nation, and change in wording of subdivision (c), article 4.	797
Aug. 5 (30)	<i>From the Minister in Rumania (tel.)</i> Information that Rumanian Government now agrees to accept Department's wording of subdivision (c), article 4.	798
Aug. 7 (19)	<i>To the Minister in Rumania (tel.)</i> Willingness of Department to withdraw proposal for national treatment of shipping on understanding that it does not prejudice U. S. position on question of principle involved or right to propose inclusion of such provision in definitive treaty.	798
Aug. 20	<i>Agreement Between the United States of America and Rumania</i> Text of provisional commercial agreement signed at Bucharest.	799

## ATTITUDE OF THE DEPARTMENT OF STATE RELATIVE TO MATTERS CONCERNING THE STATUS OF BESSARABIA

1930 Feb. 18	<i>From the Rumanian Legation</i> <i>Aide-mémoire</i> reviewing history and present status of Bessarabia; Rumanian desire for U. S. recognition of <i>de facto</i> status of Bessarabia.	801
Aug. 22 (3650/ P-8)	<i>From the Rumanian Minister</i> Request for reply to <i>aide-mémoire</i> of February 18.	805
Oct. 1	<i>Memorandum by the Chief of the Division of Near Eastern Affairs</i> Conversation with Rumanian Chargé d'Affaires concerning status of Bessarabia, in which it was agreed that no useful purpose would be served by discussing the matter at the present time, when there was no clear motivation for such action.	805

## SPAIN

## ARRANGEMENT BETWEEN THE UNITED STATES AND SPAIN GRANTING RELIEF FROM DOUBLE INCOME TAX ON SHIPPING PROFITS

1929 Feb. 9 (79-11)	<i>From the Spanish Ambassador</i> Request for transmittal to Treasury Department of Rapport containing Spanish legislation on subject of exemption of foreign ships from payment of income tax, so that Spain may be included in U. S. Treasury List of Nations granting equivalent exemption of foreign shipping in accordance with provisions of Revenue Act of 1921.	808
Sept. 26	<i>To the Spanish Chargé</i> Information that communication has been received from the Treasury Department (excerpt printed) stating that question of reciprocal exemption from taxation of Spanish ships is under consideration.	808

## SPAIN

## ARRANGEMENT BETWEEN THE UNITED STATES AND SPAIN GRANTING RELIEF FROM DOUBLE INCOME TAX ON SHIPPING PROFITS—Continued

Date and number	Subject	Page
1930 Apr. 5	<i>To the Spanish Ambassador</i> Communication from Treasury Department (excerpts printed) expressing opinion that Spain meets reciprocal exemption provisions of Revenue Acts of 1921, 1924, and 1926.	809
Apr. 16 (84-15)	<i>From the Spanish Ambassador</i> Request that appropriate instructions be given authorities respecting Treasury decision.	811
June 10	<i>To the Spanish Ambassador</i> Communication from Treasury Department (excerpt printed) stating that Collector of Internal Revenue at New York was advised on April 23 of Treasury decision regarding exemption of Spanish nationals from income tax on income from Spanish ships under Revenue Acts of 1921, 1924, 1926, and 1928.	812

## NEGOTIATIONS CONCERNING THE AMERICAN EMBARGO AGAINST SPANISH FRUITS AND VEGETABLES AFFECTED BY THE MEDITERRANEAN FRUIT FLY

1930 Apr. 22 (84-18)	<i>From the Spanish Ambassador</i> Reiteration of request to know whether, if Spain conducts a campaign similar to that carried on in Florida against the fruit fly, the total embargo against Spanish fruits could be replaced by regulations such as those to which Florida fruits are subject in interstate commerce.	813
June 24	<i>To the Spanish Ambassador</i> Feeling that present situation in Spain is so different from that in Florida that Spanish request for lifting of embargo could not be granted without endangering American fruit industry.	815

## SWEDEN

## SPECIAL AGREEMENT BETWEEN THE UNITED STATES AND SWEDEN FOR THE ARBITRATION OF CLAIMS GROWING OUT OF THE ALLEGED DETENTION OF THE MOTORSHIPS "KRONPRINS GUSTAF ADOLF" AND "PACIFIC," SIGNED DECEMBER 17, 1930

1927 June 16	<i>From the Swedish Minister</i> Claim of Swedish Government on behalf of Swedish corporation on account of detention of Swedish motorships <i>Kronprins Gustaf Adolf</i> and <i>Pacific</i> in 1917-1918, contrary to treaty provisions, through refusal of War Trade Board to grant export licenses.	818
1928 June 13	<i>To the Swedish Minister</i> U. S. position that allegation that United States, through the War Trade Board, detained <i>Kronprins Gustaf Adolf</i> and <i>Pacific</i> finds no support in record presented to Department, and that claim must be rejected for lack of legal basis.	822



## SWEDEN

## SPECIAL AGREEMENT BETWEEN THE UNITED STATES AND SWEDEN FOR THE ARBITRATION OF CLAIMS GROWING OUT OF THE ALLEGED DETENTION OF THE MOTORSHIPS "KRONPRINS GUSTAF ADOLF" AND "PACIFIC," SIGNED DECEMBER 17, 1930—Continued

Date and number	Subject	Page
1928 Oct. 31	<i>From the Swedish Minister</i> Observations by Swedish Government in reply to U. S. note of June 13, 1928, and hope that claim can be reconsidered and favorable conclusion reached; request, in case favorable conclusion should not result, for submission of controversy to arbitration.	829
1929 June 14	<i>From the Swedish Minister</i> Summary of situation regarding claim for detention of Swedish vessels; hope that soundness of claim will be recognized and that agreement can be reached regarding damages, thus avoiding necessity for arbitration.	836
1930 July 1	<i>To the Swedish Minister</i> Understanding that Swedish Minister is to discuss with his Government proposal for possible submission of Swedish claim to a neutral tribunal.	839
Oct. 17	<i>From the Swedish Minister</i> Readiness to discuss terms of submission and personnel of tribunal; draft of main points of a compromise drawn up by Foreign Office (text printed).	840
Nov. 14	<i>To the Swedish Minister</i> Proposed draft convention. (Footnote: Swedish Government's acceptance of draft.)	841
Dec. 17	<i>Special Agreement Between the United States of America and Sweden</i> Text of agreement signed at Washington for the arbitration of claims growing out of the alleged detention of the Motorships <i>Kronprins Gustaf Adolf</i> and <i>Pacific</i> . (Note: Arbitrator's decision of July 18, 1932, that U. S. Government did not detain the Swedish vessels in contravention of the Swedish-American treaties of 1783 and 1827.)	842

## ARRANGEMENT BETWEEN THE UNITED STATES AND SWEDEN REGARDING RECIPROCAL EXEMPTION OF PLEASURE YACHTS FROM ALL NAVIGATION DUES

1929 Dec. 12 (127)	<i>To the Chargé in Sweden</i> Instructions to invite attention of Swedish authorities to charges assessed against American yacht <i>Cyprus</i> and to suggest, pending ratification of proposed commercial treaty, an agreement to accord to American yachts in Swedish ports treatment in matter of payment of various port charges reciprocal to that enjoyed now by Swedish vessels calling at U. S. ports.	845
1930 Oct. 29 (155)	<i>From the Chargé in Sweden</i> Exchange of notes between the Chargé and the Foreign Minister (texts printed) which will serve as agreement suggested in Department's No. 127, December 12, 1929.	846

## TURKEY

## PROPOSED TREATY OF ESTABLISHMENT AND SOJOURN BETWEEN THE UNITED STATES AND TURKEY

Date and number	Subject	Page
1929 Oct. 2 (62)	<i>From the Ambassador in Turkey (tel.)</i> Willingness of Turks to conclude brief convention of residence and establishment containing a single article (text printed); request for provisional telegraphic instructions in care of Legation at Berne.	852
Oct. 21 (123)	<i>To the Minister in Switzerland (tel.)</i> For Ambassador Grew: Department's preference that negotiations for convention of establishment and residence be postponed until after ratification of recently signed treaty of commerce and navigation.	853
1930 Mar. 17 (15)	<i>To the Ambassador in Turkey (tel.)</i> Authorization to advise Turkish Government confidentially that U. S. Government is willing to negotiate brief treaty of residence and sojourn embodying Turkish formula; preference that signature of treaty take place after the first of October for presentation to Senate when it reconvenes in December.	853
Mar. 18 (19)	<i>From the Ambassador in Turkey (tel.)</i> Intention to be guided by circumstances in use of Department's instructions in telegram No. 15, March 17.	854
Apr. 7 (994)	<i>From the Ambassador in Turkey</i> Frank explanation to Foreign Minister of situation regarding negotiation of treaty of residence and establishment; Foreign Minister's willingness to postpone negotiations until September or October.	854
Aug. 30 (46)	<i>To the Ambassador in Turkey (tel.)</i> Authorization to initiate negotiations next October; suggested text (text printed) closely following Turkish formula; addition of words "entry and sojourn" to provide for continued entry into United States of Turkish businessmen, as enjoyed at present under Immigration Act of 1924, Section 3 (6).	855
Sept. 17 (68)	<i>From the Ambassador in Turkey (tel.)</i> Information that Turkish delegation is ready to begin negotiations immediately after October 15; request for Department's instructions on several suggestions as to wording and term of proposed convention, and request for further explanation of reasons for addition of words "entry and sojourn".	857
Sept. 22 (55)	<i>To the Ambassador in Turkey (tel.)</i> Concurrence in changes suggested in wording and desire for 5-year term, if acceptable to Turks; request for views as to whether omission of reference to rights of entry and sojourn would compromise rights of American businessmen in Turkey.	858
Sept. 26 (74)	<i>From the Ambassador in Turkey (tel.)</i> Opinion that treaty of residence and establishment covers entry and sojourn by interpretation and general usage, but that if omission of words means denial of treaty alien status to Turkey, Turks may resort to retaliatory measures against American businessmen who seek to enter Turkey.	859

## TURKEY

## PROPOSED TREATY OF ESTABLISHMENT AND SOJOURN BETWEEN THE UNITED STATES AND TURKEY—Continued

Date and number	Subject	Page
1929 Sept. 29 (58)	<i>To the Ambassador in Turkey (tel.)</i> Nonobjection of Department, in order to obviate any misunderstanding, to inclusion of an additional clause (text printed) covering matter of entry of aliens in respective countries.	860
Oct. 1 (78)	<i>From the Ambassador in Turkey (tel.)</i> Counterproposal, which would be more acceptable to Turks, for slight change in wording of Department's formula, with an additional paragraph or provision reproducing first reservation to U. S.-German treaty of 1923.	861
Oct. 3 (60)	<i>To the Ambassador in Turkey (tel.)</i> Approval of suggestion, and authorization to proceed with treaty negotiations provided reservation referred to appears either in treaty text or protocol to be signed simultaneously with treaty.	862
Oct. 19 (6)	<i>From the Ambassador in Turkey (tel.)</i> Request for instructions concerning three points discussed with Turkish delegation at first meeting on October 18.	863
Oct. 21 (1)	<i>To the Ambassador in Turkey (tel.)</i> Instructions requested in telegram No. 6, October 19.	863
Nov. 6 (9)	<i>From the Ambassador in Turkey (tel.)</i> Modified text for treaty of establishment proposed by Turkish delegation (text printed); expectation that Turks' concern over treaty of 1830 and capitulations will lead them to insist on some form of protective clause even at risk of failure of treaty negotiations.	864
Nov. 10 (4)	<i>To the Ambassador in Turkey (tel.)</i> Unwillingness of Department to include protective clause as worded in Turkish text; suggestion of certain additional paragraphs (texts printed) for disposing of treaty of 1830.	866
Nov. 17 (5)	<i>To the Ambassador in Turkey (tel.)</i> Proposal for suspending present negotiations in hope that Turks may be willing to go back to formula originally suggested by them and accepted by Department.	868
Nov. 19 (13)	<i>From the Ambassador in Turkey (tel.)</i> Conversation with Turkish delegate, who was advised of unacceptability of Turkish suggestion; possibility that Turks will accept preamble quoted in Department's telegram No. 4, November 10, if continuance of treaty alien status for Turkey is not affected.	868
Nov. 21 (6)	<i>To the Ambassador in Turkey (tel.)</i> Agreement of Department with interpretation suggested; feeling, however, that there is no use proceeding with negotiations unless signature of treaty can be effected without further delay.	869

## TURKEY

## PROPOSED TREATY OF ESTABLISHMENT AND SOJOURN BETWEEN THE UNITED STATES AND TURKEY—Continued

Date and number	Subject	Page
1929 Nov. 25 (15)	<i>From the Ambassador in Turkey (tel.)</i> Information that negotiations have been adjourned; request for authorization to make declaration of regret at delay in regularization of treaty relations between the two countries (text printed) and at same time to leave with Prime Minister copy of proposed treaty in form in which U. S. Government would have been willing to sign it.	870
Nov. 26 (7)	<i>To the Ambassador in Turkey (tel.)</i> Authorization as requested, with slight modification in wording of proposed declaration.	872
Nov. 28 (16)	<i>From the Ambassador in Turkey (tel.)</i> Information that Prime Minister appeared pleased with declaration and stated that he felt friendly relations between the two countries could continue on same satisfactory basis as before beginning of negotiations.	872

## INFORMAL REPRESENTATIONS AGAINST TAXATION UPON THE INCOME OF AMERICAN EDUCATIONAL AND PHILANTHROPIC INSTITUTIONS IN TURKEY

1929 Dec. 24	<i>From the American Ambassador in Turkey to the Turkish Minister for Foreign Affairs</i> Hope that apprehension of American educational institutions that so-called inheritance and bequest tax is to be levied against them is unfounded.	873
1930 Feb. 3 (6)	<i>To the Ambassador in Turkey (tel.)</i> Approval of steps taken to prevent levying of tax on income of American educational institutions, and inquiry whether simultaneous representations by Department to Turkish Ambassador would be helpful; desire to know whether other foreign institutions are also threatened, and if so, what steps are being taken by governments concerned.	874
Feb. 12 (947)	<i>From the Ambassador in Turkey</i> Report that inquiries of British, French, German, and Italian Embassies have not revealed any attempts to impose tax on institutions of their nationals and consequently no steps are being taken by these Embassies.	875
Apr. 17 (1006)	<i>From the Ambassador in Turkey</i> Informal representations to Minister of Foreign Affairs and Prime Minister in regard to tax recently levied on Constantinople Woman's College; opinion that it would be preferable not to make representations to Turkish Ambassador in Washington but to rely on informal appeals to good will of Turkish Government.	876
June 2 (233)	<i>To the Chargé in Turkey</i> Approval of action taken and concurrence in opinion expressed.	878
July 25 (1091)	<i>From the Ambassador in Turkey</i> Decision of Council of State of July 2 that American school at Göz Tepe is not subject to taxation under law in question; opinion that this decision will be a useful precedent and that dangers of further taxation are no longer imminent.	879

## VENEZUELA

REPRESENTATIONS BY THE GOVERNMENT OF VENEZUELA AGAINST THE ACTIVITIES  
AND PUBLIC UTTERANCES OF MEMBERS OF THE UNITED STATES CONGRESS CON-  
CERNING THE WELCH CASE

Date and number	Subject	Page
1930 Aug. 6 (468)	<p><i>From the Venezuelan Minister</i> Protest, on behalf of Venezuelan Government, regarding resolutions introduced in U. S. Senate and House of Representatives and articles in various publications in connection with claims made against Venezuelan Government by James Welch, an American citizen.</p>	880
Aug. 23	<p><i>To the Venezuelan Minister</i> Acknowledgment of communication of August 6 from Venezuelan Minister.</p>	881

## FINLAND

### CONTINUATION OF NEGOTIATIONS FOR AN AGREEMENT REGARDING NATURALIZATION, DUAL NATIONALITY, AND MILITARY SERVICE <sup>1</sup>

711.60d4/6

*The Minister in Finland (Pearson) to the Secretary of State*

No. 1597

HELSINGFORS, March 8, 1930.

[Received April 1.]

SIR: I have the honor to refer to the Department's Instruction No. 134 of September 21, 1929,<sup>2</sup> and to previous correspondence, concerning the conclusion of a Naturalization Treaty between the United States and Finland, and to enclose herewith a copy of a note received from the Foreign Office dated March 7, 1930, setting forth the Finnish Government's views and making certain suggestions for modifications in the draft treaty which was forwarded with the Department's Instruction No. 99 of December 1, 1928.<sup>3</sup>

The Legation will await the Department's further instructions.

I have [etc.]

ALFRED J. PEARSON

[Enclosure]

*The Finnish Minister for Foreign Affairs (Procopé) to the American Minister (Pearson)*

No. 2894

HELSINKI, March 7, 1930.

MONSIEUR LE MINISTRE: In your note No. 112, dated January 4, 1929, you were good enough to bring to the attention of my Government the Joint Resolution passed by the Congress and approved, on May 28, 1929 [1928],<sup>4</sup> by the President of the United States, requesting the President of the United States to endeavour as soon as possible, to negotiate treaties with remaining nations with which the United States have no such agreements, providing that persons, born in the United States of foreign parentage, and naturalized American citizens shall not be held liable for military service or any other act of allegiance during a stay in the territory subject to the jurisdiction of any such nation while citizens of the United States of America under the laws

<sup>1</sup> For previous correspondence, see *Foreign Relations*, 1929, vol. I, pp. 451 ff.

<sup>2</sup> Not printed.

<sup>3</sup> See *Foreign Relations*, 1928, vol. I, p. 500, footnote 56.

<sup>4</sup> 45 Stat. 789.

thereof. You were also pleased to forward to me a draft treaty concerning nationalization and military service, designed to carry out the provisions of the Resolution.

In your note No. 113, dated the same day you were good enough to inquire if the Finnish Government would be willing to consider the adoption of an agreement for the termination of one nationality or the other in cases of dual nationality arising at birth, upon attainment by persons concerned of a prescribed age.

Permit me to assure you, Monsieur le Ministre, that the suggestions and proposals, made by you in your notes on behalf of your Government, to arrive at a solution of the problem of dual nationality, were received by the Government of Finland with sincere appreciation. The regulation of the status of nationality of the hundreds of thousands of natives of Finland, who have emigrated to and reside in the United States, is of the greatest importance also for Finland.

From long experience acquainted with the evils of dual nationality the Government of Finland has always been convinced of the necessity of proper measures for the abolition of the same and with that end in view, in 1927 a law of loss of Finnish citizenship was approved by the Diet of Finland, which law, effective on January 1, 1928, practically covers the requirements of the principal provisions of the draft treaty forwarded by you, although it differs from it in some details.

The said Law of loss of Finnish citizenship prescribes in its Section 1 that a citizen of Finland automatically loses his Finnish nationality by becoming citizen of another country if he resides or moves abroad. This includes the naturalization of persons of age, the naturalization of minors through that of their parents and also the naturalization of women through marriage; women of Finnish nationality, who do not acquire foreign citizenship through marriage, remain Finnish citizens. This Section is in full accord with Article I of the proposed treaty except in one point, to wit: according to the said Section 1 no Finnish man between 17-28 years of age, can lose his Finnish citizenship by becoming citizen of another country, unless the President of the Republic, upon petition thereof, releases him from the same.

As to Article II of the proposed treaty the original act of emigration is not punishable in Finland. On the other hand failure to respond to calls for military service is liable to punishment, but according to Section 1 of the Law of loss of Finnish citizenship only those who cannot show that they have become citizens of another country either before they had attained the age of 17 years or after the attainment of the age of 28 years, are liable to be punished upon returning to Finland.

The requirements of Article III of the proposed treaty are partly covered by Section 1 of the Law of loss of Finnish citizenship. A

native of the United States, naturalized in Finland, loses automatically his Finnish citizenship upon returning to and becoming again a citizen of the United States. On the other hand the laws of Finland contain no provisions for the renunciation of acquired foreign and renewal of Finnish citizenship through the mere act of returning to and two years residence in Finland, such person being repatriated on petition.

Article IV of the draft treaty is based on the principle that a person, born in the territories of the United States, is a citizen of the United States, even if his parents, at the time of his birth, are foreigners. Finland, on the other hand, adheres to the principle of the nationality of the parents, but in order to facilitate the regulation of the status of those of its nationals who have emigrated to foreign countries and especially to the United States, Finland has, in Section 2 of the Law of loss of Finnish nationality, made an important modification of the said principle by prescribing in the said Section that a citizen of Finland, born outside of the territories of Finland, loses his Finnish citizenship after attainment of the age of 22 years provided he has never acquired a residence, attended school at least two years or been in military service in Finland unless the President of the Republic, on petition thereof, has otherwise decided. After the loss of his Finnish citizenship at the age of 22 years such a person is not, during a subsequent stay in Finland, held liable for military service or any other act of allegiance. This modification is in entire accord with the suggestion made by you in your note No. 113 that the nationality, after attainment of majority, of a person born with dual nationality, should be determined by the domicile of such a person at the time of reaching majority, or upon the termination of a period of one year thereafter.

From what I have had the honour to state in the foregoing [it] appears that the question of the abolition of dual nationality has already been solved in Finland in a manner which in the most important points corresponds to the requirements of the proposed treaty and settles by far the most numerous cases of dual nationality. Only two questions remain to be solved, namely the question of the nationality of Finnish men, born in Finland, but naturalized in the United States, either with their parents or alone, after the attainment of the age of 17 but before the attainment of the age of 28 years, and the question of the nationality of the children of Finnish nationals, born in the territories of the United States, until they have attained the age of 22 years.

Although of no great practical consequence the solution of the above two questions in accordance with the requirements of the pro-



visions of the draft treaty would necessitate legislative amendments and alterations of certain laws, especially of that of loss of Finnish citizenship. This law has, however, been in force a too short time to allow the opinions as to its operation to be settled, wherefore, and also considering that Finland already has taken very farreaching steps to attain the very ends which the proposed treaty aims to effect, the Government of Finland sincerely regrets not to feel justified, for the present, to appeal to the Diet for legislative sanction to additional concessions to meet all the requirements of the draft treaty. I have therefore, the honour to suggest that the negotiations for the treaty be continued on the basis of following modifications of the draft treaty.

That 1) Finnish men, between the ages of 17 and 28 years, born in Finland, and 2) children of Finnish nationals, born in the territories of the United States, until they have attained the age of 22 years, shall, during a stay in Finland, be held liable for military service and all other acts of allegiance to Finland, according to its laws.

Please accept [etc.]

HJ. J. PROCOPE

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711.60d4/10

*The Secretary of State to the Minister in Finland (Brodie)*

No. 17

WASHINGTON, October 8, 1930.

SIR: The Department has received the Legation's despatch No. 1597 of March 8, 1930, in reply to its instruction of September 21, 1929, concerning the proposed convention between the United States and Finland in regard to nationality and military service.

The Department has noted with regret that the Finnish Government does not see its way clear to enter into the proposed convention in view of the fact that it would conflict with existing Finnish laws. It appears that the principal conflict relates to Article I, which conflicts with Section 1 of the Finnish nationality law of June 17, 1927, according to which no Finnish citizen between the ages of 17 and 28 years can lose his Finnish citizenship by obtaining naturalization in a foreign country unless the President of the Republic, upon the submission of a petition, releases him from the same.

A treaty which would leave in effect the provision of the Finnish law last mentioned in its application to Finns naturalized in the United States would be of little or no value to this country. The same may be said of the proposal contained in the note of March 7, 1930, from the Foreign Office concerning persons born in the United States of Finnish parents.

It is hoped that, after further study has been made of the operation of the Finnish nationality law of 1927, the Finnish Government may find it possible to enter into an agreement along the lines of the draft submitted with the Department's instruction of December 1, 1928, even though this may necessitate some changes in the Finnish laws insofar as they affect persons of the classes covered by the proposed treaty.<sup>5</sup>

Very truly yours,

For the Secretary of State:

W. R. CASTLE, JR.

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<sup>5</sup> A convention regulating military obligations of persons having dual nationality was signed with Finland on January 27, 1939; for text, see Department of State Treaty Series No. 953.

## FRANCE

### NEGOTIATIONS FOR A TREATY BETWEEN THE UNITED STATES AND FRANCE REGARDING DOUBLE TAXATION

811.512351Double/4

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

No. 138

PARIS, January 27, 1930.  
[Received February 7.]

SIR: I have the honor to refer to my telegram No. 24 of January 27, 7 p. m.,<sup>1</sup> concerning the double taxation problem as represented by the Boston Blacking Company case. All available information leads to the conclusion that continued litigation in this case will result adversely for the plaintiff. Following several conferences and at my request, the Foreign Office has undertaken informally to have the case held in abeyance until the two Governments have had an opportunity to discuss further the entire question raised by double taxation. The Minister of Finance has agreed to this plan of action.

As a result of the above negotiations, I enclose a copy and translation of a note dated January 21, 1930, together with a translation of its enclosures, which I have received from the Foreign Office.<sup>1</sup> It will be observed that the French Government feels that before entering into any such negotiations it would be advisable for the representatives of each of the two countries to be made acquainted, at least in general, with the fiscal legislation of the other State. The enclosures are summaries of various fiscal laws in France.

I should appreciate the Department's sending to me at its earliest convenience summaries of State and Federal laws of the United States and any additional information regarding Federal income or other taxes which it feels may be of assistance to the French Government in comparing our laws with theirs in the matter of double taxation assessment.

Mr. Howell, First Secretary of this Embassy, who has been intimately associated with this question, will be in Washington about the middle of February and will discuss the case fully with you.

I have [etc.]

WALTER E. EDGE

<sup>1</sup> Not printed.

811.512351Double/9

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

No. 221

PARIS, February 14, 1930.

[Received February 27.]

SIR: With reference to my despatch No. 138 of January 27 last, and confirming my telegram No. 34, February 10, 4 p. m.,<sup>2</sup> I have the honor to transmit herewith memoranda,<sup>3</sup> arranged in their chronological order, of further conversations that have taken place with French officials, concerning the principle of double taxation as exemplified in the Boston Blacking Company case, as well as a copy of a memorandum prepared for me by Mr. Reagan, Acting Commercial Attaché, reporting a conversation which he had on February 10 with Signor Cantu, Assistant Commercial Counselor of the Italian Embassy.

The Department will note that on February 1 last, at the time of my purely formal and official visit to the Minister of Finance, M. Chéron, I raised the question of the Boston Blacking Company case and as a result of arrangements made by the Minister at that time I called on M. Borduge, Director General of Taxation, during the course of which conversation M. Borduge made the definite proposal that we enter into negotiations with the French Government looking towards the execution of a double taxation treaty.

It will further be noted that M. Borduge stated emphatically that the Ministry of Finance could not give its approval to the undertaking entered into by M. Campana of the Foreign Office to have the case held in abeyance until our two Governments have had an opportunity to discuss further the entire question raised by double taxation. (See my despatch No. 138, January 27, and my telegram No. 24, January 27, 7 p. m.<sup>2</sup>) However, in a subsequent conversation which Mr. Armour<sup>4</sup> had with M. Campana, (Enclosure No. 2<sup>3</sup>), the Department will note that M. Campana, although apprized of the refusal of the Ministry of Finance to concur in the proposal to hold the matter in abeyance, has taken steps to bring the matter directly to the attention of the Ministry of Justice, through the Procureur of the Republic, and is hopeful that his recommendations will have the desired effect.

I also desire to call the Department's particular attention to the *intransigent* attitude shown by M. Borduge with regard to the proposal made by Mr. Mitchell Carroll<sup>5</sup> that the matter be handled by an amendment of the existing French law in the form of an interpret-

<sup>2</sup> Latter not printed.

<sup>3</sup> Not printed.

<sup>4</sup> Norman Armour, Counselor of Embassy in France.

<sup>5</sup> Of the Office of the General Counsel, Bureau of Internal Revenue.

ing act bringing foreign or at least American corporations owning the control of French subsidiary corporations within the purview of the law of July 31, 1920, which exempts French corporations owning subsidiaries from the dividend tax as to dividends received from their French subsidiaries.

In view of M. Borduge's insistence that the only way of handling the matter is by the execution of a treaty, as well as the advice gratuitously tendered by M. Campana to Mr. Armour that he feels that it would be useless to attempt to reach a solution through any method such as unilateral action by the French Government, I feel that the time has come to open negotiations and therefore suggested in my telegram to the Department that, if it approves, Mr. Carroll be designated and that he be requested to come to Paris as soon as arrangements can be conveniently made. M. Borduge informs me that Mr. Carroll is expected in Geneva for the meeting of the Fiscal Committee of the League of Nations in May and it would therefore seem as though he should be able to advance the date of his departure sufficiently to enable him to have a few weeks here in Paris for discussions with the competent French officials.

I have [etc.]

WALTER E. EDGE

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811.512351Double/16

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

No. 137

WASHINGTON, April 23, 1930.

SIR: I am transmitting herewith two copies of a statement entitled "Basic Principles of United States Taxes", prepared by the Treasury Department together with the copies of laws and regulations mentioned therein.<sup>8</sup> It is suggested that a set of these documents be kept in the Embassy's files and that the other set be transmitted through appropriate channels to Mr. Borduge, Director General of Taxation, in order that he may study them before the informal discussions to take place during May with representatives of this Government in connection with the double assessment of taxes upon American firms operating in France through French subsidiaries.

In this connection, I confirm the Department's telegram of March 19, 1930,<sup>8</sup> advising you that Mr. E. C. Alvord, Special Assistant to the Secretary of the Treasury, Mr. Mitchell B. Carroll, formerly of the Department of Commerce and now attached to the Office of the General Counsel, Bureau of Internal Revenue and Professor Thomas S. Adams of Yale University, are sailing on the *George Washington* on April 23. They should therefore reach Paris in the early part of May. As at present advised, it is contemplated that they will

<sup>8</sup> Not printed.

remain in Paris until such time as it may be necessary for Professor Adams and Mr. Carroll to proceed to Geneva in connection with the meetings of the Fiscal Committee of the League of Nations. Inasmuch as it is understood that Mr. Borduge will also proceed to Geneva for the same purpose, it is believed that the discussions could profitably be continued at that place. It is believed that a total period of thirty days should be sufficient at this time to cover the discussions in both cities. Mr. de Wolf who has been handling in the Department the question of double taxation in France, is sailing on the *Majestic* on May 15 to spend his annual leave in Europe and expects to be in Geneva on May 22, at which time he will be prepared to join in the discussions until their conclusion.

As indicated in the Department's telegram No. 62 of March 19, 1930, it is presumed that the discussions will consist largely of canvassing the present situation and exploring the possibility of remedial action either in the shape of legislation or the conclusion of a treaty. While it is not expected that the informal discussions to be initiated in May will lead directly to the conclusion of a double taxation treaty between the United States and France, the bases for such a treaty will, however, be thoroughly gone into and the possible limits within which this Government will be prepared to conclude such a treaty will be explained to the representatives of the French Government.

The Embassy will, I know, extend every possible assistance in connection with the forthcoming informal conference. Your past interest and endeavors in this case have been of great assistance to the Department in determining the best procedure to be followed with a view to protecting the important American interests involved in this case. A separate instruction is being sent to you with regard to the payment of expenses of this Government's representatives.<sup>9</sup>

I am [etc.]

J. P. COTTON

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811.512351Double/19 : Telegram

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

PARIS, May 6, 1930—noon.

[Received May 6—9 a. m.]

130. Your 86, April 24, 5 p. m.<sup>9</sup> Messrs. Adams, Carroll and Alvord have arrived and are now having conferences which will last for several days with all the representatives of American interests concerned. Informal negotiations with the appropriate French authorities will probably begin on Thursday.

EDGE

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<sup>9</sup> Not printed.

811.512351Double/25

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

No. 158

WASHINGTON, May 13, 1930.

SIR: I refer to my instruction of April 23, 1930, concerning the informal discussions to take place during May between representatives of this Government and of the French Government in connection with the double assessment of taxes upon American corporations operating in France through French subsidiaries and now transmit a tentative draft of a double taxation convention between the United States and France.

The provisions of this draft treaty conform to the principles contained in H. R. 10165, a bill recently prepared by the Treasury Department and introduced in the House of Representatives by Mr. Hawley, which is entitled a "bill to reduce international double taxation". A copy of the bill is enclosed for your convenience.<sup>11</sup>

While this draft represents only a tentative basis for the discussions under reference, it has been carefully examined by the Department and appears to present a possible solution of the difficulties now confronting the American and French Governments in connection with taxation matters.

This draft treaty is only applicable in this country to the Federal Government. The omission of the word "national" in the second line of the first paragraph would seemingly make it applicable to the several States. The Department deems it preferable that if possible the discussions be confined to taxation imposed in France by the central Government and in the United States by the Federal Government. However, should the French representatives indicate a disposition to make the inclusion of the several States of the Union within the purview of the proposed treaty a *sine qua non* of the conclusion of such a treaty, the Department as at present advised is prepared on principle to have the several States covered by the provisions of a double taxation treaty.

As you are aware it has been the Federal Government's policy in the past to affect as little as possible the rights of the several States to regulate matters normally coming within their jurisdiction. However, the tremendous expansion of the activities in foreign countries of American corporations and nationals places an increased responsibility on the Federal Government to endeavor by all possible means to protect such interests from discrimination by foreign Governments. In order to remove any discrimination against American interests abroad it is generally necessary to assure the foreign Government that reciprocally their corporations and nationals will not be discriminated

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<sup>11</sup> Not reprinted.

against in this country on account of alienage. Naturally enough, foreign Governments may insist that such assurances should also include the several States.

By national treatment of foreign corporations in this country, in so far as the several States are concerned, is meant the treatment which one State extends to an American foreign corporation i. e., a corporation organized under the laws of some other State of the Union. To extend to a corporation organized under the laws of a foreign country the same rights as are accorded in this country by one of the several States to a corporation organized under its own laws would place "alien foreign corporations" on a more favorable basis than "American foreign corporations". The Department obviously would not be prepared to consider the latter contingency with favor. It is understood that as a general rule the laws of the several States of the Union do not generally discriminate in matters of taxation between "American foreign corporations" and "alien foreign corporations". In a few instances, however, such a discrimination exists especially in the case of insurance companies.

The foregoing is, of course, for the confidential guidance of your Embassy and the American representatives and I again reiterate that if possible the Department would prefer not to include the States in any treaty which may be concluded with France.

I am [etc.]

For the Secretary of State:  
J. P. COTTON

[Enclosure]

*Tentative Draft of a Double Taxation Convention Between the United States and France*

The United States of America and the Republic of France, being desirous of preventing the double imposition of national income taxes on their nationals and on corporations created or organized in or under the laws of either country, have decided to conclude a Convention for that purpose, and to that end have appointed as their plenipotentiaries:

The President of the United States of America:

..... and  
The President of the French Republic:

.....  
Who, having exhibited to each other their full powers, found to be in due form, have agreed upon the following Articles:



## ARTICLE 1

Except as provided in the following Articles, individuals resident in the territories of one of the High Contracting Parties and corporations created or organized in or under the law of one of the High Contracting Parties, and deriving income from sources within the other High Contracting Party, shall be subject to income taxes only in the State in which such individuals are resident or in which such corporations were created or organized.

An individual shall not be considered a resident of the territory of either High Contracting Party unless he maintains his permanent home in such territory and has maintained it there for at least six months in the taxable year.

The exemptions from tax authorized by this Article shall be effected by each High Contracting Party, either by refunding tax withheld at the source of the income or by not collecting any tax at such source, in accordance with its own legislation.

## ARTICLE 2

The following kinds of income shall be taxable through prior right by the High Contracting Party in whose territory the source of such income, as described below, is located. When the recipient of any such income, if an individual, is resident in the territory of the other High Contracting Party, or if a corporation, is organized under the laws of such other High Contracting Party, such other High Contracting Party shall grant sufficient relief from its own taxes to prevent double taxation.

(a) Income derived from any business, trade or profession which is allocable to a permanent establishment situated in the territories of said High Contracting Party.

The term "permanent establishment" includes centers of management, statutory offices or seats, branches, mines, oil wells, factories, workshops, warehouses, offices, agencies, and other fixed places of business; but the fact that an individual who is a resident of the territory of one of the High Contracting Parties or a corporation created or organized in or under the law of such High Contracting Party has business dealings in the territories of the other High Contracting Party through a bona fide commission agent or broker shall not be held to mean that such individual or corporation has a permanent establishment in the territories of the latter High Contracting Party. Income allocable to permanent establishments in the territory of each High Contracting Party shall be determined in accordance with rules established by informal agreements between the competent administrations of the High Contracting Parties.

(b) Compensation for labor or personal services performed in the territory of said High Contracting Party;

(c) Income derived from real property located in the territories of said High Contracting Party or from any interest in real property including rentals and royalties therefrom, gains from the sale or other disposition thereof, and interest on obligations (other than obligations of a corporation) secured by such property.

#### ARTICLE 3

Compensation paid by one High Contracting Party to its nationals for labor or personal services performed in the territories of the other High Contracting Party shall be taxable only by the High Contracting Party which makes such payment.

#### ARTICLE 4

Pensions paid by one High Contracting Party to an individual resident in the territory of the other High Contracting Party, shall be taxable only by the High Contracting Party which makes such payment.

#### ARTICLE 5

The income of an individual who is a resident in the territory of one of the High Contracting Parties, or of a corporation created or organized in or under the law of one of the High Contracting Parties, which consists exclusively of earnings derived from the operation of ships or aircraft shall be taxable only by the High Contracting Party in whose territory such individual is resident or in which such corporation was created or organized.

#### ARTICLE 6

The present Convention shall be ratified and the ratifications shall be exchanged at Paris as soon as possible. It shall be effective from the beginning of the calendar year in which ratifications are exchanged. It shall be terminable at the expiration of five years, or at the end of any calendar year thereafter, on a notice of twelve months given by either High Contracting Party to the other.

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

Done at....., on the.....day of....., in the year of our Lord one thousand nine hundred and.....

## PROTOCOL

At the moment of exchanging the ratifications, and in order to prevent any ambiguity regarding the application of the Convention, the plenipotentiaries have agreed to make it clear that the provisions of the said Convention shall be understood to apply in both countries to all tax assessments of companies, associated and branch establishments and agencies which have not been finally determined on the date that the Convention comes into operation.

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811.512351Double/27 : Telegram

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

PARIS, May 17, 1930—noon.

[Received May 17—11:25 a.m.]

146. With reference to my confidential telegram 130, May 6, noon, and despatch number 516 of the same date.<sup>12</sup> There have been conferences almost daily since May 8 at the Ministry of Finance covering all phases of France's double dividend tax. These conferences are being attended by M. Borduge, Barrau and Guinard of the Ministry of Finance, M. Campana of the Foreign Office, Messrs. Adams, Carroll and Alvord and Mr. Howell, First Secretary of Embassy. There is a marked feeling of friendship on the part of the French representatives and apparently they have a genuine desire to adjust this problem.

On May 13, M. Borduge proposed in substance the following as basis of solution of difficulties regarding French subsidiaries of American companies:

“As to American companies operating as French subsidiary corporations, they would be liable to taxation on industrial and commercial profits according to the total amount of their actual profits and to tax on revenue from movable property according to the total amount of the dividends distributed under the same conditions as the French filial of a French company.

But if the administration were to establish that the profit showed on the balance sheet is lower than the profit actually realized, the difference between the declared profit on the balance sheet and the real profit would be subject immediately in totality both to the 15 percent tax and the 16 percent tax.

No claim would be made on the American mother company and there would consequently be no occasion for the fixing of an assessable quota.”

The above system would eliminate the objectionable “*quotité imposable*” method of taxation.

<sup>12</sup> Despatch not printed.

As to American companies operating through branches in France, an effort is being made to work out a plan whereby the branch will have the option of continuing under the present system of "quotité imposable" or of paying a dividend tax upon 75 percent of French profits of the branch whether or not distributed. The French representatives have indicated a willingness to accept this plan.

The French of course are requiring a *quid pro quo* and the American delegates are endeavoring to find something which will satisfy them and which would require only slight modification of the revenue act.

The American delegates are keeping in close touch with the representatives here of American interests who are almost unanimously of the opinion that a solution as above outlined would be eminently satisfactory.

There is no prospect of an agreement based on the bill to reduce international double taxation H. R. 10165 but if an agreement is reached it will take the form of a convention or treaty concerning primarily the fiscal treatment of corporations.

Messrs. Adams, Carroll and Alvord leave tomorrow for Geneva where discussion will be continued with M. Borduge. Negotiations will be resumed in Paris about June 1st.

EDGE

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811.512351Double/30 : Telegram

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

PARIS, June 4, 1930—1 p. m.  
[Received June 4—10:45 a. m.<sup>13</sup>]

160. Please transmit following to Treasury from Alvord, reply to which is desired today:

"Borduge, under instructions from Minister of Finance, asks as consideration for concessions on the part of France that on reciprocal basis we exempt from Federal surtaxes all income derived from sources within the United States by nonresident French citizens including income from carrying on business, from personal services, and from real estate, as well as income from dividends and interest and other miscellaneous income proposed to be exempt by Hawley bill.

I do not regard concessions on our part as of substantial practical importance but obviously there will be real difficulties with Congress which have been fully explained French representatives. I recommend that Treasury take following position:

1. [Paraphrase.] Should there be in your opinion a reasonable chance of obtaining approval by Congress of the proposed convention which would contain such exemptions, that you authorize us to offer,

<sup>13</sup> Telegram in three sections.

if in our judgment it is desirable, surtax exemption as requested, it being understood that we will concede no more than is necessary.

2. Should there be no chance of approval by Congress, that we be authorized by you to offer, if in our judgment it is desirable, surtax exemption on all income except business, personal service and real estate as in Hawley bill. [End paraphrase.]

France apparently is willing to settle main points of controversy making substantial and satisfactory concessions along lines of my letter and tentative draft enclosed therewith. Please have State Department cable and concur in your reply. Complete text of proposed agreement will be submitted for your approval before any final commitment. Should appreciate reply by tomorrow noon if possible. Alvord."

EDGE

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811.512351Double/31: Telegram

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

PARIS, June 4, 1930—4 p. m.  
[Received June 4—11:40 a. m.]

161. My 146, May 17, noon. The informal conferences were resumed yesterday and were attended by the same eight persons mentioned in the above telegram. The negotiations have reached a point where the French Government has submitted a draft convention which they are willing to adopt. While unsatisfactory in details, it is possible that the draft may be so modified as to become acceptable to the American experts and business interests. A final draft of agreement will probably be ready for submission to you early next week.

EDGE

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811.512351Double/30: Telegram

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

WASHINGTON, June 5, 1930—6 p. m.

117. Your 160, June 4, 1 p. m. The following for Alvord from Treasury:

"1. No agreement is to be signed or even initialed until you have returned and there has been time for study.

2. As we read tentative draft all articles containing concessions on our part embody existing law or practice except articles 11 and 7-C.

3. Department is willing to give favorable consideration to agreement embodying existing provisions of law and practice though it is unable to see why France should not grant reciprocal concessions. You should endeavor to obtain these as far as possible.

4. Department does not agree to article 11-B and has some doubt as to 7-C.

5. Department is unwilling to consider exemption from Federal surtaxes of income of nonresident French citizen from personal services, business, and real estate, even on reciprocal basis. This would mean end of Hawley Bill and complete abandonment of sound principles we are endeavoring to establish in field of double taxation.

6. We have no objection to granting exemptions provided for in Hawley Bill on reciprocal basis but see no occasion to embody in treaty or agreement. As a practical matter it will be infinitely easier to obtain Hawley Bill than treaty. Any treaty going beyond provisions of existing law will raise constitutional question and give grave offense to House of Representatives.

7. As a general proposition, we are unable to see why France by the imposition of an unjust tax should obtain from the United States greater concessions than we grant to those who do not indulge in unfair practices. If no agreement can be reached, Treasury will seriously consider advisability of recommending to Congress retaliatory legislation along the lines we discussed last winter."

STIMSON

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811.512351Double/32: Telegram

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

PARIS, June 9, 1930—5 p. m.  
[Received June 10—8:30 a. m.<sup>14</sup>]

165. The following is a draft of proposals which were submitted by the French experts to our experts substantially as they stood at the time of Alvord's cable to Treasury transmitted by my 160, June 4th, 1 p. m. I am advised informally that these proposals would be acceptable to the French administration.

"FIRST CHAPTER. French tax on industrial and commercial profits.

Section 1. American enterprises with branches in France.

First article. American enterprises possessing permanent establishments in France will be subjected there in accordance with the same rules as French enterprises to the tax on industrial and commercial profits on the basis of the profits that they realize by the exploitation of these establishments.

The term 'permanent establishments' means sales offices, agencies, workshops, factories, and other commercial or industrial exploitations having the character of a permanent productive organization.

American enterprises are likewise considered as having in France permanent establishments when they maintain there permanent

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<sup>14</sup> Telegram in eight sections.

representatives vested with powers of management (*ayant les pouvoirs de gérants d'est [des] reprises*).

Article 2. For the purpose of computing the tax, the American enterprises referred to in the first article above are required to produce the same declarations and the same justifications as French enterprises.

The tax administration has the right within the scope of French legislation and under reserve of the recourse provided for by this legislation to make in the declaration of profits realized by the establishments exploited in France such adjustments as may be necessary to bring out the exact amount of the profits.

Article 3. As a measure of reciprocity the tax will not be applied to American enterprises in respect to purchases in France of goods intended exclusively to supply the establishments that the said enterprises maintain outside of France.

Comments on article 3: Although the French representatives are willing to give up their present practice and meet the exemption of purchasing in the United States as provided in section 119 of the Revenue Act <sup>15</sup> they desire to restrict the exemption of purchasing in France to cases where the purchase of goods is made in France to supply establishments in the United States. They therefore wish to replace the words 'outside of France' at the end of the last line by 'in the United States.'

The principal reason for this attitude is the desire not to hamper their negotiations with other countries. They stated that in practice they would be willing to apply the provision to all American purchases for exportation from France.

The question was reserved for future discussion.

Section 2. American enterprises having business relations with French enterprises.

Article 4. American enterprises having relations with a French enterprise but not possessing in France any permanent establishment are not subject to tax on industrial and commercial profits which tax is applicable only to the French enterprise.

Article 5. When an American enterprise by reason of its participation in the management or in the constitution of the capital of a French enterprise makes or imposes on the latter in its commercial or financial relations with it, conditions different from those which would be made with a third enterprise, any profits properly attributed to the French enterprise which are diverted in this manner from the French enterprise to the American enterprise shall be incorporated in the taxable profits of the French enterprise.

## TITLE II. French tax on income from securities.

Article 6. American corporations possessing in France permanent establishments in the sense of paragraphs two and three of article 1 may in derogation of article 3 of the decree of December 6, 1872, and on condition of conforming to the requirements of article 8 pay the tax on income from securities on three-fourths of the profits actually derived from these establishments.

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<sup>15</sup> Approved May 29, 1928; 45 Stat. 791, 826.

Comments on article 6: Whether the fraction should be three-fourths or a fraction somewhat smaller has been reserved for future discussion.

Article 7. An American corporation shall not be subject to the obligations prescribed by article 3 of the decree of December 6, 1872, by reason of any participation in the management or in the capital stock of or any other relations with a French corporation if such [American] corporation and French corporation conform to the requirements of article 8 below.

In this case the tax on income from securities will continue to be levied in conformity with the French legislation in force on the dividends, interest, and all other products distributed by the French corporation; but it is moreover exigible if the occasion arises on the profits diverted to the American corporation from the French corporation under the conditions stated in article 5.

Article 8. American and French enterprises which elect to be taxed in accordance with article[s] 6 and 7 must make a declaration of such election to the Bureau of Registration.

For the purposes of article 6 the American enterprise must declare its election within six months after the ratification of this agreement or after the creation of its establishment in France.

For the purposes of article 7 the American corporation and the French corporation must jointly make a similar declaration within six months after the ratification of this agreement or after its relations with the French corporation become of such a nature as to give rise to the application of article 3 of the decree of December 6, 1872.

An election under this article shall be irrevocable.

American corporations which do not make such declaration and which are held subject to article 3 of the decree of December 6, 1872, shall enjoy the benefits of article 27 of the law of July 31, 1920, under the same conditions as French corporations.

Upon an election to be taxed in accordance with article 7 the American corporation shall be exempt from any application of article 3 of the decree of December 6, 1872, for every taxable year whether before or after the ratification of this agreement except that any amounts collected thereunder with respect to a taxable year before such ratification shall not be refunded.

Comments on article 8: The last paragraph of this article has not been agreed to by the French, their decision being reserved until the last moment before the convention is signed out of fear that on knowing of such a provision the French subsidiaries of American companies would cease paying their taxes in the meantime. It seems very probable that a satisfactory retroactive provision will be agreed to.

### TITLE III. Federal income tax.

Article 9. American citizens not residing in France are exempt from the general tax on their income in respect to their income from French sources.

By reciprocity French citizens not residing in the United States are exempt from surtax in respect to their income from American sources.

Article 10. On condition of reciprocity French citizens not residing in the United States and French corporations (not having a permanent



establishment in the United States) receiving authorized royalties or amounts paid in consideration of the right to use patents, processes and secret formulas, trade-marks and other analogous rights are exempt from income tax in respect of these categories of income."

Please refer to my 160, June 4, 1 p. m.; and your 117 June 5, 6 p. m. which are an exchange of telegrams between Alvord and Treasury. Particular reference is made to paragraph 1 of your telegram No. 160 [117] containing instructions to Alvord from Treasury that no agreement is to be signed or even initialed until he has returned to Washington and there has been time for study.

The present situation here is very much more serious than it appeared to be a few weeks ago. A large number of American business interests are seriously involved at the present and many more are threatened. In addition to the uncertainty, with [*sic*] the possibility of having to pay unknown but very large amounts in taxes is proving to be a serious deterrent to American business expansion here.

The present situation with France is not the normal double tax situation existing between the United States and most other countries. France feels that it has a tremendous club over other countries and gives no indication of abandoning it at least at this time. Meantime American business and financial interests will be severely penalized and their existence jeopardized. We are facing a practical problem to which a practical solution must be applied. Adherence to principles which are sound only in theory will be insufficient. Reciprocal legislation by France along the lines of Hawley bill is absolutely impossible. France will not accord to other countries under reciprocal legislation concessions similar to those she is apparently willing to give us. She has very practical and important tax problems with other countries and she will not accord relief from the double dividend tax unless their tax and other provisions which are highly objectionable to France and considered discriminatory against French enterprises are removed.

Our experts have worked out with the French experts concessions on the part of France much more satisfactory than anyone had supposed to be possible. Their entire time has been devoted to working out a program on the part of France. They have not undertaken to commit the United States nor themselves. It may well be that they will be unable to work out concessions which will be acceptable both to France and Washington but certainly every attempt to do so should be made.

I am amazed with our experts that Borduge, the leading French representative, has been very fair and has gone the limit in his concessions to us. I have very reliable information to the effect that Borduge is leaving and I do not know his possible successor. It is highly desirable to settle with him and the present ministry if possible.

If reasonable concessions on our part acceptable to the United States and to France can be worked out I cannot state too strongly the urgent necessity of tentatively closing the matter at once and while our experts are here.

You may be sure that no final commitment on our part will be made in any way until it has received your approval. Nevertheless, I feel very keenly that it would be a grave mistake to lose the unquestioned advantages our experts have already obtained.

Regarding constitutional and political questions involved in dealing by treaty a special consideration should be given to Alvord's suggestions to Mills<sup>16</sup> that the Treasury press for action on the Hawley bill at the next session of Congress; that the Hawley bill be amended to permit an executive agreement of the kind contemplated with France; that the agreement with France not be submitted to the Senate until after the Hawley bill becomes law unless it becomes obvious that it cannot pass. Furthermore, our experts now think that conditions in some continental countries will probably require a settlement of double tax problems only by treaty even though confined to the provisions of Hawley bill.

No suggestion has been made on the part of France that we attempt to deal with state taxation in any manner and we will not do so. The points made in the Treasury communication to Alvord with respect to concessions on our part including articles 11 (*b*) and 7 (*c*) must have been based upon misunderstanding on the part of Treasury and are not now involved. To meet the political situation here France must have some popular provision in the proposal or its ratification by Parliament will be impossible. I am convinced that they are trying to deal very fairly with us and will accept the slightest concessions which will meet their political situation.

You of course understand the concessions which France is willing to make to us eliminate entirely the double dividend tax feature, give substantial relief to business operating through branches, is strongly indorsed by all American interests here and is considered not only of the greatest importance but much better than the business interests here believed possible to obtain.

In view of the receptive attitude of France at the present time it would be most unfortunate if the unexpected concessions obtained by our experts are not temporarily clinched at least subject to Washington's further consideration.

We should exert every effort to work out satisfactory undertakings on our part now.

To restate, Treasury instructions to their experts now prevent any recommendations from them to me or to the Treasury Department.

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<sup>16</sup> Ogdon L. Mills, Under Secretary of the Treasury.

If we are to clinch the important concessions which the French are now willing to make, Treasury experts and myself must be permitted to reach at least a preliminary understanding. If this program is followed French authorities will probably be willing to postpone prosecute [*sic*] American business interests until Senate has definitely ratified or rejected proposed treaty.

EDGE

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811.512351Double/47 : Telegram

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

PARIS, July 3, 1930—11 a. m.

[Received July 3—7:23 a. m.]

207. For Alvord, Treasury, from Carroll:

“Paris newspapers report Treasury official statement that a fairly satisfactory double taxation agreement has been reached with the French Government. If report is accurate would it not be possible to prepare for signature before July 31st with the understanding that agreement will not be submitted for ratification before passage of Hawley bill? A signed and ratified convention seems inevitable even under Hawley bill. Law committee of American Chamber of Commerce enthusiastically recommends adoption by Government. Ambassador and leading lawyers planning to see Mills tomorrow. Please wire details of Treasury statement immediately so can know exact situation.”

EDGE

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811.512351Double/47 : Telegram

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

WASHINGTON, July 3, 1930—5 p. m.

149. Your 207, July 3, 11 a.m. For Carroll from Alvord:

“Because of newspaper reports from Paris that Mills was going to Paris on secret mission for President Hoover including efforts to obtain further concessions from France on double taxation matter Treasury deemed it advisable to discuss general situation with newspaper reporters yesterday. However, it was distinctly stated that no agreement had been reached. Newspaper reporters presumably relying upon dispatches from Paris misquoted rather unfortunately my statement. The following is a Treasury newspaper release of today attempting to clear up the situation.

“The Treasury deems it advisable to correct certain inaccurate statements and quotations appearing in various newspaper articles

with reference to proposed or purported agreements with Great Britain and France with respect to double taxation.

No negotiations are pending with Great Britain, nor are any negotiations contemplated by the Treasury at the present time.

Informal and preliminary negotiations have been carried on between our representatives and representatives of the French Government with reference to the tax situation existing in France. Mr. Ellsworth C. Alvord, Special Assistant to the Secretary of the Treasury, returned from Paris about a week ago and has gone over in detail with the Treasury officials the results of the preliminary negotiations. However, no agreement has been entered into and no action by the Treasury has been taken with respect thereto. Inasmuch as the Treasury is not empowered to enter into agreements of this nature, it can take no definite action until after legislative authority has been granted, which obviously cannot be obtained prior to the next session of the Congress. Any agreement by the Treasury must, of course, conform to legislative authority. It is impossible, therefore, at this time to make any definite statement either as to the possibility of a final agreement or as to any of its terms.'

Treasury position remains unchanged. I have discussed the matter in detail with Hawley, Bacharach, and Garner and their reaction was rather more favorable than I had expected. However, they were unwilling to commit themselves on the policy. Alvord."

STIMSON

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811.512351Double/48 : Telegram

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

PARIS, July 5, 1930—noon.  
[Received July 5—9:45 a. m.]

209. I conferred yesterday with Mills on double taxation problem which meeting was participated in by several leading representatives of American business interests in France. Mills emphatically opposed any treaty understanding of any character with France at this time. He reluctantly promised with some reservations to sound out congressional leaders in the fall, but even then would he only give Treasury approval if our proposal could be made part of his Hawley bill program and if it were not submitted until and unless the Hawley bill passed which Mills admits is doubtful. In the meantime he would not agree that any understanding or agreement of French should be initialed or signed.

Mills likewise admitted quite frankly even if passed that the Hawley bill probably would not meet the French situation. He said that he took the above attitude because he did not think the treaty would be ratified on account of article 10. He went so far as to decline to approve a treaty at this time even if article 10 were corrected or eliminated. His reason for this was that he had told Garner and other

congressional leaders that double taxation problems with foreign countries would be adjusted by reciprocal legislation (the Hawley bill being used as a basis) and that if a separate treaty were now signed with France such action would be considered by the congressional leaders as bad faith on the part of the Treasury Department.

Mr. Mills was informed that France is the only country having the objectionable *quotité imposable* and would be the only country with whom a separate treaty might have to be made; that it ought to be fairly easy to explain to the congressional leaders especially since they had already received word of it in no unfavorable light from Alvord and could present its ratification if they chose to do so.

It was made clear to Mills by all present that we had no hope of securing as advantageous an agreement, if any at all, in the fall and that reciprocal legislation under the terms of the Hawley bill even if passed was considered impossible by French officials.

All present united in showing the helplessness of American businessmen from now until fall. The unyielding attitude of Mr. Mills created keen disappointment and dissatisfaction among the American business representatives who, following his departure, indicated their desire to frankly present their dilemma to Congress through their home offices. I advised conservatism for present and believe that policy will be followed at least for the time being.

If this is the last word there seems nothing more we can do at this end although we shall of course explain to Borduge as best we can but will await an indication of the Department's wishes before so doing.

Would suggest your showing this telegram to Dr. Adams.

EDGE

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811.512351Double/58 : Telegram

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

PARIS, July 18, 1930—7 p. m.  
[Received July 18—4:17 p. m.]

222. Your 159, July 16, 5 p. m.<sup>17</sup> Alvord telephoned last night to Howell stating that the administration was desirous of putting the proposed double taxation treaty in final form at once but delaying signature for various reasons until about December, that he was prepared to leave for Paris today for the purpose of assisting in the drafting, and that he would appreciate a reply by telephone today after M. Borduge had been consulted. Under my instructions Howell telephoned the following to Alvord today:

“Mr. Carroll and I saw M. Borduge this morning. We explained to him that we would like the treaty put in final form immediately with

<sup>17</sup> Not printed.

certain alterations but not signed probably until December because of political reasons. He could find no means of making the agreement binding until formally signed but suggested that the best thing to be done under the circumstances would be for both Governments to appoint an official delegation to meet in Paris to negotiate this treaty. They could sign or initial the draft treaty without any obligation on the part of either Government. Borduge told us confidentially this morning that he is not leaving the Government until the end of the year. So while the signing or initialing of the draft would not bind either Government it would bind Borduge until our Government had decided whether to sign the treaty.

It is important to commit Borduge at once because he is pointing out instances of avoidance of French taxes which could not be prevented under the draft treaty and because apparently he is rapidly losing interest. Therefore, provided this arrangement is satisfactory to Washington, the Ambassador desires both you and Dr. Adams to take today's or tomorrow's boat for Paris. We have prevailed upon Borduge to postpone his vacation until August 6. As I said above we found M. Borduge decidedly losing interest in the treaty. The Ambassador thinks it is imperative that Dr. Adams return with you to hold the ground already gained, to negotiate the changes Mr. Mills desires in article 10, several changes we have noted here and any that you may have. If he cannot leave today he could sail on the *Statendam* tomorrow arriving here on July 26th which would give ample time to resume the negotiations. The Ambassador wishes me to emphasize that in his present frame of mind it is going to be extremely difficult to do any further negotiating with Borduge and he believes it imperative that Dr. Adams should return. He thinks it equally important that you should come on account of the drafting. You state that Mr. Mills will be in Paris about August 10. Since the official negotiations should be concluded about that time his presence in Paris would be most propitious.

If the above plan is satisfactory the Ambassador desires you to be good enough to arrange with the State Department, before you leave, to send instructions by cable to him appointing Dr. Adams, yourself, Carroll and myself as official delegates to negotiate this treaty in Paris beginning July 28th. The Foreign Office has approved the above arrangement for the holding of these official negotiations and will designate its same four representatives as delegates, namely, MM. Borduge, Barrau, and Guinard from the Ministry of Budget and M. Campana from the Foreign Office."

Mr. Alvord replied that he believed the Government would approve the above plan, that he would probably sail tonight but did not think Dr. Adams could come. I suggest this telegram be shown to Dr. Adams who is now in Washington and that he be urged to return to Paris immediately at Government expense.

I fear very much that any lack of interest on our part or failure promptly to clinch admitted advantage secured may wreck the whole proposal. It shall always be borne in mind that the United States and not France is seeking relief.

EDGE

811.512351Double/59

*The Assistant Secretary of the Treasury (Hope) to the Secretary of State*

WASHINGTON, July 18, 1930.

MY DEAR MR. SECRETARY: Prior to Secretary Mellon's departure today he went over with me the French Tax situation, which he discussed with you today and asked me to write you.

As a result of preliminary and informal conferences an agreement in principle was reached between the American experts and the French experts, subject to submission here upon their return. Prior to the final drafting of the agreement, Mr. Alvord returned to the United States, principally in order to discuss the proposed agreement with Undersecretary Mills prior to the latter's departure on his vacation.

The matter is represented to be of serious importance to American industry and financial institutions. The tentative agreement in principle is strongly urged by the American Chamber of Commerce in Paris and by many of the interested concerns in the United States.

The draft of the tentative agreement in its present form is unsatisfactory in many of its provisions. It has therefore been urged that immediate steps be taken to put the tentative agreement in final form, in order that it may be available for action by the United States whenever the administration is in a position to commit itself definitely upon it. It is probable that the administration will not commit itself until after we have had an opportunity to discuss the matter with Congressional leaders next December. However, if there is a reasonable opportunity of favorable Congressional action, an agreement in satisfactory form should be available.

We have been in telephone conversation with the American Embassy in Paris and we are advised that the French officials are willing to resume negotiations and to undertake to place the agreement in final form, and that immediate action on our part is most desirable in order to hold the situation in *status quo*.

From our point of view, a treaty will probably not be necessary. Rather, the Treasury has in contemplation the enactment of legislation, very likely as a part of the pending Hawley Bill,<sup>17a</sup> which will grant power to the executive to enter into an agreement of this kind. The Treasury does not know whether it will be possible from the French point of view to enter into an agreement of this kind otherwise than by treaty. Nevertheless the representative of the United States should keep this situation in mind.

I recommend that Mr. Ellsworth C. Alvord, Special Assistant to the Secretary of the Treasury, Mr. Mitchell B. Carroll, of the Office of the General Counsel, Bureau of Internal Revenue, and Mr. William-

<sup>17a</sup> H. R. 10165; it was not reported out of the Ways and Means Committee for action.

son D. Howell, First Secretary of the American Embassy at Paris be designated to resume negotiations with the French officials and, if possible, to arrive at a satisfactory understanding, which is to be embodied in a form of an agreement, or treaty, to be drawn up and initialed by the parties. Mr. Alvord fully appreciates the inadvisability at the present time of committing the United States and the necessity of explaining to the French very carefully that any final draft so agreed upon and initialed will not commit the United States. Any further instructions, of course, can be taken up through cable. The Treasury defers to your judgment as to the advisability in including the above in the instructions to our representatives.

The American Embassy at Paris recommends very strongly that these further negotiations be undertaken at once. The French representatives have agreed to resume the negotiations on July 28th, prior to their departure on vacation. Delay until after their return from vacation might seriously jeopardize reaching any agreement with them. The only available vessel is the *Europa*, sailing from New York, Wednesday night next week, July 23, arriving in Cherbourg July 29. It is recommended, therefore, that Mr. Alvord be authorized to sail on the *Europa*.

Very sincerely yours,

WALTER E. HOPE

811.512351Double/60 : Telegram

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

PARIS, July 21, 1930—9 a. m.  
[Received July 21—5:58 a. m.]

223. Your 164, July 19, noon.<sup>18</sup> While it is unfortunate Adams cannot return, nevertheless, in view of Borduge's expressed willingness to resume negotiations and, if possible, to reach an agreement between experts binding on Borduge, I believe it decidedly advisable that Alvord return and conference proceed as per my telegram No. 222, July 18, 7 p. m.

Alvord would, of course, represent Washington's latest reactions and his presence here a week before Borduge leaves and Mills' return would give time for final draft and, I hope, understanding.

On the one hand, if we ignore Borduge's proposal, advantages already gained are greatly jeopardized.

EDGE

<sup>18</sup> Not printed.



811.512351Double/60 : Telegram

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

WASHINGTON, July 21, 1930—noon.

166. Your 223, July 21, 9 a. m. Alvord discussed his plans with the Department this morning. It is his intention to return to Paris for the purpose of putting the present agreement into final form, the changes from the present draft being for the most part verbal in character. It is also Alvord's intention that upon completion of the drafting, the document will be merely initialed on the understanding that in December the matter will be taken up with Congressional leaders. Should support be obtained from these leaders the agreement could then be signed and submitted to the Senate. Alvord and Carroll are designated to carry on these further negotiations and authorized to initial the resulting document. Howell is to assist in the work. You may so advise the Foreign Office. Department sees no necessity for authorizing any member of Embassy to initial the agreement.

STIMSON

811.512351Double/62 : Telegram

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

PARIS, August 4, 1930—4 p. m.  
[Received August 4—3:15 p. m.]

242. For State and Treasury Departments from Alvord:

"Our redraft of the proposed agreement containing necessary technical changes has been agreed to by French experts.

2. Question[s] of policy still remain, namely, (1) our granting exemption from normal tax on dividends, and (2) the effective date of the proposed relief from the double tax, the original draft placing the effective date as of June 1st, 1930, while we are asking May 1st, 1930.

I feel reasonably certain that an agreement on both of the above questions can be reached although, as I anticipated, it may be necessary for us ultimately to yield on both points. However the French have completely backed down on their clear undertaking with the Embassy prior to my coming over to put the agreement in final form and to initial it. They have asked a complete exemption from all surtaxes which of course they realize is impossible and they refuse even to discuss further the above two questions.

They suggest that we now prepare merely report to submit to the respective administrations setting out the provisions agreed to and the provisions not agreed to, leaving the latter for future negotiations whenever both Governments are willing to grant power to sign.

We are reliably informed that the Minister of the Budget took the position after the understanding with the Embassy that the agreement would be put in final form and initialed on both sides; that he would not permit the initialing by Borduge when the position of our

administration was so uncertain. He knows Mr. Mills' attitude and feels that the French should neither take any position so long as such an important official of our Government is seriously opposed to the agreement.

Ambassador Edge will see the Minister of the Budget Monday morning in an effort to adjust the matter.

We have a further conference Monday afternoon with the French experts.

The above is for your information in order that you may be in touch with developments. You will be advised promptly after the Monday conference."

The above telegram was prepared by Alvord to be despatched last Saturday, August 2nd, but it was not sent as it was hoped that the meeting I was to have and did have with the Minister of the Budget this morning might settle the points of difference. However this meeting was quite unsatisfactory and I am therefore forwarding Alvord's telegram in order to present matters in their proper sequence. I shall report fully concerning this morning's and this afternoon's meetings and the situation resulting therefrom.

EDGE

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811.512351Double/64: Telegram

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

PARIS, August 5, 1930—9 a. m.

[Received 10:10 a. m.<sup>19</sup>]

245. Alvord's telegram No. 242, August 4, 4 p. m. As indicated in telegram above referred to, I called upon M. Germain Martin, Minister of Budget, by appointment at 11 o'clock yesterday morning. I was accompanied by Mr. Armour, Counselor of the Embassy, and Mr. Carroll, representing the Treasury Department, who has been in constant attendance at the many sessions of the experts. There were also present M. Borduge representing the French experts and a French Government interpreter.

I endeavored to emphasize to the Minister the clear understanding Mr. Howell and Mr. Carroll had secured from M. Borduge in effect that if Mr. Alvord would return to Paris with authority to initial a proposal approximately in principle similar to that already submitted as of June 23rd the experts could no doubt readily agree upon technical changes and would so initial in a final draft, but that in recent discussions with our experts since Alvord's return M. Borduge had indicated a complete change of front and that it had apparently been found impossible to reach final agreement on article 10 and that a proposal had now been made to have the experts initial a procès-verbal representing their respective points of view in parallel columns.

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<sup>19</sup> Telegram in three sections.

I said that I felt that such a solution would be at best a makeshift and would make it very difficult for my Government ever to come to any agreement with the French Government; that by far the better method would be for our experts to work until they had found a common ground and to initial such a document as had clearly been planned when Mr. Alvord was sent back; that even if the terms there-to agreed were onerous I would prefer to present such a document to my Government than a vague set of recommendations representing the two points of view. I added that it was my opinion that the original wording of article 10 drafted by Professor Adams in the June 23rd proposal had I understood been in the main satisfactory to the French authorities and that I would undertake to endeavor to secure the consent of our people at home if there seemed to be any possibility of using it as a basis.

The Minister then intimated that he could not see any advantage in initialing any agreement if it did not carry with it the final authority of the two Governments. I of course explained that this was absolutely impossible and it had been our clear understanding that such assurance was never anticipated or required; that all that was sought at this time was an agreement between experts. A long discussion ensued as to the terms of article 10 as revised in the more recent conferences. As this discussion was getting us nowhere I then asked the direct question whether the French experts would initial the original proposal of June 23 which Dr. Adams took to Washington with such technical changes as the experts of both countries, as I was informed, had already agreed upon.

M. Borduge then stated that he was never satisfied with the June 23rd proposal. This is contrary to any view we had heretofore been given. (See telegram No. 189, June 23rd,<sup>20</sup> prepared by our experts.) In fact Alvord, Carroll, and Dr. Adams have always taken the position that had they had authority to initial that agreement at the time of its preparation the French would have done likewise. In my judgment however this development well demonstrates that it is futile to undertake conferences with French representatives where technical considerations of a reciprocal nature are involved without the power to clinch adjustments or concessions on the spot of course subject to legislative approval.

Germain Martin and Borduge expressed to me their entire willingness to initial the revised draft approving articles 1 to 9 inclusive as prepared at the joint meetings of the experts but as to article 10 setting forth in parallel columns the divergent positions of the two delegations which differences Alvord is detailing in telegram <sup>20</sup> reporting results of the final conference of experts yesterday.

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<sup>20</sup> Not printed.

In the meantime a telegram has been received by Mr. Alvord from Mr. Mills advising that he will return to Paris Thursday night. Of course shall endeavor to arrange to see him in company with Mr. Alvord and the other experts in order to further thresh out the situation.

EDGE

811.512351Double/66 : Telegram

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

PARIS, August 11, 1930—1 p. m.  
[Received August 11—10:10 a. m.]

252. I conferred informally this morning with M. Reynaud, Minister of Finance, on the double taxation situation. M. Reynaud divides with M. Germain Martin jurisdiction over fiscal matters. [Paraphrase.] I found the Finance Minister far more responsive than Martin to the need for an agreement (see my 245, August 5, 9 a. m.). [End paraphrase.] M. Reynaud assured me that he would indicate to the French experts the advisability of reaching an agreement with the American experts but M. Reynaud also insisted that further negotiations would be useless unless some one representing the United States Government possessed authority to approve on behalf of the administration.

I also had a very satisfactory conference with Mr. Mills this morning. Mr. Alvord will cable tomorrow full details.

EDGE

811.512351Double/67 : Telegram

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

PARIS, August 13, 1930—10 a. m.  
[Received August 13—8:50 a. m.]

256. For State and Treasury Departments from Mills and Alvord: "Draft of proposed agreement with France which is being telegraphed you today in Embassy's No. 257, August 13, 11 a. m., is approved by us and we recommend that appropriate cable authority be forwarded as soon as possible for the Ambassador to sign it. Further instructions will be requested if the French persist in their refusal to accept our draft of article 10.

Authority is requested by cable today if possible for Alvord and Carroll to proceed immediately to Germany, Belgium and England, to confer informally upon this question with tax officials of those countries.<sup>21</sup> (Signed) Mills, Alvord."

EDGE

<sup>21</sup> The Department granted authorization in telegram No. 195, August 13, 1930, 6 p. m.

811.512351Double/68 : Telegram

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

PARIS, August 13, 1930—11 a. m.

[Received 1:55 p. m.<sup>22</sup>]

257. For State and Treasury Departments from Mills and Alvord:  
 "Following is proposed draft of agreement with France to which we referred in Embassy's telegram No. 256, August 13, 10 a. m.:

## ARTICLE 1

Enterprises of one of the contracting states are not subject to taxation by other contracting state in respect of their industrial and commercial profits except in respect of such profits allocable to their permanent establishments in the latter state.

No account shall be taken in determining the tax in one of the contracting states of the purchase of merchandise effected therein by an enterprise of the other state for the purpose of supplying establishments maintained by such enterprise in the latter state.

## ARTICLE 2

American enterprises having permanent establishments in France are required to submit to the French fiscal administration the same declarations and the same justifications with respect to such establishments as French enterprises.

The French fiscal administration has the right within the provisions of its national legislation and subject to the measures of appeal provided in such legislation to make such corrections in the declaration of profits realized in France as may be necessary to show the exact amount of such profits.

The same principle applies *mutatis mutandis* to French enterprises having permanent establishments in the United States.

## ARTICLE 3

Income which an enterprise of one of the contracting states derives from the operation of aircraft registered in such state and engaged in transportation between the two states is taxable only in the former state.

## ARTICLE 4

When an American enterprise by reason of its participation in the management or capital of a French enterprise makes or imposes on the latter in their commercial or financial relations conditions different from those which would be made with a third enterprise any profits which should normally have appeared in the balance sheet of the French enterprise, by [*but*] which have been in this manner diverted to the American enterprise, are subject to the measures of appeal applicable to the case of the tax on industrial and commercial profits incorporated in the taxable profits of the French enterprise.

<sup>22</sup> Telegram in two sections.

The same principle applies *mutatis mutandis* in the event that profits are diverted from an American enterprise to a French enterprise.

## ARTICLE 5

American corporations which maintain in France permanent establishments may in derogation of article 3 of the decree of December 6, 1872, elect to pay the tax on income from securities on third [*three-*] fourths of the profits actually derived from such establishments, the industrial and commercial profits being determined in accordance with article 1.

An American corporation which wishes to place itself under the regime of the preceding paragraph must make a declaration to that effect at the Bureau of Registration within six months after the date upon which this agreement become[s] effective or within six months after the creation of its establishment in France. The election made for one establishment applies to all the establishments of such corporation. Any such election is irrevocable.

## ARTICLE 6

An American corporation shall not be subject to the obligations prescribed by article 3 of the decree of December 6, 1872, by reason of any participation in the management or in the capital of or any other relations with a French corporation if such American corporation and French corporation conform to the requirements of the present article. In such case the tax on income from securities continues to be levied in conformity with French legislation on the dividends, interest, and all other products distributed by the French enterprise; but it is moreover exigible if the occasion arises and subject to the measures of appeal applicable in the case of the tax on income from securities on the profits which the American corporation derives from the French corporation under the conditions prescribed in article 4.

An American corporation which wishes to place itself under the regime of the preceding paragraph must make a declaration to take [*that*] effect at the Bureau of Registration jointly with the interested French corporation within six months after the date upon which this agreement becomes effective or within six months after the acquisition of the participation or the commencement of the relations of a nature to entail the application of article 3 of the decree of December 6, 1872. Any such election is irrevocable.

American corporations which have not made the declaration and which are subjected to the provisions of article 3 of the decree of December 6, 1872, shall enjoy the benefits of articles 27, 28, and 29 of the French law of July 31, 1920, and article 25 of the French law of March 19, 1928, under the same conditions as French corporations.

## ARTICLE 7

Compensation paid by one of the contracting states to its citizens for labor or personal services performed in the other state is exempt from tax in the latter state.

## ARTICLE 8

War pensions paid by one of the contracting states to persons residing in the territory of the other state are exempt from tax in the latter state.

## ARTICLE 9

The following classes of income paid in one of the contracting states to a corporation of the other state or to a citizen of the latter state residing there are exempt from tax in the former [state]:

- (a) Amounts paid as consideration for the rights to use patents, secret processes and formulas, trade-marks and other analogous rights.
- (b) Income received as copyright royalties.
- (c) Private pensions and life annuities.

## ARTICLE 10

American citizens who reside in the United States are exempted by France from the general tax on income and as a measure of reciprocity French citizens who reside in France are exempted by the United States from the surtax on dividends and interest.

This article does not apply in the case of any individual who during any part of the taxable year has a reason for<sup>23</sup> residence in both contracting states.

## ARTICLE 11

This agreement shall be ratified and the instruments of ratification exchanged at Paris as soon as possible.

The agreement shall become effective on the first day of January following the exchange of ratifications and shall remain effective for a period of five years and thereafter until twelve months from the date on which either contracting party gives notice of its termination.

American corporations which prior to May 1, 1930, have not had their liability to tax under article 3 of the decree of December 6, 1872, finally determined and which make the declaration prescribed in article 6 of the present convention shall not be subject to the application of article 3 of the decree of December 6, 1872, for any year preceding the coming into force of the agreement.

## PROTOCOL

## 1

The taxes referred to in the agreement are:

(a) For the United States: The federal income tax but it is understood that article 1 does not exempt from tax (1) compensation for labor or personal services performed in the United States; (2) income derived from real property located in the United States or from any interest in such property, including rentals and royalties therefrom, and gains from the sale or the disposition thereof; (3) dividends; (4) interest.

(b) For France: In articles 1, 2, 3, and 4 the tax on industrial and commercial profits (*impôt sur les bénéfices industriels et commerciaux*); in articles 3, 5, and 6 the tax on income from securities (*impôt sur les*

<sup>23</sup> The words "reason for" are apparently superfluous.

*revenus des valeurs mobilières*); in articles 7, 8, and 9 the tax on wages and salaries, pensions and life annuities (*impôt sur les traitements et salaires, pensions et rentes viagères*) and other schedular taxes (*impôts cédulaires*) appropriate to the type of income specified in said articles; in article 10 the general tax on income (*impôt général sur le revenu*).

## 2

The provisions of this agreement shall not be construed to affect in any manner any exception, deduction, credit or other allowance accorded by the laws of one of the contracting states in the determination of the tax imposed by such state.

## 3

As used in this agreement:

(a) The term "permanent establishment" includes branches, mines and oil wells, factory [*factories*], workshops, warehouses, offices, agencies and other fixed places of business but does not include a subsidiary corporation.

When an enterprise of one of the states carries on business in the other state through an agent established there who is authorized to contract for its account, it is considered as having a permanent establishment in the latter state.

But the fact that an enterprise of one of the contracting states has business dealings in the other state through a bona fide commission, agent or broker shall not be held to mean that such enterprise has a permanent establishment in the latter state.

(b) The term "enterprise" includes every form of undertaking whether carried on by an individual, partnership (*société ou nom collectif*), corporation (*société anonyme*), or any other entity.

(c) The term "enterprise of one of the contracting states" means as the case may be "American enterprise" or "French enterprise".

(d) The term "American enterprise" means an enterprise carried on in the United States by a citizen of the United States or by an American corporation or other entity; the term "American corporation or other entity" means [a] partnership, corporation or other entity created or organized in the United States or under the law of the United States or of any state or territory of the United States.

(e) The term "French enterprise" is defined in the same manner *mutatis mutandis* as the term "American enterprise".

(f) The American corporations mentioned in articles 5 and 6 are those which owing to their form of organization are subject to article 3 of the decree of December 6, 1872. The present agreement does not modify the regime of "abonnement" for securities.

(g) The term "United States" when used in a geographical sense includes only the states and the territories of Alaska and Hawaii and the District of Columbia.

(h) The term "France" when used in a geographical sense indicates the country of France exclusive of Algeria and the colonies.'

Whether the date to be agreed upon in the second paragraph of article 11 will be May 1st, 1930, or June 1st, 1930, should be left to Alvord's decision."



811.512351Double/68 : Telegram

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

WASHINGTON, August 19, 1930—noon.

198. Your 256, August 13, 10 a. m., and 257, August 13, 11 a. m. President has issued full power, dated August 16, 1930, reading as follows:

“To all to whom these presents shall come, Greeting:

Know ye, That reposing special trust and confidence in the integrity, prudence and ability of Walter E. Edge, Ambassador Extraordinary and Plenipotentiary of the United States of America to France, I have invested him with full and all manner of power and authority for and in the name of the United States of America to meet and confer with any person or persons duly authorized by the President of the French Republic, being invested with like power and authority, and with him or them, to negotiate, conclude and sign an agreement in regard to double taxation, the same to be transmitted to the President of the United States of America for his ratification, subject to the advice and consent thereto of the Senate of the United States of America.”

Autographed full power will be sent in next pouch.

CASTLE

811.512351Double/76

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

No. 811

PARIS, August 29, 1930.

[Received September 9.]

SIR: Confirming my telegram No. 269, August 28, 10 a. m.,<sup>24</sup> I have the honor to inform the Department that on Friday, August 22nd, I formally notified the Minister for Foreign Affairs of the receipt from the Department of full powers to negotiate a treaty covering the question of double taxation. At the same time I requested the Minister for Foreign Affairs, if his Government should be disposed to enter into such an agreement, provided it could be done upon terms satisfactory to both Governments, to inform me what person or persons, with like powers, would meet with me for this purpose, and at what place and hour. (A copy of my note forms Enclosure No. 1<sup>24</sup> to this despatch.)

On August 27th I called by appointment on the Minister of the Budget, M. Germain Martin, and had an hour's informal conversation with him. The Counselor of the Embassy accompanied me. I informed M. Germain Martin that I felt that thanks to the efforts of the experts the points of view of the two Governments on double taxation were now clearly set forth and that I thought the time had

<sup>24</sup> Not printed.

arrived to transfer negotiations to more official channels: that I had so informed my Government and had received by telegram full powers to negotiate with the proper officials of the French Government a treaty covering this question. I then handed M. Germain Martin a French translation of the Department's telegram No. 198, August 19, 12 A. M., at the same time explaining that the instrument itself would undoubtedly reach me within the next few days.

M. Germain Martin replied that he was very glad to know this, that he had had a conversation recently with M. Briand and that the latter had explained that as this was a question concerning the negotiation of a treaty, he presumed the Embassy would take up the matter officially with the Foreign Office. I explained to the Minister that I had already done this. M. Germain Martin replied that M. Briand would undoubtedly designate him to represent the French Government and that he would wish to have associated with him M. Borduge. He said that M. Borduge was at present in Vichy and that he probably would not be available for some time, adding that he would himself be very busy until September 20th as he had to take up with his colleagues certain necessary diminutions in the budget and that he could not possibly begin such conversations until about that date. He therefore suggested that if agreeable to me September 20th be set as the date for beginning official negotiations.

The Minister expressed the opinion that in view of the fact that all the "spade work" had already been completed, two, or at the most three, meetings would suffice to conclude matters one way or the other, adding that of course the draft of the treaty as at present drawn up by the experts, with regard to the first nine articles of which both sides were in agreement, would serve as a basis for the negotiations. I then discussed with him what I felt to be the very slight differences separating our two governments as regards Article[s] 10 and 11: that so far as Article 11 was concerned the question at issue was merely the date, that is, whether the treaty should be effective from May 1st or June 1st. I explained that personally I did not feel that it would be possible to obtain ratification by our Government of the French draft of Article 10 by which French citizens residing in France would be exempted from all surtax, pointing out, however, that from information furnished me by our experts it appeared that approximately 90% of the cases affecting the French would be covered by exemption from the surtax of dividends and interest, the remaining approximately 10% comprising receipts from other sources. I briefly pointed out to M. Germain Martin that, through the American proposal in Article 10, we were not attempting to reduce the dividend and profit taxes now imposed under the French system so far as they applied to the operation of American branches or subsidiaries in France. Our objection was confined entirely to the duplication or additional tax imposed on

dividends and profits earned outside of France. In fact, we were strongly of the opinion that the suggested clarification in Articles 1 to 9 already agreed to by the experts of both countries would prevent any possible evasions, if they were attempted, and should result in a greater income to France than under the existing practice. M. Germain Martin did not directly comment upon this suggestion but it will naturally form an important part of the memorandum we are preparing and of our representations when conferences are undertaken September 20th.

At this point, M. Germain Martin interrupted me to call my attention to what he designated as a "very unfortunate incident" which had occurred in connection with the return of Mr. Ogden Mills, the Undersecretary of the Treasury, to the United States. He then proceeded to read me a telegram which appeared in *L'Ami du Peuple* of August 21st bearing a Washington headline. Mr. Mills is reported as having declared in an interview with the press regarding double taxation, that it was "particularly burdensome to American competition". The Minister said that the language used by Mr. Mills could not have been more unfortunate as of course the word "competition" in connection with the discussion of the present question put the negotiations on an entirely different basis: that the statement attributed to Mr. Mills, which had been reproduced in substantially the same language in nearly all of the French newspapers,<sup>25</sup> had resulted in bringing down upon his, the Minister's head, the protest of various French industrialists, particularly the automobile manufacturers, who demanded to be informed whether the present negotiations had as their objective the enabling of American firms to establish themselves in France with a view to competing on a more favorable basis with French manufacturers. When I attempted to explain to him that he should be able to persuade those who had become alarmed at the language used that the real objective of the negotiations, as he had rightly pointed out, was alone to remedy the duplication and inequities in the present fiscal policy, M. Germain Martin said that unfortunately he thought it would be difficult, their suspicions having been aroused, to disabuse their minds of this impression, and he was afraid that it would be necessary for the French Government to obtain more in the way of concessions than would otherwise have perhaps been the case in order not to expose itself to attack from the French industrialists.

It is true that the statement attributed to Mr. Mills appeared not only in the majority of the French papers but also in the two American newspapers published in Paris,—The *New York Herald* and *Chicago*

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<sup>25</sup> The Department in telegram No. 217, September 8, 1930, 6 p. m., informed the Ambassador in France that: "Statement as reported was not made" (811.512351 Double/75a).

*Tribune.* While I cannot feel that the Minister attaches to the language used by Mr. Mills the importance which he accorded it in my interview with him, (later in the same conversation he admitted that the French press had, up to the present, shown very little interest in the negotiations regarding double taxation), nevertheless, as the Department is aware, the French are hard bargainers and glad to turn any slip on the part of those with whom they are dealing to their own advantage and for this reason I have felt it advisable to set forth in some detail M. Germain Martin's references to the statement attributed to Mr. Mills as it may well be that in the negotiations beginning September 20th he will, as intimated yesterday, use the incident to attempt to secure for the French what he may consider a better bargain from their point of view.

In concluding the interview it was arranged that I should furnish M. Germain Martin with a memorandum setting forth the objections from the American point of view to article 10, while he on his part promised to furnish me with a similar memorandum embodying the French objections to the American draft. I hope in this way to have the ground prepared sufficiently to have the negotiations, when begun, proceed smoothly and rapidly.

Respectfully yours,

WALTER E. EDGE

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811.512351Double/86 : Telegram

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

PARIS, September 30, 1930—8 p. m.

[Received 9:33 p. m.]

306. My telegram No. 269, of August 28, 10 a. m.<sup>26</sup> First official conference on the proposed double taxation treaty took place yesterday with M. Germain Martin, Minister of the Budget, Borduge, Commissioner of Taxes, Campana, Foreign Office, and two other French tax officials deputized to represent the French Government. I was accompanied by Armour, Howell and Carroll.

At the outset M. Germain Martin with many apologies announced that a new situation had arisen through the Minister of Agriculture, [*Commerce*], M. Flandin, having insisted, because of the existence of many unsettled economic problems between the United States and France, emphasizing particularly the tariff, that no double taxation treaty be signed until other problems could be reviewed. M. Germain Martin clearly indicated his embarrassment, especially in view of the specific assurances which had been given me from time to time that if the conferees could agree upon a treaty it would be signed by the accredited

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<sup>26</sup> Not printed.

French officials. Notwithstanding the frank admission that an agreement could not be finally signed at this time, M. Germain Martin suggested that the conferees discuss the points at issue in article 10 and article 11 of the French and American proposals submitted to the State Department in the Embassy's telegram No. 246, August 5, 10 a. m.<sup>27</sup> I took the position that it was useless to spend the time discussing the details if no one was authorized to sign an agreement should one be reached and that the new development amounted practically to a breach of faith. M. Germain Martin was however so insistent that we continue the discussions that I felt it probably wise to meet his wishes and if possible keep him under further obligation. We conferred for two hours on the details, the French still insisting upon their draft of article 10. One or two alternative proposals were made which did not meet our approval.

I endeavored to make it clear at the conference that each problem must stand absolutely on its own merits; that we would refuse to consider any extraneous questions as a part of or bearing upon the proposed taxation treaty.

I made the frank statement that the *quotité impossible* was illogical and contrary to recognized international custom and perhaps international law and that I was not prepared or disposed to suggest any concessions beyond those presented in the American treaty draft.

The conference adjourned with the French conferees expressing the hope that some way out could be found but offering no definite proposals beyond the general statements made.

[Paraphrase.] I expect to see M. Flandin and if necessary have a conference with M. Tardieu.

M. Campana, of the Foreign Office and one of the conferees officially appointed by M. Briand, later told a member of my staff and me personally to some extent his disappointment at the position in which the French had placed themselves and admitted that the delay was simply an attempt by M. Flandin to force other concessions apart from the problem of taxation. He advised Howell confidentially that at a meeting, on September 26, of representatives of the Ministries of Foreign Affairs, Budget and Commerce M. Flandin indicated that he was opposed to any agreement at this time. The Foreign Office representative, I am informed, then took the position that the tax treaty was already practically agreed to in principle and that, with the tax question disposed of, French commercial interests would be much better served. The Department of Commerce, upon the insistence of the representative of the Foreign Office, wrote a letter to the Foreign Office assuming responsibility for these new tactics. Regret has

<sup>27</sup> Not printed.

been expressed by representatives of the Foreign Office and the Budget that the matter was not closed last summer when the opportunity presented itself but now, to a great extent, the situation was unfortunately out of their hands. Local politics have, it would seem without doubt, entered into the question. If the agreement were signed at this time the Minister of Commerce fears that the press would hail it as a triumph for American business in competition with French industrialists and the opposition would use it for an attack on all parties for having given up one of the few levers it had to bring to bear upon us. The Foreign Office, which has shown a friendly attitude, and even the Ministry of Budget, I am inclined to believe, might be disposed to reach an agreement with us, even on the text of our article 10, had it not been for the new development of M. Flandin's opposition, although opposition was still shown yesterday.

It is my suggestion that the present status of the matter be maintained as confidential. [End paraphrase.]

EDGE

811.512351Double/92

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

No. 934

PARIS, October 15, 1930.

[Received October 25.]

SIR: I have the honor to refer to my telegram No. 306 of September 30, 1930, 8 p. m., and to my despatch No. 913 of October 7, 1930,<sup>28</sup> both on the subject of the proposed double taxation treaty.

In the aforementioned telegram I intimated that it was my purpose to seek a conference with M. Flandin, the Minister of Commerce, in relation to his intervention in the double taxation deliberations and, if deemed necessary, with M. Tardieu, the French Premier. In order that the Department may have complete information of all that has happened up to the eve of my departure for the United States tomorrow, Thursday, October 16th, I am briefly recapitulating the result of these further conferences.

On Friday, October 3rd, at 5:30 p. m., I called on M. Flandin by appointment. I was accompanied by Mr. Williamson S. Howell, Jr., First Secretary of the Embassy. I briefly outlined to M. Flandin the result of the official conferences with M. Germain-Martin, M. Borduge and others as related in my despatch under reference, emphasizing particularly my surprise as well as disappointment upon being informed that he, as Minister of Commerce, had requested that no final adjustment of the double taxation problem be entered into until various questions connected with the American tariff as they related

<sup>28</sup> Latter not printed.

to France be reviewed or disposed of. M. Flandin very frankly admitted that he had made this request and submitted as his reasons the insistence of influential members of the tariff commissions of the French Chamber of Deputies and the French Senate familiar with the negotiations for the settlement of double taxation, that no treaty be signed until some tariff matters could be adjusted in the interest of French producers. M. Flandin endeavored to impress me with the great difficulty he had had immediately before and after the passage of the new American tariff to persuade the committees of the two Houses from taking drastic action by way of reprisals in exchange for the raised American tariff applying to French exports. He unqualifiedly stated that he had been compelled to promise to use his influence against a settlement of double taxation for the time being at least. He assumed much credit for having dissuaded Parliament from taking any unfavorable action and said that he had been severely criticized in many French commercial circles because of that fact which was well known; that various French newspapers had called him a "weak Minister" because he recommended patience. (It is true that M. Flandin did take this position and that considerable criticism to that policy appeared in the French press for some little time after the passage of the tariff bill). M. Flandin reiterated his desire to maintain the most friendly attitude but said he was helpless under the circumstances. (See memorandum attached for further details.)<sup>29</sup>

I took the position that each problem should stand on its own merits and that we would never be able to adjust any problem if differences in tariff were always introduced as a reason for delay. I outlined to him various complaints made by American producers because of the recent raise in the automobile tariff and in the tariff on lard and other details with which we were both familiar, but he plainly indicated that the members of Parliament were so powerful that no matter what he personally thought, he was directed to take the action he had taken.

While I clearly indicated to M. Flandin that tariff had nothing whatever to do with double taxation, that it was purely a domestic question, that we never officially complained of the French tariff if it was non-discriminatory, and further emphasized the impossibility of adjusting problems when extraneous matters were constantly introduced, he frequently referred to the hope that the United States Tariff Commission would accord relief, and said that various requests for review or reexamination had been made through the French Embassy in Washington and the French Commercial Attaché, and that some indication had been given that relief would be afforded. I told him very frankly that all these investigations must be considered entirely

<sup>29</sup> Not printed.

on their individual merits as to the cost of production in the United States and competing countries, and that many times it was not France as much as France's successful competitors at which a raised tariff was naturally aimed, but that under the United States policy all nations were treated absolutely alike and that even the Tariff Commission would be helpless to make changes unless, as I had indicated, the facts of the cost of production would warrant such changes. He outlined several commodities: walnuts, Roquefort cheese, canned mushrooms, clover seed, but, rather to my surprise, did not emphasize the more important schedules of silk, gloves, textiles, etc. In fact, he stated he would not complain about articles of which other countries furnished large amounts to the United States. The conference closed most pleasantly but the position of the Minister was clearly outlined as above.

On my return to the Chancery, I dictated a letter addressed to M. Flandin, reviewing the impossibility of the position as I viewed it, which I afterwards filed with M. Tardieu upon the latter's request. A copy of this letter is enclosed.<sup>30</sup>

On October 7, 1930, at 6 p. m., I called upon M. Tardieu at the Ministry of the Interior by engagement. Mr. Armour, Counselor of the Embassy, accompanied me. I told M. Tardieu that I desired to discuss with him the present status of the proposed double taxation treaty. I indicated to him that we had apparently reached a position of *status quo*; that I had exhausted the various channels under him and that in view of my early departure for the United States, I felt that the entire subject should be discussed by us. He evinced much interest and indicated that he was generally familiar with the situation and seemed very glad to embrace the opportunity to talk it over. I summarized what had happened, which is outlined in full in previous despatches to the Department.

M. Tardieu admitted that the matter had been brought to the attention of the Council of Ministers by M. Flandin sometime back, in fact, four or five months ago, immediately following the passage of the American tariff and at the time when the feeling as to the tariff was quite acute in French political circles. He said that at the time the Council of Ministers had determined that while every effort should be made to reach an agreement on the taxation treaty, still it should not be finally signed until some indication on the part of the United States Tariff Commission was given that France's many protests would have friendly consideration. I asked him why we had been permitted to go on with the taxation treaty even to the extent of being questioned as to power to sign a treaty when in any event no treaty could be executed. M. Tardieu plainly admitted

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<sup>30</sup> Not printed.



that this seemed unfortunate and expressed his desire to try to remedy the situation in any possible manner. He, however, on two occasions during the conversation said that if the taxation treaty were signed at this time without some assurances regarding tariff, his "government would fall in three weeks." He plainly exhibited his recognition that the various Ministers who have participated in these negotiations were in an embarrassing position as well as himself. He then asked if it were not possible for the representatives of the two Governments to get together on all problems between the two Governments that could be embodied in one commercial treaty just as they had concluded a treaty with Great Britain a few years ago. I told him that I was just as anxious as he was to endeavor to adjust all problems but that I recognized that this was a Herculean task and had proceeded with the taxation treaty independently because it seemed possible to effect a solution.

Our conversation lasted for an hour and half and ended with a suggestion made by M. Tardieu without any intimation from me that he would like to get together all the records in the matter, take them out to the country for two or three days and give me his best thought as to a method to relieve the situation. I expressed my appreciation of his interest and earnestness and, upon his assurance that such a memorandum would reach me before I sailed for the United States, I dropped that subject and opened the subject of naval disarmament, a report upon which has been made to the Department in another despatch.<sup>31</sup> I am attaching a memorandum prepared by Mr. Armour giving more details of this interview.<sup>32</sup>

On October 9th, two nights after the conference above referred to, I again met M. Tardieu at a banquet, sitting next to him. After the exchange of the usual pleasantries, M. Tardieu, without intimation from me, again opened the subject of our conference two days before as it related to double taxation and a commercial treaty. He said that after our conference he had had ten representatives of the government in his office discussing the situation from every viewpoint and was leaving the next morning, Friday, October 10th, for the country at which time he would prepare the memorandum he had promised during the previous interview. In view of the fact that he had been collecting various material from the representatives of his government, I asked him if he would like to have some of the memorandums that we had prepared. He responded in the affirmative and later that night I despatched to his private address the letter I had prepared for M. Flandin, which I had not mailed, together with other memorandums dealing with the matter.

<sup>31</sup> No. 927, October 8, 1930, vol. I, p. 135.

<sup>32</sup> Not printed.

On the evening of October 14th, I received at the Embassy the promised memorandum, a copy of which is enclosed, together with copies of my two replies. Thus the matter stands.

Respectfully yours,

WALTER E. EDGE

[Enclosure 1—Translation]

*The President of the French Council of Ministers (Tardieu) to the American Ambassador (Edge)*

PARIS, October 14, 1930.

MY DEAR AMBASSADOR AND FRIEND: I have personally studied the two files from the Ministries of Finance and Commerce as well as your memorandum and I wish first of all to thank you for the important part which you have taken in those two negotiations.

I am, just as you are, anxious to reach a solution as soon as possible. But it does not seem to me that in either case one has reached an agreement.

If you wish, I will examine:

- 1) double taxation
- 2) tariff.

#### I. DOUBLE TAXATION

I know that, since your arrival in France, you have offered to the French Government to open negotiations in order to give the benefit of Article 27 of the law of July 31, 1920, to American firms carrying on industrial or commercial undertakings in France in the shape of branches organized as French joint stock companies.

You remarked that this Article allows, under certain conditions, the French firms having branches to deduct from the profits which they distribute to their stockholders, in the payment of the income tax, those dividends which they have received from their branches and which have already been subjected to that tax.

Now, the French law does not allow the application of Article 27 to foreign parent firms, therefore the income from the latter is subjected to double taxation.

You expressed the wish that the American firms be placed on the same basis as the French firms. It was under these conditions that, at your request, unofficial negotiations were opened at the beginning of last May by representatives of the American Treasury Department sent purposely from Washington.

From the start of the negotiations your representatives broadened their demands. They did not content themselves with requesting an extension to American firms having branches in France of the provisions of Article 27 of the Law of July 31, 1920. They requested in addition a modification of the system known as the "quotité im-

posable", applicable to American firms carrying on industrial and commercial undertakings in France, either directly or through the assistance of French branches.

With the spirit of conciliation which always animates us in carrying on negotiations with your country and in order to give to the American Government every evidence of their good will, the French unofficial negotiators agreed to discuss the system known as the "quotité imposable" and to try and find, if possible, as a substitute, another system presenting less disadvantages from the American viewpoint. This result has been obtained (Articles 1 to 9 of the unofficial draft).

But in exchange for the satisfaction thus granted to American interests, the French negotiators requested that, on its part, the Government of the United States accept to modify certain provisions of the legislation which are detrimental to French interests and violate the rules adopted by most nations in fiscal matters.

On certain secondary points the French requests have been satisfied; but covering the essential claim, the American delegates, without putting up any technical arguments, but merely alleging the impossibility of obtaining the Senate's agreement, have rejected the French request. I refer to the super tax which is identical with the French general income tax. Now Americans are never subjected to that tax in France when they have no residence here; on the other hand the French are taxed in the United States, even when they have no domicile there, on all sources of income which they derive from America.

The American negotiators have granted the supertax exemption for dividends and interest, but they have not renounced its collection on the income from all other categories (income from labor, from commercial undertakings, from real estate, etc.)

During the session of September 29 and after the incident concerning non-fiscal questions had been settled, you declared yourself, my dear Ambassador, in your capacity this time as official negotiator, that it was impossible for you to grant the French request. In vain, M. Borduge, the French negotiator proposed, should you stand by your refusal, to solve the difficulty by reducing the American request and limiting it to the introduction of Article 27. Here again, you interposed such a refusal that our negotiators were placed in a difficult situation; for your Government requested a radical modification of the French laws in favor of American interests without accepting the counterpart which the French Government considers as legitimate.

I cannot conceal from you the fact that, under these conditions, the negotiation comes to a deadlock—and this without taking into account all the non-fiscal consideration.

I do not think that the responsibility for this situation can be blamed on the French delegates.

In other words, the agreement on double taxation has not yet been reached.

## II. TARIFF QUESTIONS

I will only mention here with some details the products especially affected by your new tariff and of which we are the principal exporters to the United States—those consequently for which we find ourselves under the conditions provided by the law of June 13, 1930,<sup>33</sup> to have our requests for a tariff reduction taken into consideration.

These products are:—

Mushrooms  
 red and crimson clover seed  
 nuts and green walnuts  
 Roquefort cheese  
 briar pipes finished and in the rough  
 cotton tissues  
 silk yarn  
 silk velvet  
 fine metal mesh for the paper industry  
 leather gloves

1) *Mushrooms.* The duty on mushrooms of hotel quality has been raised successively from \$12.50 (1912) to \$25 (1922) and to \$30. (1928); the duty on first choice quality, from \$18. to \$30 and now to \$35 per case of 100 half-cans of 8 ounces.

Now, according to official American statistics, the imported mushrooms cost in the United States in 1929 61 cents a pound whereas the average selling price of American-grown mushrooms were 60 cents.

Besides, the number of persons employed in the United States in the canned mushrooms industry—the only one being considered—is, as brought out during the Senate investigation, absolutely insignificant: 320 persons only. Moreover, it has only been in the last few years that the four firms now engaged in this line of business began to work.

2) *Red and crimson clover seed.*

a) The American production of crimson clover is unimportant—300,000 lbs. only, whereas the imports vary from 2 to 6 million lbs. per year. There can therefore be no question of foreign competition.

b) the proportion for red clover is reversed: the United States produce from 40 to 75 million pounds and must, nevertheless, import another 20 million pounds of foreign clover.

There again no prejudice can accrue to the domestic production through French imports of this quality.

Furthermore, no argument of an economic nature has been presented to Congress to justify these increases of duty.

<sup>33</sup> Approved June 17, 1930; 46 Stat. 590.

3) *Nuts and Green Walnuts.* The American production is far from adequate for the needs of the country. The Association of Nut Producers of California, the aims of which are not to make profits, cleared last year from 10 to 12 million francs.

Finally, American nuts, inferior in taste, are more expensive than ours. There again it is impossible to notice that French competition bears a prejudice to American production.

As for green walnuts they do not compete either in any way with California fruits which are not of the same variety. The American production keeps on increasing but the argument of the National Grange based on the possibility of growing walnuts on 150,000 acres of presently unproductive land in California cannot be considered as convincing since it takes about ten years for walnuts to bear fruit. Besides the development of this culture before the establishment of the new duty indicates that the tariff protection was already greatly sufficient.

To support these facts, the University of California as well as the National Association of American Candy Makers have already raised strong protests.

4) *Roquefort cheeses.* The former duty of 25% already exceedingly high since it affected an exclusively French speciality, manufactured in France for over a thousand years, fixed by a French law and which cannot be produced in the United States, has been raised to 35%.

It would be fair to go back, insofar as possible, to the former figure, and if, eventually, a discrimination was made in favor of certain foreign cheeses made of ewes milk, Roquefort should not be excepted from the benefit of the reduction.

5) *Briar Pipes.* Under the old tariff the duty charged on this article was 60% ad valorem to which the new tariff has just added a specific duty of 25% per pipe.

As a result, a gross of pipes sold for 216 francs will hereafter pay a duty of 309.60 francs, a really exorbitant protection (143% on an article the raw material of which can scarcely be purchased outside France).

6) *Cotton Tissues.* The documents showing the logic of our request for a reduction under paragraph 908 of the American tariff will be furnished ultimately as soon as they have been put in shape by the interested manufacturers.

7) *Silk Yarn. Jacquard Silk Goods. Silk Velvet.* Duty on silk yarns of several staples has been carried from 45 to 50% in spite of the protests of the American velvet manufacturers, as shown by the various reports presented to Congress.

The old protective tariff was quite sufficient inasmuch as the American production rose from 777,000 pounds in 1909 to 4,456,000

pounds in 1928 while during the same period imports dropped from 3,160,000 to 574,000 pounds.

As for Jacquard silk goods carried from 55 to 65% and plush velvets from 60 to 65%, it seems as though this increase was not prompted by any imperative motive.

8) *Metal mesh for the paper industry.* The mesh in question (Fourdrinier wire) was subject, under the 1922 tariff, to an average duty of 30% (according to the number of wires, 25 to 45%).

The new 50% duties, ad valorem, are considered prohibitive and the investigation pending before the Tariff Commission can only justify the justice of our claims, which, however, are supported by the paper manufacturers, the importers and the American press.

9) *Leather Gloves.* The French glove manufacturers who exported in 1929, 465,000 dozens of gloves worth 150 million francs (American statistics) are very badly affected, especially as far as hand-sewed gloves are concerned. This product, for which America has no manual labor, now pays a duty of \$10.50 or \$5.50 higher than the old tariff rate and affecting hand manufacturing which does not exist in America.

I could also mention various categories of products which are of serious interest to French production if they do not represent a large volume of American imports. They are: red-and-white-heart cherries, whiting, crenellated irons, olive oil and violins.

I must add that there are a considerable number of articles for which the French Government's investigations have not yet brought forth the data which we consider necessary. They are: almonds and hazel nuts, silk hats, leather for transmission belts, crystal ware, raw leather and hides, gelatin, bone glue and prismatic opera glasses.

There are also agate buttons concerning which an enquiry is under way in the United States. The question involves a 4 dollar duty on a product the sales value of which is 80 cents. The reduction of 50% itself seems to be absolutely insufficient to enable the French exporters to keep up their business with the United States.

You see the importance to us of the tariff problem and the interest we have in reaching an early solution.

I know that this tariff, resulting from a congressional vote, can be amended on certain points only if the investigation shows that the protection granted to certain products is excessive or unjustified. I know also that this investigation must be carried on independently and in all objectivity by the committee appointed to that effect.

I believe, in any case, that I have made evident to you in a few concrete examples that the claims of our exporters are strongly justified; that they prove that a considerable prejudice has been caused to French trade without any appreciable benefit to American

business; and that under these circumstances, neither the French public opinion nor Parliament would understand why we have settled, at the request of the American Government, certain questions long in suspense between the two countries, without having attempted, at the same time, to remedy a situation so evidently detrimental to our interests. That is an actual necessity.

You indicated in your letter of October 6th to the Minister of Commerce, which I thank you for having referred to me, that the two questions are distinct and you insisted upon signing the fiscal agreement at an early date.

But I do not perceive how, at the present moment, we could sign anything at all since we do not really agree on the fiscal question.

If it was merely a question of smoothing out details, perhaps we might, in spite of the short time between now and October 16th, hope to succeed before your departure; but, as I have called to your attention, the views are widely divergent.

If, as early as September 29th, as the French delegates had firmly hoped, it had been possible to continue the discussion further, perhaps it would have been possible to succeed in the given delay. But then you requested that the negotiations be interrupted, the irreducibility of the two viewpoints seeming to you to leave room for no agreement.

As soon as your decision became known to him, M. Germain-Martin, Minister of the Budget, who had agreed to postpone his departure till then, left Paris for a few days rest, and the discussion could not be resumed usefully in the absence of the responsible Minister.

Such is, my dear Ambassador, the situation. I apologize for writing you at such length, but I wish to group all the elements together.

Please accept [etc.]

ANDRÉ TARDIEU

[Enclosure 2]

*The American Ambassador (Edge) to the President of the French Council of Ministers (Tardieu)*

PARIS, October 15, 1930.

MY DEAR MR. PRESIDENT: Last night I received your letter dated October 14th, recapitulating the French viewpoint of the proposed double taxation treaty as well as reviewing other economic problems. I thank you most sincerely for the great trouble you have taken to have this memorandum in my hands before sailing tomorrow. In another letter which I am hoping to be able to prepare before I leave, I shall review more in detail these mutual problems with every hope they can be finally adjusted.

However, in view of the fact that a settlement of the double taxation problem must at least await my return from the United States

early in January, it would seem, in all fairness to all parties concerned, that in the meantime there should be a postponement of the levying and collection of taxes under the *quotité imposable* against American concerns. This is especially true in view of your recent frank statement to me that no final treaty, whatever its terms, could anyhow have been signed at this time. Of this, of course, I was unaware until September 29th last, although the negotiations had been going on for several months. This armistice, as it were, should at least continue until a reasonable time has elapsed to give further opportunity for France and the United States to reach a general agreement. I am quite sure you will acquiesce in this suggestion as you will readily realize that any activities on the part of French taxing authorities to bring American branches or subsidiaries under the purview of the *quotité imposable* while these negotiations were in progress would naturally result in much confusion, if not resentment.

It would be my view that the suggested armistice should include all American concerns regardless of whether their cases were under consideration before May 1, 1930, the date mentioned in the draft agreement, or otherwise.

In order that the entire subject be held in complete abeyance, it would likewise be desirable to further postpone the decision by the Cour de Cassation in the Boston Blacking Company case. It is my formal understanding that this decision has been permitted to lie dormant during the progress of the negotiations in the past and any sudden decision in the next few months might very easily cause much alarm to American interests and make much more difficult the adjustment of the complete problem.

With assurances [etc.]

WALTER E. EDGE

[Enclosure 3]

*The American Ambassador (Edge) to the President of the French Council of Ministers (Tardieu)*

PARIS, October 15, 1930.

MY DEAR MR. PRESIDENT: In a previous note written this morning, I acknowledged your comprehensive letter of the 14th instant. However, there are some references in your communication that would indicate a possible misunderstanding on your part as to some features of the double taxation negotiations which I feel I should endeavor to clear up before sailing for the United States.

It is my earnest hope upon my return that the situation will be sufficiently clarified so that these negotiations may be resumed and concluded, and may I express the sincere desire that your associates in public responsibility will realize that in all other mutual responsibili-



ties, such as tariff reviews, I am earnestly desirous of being of any consistent service?

In your communication, you point out the obvious fact that there is no double taxation agreement at the moment to be signed, and further suggest that my disinclination to continue the negotiations at the official meeting on September 29th made any agreement impossible. I have endeavored in previous statements and communications to make it clear that, in my judgment, both France and the United States will be better served through reviewing and endeavoring to settle each problem, as it occurs, upon its own merits. Therefore, when M. Germain-Martin at the opening of the Conference on September 29th frankly stated that no treaty, whatever its terms, could be signed until certain tariff revisions had been secured, which latter assurance I was, of course, unable to promise, there appeared no possible advantage to either side to continue considering technical details of the proposed taxation treaty. Nevertheless, although following this declaration M. Germain-Martin retired, I remained in conference with M. Borduge and the others for two or three hours, hoping that M. Borduge would indicate a willingness to waive the negligible benefit from a practical standpoint presented in the terms of Article 10 as proposed by the French draft.

The only alternative suggested by M. Borduge during that time was the application of Article 27 of the law of 1920 to American parent corporations in such a way that they would remain subject to the *quotité imposable*. My Government considers that such application constitutes an invasion of its own tax jurisdiction because of subjecting an American corporation to a French tax on dividends distributed in the United States to American taxpayers. The negotiations had been entered into for the express purpose of securing the abolition of that practice which is obviously contrary to fundamental principles of fiscal sovereignty. How then could I accept the application of Article 27 as proposed by M. Borduge?

Furthermore, I fear it must be a misunderstanding that I ever suggested that American corporations be given the benefit of Article 27 of the law of July 31, 1920, unless it was incidental to my request that, regardless of the question of jurisdiction, American corporations with French subsidiaries be freed from the application of the tax on the dividends which they distribute, inasmuch as French companies with subsidiaries at home or abroad are freed from the double imposition. The subjection of American corporations twice to the same tax whereas French parent companies are liable only once obviously constitutes a discrimination which is contrary not only to the principle of equivalent treatment prescribed in the law of 1872 itself but also to the very spirit of our treaty relations.

Moreover, returning to the question of fiscal sovereignty, if American corporations only owning stock in French companies are themselves without the fiscal jurisdiction of France, how could France grant them an exemption from a tax to which they are not subject?

Please let me therefore insist that neither I nor our experts ever in any way suggested that the application of Article 27 of the law of 1920, as interpreted by M. Borduge, would be acceptable, and that the unofficial conversations were begun by our representatives for the primary purpose of abolishing the application of the *quotité imposable* in the case of American parent corporations. This fact should never be confused.

In your communication you further state that "the American delegates, without putting up any technical arguments, but merely alleging the impossibility of the Senate's agreement, have rejected the French request." (This refers to the French terms of Article 10). This statement leads me to the impression that your personal attention had not been directed to a very comprehensive memorandum prepared by our experts endeavoring to set forth in complete detail the views of my Government in respect of that article and showing the slight advantage accruing to French nationals through accepting the French version of the article in question. I am taking the liberty of enclosing a copy of this memorandum.<sup>34</sup>

I have never been able personally to understand the French experts' insistence in this connection, unless it was with the idea that a complete agreement upon a taxation treaty should, for reasons since admitted, not be effected at this particular time. An actual investigation of the material benefits to French nationals under the French version of Article 10, as indicated by past tax returns, would reveal them to be so little that it seems to me inconceivable that this difference could possibly prevent complete acquiescence on your part.

After all, as I have endeavored to make clear, it would be an idle gesture for me to sign any treaty the provisions of which, on their own merits, would not secure approval of the United States Senate. Incidentally, the asseveration that the United States surtax is identical with the French general income tax is absolutely unfounded as even a casual examination of our law will clearly manifest. Moreover, an examination of the tax systems of a number of leading countries will show that the provisions in American tax law which your representatives would have us renounce are quite normal and fair and do not "disregard the rules adopted by most nations in fiscal matters." The provisions in question merely provide for taxing in the United States income flowing to non-resident foreigners. They do not envisage the taxation of income from a source in a foreign country as is

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<sup>34</sup> Not printed.

done in the case of the French tax on dividends paid by American corporations.

Another feature of the negotiations that is difficult for me to reconcile with later happenings was the criticism made several times that neither our experts nor the Ambassador had power to close or sign a treaty. This was apparently advanced as a reason for delay. When this was brought to my attention I immediately sought and received full power from my Government, although in the light of the decision of the Council of Ministers months before that no tax treaty would be closed, as you recently advised me, there seemed no reason for this suggestion.

Your communication reiterates and emphasizes the point you brought up at the time of our personal conference that there was a practical political situation in France which, in your judgment, prevented the culmination of any agreement at this time which would relieve American businessmen, unless there was some relief to French business through reductions or revisions of the American tariff. I want you to feel that I understand personally this situation and that I am entirely sympathetic in the desire to afford any possible relief in this connection that the facts will warrant, but entirely apart from consideration of the tax treaty. I reiterate that I feel very strongly that in the final analysis the settlement of any problem should not be contingent upon the settlement of an entirely extraneous one.

I have read with much interest the details you have presented in connection with the cost of production, etc. of various French products in their relation to the duty imposed. Your list is very much more extensive than that suggested by M. Flandin and such a wholesale adjustment of tariff, of course, presents many difficulties and may be quite impossible. Many of the rates apply to other countries which undersell France. However, you can be assured that I shall personally see that these facts are brought to the attention of the Tariff Commission and feel confident that any revisions, justified by the full facts, will in due time be enacted. As I have endeavored to indicate, both to M. Flandin and to yourself, the Tariff Commission, under the law, must necessarily make its own investigations. I am confident that no unnecessary delay will occur in carrying out these provisions but, of course, it all requires time. I am informed that the French Embassy at Washington together with the French Commercial Attaché have all this information and no doubt have already presented it to the commission. I repeat that I will gladly follow this with personal inquiries in the hope of expediting action.

May I express the sincere hope that when I return from the United States early in January we may have a further conference on all these subjects and that the activities of the past few months will at least

have brought us nearer to a solution, notwithstanding temporary disappointments?

With assurances of my warm personal regards and friendship and with much appreciation of the care and attention you have given to our mutual problems, I am [etc.]

WALTER E. EDGE

P. S.—I should like to repeat the request made in my first letter this morning that the levying of the *quotité imposable* upon any American parent companies be postponed until the negotiations between the two countries have proceeded further. I should appreciate your sending some word to me to this effect through Mr. Armour, the Chargé d'Affaires.

W. E. E.

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811.512351Double/94 : Telegram

*The Chargé in France (Armour) to the Secretary of State*

PARIS, December 3, 1930—6 p. m.

[Received December 3—3:25 p. m.]

392. Please deliver the following message to Ambassador Edge:

“No answer having been received from Tardieu to your letter of October 15 proposing an armistice with regard to further levying and collection of taxes on American firms, I took the matter up with Campana at Foreign Office and he has just informed me that he has spoken with the Ministry of Commerce as well as with Borduge. While Borduge hesitates to give any definite assurance he went so far as to say to Campana that the public prosecutor in the Boston Blacking case had intimated that the case was about to be called but Borduge had asked him not to proceed at this time. While, of course, the court is independent and no guarantees can therefore be given, from the way Borduge spoke to [apparent omission] it seems unlikely that they will proceed with the Boston Blacking case for the present at least. With regard to the assurance concerning levying against other firms, while Campana states that they are not in a position to give definite assurances, I gathered from the way he spoke that he felt that we are pretty safe in considering that the armistice will continue at least until your return.

In his talk at the Ministry of Commerce, Campana pointed out the advantages to their Department in seeing to it that your request be granted and it seems probable that the Minister of Commerce will make personal representations to the Minister of Finance in support of your proposal which also has the warm support of the Foreign Office.”

ARMOUR

EFFORTS TO REACH AN UNDERSTANDING WITH FRANCE FOR  
 RECIPROCAL RECOGNITION OF AMERICAN AND FRENCH  
 LEGISLATION REGARDING INSPECTION OF VESSELS <sup>35</sup>

195.4/206 : Telegram.

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

WASHINGTON, July 2, 1930—5 p.m.

148. Department's mail instruction No. 1979, July 28, 1926,<sup>36</sup> concerning reciprocal recognition of the equivalence of French and American vessel inspection legislation. Department has learned that the French inspectors at Marseilles when inspecting the *President Fillmore* on April 16 stated that certain requirements concerning safety valve handles on boilers must be attended to before the vessel calls again at Marseilles which will be on August 6.

Please endeavor to obtain from the appropriate authorities assurance that the *Fillmore* will not be subjected to this requirement, calling attention to the Foreign Office note of November 3, 1925, reported on in Embassy's telegram 548, November 6, 1925.<sup>37</sup> Department trusts that French authorities will reciprocally recognize American vessel inspection legislation.

STIMSON

195.4/208 : Telegram

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

PARIS, July 29, 1930—1 p.m.  
 [Received July 29—9:35 a.m.]

230. Department's 148, July 2, 5 p.m. Informal assurances received that the *President Fillmore* will not be subjected to the requirement in question.

EDGE

195.4/211

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

No. 766

PARIS, August 7, 1930.  
 [Received August 18.]

SIR: I have the honor to refer to my cablegram No. 230 of July 29, 1 p. m., and previous correspondence in connection with the recip-

<sup>35</sup> For previous correspondence on this subject, see *Foreign Relations*, 1926, vol. II, pp. 123 ff.

<sup>36</sup> *Ibid.*, p. 127.

<sup>37</sup> Not printed; see despatch No. 5682, November 5, 1925, from the Ambassador in France, *ibid.*, p. 127.

rocal recognition of the equivalence of French and American vessels inspection regulations, and to transmit herewith for the Department's fuller information copy and translation of a note of the date of August 5,<sup>38</sup> which has been received from the Minister for Foreign Affairs.

It will be observed that the instructions mentioned in this connection as having been sent to the authorities of the inspection service at Marseilles amount to the desired recognition of the principle of reciprocity, and there is no reason to suppose that these instructions would not be equally applicable to all other French ports if difficulties similar to those encountered at Marseilles should elsewhere arise. However, it has been ascertained informally at the Ministry for Foreign Affairs that the French Government would prefer not to make a general declaration on that subject at present, for the reason that the agreement in which the point is covered and which was signed last year at London, following the International Conference for Safety at Sea,<sup>39</sup> is pending ratification by the Government of France as well as by that of the United States.

Respectfully yours,

WALTER E. EDGE

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**PERMISSION FOR AMERICAN AIRPLANES TO FLY OVER AND LAND IN FRENCH COLONIES IN THE WEST INDIES AND SOUTH AMERICA** <sup>40</sup>

711.5127/18

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

No. 88

PARIS, January 10, 1930.

[Received January 28.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 4331 of December 14, 1929,<sup>41</sup> concerning the attitude adopted by the French Government with respect to the granting of permissions requested by American companies to fly over and land in French colonies in the West Indies and South America, and in relation to the proposed agreement between the two Governments for aerial navigation.

The position of the Department in the above matter, as outlined in the instruction under acknowledgment, has been laid before the competent official of the Ministry for Foreign Affairs by the Embassy. The subject was discussed most fully, the point being emphasized that any permission for aircraft to fly over the territory of one or the

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<sup>38</sup> Not printed.

<sup>39</sup> *Foreign Relations*, 1929, vol. i, p. 368.

<sup>40</sup> For other correspondence with respect to the good offices of the Department of State in behalf of American interests desiring to establish air lines in Latin America, see *ibid.*, pp. 546 ff.

<sup>41</sup> *Ibid.*, p. 534.

other States should be granted on the basis of reciprocity and that any agreement between the Government of the United States and a foreign State regarding reciprocal flying rights should be limited to establishing questions of principle and not relate to private agreements.

Subsequent to the above-described exposition, the Ministry for Foreign Affairs was asked to expedite a decision with regard to the proposal made to it for the negotiation of an air agreement similar to that entered into between the United States and Canada.<sup>42</sup>

At the same time it was recalled that the permission granted the New York, Rio & Buenos Aires Lines to traverse French Guiana, Guadeloupe and Martinique, and that of the Pan American Airways to fly over French Guiana, were for sixty days duration only and have now expired, and that authorization for the latter company to cross Martinique and Guadeloupe has not yet been accorded. It was urged that the permits already granted be renewed and that the permit requested by the Pan American Airways for Guadeloupe and Martinique be authorized without further delay. In doing so the Embassy suggested that the terms of the permits follow the lines recommended to the Secretary of the French Embassy on November 13, 1929, by the Assistant Secretary of State, Mr. White (please see Department's instruction No. 4318 of December 5, 1928 [1929]<sup>43</sup>): that is, that the permission be given without any definite fixed date of termination but be made indefinite subject to sixty days' cancellation. Then, if an agreement were made between the two Governments, the indefinite permissions could be confirmed, whereas, should the negotiations fall through, the companies could be given sixty days notice before the termination of the privilege.

The Foreign Office Official took careful note of the point of view and suggestions advanced, but said that he was unable to express any authoritative opinion on the subject since the matters taken up were primarily within the competence of the Air Ministry. He promised, however, at once to place the American observations before the Ministry—which is still considering the proposal for an Air Agreement—and to urge that an expeditious decision be rendered. The Ministry for Air has not yet completed its study of either the agreement or the principles involved in the requested permissions.

Realizing that the Ministry for Foreign Affairs is but an intermediary in matters of this nature and that the real decision rests with the Ministry for Air, and to a lesser extent with the Ministry for Colonies, the Embassy has decided to continue to press the question directly with the Ministry for Air. To that end, the Assistant Military Attaché for Air, who has been furnished with a digest of the Depart-

<sup>42</sup> *Foreign Relations*, 1929, vol. II, p. 111.

<sup>43</sup> Not printed.

ment's observations will call promptly upon the competent official of the Air Ministry in an endeavor to reach a satisfactory arrangement for continued flights by the Pan American Airways and the New York, Rio & Buenos Aires Lines and to effect an early expression of opinion with regard to the proposed air agreement. The result of this conversation will be made known to the Department. Likewise the Embassy will not fail, after the lapse of a brief interval, to insist before the Ministry for Foreign Affairs that an official response to its representations be made in the near future.

In this connection it may be of interest that the Embassy has been informed, how reliably it is not known, that the original proposition made to the New York, Rio & Buenos Aires Lines by the Aeropostale was that the former be permitted to use the Aeropostale landing fields in French Guiana, Martinique and Guadeloupe upon the condition that all passengers and freight traffic on the east coast of South America, between Natal and Buenos Aires, be carried by the Aeropostale and all traffic to Europe remain in the latter's hands; and that a five hundred thousand dollar bonus be given the French Company. The NYRBA would have been permitted to act as feeder from the north for the Aeropostale and in turn to take north bound passengers therefrom and further to run a parallel line from Natal to Buenos Aires, which however would have been confined only to the carrying of through mail. This proposal having proved untenable, it is understood the alternative recommendation, which has already been reported to the Department, was made for the establishment, at the expense of the American company, of landing fields, et cetera. This latter proposition, as the Department states, is obviously likewise unsatisfactory and impracticable.

On page five of my despatch No. 41 of December 30, 1929,<sup>44</sup> mention was made of the project of the German "Lufthansa" to establish a sea and air line from Europe to South America via the Cape Verde Islands. From the attached memorandum from the French Air Ministry, dated January 5, 1930, it would appear that such line may not be operated failing a special agreement with the Aeropostale. This memorandum furnishes for the first time to the Embassy the information that the French apparently possess exclusive rights in Cape Verde Islands. This fact is of considerable interest in connection with suggestions informally made to the Department that the advisability be considered of the negotiation with Portugal of an air agreement similar to that between the United States and Canada, the Portuguese agreement to pave the way for the possible eventual establishment of an American-operated air line to Europe via the Cape Verde or Canary Islands.

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<sup>44</sup> Not printed.



In my despatch No. 41 of December 30, I also alluded to the situation in India. It is understood that the British have now commenced the operation across India of an air service. The objection can therefore no longer be advanced by Great Britain that landing field facilities are inadequate in that zone, so that it would seem that the British will be forced to open up India to Dutch and French lines which desire to cross it in transit to their Colonial possessions. The Embassy has heard, however, that such facilities would only be accorded to foreign companies upon the payment of a heavy tax for the use of the flying fields. It would therefore seem that the French are not alone in attempting to impose restrictions—monetary or other—upon what should, of course, be the reciprocal right of free transit.

I have [etc.]

WALTER E. EDGE

810.79611 Tri Motors Safety Airways/193 : Telegram

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

PARIS, February 10, 1930—5 p. m.  
[Received February 10—3:10 p. m.]

35. A further despatch No. 183, February 3,<sup>45</sup> concerning permission American Air Lines to traverse French territory, leaves by pouch tomorrow. Since it was drafted, Ministry of Commerce admits tenseness of situation and today informed Embassy it will shortly confer with Minister for Foreign Affairs regarding possibility of some type of temporary permission. Response on this latter point is expected end next week.

See also report of Military Attaché to War Department No. 15959 W, February 4.

EDGE

810.79611 Tri Motors Safety Airways/196 : Telegram

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

PARIS, February 14, 1930—1 p. m.  
[Received 12:30 p. m.]

36. Reference my telegram number 35, February 10, 5 p. m. Air Ministry today states matter temporary permission being held up by Minister of Colonies, who, it is believed by the Embassy, desires to see extension French line prior to introduction of foreign lines. Air Ministry further states that situation is aggravated by flight through Guiana of New York-Rio plane this year subsequent to termination

<sup>45</sup> Not printed.

of authorization which expired December 31 and by fact that plane carried cameras. Air Ministry nevertheless is continuing endeavor to effect temporary arrangement pending negotiation of the working agreement between the companies earnestly desired by it.

If reported inauguration this month of East Coast Line should involve traversing French territory I believe situation would be further complicated and it may be that the Department will wish to recommend detour.

EDGE

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810.79611 Tri Motors Safety Airways/208

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

No. 74

WASHINGTON, February 24, 1930.

SIR: In further reference to the subject matter of the Department's instruction No. 4331 of December 14, 1929, and your despatch No. 88 of January 10, 1930, the Department has now received a letter, dated February 10, 1930, from the New York, Rio and Buenos Aires Line, Incorporated, from which the following quotations are given for your information as indicative of the attitude adopted by this Company:

"In reviewing the present situation and status of the French Islands and Possessions on our route, we wish to bring to your attention a situation which is not only embarrassing to the New York, Rio and Buenos Aires Line, Incorporated, but a distinct menace to the lives of United States and Latin American citizens, and the safety of international mail.

The French Government has refused to grant us the privilege of using Guadeloupe, Martinique and Cayenne as emergency landing places. This refusal forces our planes to the extremity of flying long distances without relief. The necessity of flying abnormally long distances not only puts an unnatural strain upon the flying personnel, which may result in an accident, but at certain times of the year it prohibits our planes from seeking shelter during severe storms.

The Nyrbalines will carry United States and Latin American mails over the territory in question, as well as international passengers, and we feel that the French Government should be thoroughly cognizant of this situation, and informed that any accidents caused by their decision to either international passengers or mail, may have a very detrimental effect on their own commerce with us if given publicity in the United States.

We would respectfully ask, therefore, that you bring this matter officially to the attention of the French Government."

With reference to the third paragraph of the letter which has been cited, you are informed that as yet, the New York, Rio and Buenos Aires Line has not obtained this Government's contract to carry mail.

Although the Department does not feel that as a matter of international practice the type of argument contained in this letter can appropriately be adopted by this Government, you may nevertheless feel that the Company's point of view is of sufficient interest to the French Government to merit your bringing it, in an oral, informal manner and as opportunity presents itself, to the attention of the appropriate French officials.

I am [etc.]

For the Acting Secretary of State:  
FRANCIS WHITE

810.79611 Tri Motors Safety Airways/213 : Telegram

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

PARIS, May 1, 1930—6 p. m.  
[Received May 1—1:15 p. m.]

123. My telegram No. 36, February 14, 1 p. m. I have heard informally from the Air Ministry that authority for the New York, Rio, Buenos Aires Lines and Pan American Airways to fly over Guadeloupe, Martinique and French Guiana will be granted May 15 for a period of three months, renewal subject to certain restrictions concerning photographic apparatus, interdicted zones and the carrying of mail, passengers and freight, between points within French possessions.

I am informed that the French Government will install fields.

I suggest that no publicity be given the foregoing pending official confirmation from the Ministry for Foreign Affairs.

EDGE

810.79611 Tri Motors Safety Airways/222

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

No. 561

PARIS, May 21, 1930.  
[Received June 2.]

SIR: With further reference to my telegram No. 145 of May 17th, 11 a. m., 1930,<sup>46</sup> I have the honor to transmit herewith, in copy and translation, a note from the Ministry of Foreign Affairs, dated May 17, 1930, confirming the fact that temporary permission has been accorded for the planes belonging to the Pan American Airways and the New York, Rio & Buenos Aires Lines to fly over and land in the French colonies of Guadeloupe, Martinique, and French Guiana.

It will be noted that certain restrictions are placed upon the movements of the planes, which restrictions it is desired by the French

<sup>46</sup> Not printed.

Government be brought to the attention of the companies concerned, and that the authorization is renewable quarterly.

With regard to the renewal of the authorization, the Embassy would be glad if each quarter it might be informed, as well in advance as possible, whether the companies desire to prolong the authorization granted them, since requests for the renewal of the permission must be in the hands of the Minister for Foreign Affairs at least a month prior to the termination of the current period for which flights are authorized.

I have [etc.]

WALTER E. EDGE

[Enclosure—Translation]

*The French Ministry for Foreign Affairs to the American Embassy*

The Ministry for Foreign Affairs has the honor to inform the Embassy of the United States that the French Government has granted permission for the planes of the American aerial navigation companies, the N. Y. R. B. A. and Pan American, to fly over and land in the French colonies of Guadeloupe, Martinique and Guiana.

This authorization, which is valid from May 15, 1930, to August 15, 1930 is renewable quarterly; the request for renewal must reach the Ministry for Foreign Affairs at least one month before the expiration of the present permit.

The Ministry for Foreign Affairs has the honor to request the Embassy of the United States to be good enough to inform the companies concerned that their planes must not carry any photographic apparatus, that they must avoid the prohibited zone of the Fort of France, the boundaries of which will be fixed by the Governor of Martinique, and that internal commercial or postal operations between the French possessions are also prohibited.

PARIS, May 17, 1930.

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810.79611 Tri Motors Safety Airways/230

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

No. 223

WASHINGTON, July 1, 1930.

SIR: Reference is made to your despatch No. 561 of May 21st, 1930, confirming the fact that by a note dated May 17th from the French Ministry for Foreign Affairs, temporary permission has been accorded the planes belonging to the Pan American Airways and the New York, Rio and Buenos Aires Line to fly over and land in the French Colonies of Guadeloupe, Martinique and French Guiana.

I have now received requests from the Pan American Airways, Incorporated, and the New York, Rio and Buenos Aires Line, Incor-

porated, that application be made to the French Government for this permission to be extended another three months as from August 15th, the expiration date of the present permission.

You are requested, therefore, to apply for a three months renewal of the permission granted these two companies on or before July 15th in accordance with the second paragraph of the note dated May 17th, from the Ministry for Foreign Affairs.

I am [etc.]

For the Secretary of State:  
FRANCIS WHITE

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800.8810 Compagnie Générale Transatlantique/32

*The Secretary of State to the French Chargé (Henry)*

WASHINGTON, July 24, 1930.

SIR: In further reference to your Embassy's communication of July 5, 1930<sup>47</sup> and in confirmation of the telephone conversation of July 22nd between M. Bousquet of your Embassy and an officer of this Department, I take pleasure in informing you that a letter has been received from the Department of Commerce to the effect that there is no objection to the resumption of the airplane service between the steamship *Ile de France* of the Compagnie Générale Transatlantique and the coast of the United States.

The Government of the United States in granting permission to the resumption this year of this airplane service wishes to set forth again the basis, under the laws of this country, upon which this Department and the Department of Commerce are permitted to authorize the operation of civil aircraft, possessing foreign nationality, upon and over the territory of the United States.

I wish therefore to refer to the Department's communication to your Embassy of August 20, 1928,<sup>48</sup> on this subject and especially the second paragraph of the Department of Commerce's letter quoted therein.<sup>49</sup>

Section 6, subsection (c) of the "Air Commerce Act of 1926" reads as follows:

"If a foreign nation grants a similar privilege in respect of aircraft of the United States, and/or airmen serving in connection there-

<sup>47</sup> Not printed; it stated that the Société Transatlantique Aérienne proposed to resume, under the same conditions as last year, the seaplane service between the steamships of the Compagnie Générale Transatlantique and the American coast and requested that this decision be made known to the naval authorities concerned so as to obtain a permit to land either at New York or Boston (800.8810 Compagnie Générale Transatlantique/25).

<sup>48</sup> Not printed.

<sup>49</sup> "In view of the assurance of reciprocity contained in the Ambassador's communication, the Secretary of Commerce is prepared, under the provisions of the Air Commerce Act of 1926, to authorize such operation." (800.8810 Compagnie Générale Transatlantique/13)

with, the Secretary of Commerce may authorize aircraft registered under the law of the foreign nation and not a part of the armed forces thereof to be navigated in the United States, and may by regulation exempt such aircraft, and/or airmen serving in connection therewith, from the requirements of section 3, other than the air traffic rules; but no foreign aircraft shall engage in interstate or intrastate air commerce."

The granting therefore of authorization by this Government to the aircraft of a foreign nationality to operate on and over the territory of the United States is not in its nature permanent but is dependent upon the existence of similar privileges granted to the aircraft of the United States by that foreign government with respect to its own territory.

The Government of the United States wishes it to be understood therefore that, in the absence of a reciprocal air agreement between our two Governments, the authorization granted herein to the French seaplanes of the Compagnie Générale Transatlantique to operate commercially in and over the territory of this country is a temporary permission and, although no time limit is set thereon, its duration or continuance is contingent upon the existence at the same time of the French Government's permission to civil aircraft of the United States to operate commercially in and over French territory.

In closing it should be pointed out that if this service is temporarily discontinued the request for this Government's authorization for its resumption the next year should be made thirty days in advance of the initial flight.

Accept [etc.]

For the Secretary of State:

FRANCIS WHITE

810.79611 Tri Motors Safety Airways/237

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

No. 786

PARIS, August 13, 1930.

[Received August 23.]

SIR: I have the honor to report that, immediately upon the receipt of the Department's telegraphic instruction No. 158 of July 14, 5 p. m.,<sup>49a</sup> the Embassy requested of the French Government a prolongation for three months of the temporary authorization permitting the airplanes of the Pan American Airways and the New York, Rio and Buenos Aires Line to fly over and land in Guadeloupe, Martinique and French Guiana. I have to-day been orally informed by the French Ministry for Foreign Affairs that a prolongation of the permits for the two companies cited has been granted. This prolongation, however, is valid for two months only, that is until October 15, 1930.

<sup>49a</sup> Not printed.

The attached copies of a letter from the Air Ministry to the Assistant Military Attaché for Air of this Embassy,<sup>50</sup> would appear to explain the reason why authorization is not being granted to the companies for the full three months. From that letter and the attached memorandum of Major Walsh,<sup>50</sup> it may be observed that the Air Ministry is evidently not disposed to continue the authorization accorded the Pan American Airways and the New York, Rio and Buenos Aires Line beyond October 15 unless by that time the American companies under reference shall have undertaken the negotiation of a working agreement with the Aeropostale.

The projected basis upon which permission may be prolonged is, of course, at variance with the basis upon which temporary authorization was initially sought. It may be recalled that, during the conversations held between the Assistant Secretary of State, Mr. Francis White, and the Secretary of the French Embassy in Washington, it was suggested that the permissions be granted without any definite fixed date of termination, but subject to cancellation on sixty days notice, pending the negotiation of an air navigation agreement between the United States and France.<sup>51</sup>

Instructions are respectfully requested as to whether the Department desires me to renew the efforts to negotiate with France an agreement following the lines of that signed between the United States and Canada,<sup>52</sup> or whether the American companies are disposed to enter into a working agreement with the French air line, or failing that, to arrange their air routes so as not to traverse French territory in the western hemisphere.

I have [etc.]

For the Ambassador:  
NORMAN ARMOUR  
*Counselor of Embassy*

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810.79611 Pan American Airways Inc./865

*The President of the Pan American Airways, Inc. (Trippe) to the Secretary of State*

NEW YORK, August 21, 1930.

[Received August 22.]

MY DEAR MR. SECRETARY: Bearing in mind the interest of our Government in American aviation activities in Latin America as a means of promoting friendly relations and the development of trade and commerce, I wish to advise you of the purchase by the Pan American

<sup>50</sup> Not printed.

<sup>51</sup> See *Foreign Relations*, 1929, vol. I, pp. 532 ff.

<sup>52</sup> *Ibid.*, vol. II, p. 111.

Airways System of the assets, including flying equipment, bases in South America, and the technical material of the New York, Rio & Buenos Aires Lines, Inc. The actual transfer of these assets will be made on September 15th, 1930.

In apprising you of the foregoing, I desire to add an expression of my sincere appreciation of the valued assistance which we have so uniformly received from our Government in connection with our operations in Latin America.

I am [etc.]

J. T. TRIPPE

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810.79611 Tri Motors Safety Airways/244

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

No. 823

PARIS, September 3, 1930.

[Received September 15.]

SIR: I have the honor to refer to my telegram No. 260 of August 14, 6 p. m.,<sup>53</sup> reporting that the Foreign Office had verbally informed me that the authorization for the airplanes of New York, Rio and Buenos Aires Lines and of the Pan American Airways to fly over and land in Guadeloupe, Martinique and French Guiana had been extended until November 15.

A note from the Foreign Office dated August 29, 1930, confirming this information, has now been received. Copies and translations of the note are transmitted herewith.

The Department's attention is particularly called to the last paragraph of this note which states that the renewing of the present authorization is dependent upon the conclusion of an agreement between the American aeroplane companies and la Compagnie Générale Aéropostale.

Respectfully yours,

WALTER E. EDGE

[Enclosure—Translation]

*The French Ministry for Foreign Affairs to the American Embassy*

The Ministry for Foreign Affairs has the honor to inform the Embassy of the United States, in reply to the latter's note No. 420 of July 11 last, that the Government of the French Republic has extended for a period of three months, that is from August 15 to November 15, 1930, the authorization granted to the New York, Rio & Buenos Aires Line and the Pan American Airways to fly over and land in Guadeloupe, Martinique and French Guiana.

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<sup>53</sup> Not printed.



The Ministry for Foreign Affairs has the honor to remind the Embassy of the United States of the following reservations, to which the above mentioned authorization is subject:

Photographic apparatus may not be used, and it is forbidden to fly over a zone around Fort de France to be determined by the Governor;

Commercial and postal traffic in the interior of these Colonies is prohibited.

In addition, it is understood that the organization of airports will be undertaken by the French Government, which is now studying the question.

The Ministry for Foreign Affairs has the honor to inform the Embassy of the United States that the interested technical Departments have pointed out that the renewal of the present authorization will be contingent upon the conclusion of an agreement between the American companies and the "Compagnie Générale Aéropostale".

PARIS, August 29, 1930.

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810.79611 Pan American Airways/880

*The Secretary of State to the Chief of the Foreign Department, Pan American Airways, Inc. (Young)*

WASHINGTON, September 19, 1930.

SIR: Reference is made to the Department's letter of August 26, 1930<sup>54</sup> and previous correspondence regarding the temporary permission under which the planes of the Pan American Airways, Incorporated operate through French territorial possessions in the Caribbean and South America.

I now transmit herewith, for your information and comments, a copy of despatch No. 823 of September 3rd from the American Embassy at Paris together with its enclosures, a copy of the French Ministry of Foreign Affairs' note to the American Embassy and a translation thereof, confirming the extension of this permission until November 15th and setting forth the conditions pertaining thereto.<sup>55</sup>

As you know, application for renewal of this permission must be made of the French Government thirty days in advance of its expiration date. Therefore, please confirm this Department's understanding that your Company wishes the American Embassy at Paris to apply for a renewal on or before October 15th in order that the Embassy may be appropriately instructed.

<sup>54</sup> Not printed.

<sup>55</sup> *Supra.*

In view of the information contained in a letter of August 21st from Mr. Trippe that Pan American Airways, Incorporated, has taken over the assets of the New York, Rio and Buenos Aires Lines, Incorporated, as of September 15th, it is assumed that this application for an extension of the French Government's permission need only to be made on behalf of one company, the Pan American Airways, Incorporated. Please inform the Department if this assumption is correct.

In closing, I wish to call your attention particularly to the last paragraph of the despatch enclosed herewith which intimates there may be difficulty encountered in obtaining the French Government's renewal of the permission after November 15th unless by then there exists some understanding between your Company and the Compagnie Générale Aéropostale. I shall therefore appreciate learning what the wishes of your Company would be in the event that the renewal of permission by the French Government was refused in order that the Embassy at Paris may be fully instructed in these premises.

Very truly yours,

For the Secretary of State:

FRANCIS WHITE  
*Assistant Secretary*

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810.79611 Pan American Airways/890

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

No. 342

WASHINGTON, September 30, 1930.

SIR: Reference is made to despatches Nos. 786 and 823 of August 13 and September 3, 1930, respectively, with regard to the French Government's permission for the aircraft of American Companies to operate in and over the French territorial possessions in the Caribbean and South America.

The Department has now received a letter of September 24 from the Pan American Airways, Incorporated,<sup>56</sup> requesting that application for renewal of the present permission which expires on November 15, be made to the French Foreign Office. Therefore, as under the Department's instruction No. 223, July 1, 1930, you are again requested to apply for a three months' renewal of this permission on or before October 15 in accordance with the second paragraph of the note dated May 17 from the Ministry for Foreign Affairs.<sup>57</sup> This application need only be made on behalf of the Pan American Airways, Incorporated, since this Company has now taken over all the assets of the New York, Rio, and Buenos Aires Line, Incorporated.

<sup>56</sup> Not printed.

<sup>57</sup> *Ante*, p. 63.

With regard to the French Government's intimation that the renewal of this permission beyond November 15th will be contingent upon the conclusion of an agreement between the American Company and the Compagnie Générale Aéropostale, the Pan American Airways, Incorporated, states in its letter that conversations are proceeding between it and this French Company, and that while no definite undertaking has thus far been reached, it is hoped that the pending conversations will ultimately lead to the conclusion of an agreement or understanding between the two companies.

The position adopted by the Department on this question was clearly set forth in the second paragraph of the Department's instruction to your Embassy, No. 4331 of December 14th last year,<sup>58</sup> and if necessary, you should again bring it to the attention of the French Government.

For your assistance and further information in these premises, I enclose herewith a copy of a self-explanatory note sent by the Department to the French Embassy on July 24th,<sup>59</sup> in connection with the resumption this past summer of the airplane service between the Steamship *Ile de France* and the coast of the United States. Herein are set forth the conditions upon which this Government grants permission for foreign commercial aircraft to operate over United States territory in the absence of the existence of a formal reciprocal arrangement between the two countries.

You may inform the French Government that this Government is still ready to negotiate an air agreement along the lines of the one with Canada, as was proposed in the Department's note to the French Embassy of June 12, 1929.<sup>60</sup>

In the course of recent discussions of air agreements with other countries, the text but not the substance of the Canadian arrangement as a model has been departed from somewhat. Therefore, a further instruction to you will follow, submitting, for your information, the latest revised draft of an air arrangement which the Department is using as a basis for similar negotiations with other Governments.

Very truly yours,

For the Secretary of State:  
FRANCIS WHITE

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<sup>58</sup> *Foreign Relations*, 1929, vol. I, p. 534.

<sup>59</sup> *Ante*, p. 64.

<sup>60</sup> *Foreign Relations*, 1929, vol. I, p. 532.

810.79611 Pan American Airways/913

*The Chargé in France (Armour) to the Secretary of State*

No. 953

PARIS, October 21, 1930.

[Received October 29.]

SIR: I have the honor to report that immediately upon the receipt of the Department's instruction No. 342 of September 30, 1930, the Embassy addressed a note to the Minister for Foreign Affairs requesting the renewal for another three months of the permission in favor of the Pan American Airways, Incorporated, which expires on November 15, to fly over and land in French Guiana, Guadeloupe and Martinique.

In mentioning the pending conversations between officials of the American and French companies the opportunity was also availed of to reiterate the Department's viewpoint regarding the reciprocal considerations which should serve as the basis for authorizing the establishment of international air lines, and in that connection a copy was furnished of the Department's note of July 24 to the French Embassy concerning the permission asked by the Compagnie Générale Transatlantique. Finally the Minister for Foreign Affairs was informed that my Government is still disposed to negotiate an agreement such as that proposed on June 12, 1929.

There has now been received by the Assistant Military Attaché for Air a transcript of a communication addressed on October 15th by M. Chaumié of the Air Ministry to the Compagnie Générale Aéropostale, a translation of which is enclosed.<sup>61</sup> In his letter M. Chaumié indicates the probability that the permission asked by the Pan American Airways will be renewed upon its expiration November 15 but states that if an agreement between the companies is not reached within the additional period this will be the final renewal. He adds in the third paragraph of his letter that it had been clearly stated before that prolongation would be subordinated to the conclusion of an agreement between the companies. Since the basis on which the French Government chooses to regard the authorization as having been made is quite different from that embraced in the American Government's request, the Embassy has recommended to Major Walsh that he informally point out to M. Chaumié that when the American Government made the original request for indefinite permission, it was suggested by it that the confirmation of the permission be contingent, not upon an inter-company agreement but upon the negotiation between the Governments of an agreement similar to the United States-Canada accord.

<sup>61</sup> Not printed.

It would appear likely that the purpose of the Air Ministry in addressing the Aéropostale on the subject is to furnish that Company with documentary evidence in dealing with the Pan American Airways to the effect that unless the latter is willing to negotiate the current quarter will be the final period of prolongation.

Respectfully yours,

NORMAN ARMOUR

810.79611 Pan American Airways/922 : Telegram

*The Chargé in France (Armour) to the Secretary of State*

PARIS, November 17, 1930—11 a. m.

[Received November 17—9:25 a. m.]

375. With further reference to Department's telegram 292, November 11, 7 p. m.<sup>62</sup> I am today orally informed that permission has been extended for another 3 months.

ARMOUR

**SUIT OF PRINCESS ZIZIANOFF AGAINST CONSUL DONALD F. BIGELOW,  
INVOLVING QUESTION OF CONSULAR IMMUNITY**<sup>63</sup>

811.111 Zizianoff, Nina Princess

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

No. 265

WASHINGTON, August 1, 1930.

SIR: The Department has received your despatch No. 670 of June 28, 1930,<sup>62</sup> in regard to the suit brought by Princess Nina Zizianoff against Consul Donald F. Bigelow.

You are authorized to send to the French Foreign Office a note reading as follows:

"Referring to previous correspondence concerning the case of Princess Nina Zizianoff née Johanna Kriebel against Mr. Donald F. Bigelow, formerly American Consul at Paris, I have the honor to inform you that the Department of State is disturbed by the situation in which Mr. Bigelow now finds himself by reason of this suit.

"In its former communications, the Department of State declared that the proceedings against Mr. Bigelow, in its opinion, appeared to concern an act performed in the discharge of his official duties and not coming within the competency of the French courts, by virtue of the Treaty of 1853 between France and the United States.<sup>64</sup> Special attention is called to the notes of March 14,<sup>65</sup> July 5,<sup>66</sup> December 15,

<sup>62</sup> Not printed.

<sup>63</sup> Continued from *Foreign Relations*, 1928, vol. II, pp. 850-861.

<sup>64</sup> Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 6, p. 169.

<sup>65</sup> *Foreign Relations*, 1928, vol. II, p. 852.

<sup>66</sup> See telegram No. 198, June 30, 1927, 3 p. m., to the Ambassador in France, *ibid.*, p. 853.

1927,<sup>67</sup> and April 20, 1928<sup>68</sup> to the Foreign Office. In the two latter notes, my Government pointed out that it did not accept the view of the French Government with regard to the meaning of Article II of the Convention of 1853, and that, on the other hand, it considered that the act with which Mr. Bigelow was charged had been accomplished in the exercise of his official functions. In particular in the note of April 20, 1928 it was said:

'It is clear that Mr. Bigelow was not actuated by any personal malice towards Princess Zizianoff. The interview in question was given on the consular premises, and, according to his conception of his consular duties at that time, was not improper. He may be reproached for having committed an error in the performance of his official duties, but my Government maintains that an error of this nature, being directly connected with the performance of an official act, should not subject the consul to prosecution.'

"The French courts declared themselves competent, stating that it was not an act performed in the discharge of official duties,—which is contrary to the opinion of my Government,—and, refusing to interpret for themselves the Convention of 1853, declared that the interpretation of it was within the jurisdiction of the French Ministry for Foreign Affairs, which, from the beginning had taken the position that Mr. Bigelow's action could not be regarded as official.

"The Court of Cassation having, on December 15, 1928, rendered the decision mentioned above, the case again came before the courts. Mr. Bigelow then raised the question of nullity of procedure, which was not without value since it was accepted by the Correctional Court of the Seine in its judgment of March 26, 1929. Princess Zizianoff having taken an appeal, the case came before the Paris Court which, by decision of July 31, 1929, declared valid and conformable to rule the procedure which the Correctional Court had declared null.

"The present note relates to the circumstances in which Consul Bigelow will find himself before the French correctional courts.

"Since the decision of the court of July 31, 1929, Mr. Bigelow's situation is the following: If he does not appear in person before the Paris Court of Appeals,—the sole court competent in the premises to judge him,—he runs the risk of being condemned without having been heard. Maître Rosenmark, Mr. Bigelow's lawyer, has informed Mr. Bigelow that French criminal procedure does not allow pleading for an accused person who is not personally present at the hearing, whatever may be the reason for his absence. Therefore, Consul Bigelow, an official of my Government, who is at present in the United States but has been instructed to proceed shortly to a foreign country as a Consul of the United States, finds himself in a dilemma, since, if he is not to run the risk of being condemned, even to imprisonment, without having been defended, he must resign from his official duties or be ready to interrupt them for a long time in order to appear before the Paris Court.

"According to the information furnished the Embassy, the case has been postponed several times for reasons relating to the fact that Mr. Bigelow is sued as an accomplice and it is necessary or

<sup>67</sup> See instruction No. 2526, December 1, 1927, to the Chargé in France, *ibid.*, p. 855.

<sup>68</sup> See instruction No. 2723, April 10, 1928, to the Ambassador in France, *ibid.*, p. 860.

proper to try him at the same time as the authors of the alleged defamation. Furthermore, even though the case may seem to be ready for decision, the possibility of further postponements cannot be ignored.

"It is believed that the Government of the United States was not wrong in maintaining that it is improper to sue a consul for an act so closely connected with his duties, and that such a suit would be contrary to the intent of the Convention of 1853. It is believed that the negotiators of that treaty had in view avoiding so far as possible any procedure which might hinder an American or French Consular officer in the exercise of his duties. It appears to my Government unreasonable to insist on the appearance of officials in person before the Correctional Courts on account of acts which were performed while they were officially accredited to the French Government, and which had a direct relationship to their official duties. This does not ensure impunity to consuls to the detriment of citizens of the countries to which they are sent. It may be assumed that, if a consul were prosecuted for a crime of a serious character, his Government would not maintain him in office, at least if he appeared to be guilty.

"If my Government had considered that Mr. Bigelow had, as consul in Paris, committed a crime of a serious character, it would not have retained him as a representative of the United States in France, nor have kept him in the consular service. Such seems, moreover, to have been the opinion of the French Government, Mr. Bigelow having continued his duties in France for a year after he was summoned to appear before the correctional court, without objection from the French Government.

"The above observations indicate the inconveniences which would be likely to arise because of the interpretation given by the French Government to the Convention of 1853. As to Mr. Bigelow's position, my Government can not regard with equanimity the interruption of the duties with which this official is charged each time his case may be tried.

"Mr. Bigelow has sent a memorandum to the Paris Court outlining his defense, but even if the Court is willing to take into consideration the memorandum of an accused person whom it is proposed to declare in default, he will find himself placed in a position of inferiority prejudicial to the rights of an accused person. Not only will he not have the last word, but, not being present nor represented at the argument, he will be deprived of the right of submitting an oral defense before a decision is reached. He will be compelled and forced to submit to this situation owing to his official duties in his country notwithstanding the matter arose in the performance of his official functions in France. The situation in which Mr. Bigelow is placed is anomalous, since, as a result of the decision of the Correctional Court of December 24, 1929, the journalist to whom Mr. Bigelow is accused of having granted an interview was acquitted of the charge of being the author of the incriminating article, and it is believed that this decision was due to the oral discussion instituted by the interested party at the hearing.

"For the reasons mentioned, my Government hopes that the French Government will find a means of causing Mr. Bigelow's right of defense to be respected and of preventing an injustice from being

committed against him. In any case, it expresses the desire that all measures be taken by the competent French authorities in order that Mr. Bigelow's arguments may be examined and given due consideration."

You will please inform the Consul General of the action to be taken in this matter.

Very truly yours,

WILBUR J. CARR

[The action brought by Princess Zizianoff against Consul Bigelow was dismissed by decision of the Paris Court of Appeal on March 13, 1933, and this favorable decision was upheld by the Court of Cassation on March 9, 1935. The Consul General at Paris (Keena) in despatch No. 04347, March 22, 1935, stated: "In view of this decision of the Cour de Cassation, Consul Bigelow cannot be the subject of further legal process on the part of Princess Zizianoff in this matter."]



## GERMANY

### INCREASING STRENGTH OF THE NATIONAL SOCIALIST PARTY

862.00/2509 : Telegram

*The Chargé in Germany (Gordon) to the Secretary of State*

BERLIN, September 15, 1930—10 a. m.

[Received 11:25 a. m.]

105. Election results up to 5 o'clock this morning constituting substantially complete returns give following approximate results in round figures:

35,000,000 votes cast by eligible electorate of 43,000,000.

Approximate popular votes:

Social Democrats	8, 600, 000
National Socialists (Hitler, Fascist)	6, 400, 000
Center and Bavarian Peoples Party combined	5, 200, 000
Communist	4, 600, 000
Nationalists (Hugenberg)	2, 500, 000
Peoples Party	1, 600, 000
Economic Party	1, 400, 000
State Party (former Democratic Party)	1, 300, 000

The foregoing translated into Reichstag seats gives, respectively: 143, 107, 87, 76, 41, 26, 23, 22. Forty-two seats are divided among six additional small groups.

Popular interest in election was keen as evidenced by fact that the largest percentage of electorate (approximately 82 percent) since formation of republic went to polls. As a result Reichstag deputies will be increased from 491 to 573. [Paraphrase.] The first strong impression from the election is that the predominant factors were disgust and recklessness. The enormous gains made by the Hitler supporters and the Communists indicate this. The Hitler vote, which in 1928 was 800,000, reached 6,400,000 yesterday resulting in an increase in Reichstag seats from 12 to 107. This is especially significant and is an indication that a multitude of voters are so disgusted at the failure of both the coalition of moderate parties and the Social Democrats to run the government machinery smoothly and to relieve the economic depression that they are ready to try anything else for a change, even giving their support to a party whose leaders and promises are irresponsible. [End paraphrase.]

GORDON

862.00/2518

*The Chargé in Germany (Gordon) to the Secretary of State*

No. 486

BERLIN, September 17, 1930.

[Received September 29.]

SIR: In amplification of my telegram No. 105 of September 15, I have the honor to report further as follows:

The last returns which had not been received at the moment of sending that telegram are now to hand; they increase the number of Reichstag seats given in my said telegram by two, so that they now number 575. There may be some negligible modification of the classification of seats given in my telegram—e. g. the People's Party may gain a couple of seats at the expense of the State Party—and the exact allocation of the 48 seats divided among the six "splinter" parties will not be definitely settled for some days; but for all practical purposes, including the possible combinations capable of carrying on the business of government, the Department may refer to the figures of my yesterday's telegram. . . .

Although, as has already been reported to the Department, the gain of the extremists had been definitely expected, and its very certain prospect was one of the main reasons on various occasions prior to July 18 for refraining from causing a dissolution of the Reichstag, even when the Government was in a decided minority, the extent of this gain was a tremendous surprise to everyone, including probably to the National Socialists themselves. The most unfortunate feature thereof, in my opinion, is the grounds—or rather lack of grounds—on which this party was able to make a successful appeal to such an enormous number of citizens. The Department is, of course, aware of the general complexion of this party but it may not be amiss again to emphasize the extraordinarily confused, self-contradictory and opportunist character of their campaign. Any constructive element in their so-called program is difficult to discern, even by inference; when seeking to win votes from the Communists the National Socialist orators declared that, as their social theories were similar, they appealed to them to vote for a Communist form of government directed by Germans rather than the same thing under the guidance of Moscow; when invading Nationalist territory, the party spokesman emphasized their adherence to the principle of private ownership of property. Throughout the land their program consisted of asseverations that all the country's evils flowed from Semitism, international banks, the Young Plan, the Treaty of Versailles and all other international treaties with any provisions which might be considered objectionable from a chauvinistic point of view, the remedy being

repudiation pure and simple of any such written obligations, and a march on Berlin, for the purpose of establishing a reactionary dictatorship with, however, not even a suggestion as to the alternative measures contemplated for remedying the conditions complained of.

As I intimated in the concluding paragraph of the telegram under reference, a large percentage of the six million four hundred thousand citizens who voted the National Socialist ticket would seem to have been impelled thereto by a feeling of disgust for the prolonged failure of both the moderate middle parties and of the Social Democrats to operate the parliamentary machinery of the Government with smoothness or efficiency, which in turn led to the fear that any approach to such efficiency would only be effected as a result of further sacrifices and hardships on their part.

Various governmental combinations having been powerless to ameliorate their individual lots, they appear to have felt that any change meant everything to gain and nothing to lose, even though they could not see clearly how such gain could be brought about.

I have no doubt but that a considerable number of individuals of whom one might expect sounder mental processes and whom one would be surprised to find having voted the National Socialist ticket, did so from the foregoing motives. If this analysis be correct, it is doubly unfortunate that the more intelligent citizens who were induced to vote the National Socialist ticket could not see further than this and realize that in thus voting they were taking the surest steps to increase the difficulties of government, to further impair foreign confidence—especially in financial circles—in the stability of German republican institutions and, in general, to intensify the economic and financial evils of which they complain. However, they apparently thought neither of this nor of anything else of that nature. When over six million voters follow a party which promises “freedom and bread” without any indication as to how either is going to be provided, certainly the least that can be said is that such voters are in a very reckless frame of mind.

It is most probable, likewise, that a large part of the National Socialist votes came from citizens who only recently attained voting age and who represent a generation that has no personal knowledge of the horrors and hardships of war, but only the thought that the debt which it left behind will bear on them throughout their lifetime. To such a class repudiation pure and simple has an undeniably superficial attraction.

On the other hand, however, it is not unreasonable to hope that if strong leaders with a strong program could be evolved from the present welter a large part of those who, as indicated above, have recklessly voted the National Socialist ticket would be glad to return to safer and saner ground, and it is also to be hoped that the young element

to which I have alluded may become more balanced with increasing maturity.

To sum up: there is no doubt that last Sunday's vote was another overpowering example of Germany's lack of political education and wisdom and a body-blow to the republican form of government, and it is a clear indication of the, in my opinion, dangerous mentality at present possessed by a large proportion of the population. However, there have been so many occasions in the past ten years when republican institutions have been brought to a precarious pass and the country's course of conduct has been fraught with danger from both a domestic and foreign point of view, that even these latest ominous developments may still be appraised with less alarm than if they constituted an entirely new phenomenon. The body-blow is not necessarily a knock-out blow, but the fact remains that some thirteen odd million Germans have by their votes declared their hostility to the present republican form of government. The danger is clearly there, and cannot lightly be overlooked or explained away as some elements—including certain official circles—seem to be evincing a not unnatural tendency to do; but yet a way remains open for all sincere supporters of the Republic to make common cause against this danger. If at such a juncture as this they fail to sink their personal and doctrinal differences, then indeed a serious situation will present itself.

Respectfully yours,

GEORGE A. GORDON

862.00/2530

*The Chargé in Germany (Gordon) to the Secretary of State*

No. 494

BERLIN, September 19, 1930.

[Received October 4.]

SIR: I have the honor to report that on the morning after the elections an individual called at the Embassy stating that he was a member of the National Socialist Party—which for the sake of brevity will henceforth be referred to by its local appellation of "Nazi"—and that as the aims and objects of this party were so evidently and persistently misrepresented and misunderstood abroad, he wished to know whether a delegation from this party might call at the Embassy and explain what these aims and objects really were. I replied that if some such representative wished to call upon me informally I would receive him and listen to what he had to say. In consequence, this afternoon Herr Schickedanz, the Berlin representative of the *Voelkische Beobachter*, the official Nazi organ published in Munich, came to see me.

Mr. Schickedanz began by saying he regretted that almost without exception the foreign press, as far as it had come to his attention,

had been propagating erroneous impressions concerning the Nazis. It seemed to be commonly assumed abroad that his party was hand in glove with the communists or that it represented a danger of a very similar nature. On the contrary, he was convinced that, had it not been for the campaign waged by his party, the communists would have had some 30 or 40 seats more in the Reichstag than they did secure. Far from his party having appropriated catchwords and political arguments from the communists, it was the latter who, alarmed by the success of the Nazi campaign, had tried towards the end of the campaign to do just the converse. To express his idea another way, it was only the fact that his party had gone before the mass of voters suffering from the prevalent economic misery and distress and had presented to them in a convincing manner its ideas as to how to remedy the situation, that had prevented a tremendous wave of communistic sentiment from sweeping the country.

The fundamental element in the situation, which had recently come to a head with last Sunday's elections, was the tremendous economic depression and distress prevailing in Germany. He felt that this distress was likewise far from truly appreciated in foreign countries—in some cases perhaps deliberately, and in others on account of misinformation.

It was starting from this point of view that the Nazi Party had been conceived and organized and it was along lines growing out of this original conception that its campaign had up to now been conducted. In its opinion, this deep-seated distress and misery could be traced back directly to the enforced "tribute" with which Germany had been burdened by the Treaty of Versailles. In the view of the Nazis the treaty was intolerably unfair, not only as to the imposition of tribute—a word which my interlocutor repeatedly used—but also as regards the declaration of German war-guilt. With such a false basis it was inevitable that economic trouble would develop, and the present situation was only a logical result of this treaty. He admitted that economic depression at present was worldwide, but thought that it bore more specifically and more hardily on Germany for the reasons stated.

The present Brüning government, in its effort to ameliorate the financial situation, which was part and parcel of the iniquitous chain of events above referred to, had tried to resort to measures which imposed further financial sacrifices and burdens. But unemployment was constantly increasing; it was far greater than was indicated by the present official figures of about three million because it was a conservative estimate that for every two individuals receiving unemployment aid there was one who, while not in constant and active employment, was trying to struggle along without any official unemployment dole; so that this coming winter one could certainly count

on there being at least five rather than three million unemployed, not to speak of the dependent families of these individuals. As long as this unemployment continued to increase, whatever government might be in power would have to raise new revenue to be applied to additional unemployment relief.

The only escape from this vicious circle that his party could see was a change in the fundamental conditions causing the same, that is to say, in an eventual general recognition—which would have to be given practical shape—that the provisions imposing on Germany the added burden of paying foreign tribute, must be altered; again in other words, revision both of the treaties and of the Young Plan. He could not say, of course, how soon such a change in world opinion might be hoped for, but he did believe that when the real facts as to the desperateness of the situation in Germany were known, such a change of opinion, with its consequent results, would be bound to come about. He did not hope this as far as France was concerned, but he did hope that, as America had only had the role of an onlooker in this whole European situation, it might be moved to give its moral support to the desired end.

Speaking of France, he said he felt that a large part of the misrepresentations concerning Germany which found their way into the rest of the world, was disseminated from French sources; as a shining example he referred to the question of Germany's armament and the possibility of her attempting to impose her views by force. This, according to him, was so absurd as scarcely to need refutation: the reduction in the size of the army imposed by the Treaty of Versailles, the restriction to small calibre artillery, the lack of military aviation, etc., made any such thoughts impossible. However, Germany was further accused of having all sorts of disguised semi-military organizations, such as the Stahlhelm and others. The militant formations of his own party were included in this charge and it was further asserted that important elements in the Reichswehr were hand in glove with these formations; he wished to state most emphatically that nothing of the kind was true. Concluding his remarks in this field he said it was unthinkable that Germany could attempt to cope with the combined armed forces of France, Poland and Czechoslovakia, and that at any rate, as far as his party was concerned, it entirely realized the complete impossibility at the present time of attaining its objects by force.

Reverting to the political field, he stated that the present success of the Nazis was by no means a flash in the pan as their opponents asserted; very much to the contrary, they felt convinced that their strength was on the increase and that the pressure of fundamental conditions, combined with their views as to the remedy therefor, would

inevitably contribute to further gains in their favor. If the Reichstag were again to be dissolved (and I felt that he was trying clearly to imply that this would shortly be the case) his party had every reason to hope that it would be returned as the strongest party in the country.

The party's program could not be more definitely defined than as hereinbefore set forth, because the application of its fundamental ideas would necessarily depend upon the development of both the economic and general political situation. Finally he emphasized, in this connection, that his party fully realized that it could not bring about a final accomplishment of its aims and ambitions, even in their present state, except with time and patience; it was quite conscious that any attempt to achieve these aims precipitately would not only be doomed to failure but would accentuate the very conditions it was trying to alleviate.

It is of some incidental interest to note that Mr. Schickedanz by no means fitted the description of a hot-headed "wild man" as the Nazis are often depicted in the local press. A man apparently only about 35 years old, he was noticeably well mannered and although the views he was attempting to explain were those of a partisan and a fanatic, his method of presentation had none of the latter quality and he expressed himself throughout in moderate and restrained terms. The case he was trying to set forth was presented by him perhaps as well as it could be, but it obviously cannot stand up under the slightest analysis.

When trying to expound his party's program of "freedom and bread" Mr. Schickedanz could get no further than to repeat that the payment of tribute by Germany must cease and that as a corollary the theory of German war guilt, as embodied in the Treaty of Versailles, must be formally repudiated. The "fundamental ideas" referred to by him in conclusion mean, when his statements are examined, no more than that. Just how his party proposes to achieve this "freedom", however, and in what manner it envisages converting this achievement, if accomplished, into such a remedy for the fundamental economic ills with which Germany is beset, as to fulfill the promise of "bread", he made no attempt to indicate.

As the Department will have noted, he made it evident that his party had no clear idea of just how it might be able eventually to accomplish its aims—in other words, on his own showing, its policy is one of sheer opportunism.

The main interest in the interview seemed to me to reside in the fact that it could well be interpreted as one instance of the application of what appears to be the new order of the day of the National Socialist Party, viz. an effort to dispel the impression that their course

of conduct will be marked by violent and illegal measures. In this connection I venture to request the Department to refer to my despatch No. 496 of September 23, 1930, going forward in the same pouch, which deals further with this latter development.

Respectfully yours,

GEORGE A. GORDON

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862.00/2533

*The Chargé in Germany (Gordon) to the Secretary of State*

No. 496

BERLIN, September 23, 1930.  
[Received October 4.]

SIR: With reference to my despatches Nos. 486 and 489 of September 17, 1930,<sup>1</sup> dealing with the recent general elections held in this country, I have the honor to submit the following further report concerning the National Socialist Party—hereafter to be given its German abbreviation of Nazi—which furnished the chief element of surprise and interest of the said elections.

As indicated in my despatch first under reference, the extent of the Nazi gain was probably a surprise to that party itself. Certainly events of the past week have tended to support this presumption, and to indicate that the leaders of the party were not prepared for such a tremendous access of strength as came to them from the elections, and are considerably embarrassed as to how to use it. Although in the hours immediately following upon the ascertainment of the polling results, some talk was heard of Nazi claims that they must now be taken into the government and would demand as a condition precedent to their entrance the portfolios of the Interior and of National Defence, plus the control of Berlin police headquarters—which of course would be tantamount to delivering the country over to them—this did not last long, and the first serious reaction of those responsible for the party's direction seems to have been a realization of the necessity for going somewhat slowly and moderating the stand taken by them during the election campaign.

As early as last Tuesday night Hitler delivered a speech to his triumphant followers in Munich, in the course of which he not only took good care to refrain from inflammatory utterances but also very explicitly toned down much of what he and his lieutenants had recently been proclaiming.

In effect he said that the success gained at the polls was by no means an end but only a means to an end; that while the party must strive on to accomplish its aims, it intended to do so through legal and con-

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<sup>1</sup> No. 489 not printed.



stitutional means; the Constitution compelled them to restrict themselves to such means and they did not intend to gain their goal through a *putsch* or through a revolution. As he had always said, the Nazi party was a party of revolutionaries, but by that he meant "revolutionaries of the spirit", and what it aimed at capturing was the German consciousness and soul.

This is a pretty far cry from the thesis propagated by the Nazi orators throughout the country right up to the eve of the election, that one of the chief means of remedying Germany's ills was a revolutionary dictatorship to be brought about by a march on Berlin.

Although it is of course possible that by such language Hitler may be seeking to allay suspicion of a real purpose on his part to bring about physical and political upheaval, it seems to me that he could not hope to gain much along this line—since the authorities must have such an eventuality in mind and be prepared to forestall it—and that it is far more probable that such language indicates the hesitation and uncertainty which might well be expected to befall a leader who, having based his whole political conduct upon avowed opportunism, suddenly finds himself in possession of unexpected power. Moreover, another motive which would equally explain this attitude would be the realization that if his party were to have any chance of participating in the government it would, outwardly at least, have to renounce its repudiation of parliamentary institutions as no other groups could very well cooperate with a party openly advocating a *putsch*.

Last but not least, as I indicated in my despatch No. 489,<sup>2</sup> there is no doubt that Hitler received very substantial financial support from certain large industrial interests, and very probably their influence at this juncture has been definitely a restraining one.

Indeed, the impression is gaining ground in the last few days that important financial circles—not necessarily co-extensive with those mentioned in the preceding sentence—have been and are continuing to bring pressure on the Chancellor and other members of the government to try the experiment of letting the Nazis participate in the government (this, presumably, being on the hypothesis that the Social Democrats will insist on conditions obnoxious to these financiers as a price for their cooperating actively with the government). A rumor even reached me today from a usually very well informed source, that certain American financial interests represented here were active in the same cause. However, I shall not attempt to report further in this latter respect until I have had a chance to check this information.

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<sup>2</sup> Extract: "Finally, it must not be forgotten that it is pretty generally understood that this party had the secret support of at least a portion of heavy industry, which regarded it as a means of opposing the Social Democrats and Communists." (862.00/2519)

In my despatch No. 494 of September 19, 1930, also going forward in this pouch, I have adverted to the essential opportunism of the Nazis, which, extreme though it is, is somewhat less surprising when one recalls that the genesis of the party was the formation in Munich in 1919, by Hitler and a few friends, of a group "without a definite goal, without a program and only the one desire of emerging somehow or other from the muddle of the times" (the quotation being from a pamphlet issued by the party).

In the same despatch I likewise alluded to the false premise upon which the Nazi advocacy of treaty revision is predicated, to wit, that all Germany's ills flow from enforced tributary payments. It should, however, be remembered that a similar false premise, varying only in degree, underlay all election arguments, from Hugenberg and Treviranus down, aimed at treaty revision, just as it underlies the arguments of even responsible government spokesmen, such as Dr. Wirth, who, quite regardless of governmental financial mismanagement (e. g. the amount of money directly or indirectly devoted to the Reichswehr) plead for a reconsideration of the burdens placed upon Germany on the assumption that all else in the social, financial and economic structure of the State will be well once the obligations of the treaty provisions are rescinded.

Respectfully yours,

GEORGE A. GORDON

862.00/2532

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*The Chargé in Germany (Gordon) to the Secretary of State*

No. 505

BERLIN, September 25, 1930.

[Received October 4.]

SIR: I have the honor to refer to my telegram No. 107 of September 22<sup>3</sup> summarizing the political situation as it had developed during the previous week, as well as to the concluding sentences of my despatch No. 486 of September 17, 1930.

The development which is now disturbing me the most, and which has become accentuated even in the few days which have elapsed since my telegram under reference, is the accumulation of evidence that the parliamentary parties lying between the extremists to Right and Left have not yet learned their lesson. These parties, which profess to be most devoted to the maintenance of republican institutions and whose members have the most foreign connections—and consequently cannot be indifferent to foreign political opinion—have, in the shape of the recent elections, received a sharp warning as to the results which follow upon their inability to agree on questions of

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<sup>3</sup> Not printed.

fundamental importance to the maintenance of a republican and parliamentary form of government. One would think that an experience of so drastic a nature would awaken them to the necessity of amending their ways but, as I said before, there is no evidence to this effect. On the contrary, as far at any rate as all surface indications go, the leaders of these parties are proceeding in the same manner as heretofore, and the jockeying, bickering and bargaining going on between them seems to be as pronounced and obstructive as ever. Only yesterday the People's Party, apparently learning nothing from its signal losses in the election, declared that any compromise with Socialist doctrines was not to be considered and that the grouping together of all government-supporting bourgeois parties would be maintained as the goal of the policy of its parliamentary fraction. As it is still to be presumed that the party is likewise adverse to a coalition with the National Socialists it is difficult to see what meaning the vague words as to the goal of the party's policy can have and how the leaders of this party can delude themselves into thinking that they are by their attitude in any way facilitating the cause of good government.

As developments are now shifting so rapidly, I shall not attempt further to expatiate upon this theme at the moment, but I trust that the brevity of this despatch will not detract from the emphasis which I should like to put upon this present phase of the political situation.

Respectfully yours,

GEORGE A. GORDON

862.00/2542

*The Chargé in Germany (Gordon) to the Secretary of State*

No. 519

BERLIN, October 1, 1930.

[Received October 10.]

SIR: With reference to my despatch No. 505 of September 25, 1930, reporting on the current political situation in Germany, I have the honor to report that the outstanding development of the intervening week was the testimony given by Hitler, the leader of the National Socialist Party, as a witness at the trial for treason of the three young Reichswehr officers before the Supreme Court at Leipzig.

Called to give evidence as to whether the National Socialist Party pursued its aims exclusively by legal means and whether it intended to overthrow the Constitution by force, Hitler stated under oath that he had been a soldier too long not to realize that illegal organizations could not cope with an army and police force. The Nazi organizations, which later were designated "Sturm Abteilungen",

had been called into being to afford protection against the Left. It was at no time the purpose of these organizations to fight against the State as, declared Hitler, "we are convinced that when an idea is sound, it will conquer the State by itself. The only thing amiss is that at present thirty million Germans do not yet know what we want."

In 1923, he continued, developments had taken place which had not been in line with his ideas. The conversion of the Sturm Abteilungen into fighting bodies had not been initiated by him (Hitler), but at official (presumably Bavarian) government suggestion. In the fall of 1923 war seemed imminent between Bavaria and the Reich, according to Hitler. In 1925, recognizing the change in circumstances, he had decreed a return to the original status and had categorically ordered disarmament. Exclusion from the party was decreed as the penalty for the possession of weapons or for military exercises. (It may be observed in passing that the conduct of the party organizations throughout the recent electoral campaign certainly does not lend verisimilitude to these latter statements.)

Hitler then went on to say that he had always taken the point of view that any attempt to tamper with the Reichswehr would be lunacy. "We are not interested in disintegrating the Reichswehr and I would regard that as the greatest possible crime. I have never issued a pamphlet or handbill advocating anything of the sort. I have never sought connections with the Reichswehr, and would immediately have expelled from the party anybody who did so."

In reply to a question of the presiding judge as to whether there were not, in addition to the official program, secret aims of the party, Hitler stated that that would be impossible in view of the size of the party. No party order was ever issued which was contrary to the laws. Asked as to how it was then possible that prominent Nazis had stated that it would be necessary to employ violence, Hitler, perhaps carried away by his own grandiloquent oratory, dropped into his old spellbinding tone and asserted: "When our movement is victorious, it will establish a High Court before which the November criminals of 1918 will be tried, and this crime will be expiated. I freely admit that then heads will roll in the sand." Asked as to how he intended to do away with the treaties, he answered: "Of course, only through diplomatic negotiations, and, if it cannot be accomplished in any other way, by complete circumvention of these treaties by legal, and if needs be, by illegal means."

It may be of interest to report an incident in connection with these sensational utterances of Hitler's. On the day in question I happened to be at a small luncheon given by Dr. Luther in the board room of the Reichsbank. Just before luncheon the noon editions of the newspapers had blazoned forth Hitler's oratorical bombshell, and its

unpleasant effect in that atmosphere can well be imagined. A Cabinet minister who was present maintained that as soon as the telegraphic news agencies had thus reported Hitler's statements, the Cabinet had telephoned to government officials participating in the trial to ascertain if the quotation were correct and had been told that Hitler did not use the phrase "heads will roll in the sand." However, as this version was broadcast to the world and as Hitler has not seen fit to repudiate it, the result is the same.

Paradoxical as it may seem after the event, I think it is fair to assume that Hitler's object in having counsel for the defence summon him into court was not only to seize an unparalleled opportunity for party propaganda, but also to take another occasion to tone down his preelection utterances so as to make them more closely approximate the possibilities of present action. In fact, the bulk of his testimony, it seems to me, may be thus interpreted, and is in contradiction with his more excited utterances concerning the eventual establishment of a High Court for the trial of those chiefly responsible for the creation of the Republic and with respect to the repudiation of treaties. The latter declarations, however, were so much more striking that they riveted world attention and consequently overshadowed the remainder of his statements.

There is no doubt that for some days preceding Hitler's appearance on the witness stand increasing pressure from various quarters had been brought to bear on the Chancellor at least to take into consideration the possibility of cooperating in the Reichstag with the Nazis. Thus, among other forces working to that end, one of the most overt was a resolution recently adopted by the Economic Party rejecting the possibility of collaboration with the Social Democrats, and apparently clearly aimed at making it appear that the only alternative was cooperation with the Nazis. However, I think it is equally true that Hitler's ill-advised exuberance has necessarily abated to a considerable degree, for the time being at any rate, the tendency above noted.

Incidentally, in connection with the action of the Economic Party just referred to, the representative of that party in the Cabinet, Minister of Justice Brecht, has been assailed on the ground that he not only neglected the opportunity of, but also sought actively to prevent, the controverting of Hitler's testimony as to the legality of the Nazi movement by means of documentary evidence in the possession of officials in the Ministry of the Interior.

Respectfully yours,

GEORGE A. GORDON

862.51/2942

*Memorandum by the Secretary of State*

[WASHINGTON,] October 23, 1930.

When the French Ambassador called today he brought up the question of the visit to me of Dr. Schacht,<sup>4</sup> and asked whether Dr. Schacht had brought any message from the German Government, saying that he was troubled by the press reports and the speeches which Dr. Schacht had made in regard to moratoriums, et cetera.

I told him of Dr. Schacht's visit to me in the Department and how I had come to then ask him to lunch at my house on Sunday. I told him that on neither of these occasions had any propositions been brought forward by Dr. Schacht regarding the political or business situation in Germany, nor had such situation been discussed—that both meetings were purely personal and social and we discussed Dr. Schacht's program for his visit to this country, where he was going and how he was taking his son to Chicago and placing him in a bank there, and how he intended to deliver a few lectures.

The Ambassador was evidently very anxious, on behalf of his Government, to know whether Germany had made any proposal to this Government relating to reduction of reparations or a moratorium, and I told him she had not.

I told him that quite unofficially and through American banking channels I knew that since the German election many millions in credits have been taken away from Germany, and that, in the light of these facts, my own judgment was that the situation in Germany was getting to be very ticklish, but that no proposition on the subject had been made by the German Government to this Government.

He said he knew of this and that Germany had herself to thank for having such an election. I then said that I did not think that was the way to look at it, that it was easy to find in any nation and in any election facts and elements which were disturbing or wrong but that the question always was whether those facts and those actions were representative of the nation as a whole, and that I was trying to maintain that attitude towards Germany in this case. I was troubled by the election but I was not going to judge Germany until I saw how she acted after the election. I said that we had in this country communistic elements and violent elements which were as bad as those in any country, but that they did not represent the general sentiment of this country as he himself knew. The same thing could be true of any other country and that the same thing could be true in Germany and we should give Germany the benefit of the doubt and not judge her by certain elements who probably did not represent the country as a whole.

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<sup>4</sup> Hjalmar Schacht, President of the Reichsbank from 1924 to March 1930.

In closing he said he wished to be sure that he understood me—that we had not been approached by the German Government on the subject of a moratorium or reparations, and I said again we had not.

H. L. S[TIMSON]

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862.51/2943

*Memorandum by the Secretary of State*

[WASHINGTON,] October 23, 1930.

When the British Ambassador called on me today he asked me about Dr. Schacht's visit. I told the Ambassador he had brought no message from his Government on the subject of Germany's condition or desires, and that his conversations with me on the two occasions which I had met him had been as innocuous as those of the typical British matron.

I told him, however, that I had reason to believe, from unofficial sources, that Germany had lost a good deal of her credits since the election and was up against a hard situation. He said that he had the same impression.

We agreed that we had a hard winter before us with respect to the effect of the economic depression on the world.

H. L. S[TIMSON]

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862.00/2569

*The Ambassador in Germany (Sackett) to the Secretary of State*

No. 636

BERLIN, December 3, 1930.

[Received December 15.]

SIR: I have the honor to report that on Sunday, November 16, and Sunday, November 30, various local elections were held in Germany which revealed a distinctly disturbing tendency.

Brief reference to the first set of these local elections has already been made in my despatch No. 610 of November 19 (section 4),<sup>5</sup> but in view of the emphasis which last Sunday's elections gave to the trend already manifested, I feel that I should draw the Department's attention more particularly to the disquieting nature thereof.

It was to have been hoped that after the show of energy and vigor furnished by the Chancellor and his Cabinet throughout the autumn, particularly as exemplified during the brief Reichstag session in mid-October, the wave of recklessness and disgust which swept over

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<sup>5</sup> Not printed.

the country at the time of the Reichstag elections in September would have somewhat abated, or at worst remained stationary, although the Embassy has recognized, and frequently reported to that effect, that the causes leading to the great increase in the extremist, and especially the Nazi, vote would remain latent and potentially operative throughout this difficult winter; in other words, that if a new dissolution of the Reichstag—thus further discrediting the Parliamentary régime as heretofore applied—should occur prior to next spring, the resulting elections would inevitably result in further Communist, and even greater Nazi, gains.

The local elections of November 16 and 30 above referred to, however, in every case show extremist gains, with those of the Nazis far exceeding the Communists', and with all other parties of national importance, except the Center, showing substantial losses. More disquieting still, in last Sunday's elections in Bremen the Nazis polled in round numbers 51,000 votes compared to 26,000 cast by them as recently as the Reichstag elections of September 14, and in Bielefeld (Westphalia) 17,000 as against 11,000 in September.

It should also be noted that in the elections to the Danzig Diet on November 16 the Nazis captured 31,000 votes as compared to 1500 in the 1927 elections, and thus became the second largest party in the Diet.

When it is remembered that, aside from Danzig, the elections of these two Sundays were held in such different parts of the country as Baden, Mecklenburg, Bremen, Bielefeld and Lübeck, it will be seen that the spread of the Nazi doctrines is not confined to any one section and that the tide of Hitlerism not only has not yet spent itself but is still in full flow.

Undoubtedly Hitler's lieutenants, who are constantly gaining greater experience in demagogism, have been able cleverly to exploit local causes of unrest and discontent. Nevertheless, these widespread local votes cannot be discounted on that basis alone, and they constitute an impressive warning of what, in spite of all the Chancellor's good work, is still to be expected should he be forced to dissolve the Reichstag and hold another general election. My despatch No. 632 of this date,<sup>6</sup> dealing with other aspects of the internal political situation, advances certain considerations concerning the avoidance of the contingency just referred to, and I venture to suggest that it be read in conjunction with this despatch.

Respectfully yours,

FREDERIC M. SACKETT

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<sup>6</sup> Not printed.



INFORMAL REPRESENTATIONS BY THE GERMAN AMBASSADOR  
WITH RESPECT TO DISARMAMENT AND THE POSSIBLE MODIFI-  
CATION OF THE PACT OF PARIS

711.0012Anti-War/1149

*Memorandum by the Secretary of State*

[WASHINGTON,] November 20, 1930.

The German Ambassador <sup>7</sup> brought me the annexed memorandum of what he wanted to say to me.<sup>8</sup> He said it was not in any sense a note from his own Government, but was merely for the purpose of putting in clear and definite form the views he was trying to express verbally.

After I had read it I asked whether the final suggestion of the extension of the Pact of Paris <sup>9</sup> was not rather in the nature of a departure from the rest of the argument. He said he realized that perhaps it was, but he put it in to make clear that in the situation which confronted Germany in regard to disarmament she was ready to take any step that would avoid war and promote international justice, and that he had heard reports that some such modification of the Pact of Paris was under contemplation. He wanted to make it clear that Germany was ready to join in such a movement.

I told him that no such movement was now under consideration, but that he was welcome to know everything that had been said in the past, and I reviewed to him the history of all suggestions which I have been concerned in in reference to the so-called implementation of the Pact of Paris.<sup>10</sup> In doing that I made it clear that the only suggestion we had ever put forward (and that was only tentative for purpose of discussion) was the suggestion that inasmuch as the Pact of Paris depended for its sanction solely upon international public opinion there might well be added to it provisions for clarifying public opinion in an obscure case by an impartial investigation and report without any decision. I reminded him that I had made such a suggestion in the summer of 1929, during the first stages of the Manchurian trouble between Russia and China. I told him that that had been conveyed to the Five Powers with whom I was consulting at that time, including Germany, and he recollected it. I said it had also been conveyed at that time to M. Briand on account of his inter-

<sup>7</sup> Friedrich W. von Prittwitz und Gaffron.

<sup>8</sup> *Infra.*

<sup>9</sup> Treaty for the renunciation of war as an instrument of national policy, signed at Paris, August 27, 1928, *Foreign Relations*, 1928, vol. I, p. 153.

<sup>10</sup> For previous correspondence regarding suggestions for further implementing the Pact of Paris, see *ibid.*, 1929, vol. I, pp. 59 ff.

est in the Pact. I told him that we had never pushed it, but had suggested it as something to incubate and possibly to be brought forward at some favorable time in the future.

I then reminded him of how later the suggestion of an implementation of the Kellogg Pact by means of a consultative provision had come up during the period of the London Naval Conference as a possible suggestion for solving the deadlock which was thought to exist in that Conference. I told him that this had never been put forward by any of the authorized representatives at the Conference, but so far as I knew solely in the press.

And I then reminded him of the action which we had taken in our press conferences to point out that under the peculiar circumstances existing in the naval situation at that time no consultative pact could be considered as a part of the naval treaty while there was any danger that it might be misconstrued by France as something more than a consultative pact and as really involving a promise of military assistance. I made it very clear that while consultation might be used as a means of clarifying public opinion behind the Pact of Paris, yet if this were done it must be in such form as to make it clear that the consultation did not involve by implication any promise of military assistance or even pressure of any other kind than public opinion. I said that I felt clear that no consultative clause involving such an implication could be supported by this country.

He told me he understood this perfectly and agreed with me.

He then reverted to the disarmament problem set out in his memorandum and said that I must appreciate the situation in which Germany would be placed if disarmament was delayed. I told him I did; I told him I hoped that Germany's influence would be used and used successfully in persuading the other Powers to disarm; that it would be a world disaster if the results should be the other way and the attitude of the other countries lead to Germany's arming. He said he agreed with me.

He said that was why he brought the note, because America had such influence on public opinion over there and he hoped we would not confine ourselves to the naval side of the question although he appreciated our attitude in regard to land disarmament. I said that our attitude as to land disarmament was that we were really not interested in that as a matter of security to ourselves though we were greatly interested in it for the broader reasons of world security. Therefore in such a situation where local conditions were so acute and where we were really disinterested, our attitude had been guided by a desire not to be thought to have any ulterior motive and by a desire to make our disinterestedness perfectly clear. He said he understood that but he hoped our people would realize how great our influence was over there and would use it on the side of disarmament.

I told him I hoped that we could, but I had learned one thing in foreign relations and that was we had to take one step at a time and even that step was necessarily slow. He laughed and said he appreciated that perfectly.

H. L. S[TIMSON]

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711.0012Anti-War/1149

*The German Embassy to the Department of State*

RÉSUMÉ OF VERBAL COMMUNICATIONS BY THE GERMAN AMBASSADOR

The German people, in their Constitution, have proclaimed the general recognized principles of the Law of Nations as integral part of the Law of Germany and expressed their determination to preserve peace both at home and abroad. In accordance with these principles the German Government have consistently followed the line of active collaboration in the development of all instrumentalities to secure peaceful settlements of international differences. Germany, among the first, adopted the system of general arbitration in signing the optional clause of the World Court <sup>11</sup> and systematically enhanced the number of arbitration and conciliation treaties with other nations. The Locarno Treaties,<sup>12</sup> initiated by Germany, have been followed by Germany's decision to immediately join the Briand-Kellogg Pact without reservation.

Disarmament is the logical corollary of the development of the machinery of peaceful settlement of international conflicts. The General Assembly of the League of Nations has already in 1928 unanimously resolved that security was sufficiently established to proceed with disarmament. Moreover, this question of disarmament is felt by the German Government to be one of the most serious political problems of the present day. Though mainly an European issue, it is in its effects one of the most important factors in the general problem of world stability, in which all countries, in particular those linked up with Europe by strong economic interests, as the United States, are involved.

The United States having after the war most substantially reduced their land army forces are primarily interested in naval disarmament. Germany, for obvious reasons, is chiefly interested in the question of land disarmament. It appears, however, that land and sea armament are inseparably linked together. According to the views of the

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<sup>11</sup> Optional clause of the Statute of the Permanent Court of International Justice, *Foreign Relations*, 1920, vol. 1, p. 18.

<sup>12</sup> Treaty of mutual guarantee, signed at Locarno, October 16, 1925; League of Nations Treaty Series, vol. LIV, pp. 289 ff.

German Government they must be, therefore, treated simultaneously in order to attain durable success. The history of former procedures, in particular of the Geneva Conference of April, 1929,<sup>13</sup> shows the questionable value of special concessions made to an individual power or group of powers in the field of land disarmament in order to induce them to concessions in the domain of naval disarmament. It is to be hoped that these procedures which involve a discrimination against other nations could be avoided in the future.

The slow progress in the field of disarmament especially the fruitless attempts to reach definite agreements during the 4 years of discussion of the Preparatory Disarmament Committee, have produced deep resentment among the German people. Not only have they seen how neighboring nations maintain and increase their armaments, but also were they disappointed by the methods proposed (for instance the exclusion of trained reserves and stores of munition from the scope of disarmament). The German army, consisting of a 100,000 men without reserves and deprived of all equipment essential to modern warfare, such as heavy artillery, tanks, and aviation, by the provisions of the Versailles Treaty,<sup>14</sup> is acknowledgedly powerless against the vast military preparations and military resources of the neighboring countries, who all accepted the obligations of the Versailles Treaty to disarm, but so far failed to do so. The continuance of such conditions is bound to increase the spirit of bitterness among the German people which expresses itself in nationalistic leanings of wide circles opposed to the conciliatory policies of the Government. *The German Government's policy does not aim at increasing Germany's armament but at equality through disarmament.* If the reaction in the mind of the German people is taken by other nations as an excuse for refusing to disarm and for advocating the necessity of more security, those so arguing are misplacing cause and effect. For it is their attitude of persistently refusing to disarm that has produced the reaction in Germany, not the reverse.

No country is through the exercise of public opinion in a position to contribute more to the solution of the disarmament problem than the United States which in Article II of the Treaty of August 25, 1921,<sup>15</sup> restoring friendly relations with Germany, availed themselves of the disarmament clauses of the Treaty of Versailles. The utterances of the President and the Government of the United States have repeatedly invoked the cooperation of all nations toward the advance of the reign of justice and the extinction of force. The German Govern-

<sup>13</sup> Sixth session of the Preparatory Commission for the Disarmament Conference; see *Foreign Relations*, 1929, vol. I, pp. 65 ff.

<sup>14</sup> *Treaties, Conventions, etc., Between the United States of America and Other Powers, 1910-1923* (Washington, Government Printing Office, 1923), vol. III, p. 3329.

<sup>15</sup> *Foreign Relations*, 1921, vol. II, p. 29.

ment, aiming at the same goal, have always been ready to join any action that might help to promote international goodwill and facilitate effective disarmament. If, therefore, the alleged suggestion of some further extension of the Pact of Paris towards consultation should be discussed, the German Government, being one of the original signatories of the Pact, would gladly cooperate and assume that it would be given the opportunity to express their views.

WASHINGTON, November 20, 1930.

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#### LOANS BY AMERICAN BANKS TO THE GERMAN GOVERNMENT <sup>16</sup>

862.51/2848 : Telegram

*The Agent General for Reparation Payments (Gilbert) to the Secretary of State*

PARIS, March 22, 1930.

[Received 7:45 p. m.]

Supplementing my brief message of last evening,<sup>16a</sup> I understand that a three-cornered transaction has been arranged between Lee, Higginson and Company, the German Government, and Krueger and Toll, according to which American credits are to be provided for the German Government to the amount of 50 million dollars on March 31st for a period of five months and to the further amount of 75 million dollars on June 1st for a period of one year, all by way of anticipating the loan of 125 million dollars which the German Government is to get under its contract with the Swedish Match Trust. Notwithstanding repeated inquiries I have not yet been able to get any information in the matter from the German Government, but George Murnane<sup>17</sup> called late Friday afternoon to tell me that the agreement had been reached Friday morning and that the contract was about to be signed. He added that the contract would be expressly subject to the consent of the Department of State. In order to avoid any possibility of misunderstanding, I am cabling to advise you as follows:

First, that the Agent General and the other reparation authorities have not been consulted in any way with regard to this transaction by either the German Government or the Reichsbank.

Second, that the first charge in favor of reparations still remains in full force and effect under Article 248 of the Treaty of Versailles <sup>17a</sup>

<sup>16</sup> For previous correspondence regarding the flotation of German loans in the United States, see *Foreign Relations*, 1928, vol. II, pp. 898 ff.

<sup>16a</sup> Not printed.

<sup>17</sup> Member of the firm of Lee, Higginson & Co.

<sup>17a</sup> *Treaties, Conventions, etc.*, 1910-1923, vol. III, pp. 3329, 3439.

and that the Agent General and the transfer committee under the Dawes Plan maintain in all respects the position taken in the matter of September 20, 1926, with regard to the Prussian external loan. The Department is already in possession of this letter,<sup>18</sup> which applies a fortiori to external loans or credits of the Reich.

Third, that in my opinion the fundamental question on the merits is as to the purpose for which the proposed credits are to be used. I immediately raised this question with Mr. Murnane, who believes that 50 million dollars of the proceeds will be needed to cover bank debts to the same amount which mature in June. He could give no information, however, as to the use of the rest of the proceeds, and apparently the contract will contain no provisions whatever to define the use of the credits. It seems to me that this point should be decisive, not merely from the banking standpoint but also on the question of access to the American market. The operation might perhaps be justified if it were clearly and definitely understood that the proceeds were to be applied immediately to the retirement of existing debt. But without this safeguard the money is likely to be used to finance new expenditures and to enable the German Government to postpone once more the necessary measures of financial reforms, thus interfering with the institution of the Young Plan and particularly the mobilization of the reparation bonds. In this sense, the present transaction is most untimely, since the financial programme for the coming fiscal year is to be settled within the next few weeks and there is a real danger that new credits will simply relieve the Government from the pressure that otherwise exists to put its finances in order.

Fourth, it seems to me that this transaction, on the present showing, raises a general question as to how far the German Government and other German public authorities are to be allowed to have recourse to the American market for the purpose of financing their budgetary deficits. The German Government sooner or later must face the problem of setting its financial house in order, and until it has done so it does not make a good case for foreign credits.

Fifth, I had intended to send this message through the American Embassy in Berlin but it has just notified me that it prefers not to transmit it.

S. PARKER GILBERT

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<sup>18</sup> Not printed; it is from the Agent General for Reparation Payments to the Finance Minister of the Reich Annex 2976 B<sup>3</sup> (862.51 P 95/9).

862.51/2849a : Telegram

*The Acting Secretary of State to the Ambassador in Germany (Sackett)*

[Paraphrase]

WASHINGTON, March 24, 1930—1 p. m.

27. For Parker Gilbert. Lee, Higginson have no information to the effect that their agreement is in any way conditioned upon Department's approval. They say that they have discussed the matter with Schacht<sup>19</sup> and others whom they regard as representing most conservative German circles, and that French officials have given this matter their approval in principle. Are Lee, Higginson mistaken in every one of these matters?

COTTON

862.51/2849b : Telegram

*The Acting Secretary of State to the Ambassador in Germany (Sackett)*

[Paraphrase]

WASHINGTON, March 24, 1930—6 p. m.

28. For Gilbert. Lee, Higginson have told me that the British are suggesting that part of the issue be subscribed for by British banks, that the French are considering a similar request, that neither is objecting in principle. At the present time we are hardly in a position to close our markets to every request for capital from abroad. Do you hold to your conclusions in the face of this information? Reply tomorrow by 10 o'clock.

COTTON

862.51/2850 : Telegram

*The Agent General for Reparation Payments (Gilbert) to the Secretary of State*

PARIS [March 25 (?), 1930].

[Received March 25—12 :55 p. m.]

For Cotton. Berlin, March 25th. Your two messages received this morning.

First, my only direct information about the contract comes from George Murnane who told me himself that it would be expressly subject to the consent of the Department. See my message March 22, 1930.

Second, I think you are misinformed as to position of French authorities. I understand that French have limited both their consent and their participation to what is absolutely necessary at this time and

<sup>19</sup> Hjalmar Schacht, who had just resigned as President of the Reichsbank.

that Bank of France particularly would like to see transaction restricted to the 50 million dollars needed by German Government at end of June to repay existing bank debts.

Third, I am not informed about British attitude but presumably this is being handled by Higginson and Company in London.

Fourth, I should be the last to suggest closing our market to all foreign capital demands but I do think there is serious question as to whether German public authorities should be allowed unlimited access to our market for purpose of financing their budgetary deficits. I regard present transaction as something of a test case, and the problem may become urgent if the American money market remains easy and the German appetite for German public expenditures continues unrestrained.

I have not cabled to request any action of the Department but simply to give you my opinion fully and frankly. I remain of the same opinion indicated in my message of March 22, 1930, and I am opposed to the present credit unless it is clearly and definitely understood that the funds are to be applied immediately to the retirement of existing debt. This may possibly be the fact, but if so I should think it could readily be stated either as part of the contract or in an official statement by the German Government. Even then I believe there are strong presumptions against any American credits to the German Government until the Young Plan<sup>19a</sup> is actually in force, partly because of the questions of reparation priority which still persist under the Dawes Plan<sup>19b</sup> but principally because of the undesirability of asking American investors to shoulder any of the political risks which necessarily remain until the new plan has gone into full operation. To the best of my information and belief the German Government needs no new credits at this time except perhaps for a few weeks and in relatively moderate amounts, and in present state of German money market these could easily be provided by the German banks. Perhaps later, toward the end of June, 50 million dollars or thereabouts will be needed to cover bank debts then maturing, but by that time the Young Plan will presumably be in force.

Sixth, am sending this message through my Paris office in order to save time.

S. PARKER GILBERT

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<sup>19a</sup> See Great Britain, Cmd. 3343 (1929): *Report of the Committee of Experts on Reparations.*

<sup>19b</sup> See Great Britain, Cmd. 2105 (1924): *Reports of the Expert Committees Appointed by the Reparation Commission.*



862.51/2857

*Memorandum by the Office of the Under Secretary of State (Cotton)*

[WASHINGTON,] March 25, 1930.

The following was dictated over the telephone by Mr. Spencer Phenix<sup>20</sup> who said that the statement has been approved by Schacht and will be used at the time the loan is signed, if it is signed:

“Proceeds of discount of the match loan as received by the Government will be used to reduce current debts.”

862.51/2848

*Memorandum by the Under Secretary of State (Cotton)*

[WASHINGTON,] March 25, 1930.

The subject matter of this cable<sup>21</sup> was discussed fully by me with Mr. Durant of Lee, Higginson and Company, New York, several times in the last two days. It was later discussed by me with Dr. Burgess of the Reserve Bank and somewhat with Governor Young of the Reserve Board. I sent a copy of it to Young. He and Burgess discussed it and this morning he (Young) called up and told me that while his knowledge on the subject was a little sketchy, he saw no objection to it. In the course of my talk with Durant of Lee Higginson it appeared quite clear that Gilbert is wrong, in that the contract is conditional on the consent of the Department of State. Several cables have been sent by me to Gilbert via the Embassy in Berlin.

In my talks with Durant it became pretty clear to me that the French are trying for an independent advantage in the form of German participation in their own bond issue and if they got that they would withdraw objections to this loan. I am naturally amused and irritated to find Gilbert indirectly playing the game for a French *quid pro quo* and attempting to use us in the effort. I took the matter up in Cabinet this morning and stated my position—I feel it would be unwise to oppose this loan, first, because it means going in and attempting to control German action to put through the Young Plan, which I deem inadvisable; second, because it is unwise to attempt to control such a foreign loan, and third because I do not believe that in the present state of the money market this foreign loan would have any appreciable effect on domestic loan rates for local building, et cetera. The Cabinet position was indecisive.

<sup>20</sup> Of Lee, Higginson & Co.

<sup>21</sup> Telegram of March 22 from the Agent General for Reparation Payments, p. 96.

It was arranged that we should again ask the Reserve Board if they shared fully the opinion that the consent to this loan would be likely to have the result of injuriously affecting the domestic market. At the end of the Cabinet meeting, Mr. Mellon said he would talk to Governor Young about it and let me know.

J. P. C[OTTON]

[Note at end:] I have cleared this transaction to [Jerome D.] Green[e] of Lee Hig[ginson] at 6 p. m. March 25 J. P. C[otton].

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862.51/2850: Telegram

*The Acting Secretary of State to the Ambassador in Germany (Sackett)*  
[Paraphrase]

WASHINGTON, March 25, 1930—8 p. m.

30. For Gilbert. Your telegram March 25th. Lee, Higginson continue to emphasize that our approval is not necessary for the contract and up to now we have not interfered in such loans. They tell me too that the French have manifested an intention to grant conditional approval.

Lee, Higginson state further that authoritative declaration will be made regarding employment of loan to retire debts and so as not to interfere with program for taxes. In the circumstances, I do not wish to make a test case out of this or to bring any more pressure to bear upon these American bankers, although I rather think you have rightly pointed out that the transaction is an undesirable one.

Such opinion, however, as you may wish to offer me on this and like subjects is always welcome and I trust you will recognize my reliance upon and my pleasure in your opinion at all times.

COTTON

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862.51/2857

*Memorandum by the Office of the Under Secretary of State (Cotton)*

[WASHINGTON,] March 26, 1930.

MR. COTTON: Mr. Phenix of Lee, Higginson & Company telephoned from New York and said that they had just had a telegram from Berlin saying that the Match discount was signed; that Lee, Higginson was making no official announcement but was merely handing to the press a translation of the official announcement which has been given out in Berlin. The statement follows:

“A German syndicate, headed by the Reichsbank, and an international syndicate to be formed under the leadership of Lee, Higginson & Company have undertaken to discount the proceeds of the \$125,000,000 loan to be made by the N. V. Financiële Maatschappij Kreuger & Toll of Amsterdam to the Deutsches Reich. As is known,

this loan is payable to the Reich in two tranches, one of a face amount of \$50,000,000 on August 30, 1930, and a second of a face amount of \$75,000,000 on May 29, 1931. The syndicate will place the proceeds of the first tranche, in April 1930, and of the second tranche, about the middle of June 1930, at the disposal of the Reich. The members of the international syndicate will be announced later. As will be recalled, the proceeds of the match loan were to serve for the reduction of the current debt of the Reich. Through a discounting of the proceeds of this loan the Reichsfinanz Ministry will immediately effect this reduction of the current indebtedness. Aside from the foregoing, the debt reduction will be carried out as provided for in the law of December 24, 1929, which is to be effected in the course of the fiscal year 1930-31 through new taxes and economies in the amount of \$450,000,000 Reichsmarks."

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862.51/2871

*Mr. Thomas W. Lamont of J. P. Morgan & Co. to the Under Secretary of State (Cotton)*

NEW YORK, March 27, 1930.

DEAR JOE:

GERMAN ANNUITY BONDS

As I told you over the telephone: the first and probably the only issue which will be offered simultaneously in the leading investment markets of the world is scheduled to be sufficient in amount to produce an effective \$300,000,000. Depending, therefore, upon the rate of interest and the discount, if any, the par value of the issue will be \$300,000,000 as a minimum and perhaps a very few million above that as a maximum. Of the \$300,000,000, \$200,000,000 is for the benefit of the creditors and, of course, to go to Germany's general credit with them, and \$100,000,000 is to go to the German Government for their immediate requirements in connection with the German Railways and the German Post Office requirements. This latter arrangement strikes us as excellent, because engaging the further good will and co-operation of Germany.

The total issue will be divided up into various international tranches, each issue to be made in the currency of the particular country where the tranche is issued. It is expected that there will be French, British, Belgian, Italian, American, Swedish, Dutch, Swiss, German and possible Japanese tranches. Over there they have had an idea that the American market might do the largest share. Our own idea has been that the American market ought not to take an amount in excess of that which the French market takes and not to exceed an amount sufficient to yield \$100,000,000. Our mind is not closed

on the matter, because we have not heard all the facts of the situation, which will be communicated to me when I reach Paris. But this is the way we feel at present. The other markets, with the exception of the British which will take a substantial amount, will be rather limited in the amounts which they are able to take. But it is important to have Germany herself somewhere in the picture as a subscriber to the bonds.

There are several reasons why we think it is important that the American investment market should share substantially in this operation:

One is that this is the final liquidation of the War so far as the settlement of great economic questions is concerned, and obviously it is greatly to the interest of American trade to have this great Reparations question settled.

Second, it was a cardinal principle of the American delegates at the Young Conference to urge that Germany be taken effectively out of receivership; that the heavy mortgage liens upon her railways and industries be abolished, and that she be put upon her honor to carry out her obligations. We feel that in this way the good will of her people could be best engaged. The present plan carries out that principle which is, if I may call it so, an American one and was well recognized and appreciated at the time by the German delegates.

If we should fail to offer a substantial portion of the bonds here, the American investment market would, in any event, because of the present keen demand for bonds, buy a large quantity of these bonds. Obviously it would be much better to have them buy dollar bonds than to have them buy foreign currency bonds, because by such an arrangement we should gain all the disadvantages and none of the advantages of a direct issue.

If you find by April 4th or 5th that there is going to be serious difficulty at Washington, then that fact should be privately communicated to me through our firm here. My partners will keep you posted as the situation develops on the other side. I shouldn't think that active negotiation itself and the figuring out of prices and terms would be undertaken much before the middle or third week in April.

Sincerely yours,

T. W. LAMONT

862.51/2873

*Mr. W. Randolph Burgess, Assistant Federal Reserve Agent of the Federal Reserve Bank of New York, to the Acting Secretary of State*

[NEW YORK,] March 31, 1930.

DEAR MR. SECRETARY: Confirming my telephone conversation I am enclosing a copy of a cable we have just received from Governor Harrison dated March 29, together with a copy of our cable to him dated March 28.

In view of your suggestion that the date of Governor Harrison's return, which we expect to be about April 6, may be too late for his further views on this question to be of value, we are to-day cabling him suggesting that he send any further amplification he wishes by cable.

Very truly yours,

W. RANDOLPH BURGESS

[Enclosure 1—Telegram]

*The Federal Reserve Bank of New York to the Governor of the Bank  
(Harrison)*

MARCH 28, 1930.

No. 15. J. P. Cotton would like your opinion concerning amount of American participation which would be desirable in any early reparation bond issue either as to absolute amount or proportion of total. He is desirous of getting your views before your return. For your guidance our opinion follows:

"There are evidently two questions involved first, the amount of such bonds our market will take, and second, the question of public and political reaction. As to the first we believe our market could now absorb not more than \$100,000,000 if the issue is made attractive. The second point has been accentuated by recent speeches of Louis T. McFadden<sup>22</sup> and there is undoubtedly considerable suspicion and opposition by reason of which it would appear desirable that our participation should be not over one-third of the total and should be well within the absorptive power of our market. On the other hand it would seem that for us to take too small a participation would cause unfavorable European reaction."

CRANE

[Enclosure 2—Telegram]

*The Governor of the Federal Reserve Bank of New York (Harrison)  
to the Bank*

MARCH 29, 1930.

No. 14. For Crane. Your No. 15. My views definitely expressed to Emile Moreau,<sup>23</sup> Gates W. McGarrah,<sup>24</sup> S. Parker Gilbert, N. Dean Jay<sup>25</sup> and others in light of all aspects of situation are briefly that American participation should not exceed  $\frac{1}{3}$  of total, should not exceed \$100,000,000 in any event and if possible should be no greater than French participation. In general Gates W. McGarrah and N. Dean Jay agree with this formula as does even Emile Moreau in principle though latter feels it not possible for French to take more than \$80,000,000. Anxious to amplify these views on my return.

HARRISON

<sup>22</sup> Representative Louis T. McFadden, of Pennsylvania, Chairman of the House Banking and Currency Committee.

<sup>23</sup> French banker and statesman, later Governor of the Bank of France.

<sup>24</sup> President of the Bank for International Settlements.

<sup>25</sup> Partner of Morgan & C<sup>ie</sup>, Paris.

862.51/2872

*Memorandum by the Under Secretary of State (Cotton)*

[WASHINGTON,] April 4, 1930.

Mr. Ogden Mills of Treasury, Governor Young of the Federal Reserve Board, Mr. Roland Boyden<sup>26</sup> and myself discussed Mr. Thomas Lamont's letter to me of March 27th and Mr. W. Randolph Burgess' letter to me of March 31st, with their enclosures.

It seemed to be the unanimous opinion of those present, subject to conference with Mr. Robinson,<sup>27</sup> that they were willing to recommend that some participation in the proposed German loan be permitted but that consent to such participation should not be conditioned on any political agreement of any kind or any agreement for change in the Young Plan and that roughly, participation of not more than one-third seemed desirable.

The only point at which there was any doubt was as to the function of the Federal Reserve Board in acting on the final form of application when it was made by the Reserve Bank. It was suggested that the function of the Reserve Board in that particular was to be confined to the purely banking aspects of the situation and that suggestion seemed to find favor. The parties interested will be informed of further and final action.

J. P. C[OTTON]

862.51/2879

*J. P. Morgan & Co. to the Under Secretary of State (Cotton)*

NEW YORK, May 21, 1930.

DEAR MR. SECRETARY: Confirming Mr. Lamont's statement to you on the telephone, the German government proposes to issue, pursuant to the Young Plan and the Hague Agreements,<sup>27a</sup> an amount of 35 year 5½% bonds sufficient to produce approximately \$300,000,000 in effective proceeds; two-thirds of the loan represents the capitalization of annuities payable to the creditor powers and one-third money borrowed by the German government for the German Railways and Posts. The loan is to be international and it is proposed to offer it in the United States, France, Great Britain, Switzerland, Holland, Belgium, Italy, Sweden, and Germany in separate tranches in the currencies of those countries respectively. The amounts of the

<sup>26</sup> Formerly unofficial representative of the United States with the Reparation Commission.

<sup>27</sup> Presumably Henry M. Robinson of Los Angeles, California, unofficial adviser to President Hoover.

<sup>27a</sup> Great Britain, Cmd. 3484, Miscellaneous No. 4 (1930): *Agreements Concluded at the Hague Conference, January 1930.*

several tranches have not yet been definitely determined, but it is not expected that the amount offered here will exceed \$100,000,000 par amount of bonds or \$85,000,000 effective proceeds; and it is expected that a substantially equivalent amount will be issued in France.

I am [etc.]

[Signature illegible]

862.51/2879

*The Secretary of State to J. P. Morgan & Co.*

WASHINGTON, May 22, 1930.

SIRS: The receipt is acknowledged of your letter of May 21, 1930, regarding the contemplated issue of bonds of the German Government.

The Department does not desire to interpose objection to the proposed financing.

Very truly yours,

H. L. STIMSON

**AGREEMENT PROVIDING FOR THE DISCHARGE OF GERMANY'S WAR INDEBTEDNESS TO THE UNITED STATES, SIGNED JUNE 23, 1930<sup>28</sup>**

462.00R294/785

*The Secretary of State to the Secretary of the Treasury (Mellon)*

WASHINGTON, June 13, 1930.

SIR: I have the honor to refer to the recent oral request of Mr. Redpath of your Department for an expression of this Department's view as to whether the proposed agreement between the United States and Germany for the settlement of the indebtedness of the German Reich to the United States on account of the awards of the Mixed Claims Commission, United States and Germany, and the costs of the United States army of occupation, and the notes to be exchanged between the two Governments at the time of the execution of the agreement, if signed by the German Ambassador under the power of attorney given to him by his Government, will constitute valid and binding international obligations of the German Government. The agreement provides in paragraphs numbered 9 and 10 as follows:

9. *Compliance With Legal Requirements.*—Germany and the United States, each for itself, represents and agrees that the execution and delivery of this Agreement have in all respects been duly authorized, and that all acts, conditions, and legal formalities which should have been completed prior to the making of this Agreement have been completed as required by the laws of Germany and of the United States respectively and in conformity therewith.

<sup>28</sup> For previous correspondence concerning this agreement, see *Foreign Relations*, 1929, vol. II, pp. 1083 ff.

10. *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.

In witness whereof, Germany has caused this Agreement to be executed on its behalf by its Ambassador Extraordinary and Plenipotentiary at Washington thereunto duly authorized, and the United States has likewise caused this Agreement to be executed on its behalf by the Secretary of the Treasury, with the approval of the President, pursuant to the Act of Congress approved . . . . . all on the day and year first above written.

It appears that the proposed agreement and the notes to be exchanged have been approved by the Congress of the United States by an Act (Public 307) approved by the President on June 5, 1930,<sup>29</sup> and by the German Parliament by law of March 13, 1930. (*Reichsgesetzblatt*, Part 2, No. 7 of March 19, 1930.)

In addition to the German law just referred to, this Department is in receipt of a power of attorney signed under date of March 15, 1930, by the President of the German Reich and the Minister for Foreign Affairs, authorizing the German Ambassador at Washington, Herr Friedrich W. von Prittwitz und Gaffron, to sign the agreement and the note to be delivered by Germany. The full power reads textually in translation as follows:

#### FULL POWER

The German Ambassador in Washington, Herr Dr. Friedrich W. von Prittwitz und Gaffron, is hereby empowered to sign in the name of the German Reich the German-American agreement initialed in Berlin December 28, 1929, together with the note pertaining thereto.

The Department considers that the agreement and note to be delivered by the German Government, if signed by the German Ambassador as authorized in the agreement and confirmed by the power of attorney just quoted, will constitute a valid and internationally binding obligation of the German Reich.<sup>30</sup>

The original of the power of attorney is hereto attached. A photostat copy has been retained in the files of this Department.

Very truly yours,

HENRY L. STIMSON

462.00R294/788b

*The Secretary of State to the Ambassador in Germany (Sackett)*

No. 124

WASHINGTON, July 1, 1930.

The Secretary of State transmits herewith, for the information of the Embassy, a press statement issued on June 23, 1930, as well

<sup>29</sup> 46 Stat. 500.

<sup>30</sup> The Secretary of the Treasury was authorized to sign the agreement on behalf of the United States.



as the Agreement between the Governments of the German Reich and the United States of America, relative to the complete and final discharge of the obligations of Germany to the United States in respect of the awards of the Mixed Claims Commission, United States and Germany, and the costs of the United States Army of Occupation.<sup>31</sup>

[Enclosure]

*Statement Issued to the Press by the Secretary of the Treasury (Mellon)  
on June 23, 1930*

The Secretary of the Treasury announced the signing to-day of the Agreement authorized by act of Congress approved June 5, 1930, providing for the complete and final discharge of the obligations of Germany to the United States in respect of the awards of the Mixed Claims Commission, United States and Germany, and the costs of the United States army of occupation.

In brief, the agreement provides that Germany agrees to pay 40,800,000 reichmarks (\$9,700,000) for the period September 1, 1929 to March 31, 1930, and the sum of 40,800,000 reichmarks per annum from April 1, 1930 to March 31, 1981, in satisfaction of mixed claims, and for the period from September 1, 1929 to March 31, 1966, an average annuity of 25,300,000 reichmarks (\$6,000,000) in full liquidation of our army costs. As evidence of this indebtedness Germany is to issue to the United States, at par, bonds maturing semiannually. Under the agreement the United States will receive on account of army costs over a period of 37 years approximately \$250,000,000 and on account of mixed claims awards over a period of 52 years, approximately \$505,000,000. The payments to be received on account of army costs include interest at the rate of about 3½ per cent per annum on all payments deferred over a period longer than would have been necessary to liquidate the army costs under the Paris agreement.<sup>32</sup> The mixed claims awards bear interest at the rates specified in such awards up to January 1, 1928, and the settlement of war claims act specifies a rate of 5 per cent from that date until paid.

The payments to be received on this account include, therefore, interest which shall be paid on the awards. While the annuities are stated in terms of reichmarks, payments are to be made in dollars, either at the Treasury or at the Federal Reserve Bank of New York. The exchange value of the mark in relation to the dollar shall be calculated at the average of the middle rates prevailing on the Berlin bourse during the half monthly period preceding the date of payment. The German Government undertakes that the reichmark shall have

<sup>31</sup> For text of the agreement, see *Annual Report of the Secretary of the Treasury . . . 1930*, p. 341; or League of Nations Treaty Series, vol. cvI, p. 121.

<sup>32</sup> Signed January 14, 1925; *Foreign Relations*, 1925, vol. II, p. 145.

and shall retain its convertibility into gold or *devisen* as contemplated in the present Reichsbank law and that the reichmark shall retain the mint parity defined in the German coinage law of August 30, 1924.

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#### ADMISSION TO THE UNITED STATES OF GERMAN STUDENT LABORERS

811.111 Colleges 62/13

##### *The German Embassy to the Department of State*

Since about five years a number of German students of technical and economic sciences have been coming over to the United States in order to work in industrial and agricultural plants in this country for the purpose of acquiring practical experience in American social conditions and working methods. This activity has been organized and sponsored by the "Wirtschaftsbeihilfe der Deutschen Studentenschaft", (German Students' Cooperative Association) in Dresden, an independent students' body working with the support of leading German industrialists and with the endorsement of the educational authorities in Germany. The students are selected according to their merits and suitability and, at the recommendation of the Association, represented by the executive office in New York, granted a so-called Student Laborer Visé for one year by the United States Authorities, which is generally extended for a further 12 months.

In February 1926 this institution was, after having proven its practicability and value, placed on a stable basis by a written agreement between the Association and the Department of Labor in Washington, to the terms of which reference may be made. In 1928 the organization was made reciprocal, so that American students could avail themselves of the same possibilities and opportunities in Germany as vice versa, and the institutions have since then worked in a most satisfactory manner although, as yet, the number of American students availing themselves thereof has been considerably smaller than on the German side.

A few days ago the Department of Labor informed the executive Secretary of the German Association, Mr. Herbert Boehmer in New York, that the agreement must be discontinued on account of the recent development of the unemployment situation in the United States, as a consequence of which the German students at present in this country who have been expecting the extension of their visé in the customary manner since January are to be refused such and a group of 32 students about to sail for the United States will not receive the necessary permit to enter.

The German Embassy is fully appreciative of the grounds which have prompted the Labor Department to take the decision mentioned

and all German parties, official and private, which have heretofore cooperated in organizing and carrying out the student exchange, as described, are sincerely conscious of the hospitable and helpful attitude of the United States authorities which made this institution possible. The new ruling has, however, brought about a situation of greatest hardship to the students involved which, it is felt, might be alleviated without prejudice to the principle of the ruling, and it is also submitted that methods might be found by which the termination of an institution of such intrinsic value as this present exchange could be presented without encroaching upon the statutory provisions involved. The students at present waiting on their extension have made all arrangements for the next year on the bona fide assumption that such extension would be granted. They will now be forced to return to Germany immediately although they have no position there available and no funds held in readiness for their passage home. They will thus come into serious financial difficulties and find it very hard to find employment on their return; many of them have even contracted debts for equipment and passage which they had hoped to pay off through the work of the coming year but which now will be added to further obligations necessitated through the present decision. It is a serious, in many cases almost insoluble problem, which thus confronts these students—mostly of impecunious parentage—and there appears no other solution therefor than the extension of the visés as provided in the original agreement. A similar situation exists with reference to the group of students at present awaiting their permit. They have made all preparations for their journey, incurred considerable expenses for equipment etc. and given up their present situations, so that the cancellation of the plan will mean for them indebtedness and unemployment.

In view of this situation the German Embassy would be sincerely grateful if action could be taken to extend the permits of the students here in the customary manner and to permit the small group awaiting their visés to carry out their preparations. Such action would be deeply appreciated by all circles in Germany, whilst the negative alternative would be felt as most distressful.

Beyond such action to relieve the immediate hardship of the present situation, it would be much appreciated if the question of finding a form for the continuation of the Student Exchange on the heretofore basis could be taken up with a view to maintaining an institution which is undoubtedly of equal value to both countries in respect of international, industrial and economic education, and the abolition of which, on account of a transitional situation, would be deeply regretted by all.

WASHINGTON, March 21, 1930.

811.111Colleges 62/14

*The Acting Secretary of State to the Secretary of Labor (Davis)*

WASHINGTON, March 24, 1930.

SIR: With reference to Mr. Husband's letter of March 19, 1930,<sup>33</sup> relating to the admission of student laborers under the auspices of the German Students' Cooperative Association, and to conversations between Mr. Husband and Mr. Simmons of this Department, there is transmitted herewith a copy of a note dated March 21, 1930, which has been received from the German Embassy on the above subject.

It would be appreciated if the Department of Labor would advise this Department at an early date of its decision as to whether arrangements such as those previously made for the admission of one hundred such German students annually are to be discontinued, or whether, upon consideration, the Department of Labor will see fit to limit the number of German students to a smaller annual number or handle each case individually without a definite arrangement as to the number of students involved.

It is also requested that this Department be advised as to the Department of Labor's decision as to the extensions of permission to reside in this country which have been requested for certain of such students as are now here, as well as to the Embassy's request for permission to import thirty-two students who, it is stated, have now made arrangements to proceed to the United States.

Very truly yours,

For the Acting Secretary of State:

WILBUR J. CARR

811.111Colleges 62/17

*The Second Assistant Secretary of Labor (Husband) to the Secretary of State*

WASHINGTON, March 31, 1930.

MY DEAR MR. SECRETARY: I beg to acknowledge receipt of Mr. Carr's letter of the 24th instant relative to the admission of student laborers under the auspices of the German Students' Cooperative Association and have noted the request of the German Embassy that permission be granted to import thirty-two such students who have now made arrangements to proceed to the United States. Subsequent to the receipt of Mr. Carr's communication the Visa Office of your Department stated verbally that the Consulate General in Berlin had already informed fifty prospective students that they might make application for the necessary visas in accord-

<sup>33</sup> Not printed.

ance with the arrangement which prevailed prior to the 19th instant when you were advised that on account of existing employment conditions in the United States it had been decided to terminate the agreement under which such students were temporarily admitted.

In view of the German Embassy's request, and the statement of the Consul General in Berlin, it has been directed that the order terminating the agreement under which labor students have been admitted shall be modified to provide that not to exceed thirty-five applicants may be admitted in accordance with the former agreement during the twelve months beginning April 1, 1930.<sup>34</sup>

With reference to your inquiry as to this Department's attitude in the matter of extending the temporary stay of such labor students already in the United States, I beg to advise that each case in which application for extension is made will be considered individually and accorded the most sympathetic consideration that is feasible under the facts as developed in each individual case. The permission to bring in thirty-five students from Germany during the coming twelve months is deemed to be liberal in view of the limited numbers that have been or may be admitted from other countries.

I am [etc.]

W. W. HUSBAND

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811.111 Colleges 62/23

*The German Embassy to the Department of State*

MEMORANDUM

It is highly appreciated that the difficulties of the German Students' Cooperative Association concerning the German working students in the United States as set forth in the Memorandum left on March 21st at the Department of State have been partially removed by the admittance of 32 German Students in April 1930.

The main problem concerning the form of the further continuation of the German-American students exchange remains unsolved however. The Department of Labor has recently declared to Mr. Brede-mann, representative of the aforesaid organization that no assurance in this respect can be given in view of the uncertain conditions in the American labor market. As the preparations for action in 1931 (i. e. selection of students, financing etc.), which require considerable time, cannot be undertaken without such an assurance it is feared that the whole institution may end.

As in the opinion of the German Embassy the aforesaid students exchange has proved a particularly valuable means for establishing

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<sup>34</sup> Marginal annotation to this paragraph: "Dr. Kiep, of German Embassy, advised of this. J. F. S[immons]".

international understanding and inspiration in the moral as well as in the practical field, such an end would seem very deplorable.

The Embassy would therefore highly appreciate it if a possibility were to be found to reconsider the present decision of the Department of Labor and declares its willingness to assume any guaranty within its authority to secure the lawful residence and departure of whatever number of German students might be admitted for the year 1931.

WASHINGTON, June 28, 1930.

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811.111 Colleges 62/26

*The Department of State to the German Embassy*

The Secretary of State presents his compliments to the Chargé d'Affaires ad interim of Germany and, with reference to the Embassy's memorandum dated June 28, 1930, which was left at the Department by the Ambassador on July 2, 1930, concerning the admission during the year 1931 of a number of students coming to the United States under the auspices of the German Students' Cooperative Association, advises that a communication on the matter has now been received from the appropriate branch of the Government.

The communication in question calls attention to the fact that under the present arrangement thirty-five students may be admitted under the auspices of the German Students' Cooperative Association during the year which commenced April 1, 1930, and adds that the competent authorities are not in a position at the present time to determine the number of students which may be admitted during the year beginning April 1, 1931, in view of the present unemployment situation in the United States.

WASHINGTON, September 3, 1930.

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811.111 Colleges 62/27

*The German Embassy to the Department of State*

[Translation]

The German Embassy has the honor to refer to the esteemed note of September 3 of this year—No. 811.111 Colleges 62/25 [26]—and to call attention to the enclosed application addressed to the Department of Labor by the German Students' Co-operative Association on December 3 of this year. The Association expresses therein the request that it be granted the admission to the United States of 50 German work students (*sic*) for the year 1931, according to the agreement concluded on February 4, 1926. Details of the circumstances upon which this request is based are set forth in the enclosure.

The Embassy deems it worth while upon this occasion, and upon its own behalf, again to call attention to the high cultural significance which it attaches to the efficacy which has heretofore characterized the exchange of work students as a means of promoting understanding and a mutual inspiration to intellectual relations between the American and the German peoples. It therefore has the honor to give the present request its warmest support.

WASHINGTON, December 4, 1930.

[Enclosure]

*Mr. Herbert Boehmer of the German Students' Cooperative Association  
to the Second Assistant Secretary of Labor (Husband)*

DECEMBER 3, 1930.

MY DEAR MR. HUSBAND: In reference to our today's conversation we have much pleasure in handing you herewith application for the admission of 50 German work students during the coming year, 1931.

In support of this application we beg to submit for your consideration the following:

You indicated during the conversation which we had with you during the summer in Washington that the 35 students admitted in April were the maximum which you could allow to enter during the present year. The considerations which guided you in this decision have been appreciated by our organization in spite of the fact that this sudden reduction in the number of students admitted meant a very serious blow to the whole institution of the student exchange and to our work in maintaining this institution.

At present there are 124 students in this country, a group of 12 of whom is due to leave during the month of January, 1931 and another group of 48 in April, so that a total number of only 64 students will remain after that date in the United States, of which again about the half will be due to leave in the fall of 1931. If, therefore, the 50 new students are admitted for that year, for which the application is now being made, the total would remain about 100 or exactly the half of the heretofore figure.

The figure for which we now apply is moreover the absolute minimum for which it is possible to maintain the work of our organization. A reduction below this figure would place us before the question of completely giving up our activities, as has already been suggested by some of those who are supporting it financially in Germany and we submit that it would, in view of the experiences of the past and the acknowledged inestimable value of this exchange, be a very great loss if the whole institution had to be abandoned for all time just on

account of a pro tempore condition of economic depression which in the opinion of all experts is already on the wane.

With reference to the latter we wish, however, to add that it is not our intention to have the students all come over at once, but in such groups as locations can be found for.

We fully realize and appreciate the objections of the Department of Labor but beg to submit that the 50 students for whom this application is made could not conceivably upset or even impair the unemployment situation in this country. Our students are, moreover, taken care of by our organization, are not immigrants come to stay and cannot in any respect become a public charge whilst here. For this reason we have cause to believe that neither on the part of the American Federation of Labor nor of any other institution will there be any objections raised against the entry of 50 work students in 1931.

In respect of the whole question we beg to make reference to repeated expressions since the conclusion of our agreement with the Department of Labor on February 4, 1926, to the expression made in the matter by the German Embassy and to the recent conversations with Dr. Edmund Stinnes, one of our most enthusiastic sponsors in Germany, had with you in October. The institution of work students exchange which is based on the principles of reciprocity, offering the same facilities to all American students in Germany who wish to avail themselves thereof, has proved to be of greatest educational, social and economic value to both countries and should be upheld by all means.

We finally wish to voice our gratitude for the kindness and assistance rendered during the past years and express the sincere hope that the good will of the Labor Department may be extended to us for the future.

Yours respectfully,

HERBERT BOEHMER

811.111 Colleges 62/31

*The Department of State to the German Embassy*

The Secretary of State presents his compliments to His Excellency, the German Ambassador, and with further reference to the Embassy's note dated December 4, 1930, concerning the admission to the United States of a number of German students being sent under the auspices of the German Students' Cooperative Association has the honor to advise him that a communication in the matter has now been received from the appropriate branch of the Government.

The communication in question states that correspondence regarding the entry to the United States of the above-mentioned students has already been had with Mr. Herbert Boehmer of the German



Students' Cooperative Association in New York City who has been advised that no action can be taken with regard to the admission of additional students until just previous to April 1, 1931, when the existing arrangement expires.

WASHINGTON, January 5, 1931.

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**RECIPROCAL TREATMENT TO BE ACCORDED BY THE UNITED STATES  
AND GERMANY TO CONSULAR STAFFS IN THE PAYMENT OF IMPORT  
DUTIES AND OTHER TAXES<sup>35</sup>**

662.11241/49

*The German Ambassador (Von Prittwitz) to the Secretary of State*

[Translation]

St. D. 2

Referring to the valued note of His Excellency the Secretary of State of the United States of November 17, 1928, 662.11241/25 [34],<sup>36</sup> and supplementarily to his acknowledgment of receipt of November 24, 1928,<sup>37</sup> relative to the interpretation of Article XXVII of the Treaty of Friendship, Commerce and Consular Rights concluded between the German Reich and the United States on December 8, 1923,<sup>38</sup> the German Ambassador on behalf of his Government has the honor to communicate the following:

In the said note of the Secretary of State of November 17, 1928, the exemption of German "Consular Officers" from the payment of internal taxes in addition to excise duties on the basis of the most favored nation clause of Article XVII of the German-American Commercial Treaty of December 8, 1923, in connection with Article XV of the Spanish-American Treaty of July 3, 1902,<sup>39</sup> is suggested, in proportion to a corresponding exemption of payment of taxes to be extended to the American Consular Officers in Germany. In this connection, the definition of the class of persons included in the term "Consular Officers" who would be accorded the privilege of this exemption would probably be determined by the description given in Clause 1 of the German Ambassador's note of January 6, 1928,<sup>40</sup> of even tenor with the note of the Secretary of State above referred to. Under such an adjustment, however, the preponderating advantages of the exemption would be on the American side, for the reason that the num-

<sup>35</sup> Continued from *Foreign Relations*, 1929, vol. II, pp. 1106-1111.

<sup>36</sup> *Ibid.*, 1928, vol. II, p. 933.

<sup>37</sup> *Ibid.*, p. 935.

<sup>38</sup> *Ibid.*, 1923, vol. II, p. 29.

<sup>39</sup> *Ibid.*, 1903, p. 721.

<sup>40</sup> *Ibid.*, 1928, vol. II, p. 931.

ber of American officers employed in Germany in this connection would be disproportionately greater than that of the officers assigned to the German consular offices in the United States, owing to the fact that according to the above-mentioned interpretation of the term "Consular Officers" consular chancellors, secretaries, disbursing officers, recorders and commercial experts would not be included in the category of "Consular Officers", but rather in that of "and their suites". Consequently, according to the proposal of the note of the Secretary of State of November 17, 1928, about 50 persons in 11 American offices in Germany and only about 18 persons in 12 German professional consular offices in the United States would receive exemption from taxation. In view of the fact that the before-mentioned groups of officers in the German foreign service, as well as the commercial experts attached to the professional consular service in the United States actually perform official duties of character or value equal to those of the other Consular Officers, it is the view of the German Government that their classification in the group within the meaning of the term "Consular Officers" for the purpose of according them the privileges and exemptions which they should enjoy, is fully warranted and advisable. Moreover, such a classification is indicated by the text of Article XIX of the German-American Commercial Treaty of December 8, 1923, the provisions of which govern the taxable status of the consular personnel of the respective Governments, in that tax exemption is accorded to the "Consular Officers including the employees of a consulate", from which it appears that the members of the middle career of the German consular service, since these are not employees for the purpose of this Article, must of necessity come under the category of "Consular Officers".

Therefore the German Ambassador would be grateful to the Secretary of State of the United States for the favor of an expression of opinion from him as to whether the Government of the United States, as a definitive conclusion of the exchange of notes in this connection, concerning the interpretation of Article XXVII of the German-American Commercial Treaty of December 8, 1923, would declare itself in agreement with the classification of the above-specified employees of the German consular service in those groups of officers who should be designated as "Consular Officers". Even if no material alteration is made of the regulation under Article XXVII, still, such an alteration would enable the German Government, on the lines of the limitation set forth in the note of the German Ambassador of January 6, 1928, Clause 3, to agree to an exemption on both sides of "Consular Officers" from taxes levied in addition to excise duties.

WASHINGTON, January 8, 1930.

662.11241/51

*The Ambassador in Germany (Sackett) to the Secretary of State*

[Extract]

No. 121

BERLIN, March 27, 1930.

[Received April 11.]

SIR: Adverting to the Embassy's despatch No. 5142 of December 9, 1929,<sup>41</sup> relative to the exemption of American consular officers stationed in Germany from the payment of customs duties and internal taxes, and to the Department's telegraphic reply thereto,<sup>42</sup> I have the honor to report that on January 2, 1930, the Embassy addressed a *Note Verbale* to the Foreign Office stating that German "consular officers and clerks" in the United States enjoyed the privileges of free importation.

In connection with the foregoing, there is transmitted herewith a self-explanatory copy, in original and translation, of the reply from the Ministry for Foreign Affairs.

I have [etc.]

FREDERIC M. SACKETT

[Enclosure—Translation]

*The German Foreign Office to the American Embassy in Germany*

## NOTE VERBALE

I. In reply to the Circular Note from the Ministry for Foreign Affairs dated November 26, 1929—I D 5114—and its enclosure (copy of the Order of the Reich Minister of Finance dated October 23, 1929,<sup>43</sup> governing duty and tax exemption for consular goods) relative to the general offer of reciprocal exemption from duty and additional internal imposts for foreign consular representatives and the members of their families in Germany, the former Ambassador of the United States of America stated in a note of January 2, 1930—N 3377—that the German "consular officers and clerks" in the United States enjoyed the privilege of "free importation." The note did not make mention of exemption from the payment of imposts for members of the families of persons in the consular service.

As is known, negotiations have been going on for some time between the German Government and the Government of the United States of America on the interpretation of Art. XXVII of the German-American Treaty of Friendship, Commerce and Consular Rights dated December 8, 1923, particularly on the exemption of members of the consular

<sup>41</sup> *Foreign Relations*, 1929, vol. II, p. 1111.

<sup>42</sup> *Ibid.*

<sup>43</sup> Not printed.

service from duty, without a complete agreement having been reached regarding the persons to be included (II) and the extension of exemption to include additional internal imposts (III).

II. The German Government is inclined to interpret the expression "consular officers and clerks" used in the Note of January 2, 1930, as meaning consuls general, consuls, vice consuls, interpreters, interpreters' assistants and consular agents (in other words, those employees who have heretofore been included in the term "consular officers" in the American interpretation) as well as consular clerks, consular secretaries, consular treasurers, the consular personnel and other government personnel permanently assigned to consular officers (as, for instance, commercial attachés, trade commissioners, immigration officers, physicians, experts), are to be included. Should this also be the opinion of the Government of the United States of America (a communication on the subject is requested from the American Embassy) an agreement in keeping with the wishes expressed on both sides would then have been reached on the subject of the persons who shall be exempted from duty, with the exception of the members of their families who will be discussed in detail below. Art. XXVII would in that case not require interpretation by means of an exchange of notes as planned by Washington, but the exchange of notes which has already taken place would furnish the necessary clarity and the basis for uniform mutual tariffs.

That also such members of the consular service shall be granted exemption from duty who, according to the foregoing interpretation, do not fall within the term "consular officers and clerks," namely, office boys, messengers, doormen, etc., furthermore the house servants of "consular officers" (of consuls general, consuls, vice consuls, interpreters, interpreters' assistants and consular agents) for the reason that these persons may be considered as coming within the term "and suites" in Art. XXVII, has already been agreed upon with Washington.

The matter still to be agreed upon would therefore be to determine those members of the consular service whose families are to be granted the privilege of exemption from duty. As may be seen from the Order of the Reich Minister of Finance of October 23, 1929, the German Government is willing, provided reciprocity is vouchsafed, to grant exemption from duty to members of the families of all persons who come under the term "consular officers and clerks" in the foregoing interpretation, and the German Government would be grateful for an early statement from the American Government regarding its agreement.

III. The Foreign Office further begs to be given a more precise explanation of the term "free importation" used in the Note of January 2, 1930. As exemption from the payment of internal imposts was

likewise offered in the Circular Note of November 26, 1929, or rather in its enclosure, and this exemption from imposts was also dealt with at length in the discussion on the interpretation of Art. XXVII, the German Government would be gratified if "free importation" were meant to express complete exemption from all imposts connected with importation, therefore also exemption from addition[al] internal imposts. Internal imposts are imposts on production or manufacture, consumption and sale—an understanding with Washington has already been reached on the subject. However, exemption is not to be extended to articles of home production or manufacture, if they are re-imported into the country of their origin or taken from warehouses which enjoy exemption from such imposts for the purpose of exportation or warehousing, and the right of importation duty free is to be applicable only to such consignments as are addressed direct to the privileged persons. Should the Government of the United States of America interpret the term "free importation" in the foregoing manner, the questions of how far it might be possible, according to the interpretation of Art. XXVII or of the most-favored-nation clause contained in Art. XVII relative to treaties with third states, to grant exemption from internal imposts to certain members of the consular service, would be answered by the fact that this privilege would be granted to "consular officers and clerks" by way of free agreement on the basis of reciprocity.

The Foreign Office would appreciate it if the attitude of the American Government in the matter could be communicated to it as soon as possible.<sup>44</sup>

BERLIN, March 21, 1930.

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**EXTRADITION TREATY BETWEEN THE UNITED STATES AND  
GERMANY, SIGNED JULY 12, 1930**

211.62/57

*The Secretary of State to the Chargé in Germany (Poole)*

No. 2604

WASHINGTON, December 1, 1928.

SIR: The Department has received your despatches No. 3962 and 4032 respectively of September 28, 1928 and October 23, 1928,<sup>45</sup> in further relation to the negotiations for the conclusion of an extradition treaty between the United States and Germany.<sup>46</sup>

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<sup>44</sup> Correspondence between the Department of State and the Treasury Department led to no agreement as to the arrangement to be proposed to the German Government, and negotiations between the two Governments on this matter were discontinued.

<sup>45</sup> Neither printed.

<sup>46</sup> A draft extradition treaty had been sent to the Ambassador in Germany with instruction No. 3019, April 22, 1922 (not printed), for transmittal to the German Foreign Office (211.62/10a).

It appears from the first mentioned despatch that the senior official charged with American affairs at the German Foreign Office had informally suggested that this Government send a representative to Berlin to discuss the provisions of the proposed treaty and there was enclosed with the last mentioned despatch a copy and translation of a note from the Foreign Office making the formal suggestion that oral discussions regarding such provisions be entered into in Berlin and stating that a reply would be appreciated designating the time desired by this Government for such discussions.

However, it is stated in the despatch that in delivering this note to the Embassy the representative of the Foreign Office made the oral reservation that owing to pending legislation it was not possible to foresee when the German Government would be in a position to begin such discussions. Therefore, it appears that the effect of the statements contained in the note on the point indicated are rendered nugatory, at least for the present, by the oral communication made at the time of the delivery of the note.

The Department is disappointed that further delay, which apparently threatens to be long drawn out, confronts the negotiations for the conclusion of this treaty which have now been pending for six years and desires you to convey that sense of disappointment to the German Foreign Office. You may add that with a view to expediting proceedings the Department looks with favor upon the suggestion of oral discussions in Berlin and will await the promised information from the Foreign Office as to the time when it will be appropriate to make a definite answer on this point, while hoping that the additional obstacle now stated to stand in the way of the conclusion of a treaty will not result in a further long delay.

I am [etc.]

For the Secretary of State:  
J. REUBEN CLARK, JR.

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211.62/63:Telegram

*The Secretary of State to the Ambassador in Germany (Schurman)*

WASHINGTON, May 14, 1929—6 p. m.

33. Your 62, March 30, 11 a. m.<sup>47</sup> Assistant Solicitor Baker who has been designated to conduct discussions with German Foreign Office on proposed extradition treaty is also one of delegates representing the United States at Aviation Conference in Paris date of which has now been changed from June 4 to June 10.<sup>48</sup> Therefore,

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<sup>47</sup> Not printed.

<sup>48</sup> See *Foreign Relations*, 1929, vol. 1, pp. 489 ff.

it will not be practicable for him to reach Berlin by middle of June and it is hoped that German Government will agree to discussions last of June.

Telegraph as promptly as possible.

STIMSON

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211.62/67: Telegram

*The Ambassador in Germany (Schurman) to the Secretary of State*

BERLIN, May 16, 1929—3 p. m.

[Received May 16—12:30 p. m.]

89. Department's 33, May 14, 6 p. m. German Government agrees to last of June.

SCHURMAN

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211.62/72

*The Acting Secretary of State to the Ambassador in Germany (Schurman)*

No. 3377

WASHINGTON, January 20, 1930.

SIR: Referring to your Embassy's despatch No. 4771 of August 6, 1929,<sup>49</sup> in relation to the tentative agreement on the subject of an extradition treaty reached in conferences held in Berlin by the representatives of the German Foreign Office and Department of Justice with Assistant Solicitor Joseph R. Baker, and with particular reference to the statement in the despatch that such agreement was reached subject to later correspondence concerning one or two points of uncertainty, between the principal German expert, Doctor Mettgenberg, and Mr. Baker, the Department informs you that such correspondence has resulted in an agreement upon all points involved in a form which is satisfactory to it.

Two copies of the draft treaty agreed upon are enclosed<sup>50</sup> and the Department desires you to submit one of these copies to the Foreign Office, referring to the agreement reached and proposing the prompt conclusion of the treaty.

If it shall be indicated in reply that the draft is satisfactory to the German Government, you will please so advise the Department by telegraph in order that the necessary full powers may be promptly sent.

I am [etc.]

J. P. COTTON

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<sup>49</sup> Not printed.

<sup>50</sup> Not printed; see signed treaty, p. 123.

211.62/82 : Telegram

*The Ambassador in Germany (Sackett) to the Secretary of State*

BERLIN, July 8, 1930—4 p. m.

[Received July 8—3:10 p. m.]

79. Agreement has been reached with Foreign Office upon text of extradition treaty as outlined in the Department's despatch 106, June 16, 1930.<sup>51</sup> Foreign Office is exceedingly anxious to sign German-American extradition treaty this week as it would be the first one to be signed by Germany since the war. Similar extradition treaties with other Powers will be signed by Germany next week. Foreign Office therefore suggests having written powers witnessed by German Ambassador at Washington and cable confirmation from him as satisfactory.

SACKETT

211.62/82 : Telegram

*The Secretary of State to the Ambassador in Germany (Sackett)*

WASHINGTON, July 10, 1930—7 p. m.

68. Your No. 79, July 8, 4 p. m. President's full power signed July 9 authorizing you to sign extradition treaty shown German Embassy, Washington, which will advise German Government by cable of its satisfactory character. Proceed to signature. Full power will be mailed first opportunity for delivery by you to Foreign Office.

STIMSON

Treaty Series No. 836

*Extradition Treaty Between the United States of America and Germany, Signed at Berlin, July 12, 1930*<sup>52</sup>

The United States of America and Germany desiring to promote the cause of justice, have resolved to conclude a treaty for the extradition of fugitives from justice, between the two countries, and have appointed for that purpose the following Plenipotentiaries:

The President of the United States of America:

The Ambassador of the United States of America in Berlin

Mr. Frederic Moseley Sackett,

<sup>51</sup> Not printed.<sup>52</sup> In English and German; German text not printed. Ratification advised by the Senate, January 22 (legislative day of January 21), 1931; ratified by the President, January 26, 1931; ratifications exchanged at Washington, March 26, 1931; proclaimed by the President, April 22, 1931.



The German Reichspräsident:  
the Secretary of State of the Foreign Office  
Dr. Bernhard W. von Bülow  
and  
the Privy Counsellor in the Ministry of Justice  
Dr. Wolfgang Mettgenberg.

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

#### ARTICLE I

It is agreed that the Government of the United States and the Government of Germany shall, under conditions of reciprocity, upon requisition duly made as herein provided, deliver up to justice any person, who may be charged with, or may have been convicted of, any of the crimes or offenses specified in Article III of the present Treaty committed within the territorial jurisdiction of one of the High Contracting Parties, and who shall be found within the territories of the other; provided that such surrender shall take place only upon such evidence of criminality, as according to the laws of the place where the fugitive or person so charged shall be found, would justify his commitment for trial if the crime or offense had been there committed.

The words "territorial jurisdiction" as used in this article mean territory, including territorial waters, belonging to or under the control of one of the High Contracting Parties, merchant vessels on and aircraft over the high seas and men of war wherever situated.

#### ARTICLE II

Under the stipulations of this Treaty neither of the High Contracting Parties shall be bound to deliver up its own citizens.

#### ARTICLE III

Persons shall be delivered up according to the provisions of the present Treaty, who shall have been charged with or convicted of any of the following crimes or offenses, but only if they are punishable as crimes or offenses by the laws of both countries applicable to the case:

1. Murder, including the crimes designated by the terms assassination, manslaughter and infanticide.
2. Willful assault resulting in grievous bodily harm.
3. Rape, immoral assault, incest, abortion, carnal knowledge of children under the age of twelve years.
4. Bigamy.

5. Arson.
6. Willful and unlawful destruction or obstruction of railroads, which endangers traffic.
7. Piracy.
8. Wrongfully sinking or destroying a vessel.
9. Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the Captain or Commander of such vessel, or by fraud or violence taking possession of such vessel.
10. Assault on board ship upon the high seas committed by a member of the crew upon an officer.
11. Breaking into and entering the house or the office of another with intent to commit a theft therein.
12. Robbery, defined to be the act of taking from the person of another goods or money by violence or by putting him in fear.
13. Blackmail or extortion by unlawful means.
14. Forgery or the utterance of forged papers.
15. The forgery or falsification of the official acts of the Government or public authority, including Courts of Justice, or the uttering or fraudulent use of any of such acts.
16. Any fraudulent making or altering or uttering of currency including banknotes; of titles or coupons of public debt, seals, stamps, dies or marks of State or public administrations, whatever means are employed; or the introduction into a country or the receiving or obtaining of counterfeit objects of the foregoing character with a view to uttering them and with knowledge that they are counterfeit; or the fraudulent making, receiving or obtaining of instruments or other articles peculiarly adapted for the counterfeiting or altering of objects of the foregoing character.
17. Embezzlement committed by public officers or depositaries, where the amount embezzled exceeds twenty-five dollars or one hundred reichsmarks.
18. Embezzlement by any person or persons hired, salaried or employed, to the detriment of their employers or principals, where the amount embezzled exceeds twenty-five dollars or one hundred reichsmarks.
19. Kidnapping, defined to be the abduction or detention of a person or persons, in order to exact money from them, their families or any other person or persons, or for any other unlawful end; abandonment of infants.
20. Larceny, defined to be the theft of effects, personal property or money of the value of twenty-five dollars or one hundred reichsmarks or more.
21. Obtaining money, valuable securities or other property by false pretences, where the amount of money or the value of the property so obtained or received exceeds twenty-five dollars or one hundred reichsmarks.
22. Perjury or subornation of perjury.
23. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, executor, administrator, guardian, director or officer of any company or corporation, or by any one in a fiduciary

position, where the amount of money or the value of the property misappropriated exceeds twenty-five dollars or one hundred reichsmarks.

24. Crimes and offenses against the laws of both countries for the suppression of slavery and slave trading.
25. Use of explosives so as to endanger human life or property.
26. Bribery.
27. Crimes or offenses against the bankruptcy laws.
28. Crimes or offenses against the laws for the suppression of the traffic in narcotics.

Extradition shall also take place for an attempt to commit, or for the participation in any of the crimes or offenses before mentioned as an accessory before or after the fact, including receiving any money, valuable securities, or other property knowing the same to have been unlawfully obtained but only where the amount of money or the value of the property so received exceeds twenty-five dollars or one hundred reichsmarks.

#### ARTICLE IV

The provisions of the present Treaty shall not import a claim of extradition for any crime or offense of a political character, nor for acts connected with such crimes or offenses. However, a willful crime against human life except in battle or an open combat, shall in no case be deemed a crime of a political character, or an act connected with crimes or offenses of such a character.

#### ARTICLE V

In the country to which he has been surrendered, a person extradited under this Treaty shall not, without the consent of the government which surrendered him, be tried or punished or given up to a third government for a crime or offense committed previously to his extradition other than that which gave rise to the extradition, nor be restricted in his personal liberty for any reason existing previously to his extradition, unless he shall have been allowed one month to leave the country after having been discharged; and if he shall have been tried and condemned to punishment he shall be allowed one month after having suffered his penalty or having been pardoned. This exemption shall not be granted if the person surrendered, after leaving the country to which his extradition has been granted, there returns or is extradited to that country by a third government.

#### ARTICLE VI

A fugitive criminal shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of the country where the fugitive shall be found, the criminal is exempt from prosecution or punishment for the crime or offense for

which the surrender is asked, or when his extradition is asked for the same crime or offense for which he has been tried, convicted or acquitted in that country, or so long as he is under prosecution for that crime or offense.

#### ARTICLE VII

If a fugitive criminal whose surrender may be claimed pursuant to the stipulations hereof, be actually under prosecution, out on bail, or in custody, otherwise than for the crime or offense for which his extradition has been sought, his extradition may be deferred until such proceedings be terminated, and until he shall have been set at liberty in due course of law.

#### ARTICLE VIII

If the extradition of a fugitive which is requested by one of the parties hereto, shall also be requested by one or more other governments, the surrendering government shall be free to choose to which request it will give preference.

#### ARTICLE IX

Everything found in the possession of the fugitive criminal, whether being the proceeds of the crime or offense, or which may be material as evidence in making proof of the crime or offense, shall so far as practicable, according to the laws of the respective High Contracting Parties be delivered up with his person at the time of surrender. Nevertheless, the rights of a third party with regard to the articles referred to, shall be duly respected, and, upon the request of the Government which has delivered up such articles, they shall be returned to that Government, provided that a reservation to that effect shall have been made at the time of delivery.

#### ARTICLE X

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the High Contracting Parties. In the event of the absence of such agents from the country or its seat of government, or where extradition is sought from territory referred to in Article I, other than the United States or Germany, requisitions may be made by superior consular officers.

The arrest of the fugitive shall be brought about in accordance with the laws of the party to which the request is made, and if, after an examination, it shall be decided, according to the law and the evidence, that extradition is due, pursuant to this Treaty, the fugitive

shall be surrendered according to the forms of law prescribed in such cases.

If the fugitive criminal shall have been convicted of the crime or offense for which his surrender is asked, a copy of the sentence following such conviction, duly authenticated, shall be produced. If, however, the fugitive is merely charged with a crime or offense, a duly authenticated copy of the warrant of arrest in the country where the crime or offense was committed shall be produced, together with the depositions upon which such warrant may have been issued, or such other evidence or proof as may be deemed competent in the case, or both.

The person provisionally arrested shall be released, unless within one month from the date of arrest in Germany, or from the date of commitment in the United States, the formal requisition for surrender with the documentary proofs hereinbefore prescribed be made as aforesaid by the diplomatic agent of the demanding government or, in his absence, by a consular officer thereof. However, each government agrees that, upon the request of the other government, it will address to the competent authorities an application for the extension of the time thus limited so as to allow an additional month for the purposes indicated and nothing herein contained shall be construed to prevent the granting of such an application.

#### ARTICLE XI

The expense of transportation of the fugitive shall be borne by the government which has preferred the demand for extradition. The appropriate legal officers of the country where the proceedings of extradition are had, shall assist the officers of the Government demanding the extradition before the respective judges and magistrates, by every legal means within their power; and no claim other than for the board and lodging of a fugitive prior to his surrender, arising out of the arrest, detention, examination and surrender of fugitives under this treaty shall be made against the government demanding the extradition; provided, however, that any officer or officers of the surrendering government giving assistance, who shall, in the usual course of their duty, receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the government demanding the extradition the customary fees for the acts or services performed by them, in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

## ARTICLE XII

The present treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional methods and shall take effect one month after the exchange of ratifications which shall take place at Washington as soon as possible.

## ARTICLE XIII

The present treaty shall remain in force for a period of ten years, and in case neither of the High Contracting Parties shall have given notice one year before the expiration of that period of its intention to terminate the treaty, it shall continue in force until the expiration of one year from the date on which such notice of termination shall be given by either of the High Contracting Parties.

IN WITNESS WHEREOF the above named Plenipotentiaries have signed the present treaty and have hereunto affixed their seals.

DONE in duplicate in the English and German languages at Berlin this 12th day of July 1930.

FREDERIC MOSELEY SACKETT	[SEAL]
BERNHARD W. VON BÜLOW	[SEAL]
WOLFGANG METTGENBERG.	[SEAL]

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**EXPULSION FROM GERMANY OF JACK DIAMOND**

255.11 Diamond, Legs/17

*The Ambassador in Germany (Sackett) to the Secretary of State*

No. 458

BERLIN, September 2, 1930.

[Received September 15.]

SIR: In continuation of my cablegrams Nos. 93 of September 2, 11 a. m. and 94 of September 2, 4 p. m.<sup>53</sup> I have the honor to inform the Department that in consequence of a telegram marked urgent received from the American Consul General at Antwerp, a copy of which is enclosed,<sup>54</sup> the Embassy informed the German police that one Jack Diamond, who is wanted by the New York police, landed at Antwerp on the morning of September 1, but could not be held for lack of conventional formalities in connection with his extradition. Therefore Diamond was deported to the German border at Herbesthal en route to Cologne on a train arriving there at 10:59 in the evening. In view of these circumstances the German police were requested by the Embassy to hold Diamond pending action by competent American authority.

<sup>53</sup> Neither printed.

<sup>54</sup> Not printed.

Mr. Letcher's telegram seemed clearly to presuppose a departmental instruction designed to secure Diamond's detention, addressed either to the Embassy in Brussels or to the Consulate General at Antwerp. I may add that this assumption was necessarily confirmed by the reports appearing in the press over here during the past week concerning the efforts of the American authorities to have Diamond taken into custody in France or in England. In any event, if any action were to be taken on Mr. Letcher's telegram—which was addressed to my residence and only delivered there by the postal authorities at 8:30 on the evening of Labor Day—it had to be taken immediately, and there was no time—though the attempt was made—to communicate by telephone with the Consulate General at Antwerp in order to find out further facts which might guide the Embassy's action. Consequently in the ensuing two hours the Embassy succeeded in communicating to the police the information set forth in the preceding paragraph and in causing Diamond's detention at Aachen on the German-Belgian border.

In communicating the request to the local authorities the Embassy was very careful to point out that no request would be made for Diamond's extradition inasmuch as the German-American treaty<sup>55</sup> had not yet been ratified, but suggested that in view of Diamond's record he could be regarded by them as an "undesirable alien" and deported to a neighboring country, preferably France.

The following morning the American Consul at Cologne was informed of the facts and, as Aachen is in his district, requested to assume charge of the case, pending instructions from the Department. Then, during the afternoon of the same day the Embassy received a telegram from the American Embassy at Brussels to the effect that the Chief of Police of New York gave out the statement concerning Diamond for the "purpose of warning the Belgian authorities and not with a view to bringing about his arrest" (see copy of telegram enclosed herewith).<sup>56</sup> In consequence the Embassy advised the Consul at Cologne as stated in my telegram No. 94 of September 2, 4 p. m. to advise the German police officials that no charge is being formulated against Diamond nor request being made for his continued detention.

September 3, 1930.

Since dictating the foregoing the Embassy has just received the Department's instruction No. 84 of September 2, 6 p. m.<sup>56</sup> which reads in part as follows:

"Is the Department to understand from your request in Diamond's case and German compliance that notwithstanding treaty not yet in

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<sup>55</sup> Extradition treaty signed July 12, 1930, p. 123.

<sup>56</sup> Not printed.

force German Government is disposed to entertain favorably requests for extradition made by the United States?"

It was not my opinion that the German action in this case could have this significance. I thought that if the Embassy had requested Diamond's provisional arrest as a preliminary to a subsequent formal requisition for surrender to American police officials, probably the German authorities would have pointed out that there was no extradition treaty in force between the United States and Germany. I thought rather that in view of the press publicity of the past week concerning the desire of American police authorities to have Diamond taken into custody, the German police were willing to detain him provisionally until the exact desires of the said authorities could be ascertained with a view then to taking such action—by way perhaps of deportation in the desired direction, as above suggested—as would facilitate the accomplishment of these desires.

However, yesterday afternoon in a telephone conversation with Mr. Brandt at Cologne the latter stated that the competent police official in that city had said to him that he was aware that there was no extradition treaty in force between the United States and Germany but that nevertheless he would be willing to surrender Diamond if formally requested, adding that this had been done in numerous cases during the past few years. The Embassy has requested Mr. Brandt to confirm this in writing and when such confirmation, or any new information in this connection, is received from him, the Embassy will communicate further with the Department. It should still be noted, however, that even in view of this statement of the Cologne official it does not necessarily follow that his view would be accepted by the officials of the Reich.

I am enclosing herewith the translation of a clipping <sup>57</sup> from this morning's issue of the *Berliner Tageblatt* which is in line with my point of view.

The Embassy will of course continue to be guided, as in the past, by the principle that it should only request provisional arrest under the Department's instructions; I feel confident that the Department will agree that under the circumstances the telegram from the Consulate General at Antwerp could only be construed as indicating that the Department had issued instructions to this effect to another mission, and, as indicated above, it was on this assumption that the Embassy took the action hereinabove set forth.

In connection with all the unusual elements of the present situation the Embassy has been interested in the cases cited in Moore's International Law Digest (Volume 4, pp. 253-258, especially perhaps the

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<sup>57</sup> Not printed.



case of William J. Sharkey cited on page 255. See also *ibid.* pp. 382-384, and Hyde on International Law, section 325).

Respectfully yours,

FREDERIC M. SACKETT

255.11 Diamond, Legs/14: Telegram

*The Consul at Bremen (Leonard) to the Secretary of State*

BREMEN, September 8, 1930—noon.

[Received September 8—9:35 a. m.]

Supplementing telegram from Consul at Cologne,<sup>58</sup> local police authorities inform me John Diamond expelled from Bremen, having sailed from Hamburg Saturday afternoon 6th on freight steamer *Hanover*, scheduled to sail directly to Philadelphia arriving there about 20th. He was held in police custody before sailing.

LEONARD

255.11 Diamond, Legs/18

*The Secretary of State to the Chargé in Germany (Gordon)*

No. 184

WASHINGTON, September 18, 1930.

SIR: The Department has received the Embassy's despatch No. 458 of September 2, 1930, in relation to the action taken by German authorities with respect to the presence in Germany of one Jack Diamond.

It is noted that the Embassy's request to the German authorities which brought about Diamond's arrest was in the form of a suggestion that in view of his record he might be deported as an undesirable alien.

With respect to the Embassy's action the Department is glad to note that it did not take the form of requesting Diamond's arrest with a view to his extradition as the Department had understood to be the case from telegram No. 93 of September 2, 11 a. m. However, the Department prefers that even requests of the nature made by the Embassy in this case should not be presented except under its instructions, and in this relation it informs you that it is not usual for the Department to suggest to a foreign government the deportation of an individual within its jurisdiction, and that in those cases where such a suggestion has been made it has taken the form of pointing out the facts and circumstances attendant upon the case with the added statement that the foreign government concerned might think it advisable to deport the person in question if such action should prove practicable under its laws.

With regard to the instant case the Department is of the opinion that the utmost action which should have been taken by your Embassy

<sup>58</sup> Not printed.

was to call to the attention of the German authorities for their information such advices as had come to the Embassy respecting the past activities of Diamond.

So far as concerns the reported statement of the police authorities of Cologne that numerous persons had been surrendered to the United States by Germany in the past few years, it may be stated that the Department is not aware of any such case of surrender.

Very truly yours,

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

## GREAT BRITAIN

### SUPPLEMENTARY TREATY ON TENURE AND DISPOSITION OF REAL AND PERSONAL PROPERTY BETWEEN THE UNITED STATES, GREAT BRITAIN, AUSTRALIA, AND NEW ZEALAND

811.5241/173

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

No. 761

LONDON, March 25, 1930.

[Received April 3.]

SIR: I have the honor to inform you that immediately upon receipt of the Department's Instruction No. 234, dated January 22, 1930 (File 123 al 11/111),<sup>1</sup> enclosing a copy of an instruction which had been sent to the American Vice Consul at Nairobi, Kenya, East Africa, relating to the death duties on the estate of Mr. Charles H. Albrecht, deceased, formerly American Consul at Nairobi, a note was sent to the Foreign Office requesting that the Embassy be furnished, for the use of the officials of the United States Government, with a list of the British Colonies which have not adhered to the Convention between the United States and Great Britain which was signed at Washington on March 2, 1899,<sup>2</sup> and I am transmitting herewith copies of the Foreign Office note received in reply, which is self-explanatory.

I have [etc.]

For the Ambassador:

RAY ATHERTON

*Counselor of Embassy*

[Enclosure]

*The British Secretary of State for Foreign Affairs (Henderson) to the American Ambassador (Dawes)*

No. A1973/1001/45

LONDON, March 24, 1930.

YOUR EXCELLENCY: I have the honour to refer to Your Excellency's note No. 424 of February 4th and in reply to state that the following British Colonies and Protectorates have not adhered to the Convention between the United Kingdom and the United States of America relative to the Disposal of Real and Personal Property signed at Washington on the 2nd March, 1899:—

2. Gibraltar, Ascension, Federated Malay States (Negri Sembilan, Pahang, Perak, Selangor,) Unfederated Malay States (Johore, Kedah,

<sup>1</sup> Not printed.

<sup>2</sup> *Foreign Relations*, 1916, p. 287.

Kelantan, Perlis, Trengganu, Brunei), Kenya Colony and Protectorate, Malta, Northern Rhodesia, Nyasaland Protectorate, Sarawak, Seychelles, Somaliland Protectorate, Swaziland, Uganda Protectorate, Weihaiwei, British Solomon Islands Protectorate, Gilbert and Ellice Islands Colony, Tonga, Zanzibar Protectorate.

3. The Convention has not been applied to the New Hebrides, which are administered as a Franco-British condominium.

4. Natal, which was not among the Colonies now forming the Union of South Africa that acceded to the Convention, should be added to the list.

5. No territory administered by His Majesty's Government in the United Kingdom under mandate from the League of Nations is a party to the Convention.

I have [etc.]

(For the Secretary of State)

G. H. THOMPSON

811.5241/173

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

No. 520

WASHINGTON, October 6, 1930.

SIR: The Department has received your despatch No. 761, dated March 25, 1930, with enclosure concerning the British Colonies and Protectorates which have not adhered to the Convention concluded between the United States and Great Britain on March 2, 1899, relative to the disposal of real and personal property in the respective countries. Several small islands and Protectorates of limited territorial extent are included in this list. It may be found difficult for the local authorities of the United States to differentiate between the British Colonies and Protectorates in which the Convention of March 2, 1899, is in effect and those listed in the second paragraph of the Foreign Office note dated March 24, 1930.

You are, accordingly, instructed to take up the matter again with the Foreign Office and to inquire whether any special reasons exist for excluding Americans resident in the Colonies and Protectorates listed in paragraph 2, their heirs, legatees or donees, from the benefits of this Convention. You will add that the Department has had under consideration the procedure by which local authorities in the United States might be advised that British subjects from the Colonies and Protectorates listed in the second paragraph of the Foreign Office note or their heirs, legatees or donees were not entitled to take advantage of the provisions contained in the Convention. However, as it was thought that this may lead to some misunderstanding on the part of the local authorities, the Department desires before taking such action, to ascertain whether the British Govern-

ment intends to adhere to the Convention on behalf of any of these Colonies and Protectorates.

Please submit a report setting forth the action taken by you pursuant to this instruction.

Very truly yours,

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

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811.5241/178

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

No. 1594

LONDON, January 26, 1931.

[Received February 4.]

SIR: I have the honor to refer to my despatch No. 1297 of October 17, 1930,<sup>3</sup> regarding the British Colonies and Protectorates which have not adhered to the Convention concluded between the United States and Great Britain on March 2, 1899, relative to the disposal of real and personal property in the respective countries, and to enclose a copy, in triplicate, of a note which I have just received in reply to my note addressed to the Foreign Office on October 17, 1930.<sup>3</sup>

Respectfully yours,

(For the Ambassador)  
RAY ATHERTON  
*Counselor of Embassy*

[Enclosure]

*The British Secretary of State for Foreign Affairs (Henderson) to the American Ambassador (Dawes)*

No. A 324/324/45

LONDON, January 23, 1931.

YOUR EXCELLENCY: I have the honour to refer to Your Excellency's notes No. 881 of October 17th and No. 929 of November 17th and to previous correspondence regarding the Convention signed at Washington on March 2nd, 1899 between the United Kingdom and the United States of America relative to the disposal of Real and Personal property in which you enquired whether any special reasons existed for excluding citizens of the United States resident in certain Colonies and Protectorates referred to in my note No. A 1973/1001/45 of March 24th<sup>4</sup> from the benefits of the Convention and whether it was the intention of His Majesty's Government in the United Kingdom to adhere to the Convention on behalf of any of the Dependencies in question.

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<sup>3</sup> Not printed.

<sup>4</sup> *Ante*, p. 134.

2. In reply I have the honour to state, for Your Excellency's information, that at the time when the Convention was concluded the majority of the Dependencies mentioned in my note No. A 1973/1001/45 of March 24th were either in a rudimentary state of development or were not at that date under His Majesty's protection or authority, and that the application of the Convention to them was subsequently barred by the provisions of Article IV of the Convention. If however, in spite of the provisions of this article, the United States Government would now agree to the Convention being applied to these Dependencies, His Majesty's Government in the United Kingdom would be glad to consider the question of such application. I should add that His Majesty's Government in the United Kingdom are unable forthwith to give a definite undertaking that it would be desired to apply the Convention to all or any of these Dependencies since it is their invariable practice to consult the local administrations concerned before coming to a decision in such a matter.

3. In this connexion I concur in the suggestion made in your note No. 929 of November 17th that the procedure to be followed in making the Convention applicable to those parts of the British Empire to which it does not now apply might conveniently take the form of a supplementary convention on the lines of that signed at Washington on October 21st, 1921<sup>5</sup> providing for the application to Canada of the provisions of the Convention. I desire however to invite your attention to the fact that there is an absence of reciprocity in the provisions of Article IV of the Convention. You will observe that whereas notices of the extension of the provisions of the Convention to British Dependencies were only allowed to be made within a specified period, there was no corresponding limitation in regard to the application of the Convention to Dependencies of the United States. The United States Government were therefore able in 1921 to give notice of the application of the Convention to the Hawaiian Islands. Accordingly I have the honour to suggest that in any supplementary Convention which may be concluded as a result of this correspondence a provision should be inserted giving His Majesty's Government the right to give notice of the application of the Convention to any British Colony or Protectorate or to any Mandated Territory in respect of which the mandate is exercised by His Majesty's Government in the United Kingdom without any limitation as to time.

4. I further observe that the Convention contains no provision specifically conferring on persons belonging to territories under His Majesty's protection, to which the Convention is applied the benefits conferred on British subjects belonging to Dependencies to which the Convention is applied. I presume that in applying the Convention

<sup>5</sup> *Foreign Relations*, 1921, vol. 1, p. 298.

the United States Government would not seek to deny these benefits to British protected persons belonging to territories to which the Convention has been applied, as such a course would involve the absence of that reciprocity which, as is indicated in your note No. 881 of October 17th is regarded by the United States Government as being essential to the application of the Convention. His Majesty's Government in the United Kingdom would however be glad to receive a formal assurance from the United States Government that the application of the Convention to a territory under His Majesty's Protection or authority *ipso facto* confers the benefits of the Convention on British protected persons belonging to that territory.

5. I shall be glad to learn whether the United States Government concur in the preceding observations in order that steps may be taken to consult the local administrations concerned with a view to the application of the Convention to the territories under their jurisdiction.

I have [etc.]

(For the Secretary of State)

R. L. CRAIGIE

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811.5241/178

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

No. 694

WASHINGTON, March 3, 1931.

SIR: The Department has received your despatch No. 1594 dated January 26, 1931, transmitting a note of the Foreign Office dated January 23, 1931, concerning the proposal of this Government that the provisions of the Convention concluded between the United States and Great Britain on March 2, 1899, relative to the disposal of real and personal property in the respective countries, be extended to British colonies and protectorates which have not adhered to the Convention.

With reference to the inquiry in the second paragraph of the Foreign Office note of January 23, 1931, whether this Government would now agree to the Convention being applied to the dependencies mentioned in the Foreign Office note No. A1973/1001/45 of March 24, 1930, you are instructed to advise the Foreign Office that the Government of the United States will agree to the application of the Convention to those dependencies.

This Government will not interpose any objection to a proposal for the insertion of a provision in any supplementary convention which may be concluded as a result of this correspondence giving His Majesty's Government the right to give notice of the application of the Convention to any British colony or protectorate or to any mandated territory in respect of which the mandate is exercised by

His Majesty's Government in the United Kingdom without any limitation as to time.

With respect to the request contained in the fourth paragraph of the Foreign Office note for a formal assurance from this Government that the application of the Convention to a territory under His Majesty's protection or authority *ipso facto* confers the benefits of the Convention on British protected persons belonging to that territory, you will state that this Government believes it would be advisable to have an express provision in the proposed convention specifically conferring on persons belonging to territories under His Majesty's protection who may not be British subjects and on persons belonging to territories under the protection of the United States who are not citizens of the United States the benefits which the Convention confers on British subjects and American citizens belonging to dependencies to which the Convention is applied. As the Convention is subject to interpretation by the courts of the United States, such a definite provision specifically covering this subject would seem to be necessary. It is also desired to have the provision reciprocal so that it would confer the benefits of the Convention upon persons entitled to the protection of the United States who are not American citizens but who belong to territories under its jurisdiction to which the Convention may be applied.

Please submit a report setting forth the action taken by you pursuant to this instruction.

Very truly yours,

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

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811.5241/179

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

No. 1752

LONDON, March 13, 1931.

[Received March 26.]

SIR: I have the honor to refer to the Department's instruction No. 694, March 3, 1931 (File No. 811.5241/178), concerning the Convention concluded between the United States and Great Britain on March 2, 1899, relative to the disposal of real and personal property in the respective countries, and in view of the last paragraph thereof to enclose a copy of the note forwarded by this Embassy to the Foreign Office, dated March 13, 1931.

Respectfully yours,

(For the Ambassador)  
RAY ATHERTON  
*Counselor of Embassy*



[Enclosure]

*The American Ambassador (Dawes) to the British Secretary of State for Foreign Affairs (Henderson)*

No. 1100

LONDON, March 13, 1931.

SIR: Adverting to your note No. A 324/324/45 of January 23, 1931, and to previous correspondence regarding the Convention signed at Washington on March 2, 1899, between the United Kingdom and the United States relative to the disposal of real and personal property in the respective countries, under instructions from the Secretary of State I have the honor to advise you, with reference to the inquiry in the second paragraph thereof whether my Government would now agree to the Convention being applied to the dependencies mentioned in your note No. A 1973/1001/45 of March 24, 1930, that the Government of the United States will agree to the application of the Convention to those dependencies.

My Government will not interpose any objection to a proposal for the insertion of a provision in any supplementary convention which may be concluded as a result of this correspondence giving His Majesty's Government the right to give notice of the application of the Convention to any British colony or protectorate or to any mandated territory in respect of which the mandate is exercised by His Majesty's Government in the United Kingdom without any limitation as to time.

With respect to the request contained in the fourth paragraph of your note first above mentioned for a formal assurance from my Government that the application of the Convention to a territory under His Majesty's protection or authority *ipso facto* confers the benefits of the Convention on British protected persons belonging to that territory, I am further instructed to state that my Government believes it would be advisable to have an express provision in the proposed convention specifically conferring on persons belonging to territories under His Majesty's protection who may not be British subjects and on persons belonging to territories under the protection of the United States who are not citizens of the United States the benefits which the Convention confers on British subjects and American citizens belonging to dependencies to which the Convention is applied. As the Convention is subject to interpretation by the courts of the United States, such a definite provision specifically covering this subject would seem to be necessary. It is also desired to have the provision reciprocal so that it would confer the benefits of the Convention upon persons entitled to the protection of the United States who are not American citizens but who belong to the territories under its jurisdiction to which the Convention may be applied.

I have [etc.]

(For the Ambassador)

RAY ATHERTON  
*Counselor of Embassy*

[As a result of these negotiations, a supplementary treaty on tenure and disposition of real and personal property between the United States, Great Britain and Northern Ireland, Australia, and New Zealand was signed at Washington on May 27, 1936—Department of State Treaty Series No. 964; 55 Stat. 1101.]

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**REFUSAL OF THE BRITISH GOVERNMENT TO EXEMPT AMERICAN CONSULAR OFFICERS FROM INCOME TAX ON NONOFFICIAL INCOME DERIVED FROM SOURCES OUTSIDE THE UNITED KINGDOM**

702.0641/61

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

No. 610

LONDON, January 28, 1930.

[Received February 7.]

SIR: I have the honor to state that on July 6, 1929, Consul General Halstead informed the Embassy that His Majesty's Inspector of Inland Revenue had requested the American Consul at Bristol to complete and return an income tax form, giving the details of all income received other than official emoluments. Consul Willson pointed out to Consul General Halstead that this was the first time such a request had been made of his office, and asked for instructions in the matter.

A member of the Embassy brought up the case in conversation at the Foreign Office, and on August 21st an informal note was received by the Embassy, which I quote below:

"We have referred the matter to the Inland Revenue Department who have ascertained that the request for a return was made by His Majesty's Inspector of Taxes for Bristol D. 1 District, in accordance with the practice approved by the department and that as foreign consuls are not expected to furnish any return in respect of their official fees and emoluments, the application to Mr. Willson was properly limited to a request for details of all income received by him other than his official emoluments.

"I ought perhaps to add that while foreign consuls in this country are by concession allowed relief from income tax in respect of their official fees and emoluments, they enjoy no special relief in respect of income from any other source, in regard to which they are treated like ordinary private individuals."

It was subsequently stated by the Foreign Office, in conversation, that the Inland Revenue people felt they could not make an exception since the law gave them no discretion in the matter with respect to consular officers' income from sources other than official. . . .

The Embassy has been informed by Consul General Davis, under date of January 27, 1930, that the Inspector of Taxes has again requested the American Consul at Bristol to complete an income tax

return or give an explanation as to why the return has not been submitted. I am given to understand that Consul Willson has a private income apart from his official salary, and that to pay income tax on this would embarrass him, especially in view of the high income tax in this country.

In view of the conversations with the Foreign Office, I have the honor to request the Department's cable instructions as to whether the American Consul at Bristol should be advised to complete his income tax return, according to the request of the local authorities at Bristol.

I have [etc.]

(For the Ambassador)

RAY ATHERTON  
Counselor of Embassy

702.0641/61: Telegram

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

WASHINGTON, February 19, 1930—2 p. m.

40. Your despatch 610 January 28th. Article 641 United States Income Tax Regulations provides:

“The income received by foreign consular officers and employees of foreign consulates from investments in the United States in bonds and stocks and from interest on bank balances as well as income from any business carried on by them in the United States is subject to Federal Income Tax.”

Income of such officers from sources outside the United States is not taxed as Treasury ruling holds that

“An alien who represents a foreign country in the capacity of a consular officer, although physically located within the United States, would not be classed as a resident alien.”

Bring the foregoing to the attention foreign office and urge that reciprocal exemption be granted to American Consul at Bristol.

COTTON

702.0641/64: Telegram

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

LONDON, May 10, 1930—11 a. m.

[Received May 10—8:30 a. m.]

- 97. Substance of Department's 40, February 19, 2 p. m., was invited to the attention of Foreign Office in oral conversation and also by note. I am in receipt today of a reply stating *inter alia*:

“The relief from income tax accorded foreign consuls in this country dates back to 1842. It applies to the official emoluments of the

consul and has never been extended to income from other conditions. His Majesty's Government has taken the view that a relief of this scope is appropriate to consuls and no condition of reciprocity has ever been made. The relief is given to the consul of a foreign state quite irrespective of the relief, if any, which that state may give to British Consuls.

The scope of the relief from United Kingdom income tax has been carefully considered from time to time but the decision has always been against any alteration."

DAWES

702.0641/61

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

No. 458

WASHINGTON, August 1, 1930.

SIR: The Department has studied the situation outlined in the Embassy's telegram No. 97 of May 10, 11 a. m., conveying the refusal of the British Government to exempt American consular officers in Great Britain from the payment of income tax on that portion of their non-official income which is derived outside of the United Kingdom and stating that no condition of reciprocity has ever been made by the British Government with respect to the liability of foreign consuls in the United Kingdom to the payment of income tax.

Under existing regulations in the United States, British consular officers assigned to this country are regarded as non-resident aliens by the Bureau of Internal Revenue and are accordingly taxed upon only that portion of their income which is derived from sources within the United States (See Income Tax Regulations 74, Article 641). You are directed to bring this matter to the attention of the Foreign Office, taking care to emphasize the fact that in requesting relief from the United Kingdom's income tax for American consular officers, this Government desires such relief to apply only to such portion of their non-official income as is derived from sources outside of the United Kingdom, on a basis of reciprocity.

In this connection, you may, in your discretion, inform the Foreign Office that I am advised that in order to tax the income of foreign consular officers in the United States from sources outside of the United States it would be necessary to classify them for taxation purposes as resident aliens. I am further advised that the matter of classification is not one of law but of regulation within the determination of the Treasury Department and that the classification of foreign consular officers as resident aliens or non-resident aliens could be made on a reciprocal basis. The Department would, naturally, be reluctant to request the Treasury to classify British consular officers as resident aliens for the purpose of levying income tax upon that portion of their non-official income derived from sources outside the United States.

However, the Department feels that this aspect of the British Government's decision with regard to the liability of American consular officers to the payment of the United Kingdom income tax should be brought to the attention of the Foreign Office, in order that, should relief be denied, there may be no occasion for misunderstanding if the State Department requests the Treasury to classify British consular officers as resident aliens.

Very truly yours,

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

702.0641/65

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

No. 1317

LONDON, October 22, 1930.  
[Received November 4.]

SIR: I have the honor to state that the substance of the Department's instruction No. 458 of August 1, 1930, regarding the refusal of the British Government to exempt American Consular officers in Great Britain from the payment of income tax on that portion of their non-official income which is derived outside the United Kingdom, was brought promptly to the attention of the Foreign Office. There is enclosed a copy of the Embassy's letter dated August 25, 1930, to the Foreign Office in this regard.

The Embassy has received a reply from the Foreign Office dated October 20, 1930, stating that there seems to be no possibility of meeting the United States Government's wishes, for certain stated reasons, and that the Foreign Office would not regard it as in any way unreasonable if the United States Government should tax the private income of British Consular officers in the United States, although it would be very concerned if British Consular officers were to be called on to pay income tax on their official salaries.

Respectfully yours,

For the Ambassador:  
RAYMOND E. COX  
*First Secretary of Embassy*

[Enclosure 1]

*The Counselor of the American Embassy (Atherton) to the Head of the Treaty Department of the British Foreign Office (Warner)*

LONDON, August 25, 1930.

MY DEAR WARNER: May I refer to your note No. T 5005/1/373 of May 9, 1930,<sup>6</sup> regarding the treatment of consular officers in the matter

<sup>6</sup> See telegram No. 97, May 10, 1930, from the Ambassador in Great Britain, p. 142.

of income tax, concerning which I have been in correspondence with the Department of State. I venture once again to invite this matter to your attention since, under existing regulations in my country, British consular officers assigned to the United States are regarded as non-resident aliens by the Bureau of Internal Revenue and are accordingly taxed on only that portion of their income which is derived from sources within the United States (see Income Tax Regulations 74, Article 641). In requesting relief from income tax in this country for American consular officers the American Government desires such relief to apply only to that portion of their non-official income as is derived from sources outside the United Kingdom on a basis of reciprocity.

With the above facts in mind, may I point out to you my understanding that in order to tax the income of foreign consular officers in the United States derived from sources outside the United States it would be necessary to classify them for taxation purposes as resident aliens. It would appear that the matter of classification is not one of law but of regulation within the determination of the United States Treasury Department and that the classification of foreign consular officers as resident or non-resident aliens could accordingly be made on a reciprocal basis.

My object in asking your consideration of the matter once again is that you may understand the arguments that are being presented to the Department of State and the possible trend of the deliberations in the question of the classification of British consular officers in the United States.

Yours sincerely,

RAY ATHERTON

[Enclosure 2]

*The Head of the Treaty Department of the British Foreign Office (Warner)  
to the Counselor of the American Embassy (Atherton)*

No. T11499/1/373

[LONDON,] 20 October, 1930.

MY DEAR ATHERTON: The considerations put forward in your letter of August 25th, regarding the treatment of consular officers in the matter of income tax, have been carefully examined but I am sorry to say that there seems to be no possibility of meeting your Government's wishes, however much we might wish to do so, for the following reasons.

The extra-statutory relief referred to in the third paragraph of my letter of the 9th May last was only unassailable by reason of its age, and it could hardly have been extended as a matter of administrative

action and without legislation. It has now been given the force of law by Section 20 of the Finance Act 1930, and it is thought to be quite out of the question, immediately after that Act has given legality to a practice of over eighty years standing, to introduce further amendments of the law in quite a new direction.

It seems possible that the authorities at Washington do not really appreciate how little tax is in practice payable in these cases. A Consul's official income is not merely exempt from income tax but is entirely disregarded in determining the amount of his income, so that he gets the full benefit of ordinary personal reliefs against his private income. That is to say, he does not pay tax unless his private income exceeds one hundred and thirty-five pounds if he is unmarried, and two hundred twenty-five pounds if he is married, and a considerably larger sum if he has children. It is only if his private income exceeds four hundred pounds or five hundred pounds a year that he is called upon to pay any substantial amount.

We should not of course regard it as in any way unreasonable that your Government should tax the private income of British consular officers in the United States, though we should naturally be very concerned if they were to be called on to pay income tax on their official salaries.

Yours sincerely,

G. WARNER

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[In a letter to the Secretary of the Treasury, dated December 1, 1930 (702.0641/65A), the Secretary of State wrote: "Under the circumstances you may feel free to tax the private income of British consular officers in the United States and I should be glad to be informed of the attitude of the Treasury Department in the premises."

The Acting Secretary of the Treasury wrote on December 27, 1930 (702.0611/400): "In reply you are advised that it has been the consistent policy of this Department to treat foreign consular officers in the United States as nonresident aliens and therefore to tax them only with respect to their income from sources within the United States, other than their official compensation received for services rendered in the United States which is exempt from Federal income tax on the basis of reciprocity. The Department prefers to adhere to its policy of treating British consular officers in the United States as nonresident aliens and to tax their private income only if such income is derived from sources within the United States."]

CONVENTION BETWEEN THE UNITED STATES AND GREAT BRITAIN  
AND EXCHANGE OF NOTES REGARDING THE BOUNDARY BETWEEN  
THE PHILIPPINE ARCHIPELAGO AND THE STATE OF NORTH  
BORNEO, SIGNED JANUARY 2, 1930<sup>7</sup>

Treaty Series No. 856

*Convention Between the United States of America and Great Britain  
Regarding the Boundary Between the Philippine Archipelago and the  
State of North Borneo, Signed at Washington, January 2, 1930*<sup>8</sup>

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,

Being desirous of delimiting definitely the boundary between the Philippine Archipelago (the territory acquired by the United States of America by virtue of the Treaties of December 10, 1898,<sup>8a</sup> and November 7, 1900,<sup>8b</sup> with Her Majesty the Queen Regent of Spain) and the State of North Borneo which is under British protection,

Have resolved to conclude a Convention for that purpose and have appointed as their plenipotentiaries:

The President of the United States of America,

Henry L. Stimson, Secretary of State of the United States; and

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India,

For Great Britain and Northern Ireland:

The Right Honorable Sir Esme Howard, G.C.B., G.C.M.G., C.V.O., His Majesty's Ambassador Extraordinary and Plenipotentiary at Washington;

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

ARTICLE I

It is hereby agreed and declared that the line separating the islands belonging to the Philippine Archipelago on the one hand and the islands belonging to the State of North Borneo which is under British protection on the other hand shall be and is hereby established as follows:

From the point of intersection of the parallel of four degrees forty-five minutes (4° 45') north latitude and the meridian of longitude

<sup>7</sup> For the negotiations, see *Foreign Relations*, 1929, vol. III, pp. 70 ff.

<sup>8</sup> Ratification advised by the Senate, February 11 (legislative day of January 6), 1930; ratified by the President, February 21, 1930; ratifications exchanged at Washington, December 13, 1932; proclaimed by the President, December 15, 1932.

<sup>8a</sup> Peace treaty between the United States and Spain, signed at Paris, December 10, 1898, *Foreign Relations*, 1898, p. 831.

<sup>8b</sup> Convention of 1900, signed at Washington, November 7, 1900, *ibid.*, 1900, p. 887.



one hundred twenty degrees ( $120^{\circ} 0'$ ) east of Greenwich, (being a point on the boundary defined by the Treaty between the United States of America and Spain signed at Paris, December 10, 1898), a line due south along the meridian of longitude one hundred twenty degrees ( $120^{\circ} 0'$ ) east of Greenwich to its point of intersection with the parallel of four degrees twenty-three minutes ( $4^{\circ} 23'$ ) north latitude;

thence due west along the parallel of four degrees twenty-three minutes ( $4^{\circ} 23'$ ) north latitude to its intersection with the meridian of longitude one hundred nineteen degrees ( $119^{\circ} 0'$ ) east of Greenwich;

thence due north along the meridian of longitude one hundred nineteen degrees ( $119^{\circ} 0'$ ) east of Greenwich to its intersection with the parallel of four degrees forty-two minutes ( $4^{\circ} 42'$ ) north latitude;

thence in a straight line approximately  $45^{\circ} 54'$  true (N  $45^{\circ} 54'$  E) to the intersection of the parallel of five degrees sixteen minutes ( $5^{\circ} 16'$ ) north latitude and the meridian of longitude one hundred nineteen degrees thirty-five minutes ( $119^{\circ} 35'$ ) east of Greenwich;

thence in a straight line approximately  $314^{\circ} 19'$  true (N  $45^{\circ} 41'$  W) to the intersection of the parallel of six degrees ( $6^{\circ} 0'$ ) north latitude and the meridian of longitude one hundred eighteen degrees fifty minutes ( $118^{\circ} 50'$ ) east of Greenwich;

thence due west along the parallel of six degrees ( $6^{\circ} 0'$ ) north latitude to its intersection with the meridian of longitude one hundred eighteen degrees twenty minutes ( $118^{\circ} 20'$ ) east of Greenwich;

thence in a straight line approximately  $307^{\circ} 40'$  true (N  $52^{\circ} 20'$  W) passing between Little Bakkungaan Island and Great Bakkungaan Island to the intersection of the Parallel of six degrees seventeen minutes ( $6^{\circ} 17'$ ) north latitude and the meridian of longitude one hundred seventeen degrees fifty-eight minutes ( $117^{\circ} 58'$ ) east of Greenwich;

thence due north along the meridian of longitude one hundred seventeen degrees fifty-eight minutes ( $117^{\circ} 58'$ ) east of Greenwich to its intersection with the parallel of six degrees fifty-two minutes ( $6^{\circ} 52'$ ) north latitude;

thence in a straight line approximately  $315^{\circ} 16'$  true (N  $44^{\circ} 44'$  W) to the intersection of the parallel of seven degrees twenty-four minutes forty-five seconds ( $7^{\circ} 24' 45''$ ) north latitude with the meridian of longitude one hundred seventeen degrees twenty-five minutes thirty seconds ( $117^{\circ} 25' 30''$ ) east of Greenwich;

thence in a straight line approximately  $300^{\circ} 56'$  true (N  $59^{\circ} 4'$  W) through the Mangsee Channel between Mangsee Great Reef and Mangsee Islands to the intersection of the parallel of seven degrees forty minutes ( $7^{\circ} 40'$ ) north latitude and the meridian of longitude

one hundred seventeen degrees ( $117^{\circ} 0'$ ) east of Greenwich, the latter point being on the boundary defined by the Treaty between the United States of America and Spain signed at Paris, December 10, 1898.

#### ARTICLE II

The line described above has been indicated on Charts Nos. 4707 and 4720, published by the United States Coast and Geodetic Survey, corrected to July 24, 1929, portions of both charts so marked being attached to this treaty and made a part thereof. It is agreed that if more accurate surveying and mapping of North Borneo, the Philippine Islands, and intervening islands shall in the future show that the line described above does not pass between Little Bakkungaan and Great Bakkungaan Islands, substantially as indicated on Chart No. 4720, the boundary line shall be understood to be defined in that area as a line passing between Little Bakkungaan and Great Bakkungaan Islands as indicated on the chart, said portion of the line being a straight line approximately  $307^{\circ} 40'$  true drawn from a point on the parallel of  $6^{\circ} 0'$  north latitude to a point on the meridian of longitude of  $117^{\circ} 58'$  east of Greenwich.

It is likewise agreed that if more accurate surveying and mapping shall show that the line described above does not pass between the Mangsee Islands and Mangsee Great Reef as indicated on Chart No. 4720, the boundary shall be understood to be defined in that area as a straight line drawn from the intersection of the parallel of  $7^{\circ} 24' 45''$  north latitude and the meridian of longitude of  $117^{\circ} 25' 30''$  east of Greenwich, passing through Mangsee Channel as indicated on attached Chart No. 4720 to a point on the parallel of  $7^{\circ} 40'$  north latitude.

#### ARTICLE III

All islands to the north and east of the said line and all islands and rocks traversed by the said line, should there be any such, shall belong to the Philippine Archipelago and all islands to the south and west of the said line shall belong to the State of North Borneo.

#### ARTICLE IV

The provisions of Article 19 of the Treaty between the United States of America, the British Empire, France, Italy, and Japan limiting naval armament, signed at Washington on February 6, 1922,<sup>80</sup> shall, so long as that Treaty remains in force, apply in respect of all islands in the Turtle and Mangsee Groups which are or may be deemed to be comprised within the territories of the Philippine Archipelago

<sup>80</sup> *Foreign Relations*, 1922, vol. I, p. 247.

on the one hand and of the State of North Borneo on the other hand in consequence of the establishment of the line fixed by the preceding articles of the present Convention. In the event of either High Contracting Party ceding, selling, leasing or transferring any of the islands in question to a third party provision shall be made for the continued application to such island of the aforementioned Article 19 of the Treaty between the United States of America, the British Empire, France, Italy and Japan limiting naval armament, signed at Washington on February 6, 1922, provided that Treaty is still in force at the time of such cession, sale, lease or transfer.

#### ARTICLE V

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 Britannic Majesty, and shall come into force on the exchange of the acts of ratification which shall take place at Washington as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the same and have affixed thereto their respective seals.

Done in duplicate at Washington the second day of January in the year of our Lord one thousand nine hundred and thirty.

HENRY L. STIMSON [SEAL]

ESME HOWARD [SEAL]

711.4115A/80

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

No. 679

WASHINGTON, 2 January, 1930.

SIR: By the convention concluded between the President of the United States of America and His Britannic Majesty for the purpose of delimiting the boundary between the Philippine archipelago on the one hand and the State of North Borneo which is under British protection on the other hand, the sovereignty over certain islands which have for many years past been administered by the British North Borneo Company has been definitely recognized as pertaining to the United States of America. These islands which formed the subject of the arrangement effected by an exchange of notes between His Majesty's Government and the United States Government on July 3rd and July 10th, 1907,<sup>9</sup> are:—

1. Sibaung, Boan, Lihiman, Langaan, Great Bakkungaan, Taganak, and Baguan in the group of islands known as the Turtle Islands.
2. The Mangsee Islands.

<sup>9</sup> *Foreign Relations*, 1907, pt. 1, pp. 547, 548.

His Majesty's Government in the United Kingdom understand that the Government of the United States of America are prepared to conclude an arrangement in regard to these islands, supplementary to the above-mentioned convention, in the following terms:

Firstly. That the said company be left undisturbed in the administration of the islands in question unless or until the United States Government give notice to His Majesty's Government of their desire that the administration of the islands should be transferred to them. The transfer of administration shall be effected within one year after such notice is given on a day and in a manner to be mutually arranged.

Secondly. That when the administration of any island is transferred in accordance with the foregoing the said Company will deliver to the United States Government all records relating to administration prior to the date of transfer.

Thirdly. The United States of America shall not be responsible for the value of any buildings which have been or may be erected or other permanent improvements which have been or may be made in any island the administration of which is subject to transfer but any buildings or improvements erected or made by the administrative authorities prior to the transfer of administration may be removed provided the interests of the United States of America are not thereby injured. In the event, however, of the Island of Taganak being so transferred, the United States Government will give favourable consideration to the question of the compensation to be paid to the said company in respect of the capital expenditure incurred by the company in connection with the lighthouse situated on the island, and the United States Government will provide for the future maintenance of the lighthouse.

Fourthly. That such privilege of administration shall not carry with it territorial rights, such as those of making grants or concessions in the islands in question to extend beyond the temporary occupation of the company; and any grant, concession, or license made by the company shall cease upon the termination of the company's occupation.

The United States Government, however, take note of the desire of His Majesty's Government that the following titles to land in certain of the islands which were in good faith granted by the Government of North Borneo prior to the arrangement of 1907, be allowed to stand on the terms on which they were issued by that Government.

PARTICULARS				<i>Approximate total acreage</i>
<i>Titles</i>	<i>Date of Alienation</i>	<i>Period</i>		
<i>Boaan Island.</i>				
26 Native Titles	1. 6. 1907	In perpetuity		146 acres
<i>Lihiman Island.</i> <sup>9a</sup>				
7 Native Titles	1. 6. 1907	“ “		37 “
1 Provisional Lease 2416	1. 6. 1907	999 years		13 “
		Total		50 “
<i>Langaan Island.</i>				
4 Native Titles	1. 6. 1907	In perpetuity		12 “
<i>Great Bakkungaun.</i>				
3 Provisional Leases	26. 9. 1903	999 years		118 “

Fifthly. It is agreed that the United States Government shall be exempt from responsibility in respect of acts done in or from any of the islands in question the administration of which has not been transferred to the United States.

Sixthly. The stipulations of the extradition treaties between the United States Government and His Majesty's Government shall be applicable within the limits provided for in the exchange of notes which took place in Washington on September 1st/23rd, 1913,<sup>10</sup> to the islands in question and the United States Government take note of the importance which, in view of the proximity of the islands to North Borneo, the said company attach to the establishment and maintenance of an adequate police post thereon, in the event of the administration being transferred to the United States Government.

Seventhly. In the event of the cession, sale, lease or transfer of the islands in question to any third party, the United States Government undertake to use their good offices in commending to the favourable consideration of such third party the desires expressed by His Majesty's Government in the United Kingdom and the British North Borneo Company, as set out in the preceding articles of the present arrangement.

<sup>9a</sup> By an exchange of notes between the British Ambassador and the Secretary of State on July 6, 1932 (711.4115A/106½, Treaty Series No. 856), the following title inadvertently omitted from those included in this arrangement was added to the list:

<i>Lihiman Island</i>	<i>Date of Alienation</i>	<i>Period</i>	<i>Area</i>
Provisional Lease No. 2417	1. 6. 1907	999 yrs.	13 acres 0 roods 24 perches

<sup>10</sup> *Foreign Relations*, 1913, p. 549.

I have the honour under instructions from His Majesty's Principal Secretary of State for Foreign Affairs to request you to be so good as to inform me whether the United States adhere to the terms of the arrangement above described and I shall be glad to receive an assurance from you at the time that this note will be considered by the United States Government as sufficient acceptance of the above arrangement on the part of His Majesty's Government in the United Kingdom.

I have [etc.]

ESME HOWARD

711.4115A/77

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

WASHINGTON, January 2, 1930.

EXCELLENCY: In your Excellency's note of today's date you stated that His Majesty's Government in the United Kingdom understands that the Government of the United States of America is prepared to conclude an arrangement in the following terms regarding certain islands off the coast of Borneo which have been administered by the British North Borneo Company in accordance with the arrangement effected by an exchange of notes between His Majesty's Government and the Government of the United States of America on July 3 and July 10, 1907:

Firstly. That the said company be left undisturbed in the administration of the islands in question unless or until the United States Government give notice to His Majesty's Government of its desire that the administration of the islands should be transferred to it. The transfer of administration shall be effected within one year after such notice is given on a day and in a manner to be mutually arranged.

Secondly. That when the administration of any island is transferred in accordance with the foregoing the said Company will deliver to the United States Government all records relating to administration prior to the date of transfer.

Thirdly. The United States of America shall not be responsible for the value of any buildings which have been or may be erected or other permanent improvements which have been or may be made in any island the administration of which is subject to transfer but any buildings or improvements erected or made by the administrative authorities prior to the transfer of administration may be removed provided the interests of the United States of America are not thereby injured. In the event, however, of the Island of Taganak being so transferred, the United States Government will give favorable consideration to the question of the compensation to be paid to the said company in respect of the capital expenditure incurred by the com-

pany in connection with the lighthouse situated on the island, and that the United States Government will provide for the future maintenance of the lighthouse.

Fourthly. That such privilege of administration shall not carry with it territorial rights, such as those of making grants or concessions in the islands in question to extend beyond the temporary occupation of the company; and any grant, concession, or license made by the company shall cease upon the termination of the company's occupation.

The United States Government, however, takes note of the desire of His Majesty's Government that the following titles to land in certain of the islands which were in good faith granted by the Government of North Borneo prior to the arrangement of 1907, be allowed to stand on the terms on which they were issued by that Government.

<i>Titles</i>	PARTICULARS		<i>Approximate total acreage</i>
	<i>Date of Alienation</i>	<i>Period</i>	
<i>Boaan Island</i>			
26 Native Titles	1. 6. 1907	In perpetuity	146 acres
<i>Lihiman Island</i> <sup>10a</sup>			
7 Native Titles	1. 6. 1907	“ “	37 “
1 Provisional Lease			
2416	1. 6. 1907	999 years	13 “
		Total	50 “
<i>Langaan Island</i>			
4 Native Titles	1. 6. 1907	In perpetuity	12 “
<i>Great Bakkungaan</i>			
3 Provisional Leases	26. 9. 1903	999 years	118 ”

Fifthly. It is agreed that the United States Government shall be exempt from responsibility in respect of acts done in or from any of the islands in question the administration of which has not been transferred to the United States.

Sixthly. The stipulations of the extradition treaties between the United States Government and His Majesty's Government shall be applicable within the limits provided for in the exchange of notes which took place in Washington on September 1st/23rd, 1913, to the islands in question and the United States Government takes note of the importance which, in view of the proximity of the islands to North Borneo, the said company attaches to the establishment and maintenance of an adequate police post thereon, in the event of the administration being transferred to the United States Government.

<sup>10a</sup> See footnote 9a, p. 152.

Seventhly. In the event of the cession, sale, lease or transfer of the islands in question to any third party, the United States Government undertakes to use its good offices in commending to the favorable consideration of such third party the desires expressed by His Majesty's Government in the United Kingdom and the British North Borneo Company, as set out in the preceding articles of the present arrangement.

In reply to the inquiry made on behalf of Your Excellency's Government in the last paragraph of your note of today's date, I take pleasure in informing you that the Government of the United States of America adheres to the terms of the arrangement above described, and in assuring you that your note under acknowledgment is considered by the Government of the United States of America as sufficient acceptance of the arrangement on the part of His Majesty's Government in the United Kingdom.

Accept [etc.]

HENRY L. STIMSON

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**PROPOSED REVISION, WITH RESPECT TO ZANZIBAR, OF THE TREATY OF AMITY AND COMMERCE BETWEEN THE UNITED STATES AND MUSCAT (OMAN), SIGNED SEPTEMBER 21, 1833 <sup>11</sup>**

711.48V2/9

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

No. 52

WASHINGTON, January 31, 1929.

SIR: I have the honour to inform you that His Majesty's Government have recently been considering the question of revising, subject to the consent of the United States Government, articles 2, 3 and 9 of the Treaty of 1833 between the United States and Muscat, insofar as these articles are obsolete and no longer consonant with the proper administration of Zanzibar as a British Protectorate on modern lines. I have now received instructions from His Majesty's Acting Principal Secretary of State for Foreign Affairs to draw your attention to the previous correspondence between His Majesty's Government and the United States Government on the subject and to enquire whether I may assume that your Government are in principle prepared to fall in with the wishes of His Majesty's Government in regard to the modifications of the articles in question, as set forth in the concluding paragraphs of this note.

2. It will be remembered that under the terms of the loan made to Liberia in 1913 <sup>12</sup> His Majesty's Government, the French and German

<sup>11</sup> For text of treaty, see Miller, *Treaties*, vol. 3, p. 789.

<sup>12</sup> Loan agreement signed March 7, 1912, *Foreign Relations*, 1912, p. 671; proclaimed in force by the Liberian President on November 26, 1912, *ibid.*, p. 693.



Governments all acquired the right of nominating a Receiver of Liberian Customs: these three officers functioned under a Receiver General selected by the United States Government. In 1918 Liberia applied to the United States Government for a further loan,<sup>13</sup> and as a preliminary to considering this request, the United States Government enquired whether His Majesty's Government would consent to withdraw the British Receiver, if the loan were made.<sup>14</sup> In a note of September 13th, 1919, to the United States Ambassador in London<sup>15</sup> Lord Curzon agreed to this, subject to certain stipulations which were considered necessary to safeguard British interests in Liberia. The note concluded:—

“In the course of discussions upon this question between the United States and British Peace Delegations at Paris, the latter intimated that this Government would be glad if possible to effect with the United States a simultaneous settlement of certain questions relating to the treaty rights of United States citizens at Zanzibar under the United States-Muscat Treaty of 1833.

“Negotiations to this end are now in progress at Washington, and I have no reason to doubt but that they will be brought to an early and satisfactory conclusion.”

3. The history of the negotiations in question at Washington is briefly as follows:—

In a note of July 29th, 1919, His Majesty's Chargé d'Affaires at Washington represented to the United States Government<sup>16</sup> that United States citizens were claiming immunity from the payment of municipal taxes under article VI of the Convention of 1833, and, by so doing, were hampering the municipality of Zanzibar in the lighting and sanitation of the city. He enquired whether the United States Government would agree to cancel article VI of the treaty. To this the United States Government replied on August 12th, 1919,<sup>17</sup> that as long ago as 1914 they had instructed the United States Consul that they did not claim exemption for United States citizens from the payment of a “regular and reasonable tax upon real estate”. They did not, therefore, regard it as necessary to cancel article VI.

4. In a note dated September 25th, 1919,<sup>17</sup> Mr. Lindsay on instructions from His Majesty's Principal Secretary of State for Foreign Affairs, informed the United States Government that His Majesty's Government were desirous of securing the amendment of article 2 of the Treaty, so as to give the Government of Zanzibar a free hand to prohibit the importation of undesirable goods into the Protectorate, and also the abrogation of the personal immunity enjoyed by United

<sup>13</sup> See note from the Liberian Secretary of State, January 11, 1918, *Foreign Relations*, 1918, p. 510.

<sup>14</sup> *Ibid.*, p. 545.

<sup>15</sup> *Ibid.*, 1919, vol. II, p. 484.

<sup>16</sup> Note not printed; see *ibid.*, p. 486, footnote 31.

<sup>17</sup> Not printed.

States Consular Officers under article 9 of the Treaty and reaffirmed by article 2 of the Treaty of 1886 between the United States and Zanzibar.<sup>18</sup> He made it clear at the same time that the suggestion of His Majesty's Government was not put forward on account of any objection on their part to the past conduct of any United States Consul, but was merely designed to remove the special exemption which was superfluous under the present settled administration.

5. In a note dated March 3, 1920,<sup>19</sup> the State Department replied that they would carefully consider any proposals which His Majesty's Government might desire to submit.

6. The projected United States loan to Liberia, however, never materialised<sup>20</sup> and no further progress was made at the time with the above mentioned proposals of His Majesty's Government in regard to the United States-Muscat Treaty.

7. In 1925 a United States company, the Firestone Rubber Corporation, proposed to the Liberian Government to redeem Liberia's outstanding indebtedness and make a further loan to the Government in return for concessions for growing rubber.<sup>21</sup> One of the conditions of this loan was that a nominee of the United States should be placed in sole control of Liberian Customs. When these proposals became known to His Majesty's Government, Mr. Chilton was instructed to inform the United States Government that so long as His Majesty's Government refrained from exercising their right of appointing a British Receiver of Liberian Customs, they naturally expected that the conditions placed before the United States Ambassador in Lord Curzon's note of the 13th September, 1919, would be observed.

8. In the note which he consequently addressed to the State Department on October 7th, 1925,<sup>22</sup> Mr. Chilton drew attention to Lord Curzon's note defining the terms on which His Majesty's Government had agreed to the withdrawal of the British Receiver. While thus drawing general attention to these terms, Mr. Chilton did not at the time think fit to make any more definite reference to Zanzibar, the position being that, for the reasons above explained, no definite arrangement in regard to Zanzibar had ever been reached.

9. The proposals made by the Firestone Company in 1925 were adopted by Liberia at the end of 1926.<sup>23</sup>

10. In pursuance of the understanding reached between the two governments in 1919, His Majesty's Government have refrained in the past from re-appointing the British Receiver of Liberian Customs,

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<sup>18</sup> Treaty as to duties on liquors and consular powers, signed at Zanzibar, July 3, 1886; William M. Malloy (ed.), *Treaties, Conventions, etc., Between the United States of America and Other Powers, 1776-1909* (Washington, Government Printing Office, 1910), vol. II, p. 1899.

<sup>19</sup> Not printed.

<sup>20</sup> See *Foreign Relations*, 1922, vol. II, pp. 606 ff.

<sup>21</sup> See *ibid.*, 1925, vol. II, pp. 367 ff.

<sup>22</sup> *Ibid.*, p. 484.

<sup>23</sup> *Ibid.*, 1926, vol. II, p. 574.

and they have no doubt, in the light of the above considerations and of the correspondence which took place in 1919 and 1920, particularly the State Department's note of March 3, 1920,<sup>24</sup> referred to in paragraph 4 [5] above, that the United States Government will in turn be disposed to give favourable consideration to proposals for the revision of treaty articles which, under modern conditions, conflict with the proper administration of the Protectorate of Zanzibar.

11. It would be sufficient for the purposes of His Majesty's Government if the United States Government could see their way to undertake:—

(a) That they will not interpret article IX of the United States-Muscat Treaty of 1833, nor article II of the Treaty of July 3rd, 1886, between the United States and Zanzibar (so far as the latter article merely re-affirms article IX of the 1833 Treaty) as justifying United States Consular Officers in claiming immunity in the Courts of Zanzibar.

(b) That they will not claim, in virtue of article II of the Treaty, that United States citizens are free to import into Zanzibar articles the importation of which is prohibited by the Protectorate Government, always provided that such prohibition does not discriminate against articles produced in the United States.

(c) That, in the event of the Government of Zanzibar finding it desirable on grounds of public policy to fix prices of food or other commodities, and always provided that such price-fixing measures do not involve discrimination against articles produced in the United States, they will not regard as operative the clause in article II of the 1833 Treaty prohibiting the establishment by the Sultan or his officers of any fixed price on articles to be sold by merchants of the United States or on merchandise which the latter may wish to purchase.

12. In putting forward the first of the above requests, I am once more to explain that this proposal on the part of His Majesty's Government is not made on account of any objection to the conduct of any United States Consul in Zanzibar, but is merely designed to remove a special exemption which is superfluous under the present settled administration of the Protectorate.

13. As regards article 3 of the United States-Muscat Treaty, I am to offer the following observations on the part of my Government and to request you to be so good as to confirm to me on behalf of the United States Government that the assumptions of His Majesty's Government are correct.

14. His Majesty's Government have hitherto regarded themselves as at liberty to approve the increase by the Zanzibar Government of rates of import duty into the Protectorate, in accordance with the spirit of the convention of St. Germain-en-Laye,<sup>25</sup> the purpose of

<sup>24</sup> Not printed.

<sup>25</sup> Convention between the United States and other powers, signed September 10, 1919; *Foreign Relations*, 1928, vol. I, p. 437.

which was to revise the restrictive provisions of the earlier Act of Berlin<sup>26</sup> and Declaration of Brussels<sup>27</sup> so as to enable sufficient revenues to be raised for the proper administration of certain parts of Africa in accordance with changed conditions and upon modern lines. The United States were not parties to the Act of Berlin nor, consequently, to the Declaration of Brussels, nor were they parties to the convention of St. Germain-en-Laye.<sup>28</sup> Nevertheless His Majesty's Government assume that the United States Government do not, under present circumstances, insist upon the limitation to a maximum of ten per cent ad valorem, in accordance with the terms of article 1 of the Convention of the 31st May, 1902, between Great Britain and the United States<sup>29</sup> of the import duties upon merchandise imported into the Protectorate. On similar grounds His Majesty's Government assume that the United States Government do not insist, in virtue of article III of the Treaty of September 21st, 1833, between the United States and Muscat, on the limitation of export duties raised by the Zanzibar Government.

I have [etc.]

ESME HOWARD

711.48V2/10

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

WASHINGTON, February 25, 1929.

EXCELLENCY: I have the honor to acknowledge the receipt of your Note No. 52 of January 31, 1929, bringing to my attention certain particulars in which His Majesty's Government desires to have Articles 2, 3 and 9 of the Treaty of Amity and Commerce of 1833 between the United States and Muscat revised in so far as concerns the British Protectorate of Zanzibar.

You inquire whether you may assume that this Government is prepared to accept in principle the modifications of those articles proposed by His Majesty's Government in the concluding paragraphs of your note.

In reply I have the honor to inform you that sympathetic consideration will be given to the proposals made by His Majesty's Government and that I shall be glad to inform you at as early a date as possible of the views which this Government entertains in regard to them after it shall have given consideration to them.

Accept [etc.]

FRANK B. KELLOGG

<sup>26</sup> For French text of the General Act of Berlin of 1885, see *British and Foreign State Papers*, vol. LXXVI, p. 4.

<sup>27</sup> For text of the General Act and Declaration of Brussels of 1890, see Malloy, *Treaties, 1776-1909*, vol. II, p. 1964.

<sup>28</sup> Not until the President's proclamation of November 3, 1934.

<sup>29</sup> *Foreign Relations*, 1902, p. 551.

711.48V2/20

*The Consul at Nairobi (MacVitty) to the Secretary of State*

No. 8

NAIROBI, KENYA, June 27, 1930.

[Received July 30.]

SIR: I have the honor to refer to the Department's telegraphic instruction, May 15, 5 p. m. 1930,<sup>30</sup> with reference to its instruction of July 30, 1929,<sup>30</sup> concerning the British proposals to change the provisions of the Muscat Treaty in its application to Zanzibar; and to advise that this office is just in receipt of a communication, June 16, 1930, from the British Resident at Zanzibar which is quoted below in full:—

"I have the honor to acknowledge the receipt of your letter of the 4th of June, 1930, and to inform you that in regard to the negotiation or amendment of Treaties with Foreign Powers, His Majesty's Government in Great Britain acts on behalf of the Government of Zanzibar."

In response to the Department's request for a detailed report giving an expression of views in regard to the proposals of the British Government as outlined in the Department's instruction above referred to; after a careful study of the British Government's proposals it does not appear that the interpretations given would hamper consular rights to an unnecessary extent, nor that American trade with Zanzibar would be unduly discriminated against.

The present situation in Zanzibar makes certain clauses in the Muscat Treaty obsolete and it is believed that the proposals are in accord with modern conditions.

I have [etc.]

K. DE G. MACVITTY

711.48V2/25

*Memorandum by the Assistant Secretary of State (Castle) of a Conversation With the British Ambassador (Lindsay), July 30, 1930*

[WASHINGTON,] July 31, 1930.

I took up with the Ambassador this morning the question of the renunciation of our rights under our old convention with Zanzibar. I began by saying that, of course, the American authorities did not wish in any way to make difficulties for the British in Zanzibar because of these ancient rights. I said that, as far as I knew, we had not made difficulties up to the present and that I imagined the British desire to abrogate the treaty, or at least to have us surrender certain rights under the treaty, was a theoretical matter. I told him that Zanzibar was just about the only British possession where our consuls

<sup>30</sup> Not printed.

had real protection, that I saw no particular reason why we should give up these consular privileges merely to please the British. I said it seemed to me much more sensible, if the British Government was very anxious to dispose of this Zanzibar treaty, which I admitted gave us rights which we would not acquire in any modern treaty, the best way to accomplish the purpose would be to negotiate a consular convention with the United States, which would save trouble all around in the future. I said that we were continually having trouble because of the lack of any consular convention, such, for example, as the British insistence on collecting an income tax on the consuls' private income.

Sir Ronald said there was no possibility of getting any such agreement because the British Government had no use for a consular convention at all. I said that at least they might be willing to make such a convention covering British possessions outside of the Dominions as that would not make the complication of having to reach an agreement with all the Dominions in the matter. The Ambassador said he would communicate the suggestion, of course, to London, but that he was sure London would not be interested. As a matter of fact, he said Great Britain preferred to throw its consuls into the field and let them sink or swim, that it did not wish to demand for them any particular rights or privileges and for this reason it seemed to him exceedingly unlikely that his Government would take any action. I told him that in that case it seemed to me exceedingly unlikely that we should take any action in the Zanzibar case.

W. R. C[ASTLE], JR.

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**INQUIRY REGARDING ALLEGED OPPOSITION TO AMERICAN  
INVESTMENTS IN INDIA**

841.6463 Calcutta/1: Telegram

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

WASHINGTON, January 9, 1930—7 p. m.

9. American and Foreign Power Company advises Department that on January 10th the Calcutta Electric Supply Corporation, Limited, of London, have called a special General Meeting of shareholders to consider among other things alterations in the Company's articles of association calculated to secure that the control of the company shall remain in the hands of British subjects. Letter to shareholders from Ivor C. Thomas, Secretary, December 18, 1929, states:

“This is a precaution which has become of importance recently, and has been pressed upon us by the Government of Bengal. The

provisions drafted for the purpose have the effect of restricting the holdings of foreign shareholders to a maximum of 20% of the whole share capital, and are strictly in accordance with recent precedents in the case of certain well known Companies domiciled in Great Britain and operating abroad."

The resolutions to be voted upon contemplate a "special register" for shares held by foreigners, whether directly or through a trustee or agent and the forced transfer to British ownership of any shares held or subsequently acquired by foreigners in excess of the "authorized percentage."

American and Foreign Power Company representative informs Department that the Chairman of the Calcutta Electric Supply Company has stated that "the Indian Government is opposed to American investments in India" as he understands it even a minority participation.

Department desires Embassy to make prompt inquiry of the appropriate British authorities, to ascertain whether the Indian Government is in fact opposed to American investments in India and to what extent the Government of Bengal, as stated in the above-mentioned letter to shareholders, has recommended such action as is contemplated by the Calcutta Electric Supply Corporation. Telegraph result of investigation.

COTTON

841.6463 Calcutta/3: Telegram

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

LONDON, January 11, 1930—noon.

[Received 1:50 p. m.]

16. Your 9, January 8 [9], 7 p. m. At general meeting of members of Calcutta Electric Supply Corporation held in London yesterday, considerable opposition was displayed at proposal to restrict holdings of foreign shareholders to a maximum of twenty percent of the total capital and, on a show of hands, the necessary three-quarters majority was not obtained. However, the chairman, Lord Meston, announced he held proxies to the number of 1,146,000 in favor of scheme and only 24,700 against. It is consequently certain that result of poll to be announced in a week will insure adoption of the proposal.

As regards action of the Bengal Government, chairman made following statement:

"Last year we received an [intimation] from the Bengal Government that they regarded it as essential that control of our company should remain in British or Indian hands. Should transfer of that control be contemplated, they went on to say: [The local government would have to take into consideration, in consultation with the local authorities affected by the licenses and also with the Govern-

ment of India, the question either of the compulsory purchase at the time stipulated in the licenses, or of imposing a condition in the licenses requiring financial control to be held by British or Indian interests. I am to add that the local government would welcome any action on the part of Calcutta Electric Supply Corporation, such as the amendment of the article[s] of association, which would guarantee the continuance of control of the company in British or Indian hands[?]. This is our mandate for calling this meeting today."

I have written Foreign Office on this today. Full report will be transmitted by next pouch.<sup>31</sup>

DAWES

841.6463 Calcutta/10

*The British Secretary of State for Foreign Affairs (Henderson) to the American Ambassador in Great Britain (Dawes)*<sup>32</sup>

[LONDON,] 3 March, 1930.

MY DEAR AMBASSADOR: You will recollect that in the course of our interview on January 9th last you called my attention to certain proposals of the Calcutta Electric Supply Corporation having as their object the retention of the control of this Company in the hands of British subjects, and enquired what was the attitude of the Government of India towards the investment of American capital in that country.

In order to avoid all possibility of misunderstanding, I would explain that the Calcutta Electric Supply Corporation provide power to Calcutta and its environments under licences granted to them by the Government of Bengal, with the result that when the Company, who had already become aware that extensive foreign buying of their shares was taking place in the open market, received certain tentative proposals from American interests for the control of their business, they would have been guilty of a serious neglect of their responsibilities had they failed to inform the provincial authorities, although I understand that they were strongly pressed not to do so by the prospective purchasers. After carefully considering the matter, the Government of Bengal came to the conclusion that inasmuch as the Company are the sole purveyors of power for industrial and other purposes in a large and densely populated area, they could not regard with equanimity the possibility of the control of this vital public utility passing into foreign hands. The Government of Bengal, acting entirely within their rights, accordingly notified the Calcutta Electric Supply Corporation that they would welcome any action the Company might decide to take, such as the amendment of

<sup>31</sup> Despatch not printed.

<sup>32</sup> Copy transmitted to the Department by the Ambassador in Great Britain in his despatch No. 710, March 5, 1930; received March 20.



the Articles of Association, to guarantee that its control should remain in British or Indian hands, but without affecting in any way the position of the existing shareholders.

Your Excellency will readily appreciate that as it is entirely within the competence of the Government of Bengal to take such action as they may consider appropriate in the public interest to ensure that the control of a public utility operating under licence and within their jurisdiction does not pass out of British or Indian hands, this is not a matter in which His Majesty's Government can intervene even should they desire to do so, more particularly as the policy in question entails no discrimination of any kind against United States interests as such. Nor can this policy be interpreted as indicating any hostility on the part of the Government of India to the investment of American capital in that country, which on the contrary is not less welcomed than that of any other foreign capital. I would add that I am in receipt of assurances that no suggestion that American investment was opposed by the Government of India was ever made by the Chairman of the Calcutta Electric Supply Corporation in his conversations with the representative of the United States company interested.

Believe me [etc.]

ARTHUR HENDERSON

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841.6463 Calcutta/12

*The Acting Secretary of State to the Consul General at Calcutta (Frazer)*

WASHINGTON, April 9, 1930.

SIR: At the request of the American and Foreign Power Company, of New York, New York, on January 8, 1930, the Department of State instructed the Ambassador at London to inquire informally of the British Foreign Office as to certain statements which had been attributed to officials of the Calcutta Electric Supply Corporation regarding the investment of non-British foreign capital in India. These statements consisted of a categorical assertion in a notice of a special share-holders meeting that the Government of Bengal had suggested to the Calcutta Electric Supply Corporation the desirability of reorganizing the articles of association in such manner as to preclude foreign (i. e. other than British or Indian) control of the corporation; it was also reported to the Department that the Chairman of the Calcutta Electric Supply Corporation had stated verbally to a representative of the American and Foreign Power Company that the Government of India desired to exclude American capital from British India.

In its despatch No. 710, under date of March 5, 1930,<sup>33</sup> the Embassy at London forwarded a copy of an informal communication from the

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<sup>33</sup> Despatch not printed.

Right Honorable Mr. Arthur Henderson, dated March 3, 1930, which confirmed the accuracy of the statement that the proposal to limit foreign share-holdings in the Calcutta Electric Supply Corporation had originated with the Government of Bengal but denied the substantial accuracy of the statements attributed to the Chairman of the Calcutta Electric Supply Corporation. The text of Mr. Henderson's letter reads as follows:

[Here follows text of letter printed *supra*.]

. . . . .

So far as the records of the Department of State would indicate, this appears to be the first recent occasion on which an official British governmental agency has taken the initiative in recommending the limitation of foreign capital in a private British company. The instance is the more remarkable in view of the recent acquisition by American capital of large public utility interests in the United Kingdom. The attitude of the British Government in the premises would appear to throw considerable doubt on the future status of foreign capital throughout the Empire and if extended to other types of enterprise might be regarded as detrimental to American financial interests throughout the British Empire.

You are directed discreetly to investigate and report on the several issues of law and of fact which are raised in Mr. Henderson's letter to the Ambassador at London. In particular, the Department desires to be informed as to the danger to the Bengal Government which might inhere in the control by foreign capital of a public utility which is subject to the Bengal Government's license, to the legal or actual power of the Government of Bengal to act as a sovereign without the possibility of intervention by the British Government, to the Bengal Government's competence to take action in the premises and whether there is any precedent for such action, to the Bengal Government's relation to the Government of India in these matters, and to the question of the apparent hostility of the Government of India to the investment of American capital in that country. It is particularly desired that you should indicate the most practical manner of approach when this Government desires to raise questions of this character in relation to India. Any additional comment which you may consider appropriate will also be appreciated by the Department of State.<sup>34</sup>

I am [etc.]

For the Acting Secretary of State:  
WILBUR J. CARR

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<sup>34</sup> No despatch in reply found in the Department files.

## GREECE

### TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND GREECE, SIGNED JUNE 19, 1930

711.6812a/1

*The Secretary of State to the Greek Minister (Simopoulos)*

WASHINGTON, April 23, 1928.

SIR: 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 Greece and the United States.<sup>1</sup>

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,<sup>1a</sup> 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.<sup>2</sup>

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,<sup>3</sup> 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 notes<sup>4</sup> 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 between Greece and the United States, this latter formula cannot of course be used.

<sup>1</sup> Not printed; the draft was the same as the signed text, p. 168.

<sup>1a</sup> See *Foreign Relations*, 1909, index, p. 676.

<sup>2</sup> *Ibid.*, 1928, vol. II, p. 816.

<sup>3</sup> *Ibid.*, 1915, p. 380.

<sup>4</sup> *Ibid.*, 1928, vol. II, p. 819.

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 Greece 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,<sup>4a</sup> 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<sup>5</sup> 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.]

FRANK B. KELLOGG

711.6812a/10

*The Secretary of State to the Greek Minister (Simopoulos)*

WASHINGTON, June 6, 1930.

SIR: I have the honor to acknowledge the receipt of your note of May 19, 1930 (numbered 898),<sup>6</sup> by which you communicated to me the gratifying information that your Government is ready to conclude a treaty of arbitration and a treaty of conciliation with the Government of the United States of America in accordance with the drafts thereof which were transmitted to your Legation in the Department's note of April 23, 1928.

Understanding that it is your wish that the two treaties be done in both the English and French languages, I am enclosing for your consideration French equivalents of the English drafts of the two treaties.<sup>6</sup> These follow, *mutatis mutandis*, the French text of the treaties of arbitration and conciliation concluded between the United States and

<sup>4a</sup> For index references to the Bryan Treaties, see *Foreign Relations*, 1914, p. 1130; *ibid.*, 1915, p. 1328; and *ibid.*, 1916, p. 1007.

<sup>5</sup> Not printed; the draft was the same as the signed text, p. 170.

<sup>6</sup> Not printed.

Rumania on March 1 [21], 1929.<sup>7</sup> If these be satisfactory to you, I shall, upon being so informed, direct the preparation of the two treaties for signature and be happy to fix a time convenient to you for their signatures.

Should you deem it desirable to suggest any changes in the French text of the treaties, the Department will be glad to consider them.

Accept [etc.]

For the Secretary of State:

J. P. COTTON

Treaty Series No. 853

*Treaty of Arbitration Between the United States of America and Greece,  
Signed at Washington, June 19, 1930*<sup>8</sup>

The President of the United States of America and the President of the Hellenic 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. Henry L. Stimson, Secretary of State of the United States of America; and

The President of the Hellenic Republic:

Mr. Charalambos Simopoulos, Envoy Extraordinary and Minister Plenipotentiary of Greece in Washington;

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

<sup>7</sup> *Foreign Relations*, 1929, vol. III, pp. 751 and 753.

<sup>8</sup> In English and French; French text not printed. Ratification advised by the Senate, June 28, 1930; ratified by the President, July 21, 1930; ratifications exchanged at Washington, September 23, 1932; proclaimed by the President, September 26, 1932.

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 Greece 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 Greece 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 Greece 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 in the English and French languages, both texts having equal force, and hereunto affixed their seals.

Done at Washington the 19th day of June, one thousand nine hundred and thirty.

[SEAL] HENRY L. STIMSON  
[SEAL] CH. SIMOPOULOS

Treaty Series No. 854

*Treaty of Conciliation Between the United States of America and Greece,  
Signed at Washington, June 19, 1930*<sup>9</sup>

The President of the United States of America and the President of the Hellenic Republic, 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:

Mr. Henry L. Stimson, Secretary of State of the United States of America; and

The President of the Hellenic Republic:

Mr. Charalambos Simopoulos, Envoy Extraordinary and Minister Plenipotentiary of Greece in Washington;

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 Greece, 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.

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<sup>9</sup> In English and French; French text not printed. Ratification advised by the Senate, June 28, 1930; ratified by the President, July 21, 1930; ratifications exchanged at Washington, September 23, 1932; proclaimed by the President, September 26, 1932.

## 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 Greece 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 in the English and French languages, both texts having equal force, and hereunto affixed their seals.

Done at Washington the 19th day of June, one thousand nine hundred and thirty.

HENRY L. STIMSON      [SEAL]  
CH. SIMOPOULOS      [SEAL]



## GUATEMALA

### REVOLUTION IN GUATEMALA

814.001 Ch 34/17: Telegram

*The Chargé in Guatemala (McCafferty) to the Secretary of State*

[Paraphrase]

GUATEMALA, December 12, 1930—3 p. m.

[Received 8:55 p. m.]

95. The Foreign Minister just called me to the President's residence where he informed me that President Lazaro Chacon had a cerebral hemorrhage, that his present condition is serious, and that eight physicians have signed a statement declaring him incapacitated. This morning the Cabinet met and decided to name the Second Designate, Baudilio Palma, to act as President for the period of Chacon's incapacity. The Foreign Minister assured me that everything would be carried out legally, that the constitutional guarantees would not be suspended, and that the Cabinet's action would be presented to the Legislative Assembly for its approval today at 5 p. m.

It has already been stated by several deputies that Congress would insist that the elections be called within the time prescribed by the Constitution, as they believe that the decision of the Cabinet to name Baudilio Palma for the period of Chacon's incapacity is an attempt to keep him in power illegally for an indefinite period. There is much unrest and the political situation is extremely serious.

McCAFFERTY

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314.0022/1: Telegram

*The Chargé in Guatemala (McCafferty) to the Secretary of State*

[Paraphrase]

GUATEMALA, December 12, 1930—5 p. m.

[Received 10:30 p. m.]

96. Legation's 95, December 12, 3 p. m. This afternoon, when General Jorge Ubico arrived from his plantation, he found that his house was surrounded by about eighty soldiers and police, so he came to the American Legation and requested protection and asylum. I thereupon took up the matter with Baudilio Palma and the Minister for Foreign Affairs and reminded them of their promise to me that

persons who conducted themselves properly would not be molested. After my representations all the soldiers and police were removed except two. I was assured that General Ubico would have full protection but considering that Herlindo Solorzano, his bitter enemy, is in control I doubt very seriously whether this assurance can be actually carried out. I am convinced that General Ubico's life is in grave danger. Many prominent Americans with whom I have discussed the matter are of the same opinion. Furthermore, if General Ubico were to be assassinated, it is certain that a revolution would follow. Therefore, with a view to avoiding bloodshed and disorder I am permitting General Ubico to have asylum in the American Legation while danger exists, unless I am instructed otherwise.

McCAFFERTY

814.00/1022: Telegram

*The Chargé in Guatemala (McCafferty) to the Secretary of State*

[Paraphrase]

GUATEMALA, December 13, 1930—9 a. m.

[Received 3:43 p. m.]

98. With reference to my 95, December 12, 3 p. m. I have been reliably informed that the Minister of War, General de Leon, who was First Designate before he accepted the post in the Cabinet, has been held incommunicado since the serious illness of President Chacon. This is confirmed by the fact that Herlindo Solorzano, the Director General of Police, has had complete control and that the Minister of War has remained in Chacon's residence. . . . Guatemala City is being patrolled by the police and it appears that the new Government is doubtful of the loyalty of the army.

McCAFFERTY

314.0022/2: Telegram

*The Chargé in Guatemala (McCafferty) to the Secretary of State*

GUATEMALA, December 13, 1930—1 p. m.

[Received 5:01 p. m.]

99. Referring to my telegram of December 12, 6 [5] p. m., after the personal assurance of the Provisional President to both General Ubico and me that absolute protection would be given to him, Ubico left the Legation for his home at noon today.

[Paraphrase.] I think that my action in permitting General Ubico to stay in the Legation has had an excellent effect in preventing the persecution of persons suspected of not being sympathetic to the present Government. [End paraphrase.]

McCAFFERTY

314.0022/3 : Telegram

*The Secretary of State to the Chargé in Guatemala (McCafferty)*

WASHINGTON, December 13, 1930—4 p. m.

73. Your 96, December 12, 5 p. m. In view of your statement that you are convinced that Ubico's life is in grave danger and that you have discussed the matter with others who are of the same opinion, you may keep Ubico in the Legation while you discuss the matter with the Acting President, the Minister of Foreign Affairs, and the Chief of Police, and obtain satisfactory assurances for his safety.

Department desires to call your attention however to the consistent policy of the Department with respect to the doctrine of asylum and the fact that no condition of civil strife appears to prevail in Guatemala City. The Department therefore does not desire that you should harbor Ubico in the Legation beyond the continuance of the emergency.

STIMSON

814.001 Palma, Baudilio/4 : Telegram

*The Chargé in Guatemala (McCafferty) to the Secretary of State*

GUATEMALA, December 13, 1930—4 p. m.

[Received 6:26 p. m.]

101. I have just been officially notified by the Foreign Office that yesterday the Legislative Assembly appointed Baudilio Palma to take charge of the Presidency of the Republic while the illness of the constitutional President Lazaro Chacon lasts and that he assumed charge yesterday.

MCCAFFERTY

814.00/1023 : Telegram

*The Chargé in Guatemala (McCafferty) to the Secretary of State*

GUATEMALA, December 13, 1930—5 p. m.

[Received 8:40 p. m.]

102. The political situation has now improved considerably and the new Government seems to have complete control of the situation. At the present there does not seem to be danger of any outbreak or unrest in the immediate future.

MCCAFFERTY

814.001 Palma, Baudilio/3

*The Secretary to the President (Richey) to the Secretary of State*

WASHINGTON, December 13, 1930.

MY DEAR MR. SECRETARY: By direction of the President I am sending you for the appropriate attention of the Department the enclosed message from Baudilio Palma, Guatemala.

Sincerely yours,

LAWRENCE RICHEY

[Enclosure—Translation]

*The Acting President of Guatemala (Palma) to President Hoover*

GUATEMALA [December 12, 1930].

EXCELLENCY: AS General Lazaro Chacon, President of the Republic, is unable to exercise his functions because of a severe illness, I have been called upon by the Council of Ministers, in accordance with the Constitution, to assume charge of the Presidency of the Republic as I have the honor to communicate to Your Excellency.

BAUDILIO PALMA

814.001 Palma, Baudilio/7:Telegram

*President Hoover to the Acting President of Guatemala (Palma)*

WASHINGTON, December 15, 1930.

I have received your courteous communication of December 12 announcing the serious illness of His Excellency President Lazaro Chacon and your assumption of office as Acting President of the Republic. I deeply deplore the affliction which has visited General Chacon and express the hope that he may soon be restored to complete health. I desire also to wish you success, in the high office which has been thus confided to your hands.

HERBERT HOOVER

814.00/1024:Telegram

*The Chargé in Guatemala (McCafferty) to the Secretary of State*

GUATEMALA, December 15, 1930—3 p.m.

[Received 6:16 p.m.]

103. The Minister for Foreign Affairs informed me today that the Provisional President has decided not to accept any of the resignations of the Cabinet Ministers. It appears that the new administration has been established in accordance with the Constitution and that it is a legal continuation of the former government, although

there are certain sections of the opposition which insist that elections should be called within eight days to take place within six months. The Minister of Foreign Affairs assured me this morning that the present Government is desirous of cooperating in every way with the Government of the United States. The chiefs of missions will call on the Provisional President tomorrow at 11 a. m. [Paraphrase.] If the Department perceives no objection, I will reply to the Foreign Minister's note, mentioned in my 101, December 13, 4 p. m., in the sense that the American Legation in Guatemala will be happy to continue, as in the past, to cultivate friendly relations with the Government of Guatemala. [End paraphrase.]

McCafferty

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314.0022/4 : Telegram

*General Jorge Ubico to the Secretary of State*

GUATEMALA [undated.]

[Received December 15, 1930—3:10 p. m.]

Greatly obliged. Express my highest esteem for United States on the occasion of your very opportune protection.

Sincerely your friend,

GENERAL JORGE UBICO

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814.00 Revolutions/57 : Telegram

*The Chargé in Guatemala (McCafferty) to the Secretary of State*

GUATEMALA, December 16, 1930—5 p. m.

[Received 8:44 p. m.]

104. A revolution apparently started at 4 p. m. today. There is firing in various parts of the city. I have not yet been able to obtain any information, but I believe it is a revolt of the Army against the Government.

McCafferty

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814.00/1025 : Telegram

*The Chargé in Guatemala (McCafferty) to the Secretary of State*

GUATEMALA, December 16, 1930—8 p. m.

[Received 11:20 p. m.]

105. Situation looks very serious as the Army seems to be divided. I believe that bloodshed might be avoided if a warship were sent to San José de Guatemala or to both San José de Guatemala and Puerto Barrios. San José de Guatemala is much nearer the Capital than Puerto Barrios. The situation is most urgent.

McCafferty

814.00/1025 : Telegram

*The Secretary of State to the Chargé in Guatemala (McCafferty)*

WASHINGTON, December 17, 1930—noon.

74. Your 105, December 16, 8 p. m. Please report at once what American interests may be affected by the present situation in Guatemala and consequently require protection.

Has Mr. Edwin C. Wilson arrived?<sup>1</sup> If so, transmit his opinion with regard to the situation.

STIMSON

814.00 Revolutions/59 : Telegram

*The Chargé in Guatemala (McCafferty) to the Secretary of State*

GUATEMALA, December 17, 1930—2 p. m.

[Received 5:09 p. m.]

106. Referring to my telegram of December 16, 8 p. m., when I requested warship, conditions were chaotic and American lives and property were in imminent danger. The situation, due to my good offices and that of several other chiefs of mission, has considerably improved. Therefore my request for warship is temporarily canceled, because of an armistice arranged in my presence between the Government and the revolutionary forces. Up to the present time there have been no casualties among Americans or foreigners as far as I can ascertain.

The Provisional President has presented his resignation to the Assembly.

The revolutionary military forces are in complete control. General Orellana who is in control of the situation has promised me personally that Americans and foreigners will have absolute protection.

Mr. Edwin C. Wilson arrives tonight.

Full details will follow by cable this afternoon as I have been in constant conference endeavoring to prevent further bloodshed.

MCCAFFERTY

814.001 Orellana, Manuel/1: Telegram

*The Chargé in Guatemala (McCafferty) to the Secretary of State*

GUATEMALA, December 17, 1930—4 p. m.

[Received 7:27 p. m.]

109. Congress met today in special session and accepted the resignation of Provisional President Palma and appointed General Orel-

<sup>1</sup> Foreign Service Inspector.

lana, the head of the revolutionary movement, as Provisional President. This appointment is illegal because it is contrary to article 65 of the Constitution and the pacts of 1923.<sup>2</sup> Several Deputies have told me that the Congress was surrounded by armed forces and the Deputies were forced by threats to vote for General Orellana.

McCAFFERTY

814.00 Revolutions/60 : Telegram

*The Chargé in Guatemala (McCafferty) to the Secretary of State*

GUATEMALA, December 17, 1930—9 p. m.

[Received December 18—6:25 a. m.]

110. Late in the evening of December 15th I heard persistent rumors that the forts of Matamoras and San Jose, which guard the Capital, would revolt against the government of Baudilio Palma at midnight. The Government apparently was informed of such a plot as the Provisional President spent the night at the barracks of the Guardia de Honor. However, nothing occurred that night but at 4 p. m. on December 16th there was sudden firing on the city. It later became known that the Matamoras Fort commanded by General Manuel Orellana had revolted against the Government and had advanced on the city. They arrived at the Central Plaza and attacked the Guardia de Honor and the Presidential Palace. The police who were loyal to the Government were unable to withstand the attack and the revolutionary forces were successful. The Minister of War was killed and it is estimated that the total deaths were 50. There was grave danger that the two forts might shell the city, chaos reigned, and looting and disorders began. The President escaped to the Guardia de Honor and later took refuge at German Legation which was the nearest foreign mission. At 8 o'clock I was called to the German Legation and when I arrived there, after my car had been stopped several times by soldiers, I found the Provisional President with all his Cabinet, a delegate of the revolutionary forces together with the Ambassador of Mexico and the Ministers of Germany, Chile, Spain and Colombia, who were the only chiefs of mission who could be communicated with. Both parties requested our good offices to assist in making an arrangement which would prevent further bloodshed and we agreed to do so but made it clear that we were acting unofficially for humanitarian reasons. The Provisional President had received a letter from General Orellana that the sole purpose of the armed movement was to restore Chacon to Presidency from which he had been

<sup>2</sup> See *Conference on Central American Affairs, Washington, December 4, 1922-February 7, 1923* (Washington, Government Printing Office, 1923), p. 287.

illegally removed. Two delegates were named by both parties and in our presence they agreed to the following conditions:

(1) An armistice was declared until noon on December 17th but this could be extended further by agreement between both parties if more time were necessary to bring about an accord.

(2) Both parties agreed to each name a doctor and these would name a third who would examine Chacon at 8 a. m. to decide if he were capacitated to continue in the exercise of the Presidency. If they decided in the affirmative, Chacon would immediately resume office; and, in case of an adverse decision, both sides would mutually agree as to the best course to pursue for the good of the country. The opinion of the doctors was to be presented at 10 a. m. to all parties assembled at the Mexican Embassy.

(3) Orellana agreed to police the city and prevent disorders during the armistice, at the termination of which the troops would be returned to their original stations.

The meeting broke up at 4:30 a. m. About midnight an emissary of General Orellana requested me to call on him. When I arrived I informed him that I had come only in a personal capacity but was deeply concerned about the protection of the lives of American citizens and property and the prevention of further bloodshed. He assured me that he would do everything possible to grant absolute protection and said he desired only that the situation should be normalized according to the Constitution. I suggested that his delegates should treat with the Government delegates in a spirit of conciliation and he agreed to instruct them in that sense. We gathered at the Mexican Embassy and all the chiefs of mission were present except the French Chargé d'Affaires, but the British Minister withdrew as he did not feel that his Government would approve of his presence as a witness even for humanitarian reasons. The physicians presented their opinion that Chacon was physically incapacitated to resume office. The delegates of both sides then began conversations with a view to putting an end to the abnormal situation. The Government delegates stated that the revolutionary forces were in control, that no further resistance was possible and they asked what were the terms of the rebels. They demanded the resignation of Palma and said the Assembly would be called to elect a Provisional President. The Government delegates agreed, the Cabinet immediately resigned, and Palma sent his resignation to Congress. The Department has already been informed of the action of the Assembly in my cable No. 109 of December 17, 4 p. m. The appointment of the leader of the armed movement against the constituted government is undoubtedly a violation of articles 65 and 69 of the Constitution and the pacts of 1923 and I presume that under the circumstances the Department will not desire to recognize a government which has been established through violence. It is fairly certain that the military



were dissatisfied during Chacon's administration because of their gradual loss of power and had intended to revolt but with the turn of events they used the pretext of the illegality of Palma's selection as Provisional President and their loyalty to Chacon and the Constitution to carry out their original plans. The bad example of the Guatemalan Army may seriously affect the present political situation in Salvador.

McCafferty

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814.00 Revolutions/61: Telegram

*The Chargé in Guatemala (McCafferty) to the Secretary of State*

GUATEMALA, December 18, 1930—8 p. m.

[Received December 19—12:23 a. m.]

111. From Wilson. Reference Department's telegram No. 74, December 17, noon, and the Legation's 106, December 17, 2 p. m. I am in entire agreement with McCafferty that things have quieted down for the moment and that there is no immediate danger for American interests. The situation however is very serious. Regardless of whether Palma had taken office legally (and I think there is a reasonable argument that he had) there is no doubt that the Orellana coup was unconstitutional and should not be countenanced under the Washington treaty. To recognize Orellana would be tantamount to scrapping that treaty and inviting revolutionary movements in other Central American countries.

[Paraphrase.] Some plan must eventually be worked out under which Orellana would resign, thereby leaving Congress free to appoint a temporary President who was not connected with the recent movement and who could call an election for a constitutionally qualified President. Chacon, who is apparently entirely incapacitated, could resign of his own volition or Congress could declare him incapacitated.

The present Government has no funds and cannot maintain itself long without recognition. Realizing this, they sent a delegation to the Legation today to ask for support. It is my opinion that they might be induced to work out some such plan as that outlined above if they were informed that they could not be recognized under the treaty of 1923. [End paraphrase.]

You will, of course, want to await Whitehouse's<sup>3</sup> arrival Sunday and his recommendations before instructing the Legation to take any action, but I think some indication of our views should be made as soon as possible in an effort to be helpful in the present situation.

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<sup>3</sup> Sheldon Whitehouse, Minister in Guatemala.

I venture to submit the foregoing merely as my personal views based on a series of conversations today with well-informed people. I may add that I am in full accord with all that McCafferty has done and think he has handled the situation admirably. [Wilson]

McCafferty

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814.001 Orellana, Manuel/2

*The Guatemalan Minister (Recinos) to the Secretary of State*

[Translation <sup>4</sup>]

No. 103

WASHINGTON, December 18, 1930.

EXCELLENCY: Under instructions from the Minister for Foreign Affairs of Guatemala, I have the honor to inform Your Excellency that, by virtue of the resignation of Licentiate don Baudilio Palma, the Legislative Assembly in yesterday's session named General Manuel Orellana as Acting President of the Republic during the illness of General Lázaro Chacón.

Please accept [etc.]

ADRIÁN RECINOS

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814.00 Revolutions/66: Telegram

*The Chargé in Guatemala (McCafferty) to the Secretary of State*

GUATEMALA, December 19, 1930—10 p. m.

[Received December 20—9:55 a. m.]

114. With reference to my telegram of December 18, 8 p. m., No. 111, yesterday a delegation from General Orellana came to see me to ask for support and to explain the reason for their overthrow of the established government. Their contentions are the following:

1. Mauro de Leon should have been called as First Designate to take charge of the Presidency because, although he had sent his resignation to Congress, it had not been accepted.

2. The Cabinet was wrong in accepting the opinion of doctors who were not sent by Congress to examine Chacon's health.

3. In calling Palma to take charge of the Presidency, the Cabinet had acted illegally as this should have been done only by Congress.

4. That Congress was compelled by threats to vote for Palma.

In reply to these contentions, the Government's argument is as follows:

1. Mauro de Leon, when he accepted the post of Minister of War, automatically ceased to be First Designate and therefore the acceptance by Congress of this resignation was not necessary.

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<sup>4</sup> Translation supplied by the editors.

2. The physical incapacity of Chacon brought about a very serious situation and it was necessary for the Cabinet to act quickly so as not to leave the country without a chief executive.

3. That the Cabinet complied with the law by immediately calling Congress into session and it chose Palma.

4. The five physicians who signed the statement regarding Chacon's incapacity were highly reputable men and would not have signed a false declaration and moreover Congress accepted the statement of these physicians when they declared Palma in charge of the Presidency.

[Paraphrase.] I think that there is a reasonable argument that Palma obtained office in a constitutional manner and that his government was a legal continuation of the Chacon administration. The arguments of the revolutionists are based on petty technicalities. [End paraphrase.]

McCAFFERTY

814.001Ch34/18 : Telegram

*The Chargé in Guatemala (McCafferty) to the Secretary of State*

GUATEMALA, December 20, 1930—2 p. m.

[Received December 21—5:29 p. m.]

117. General Chacon and his family are planning to leave for New Orleans on Thursday, December 25th, presumably for the purpose of medical treatment and rest for him. I understand that the Orellana government is anxious for him to go, believing that this will facilitate Orellana's remaining in charge of the Presidency for the remainder of Chacon's term.

This morning Chacon's secretary brought to me, for a diplomatic visa, a diplomatic passport issued to Chacon by the present Government under today's date. I informed him that it would be necessary for me to request the Department's authorization by telegraph. Please instruct.

McCAFFERTY

814.00 Revolutions/68 : Telegram

*The Secretary of State to the Chargé in Guatemala (McCafferty)*

WASHINGTON, December 20, 1930—8 p. m.

76. Your 112, December 19, 11 a. m.<sup>5</sup> While the Department is willing to have you discuss with your colleagues steps for the safeguarding of foreign lives in case of political disturbances, I desire to point out that the position of this Government with regard to the Cen-

<sup>5</sup> Not printed.

tral American Governments is somewhat different from that of many of the other countries enumerated in your telegram. You should not therefore enter into any discussions with your colleagues for joint action in the matter of recognition.

The policy of this Government in the recognition of new Governments in the Five Central American Republics was publicly stated by Secretary Hughes on June 30, 1923, as follows: [Here follow the eighth, ninth, and tenth paragraphs of the press release issued by the Department of State on September 17, 1930, printed in volume I on page 387.]

The Secretary of State on September 17 in his statement announcing the recognition of the Argentine, Peruvian and Bolivian Governments, said: [Here follow the sixth, seventh and last paragraphs of the press release issued on September 17, 1930.]

This is still the policy of this Government and you will please so informally and orally inform the authorities now in control of the Government of Guatemala. While the Department does not desire to make a public statement at this time you may in conversation with other leading Guatemalans make the same statement.

Immediately upon his return, the Department desires the Minister to examine the situation very carefully with a view to making constructive suggestions in the premises. The Department, as stated above, upholds the 1923 Treaties. In order that the action of the present Guatemalan authorities may not result in a long period of non-recognition, the Department will be glad to have the Minister examine the situation and let it know what steps may possibly be taken by the Guatemalan authorities to put the Government back on a constitutional basis and also whether he feels that there is likelihood of the present authorities taking such steps.

STIMSON

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813.01/A:Telegram

*The Secretary of State to the Minister in El Salvador (Robbins)* <sup>6</sup>

WASHINGTON, December 20, 1930—8 p. m.

31. The Department has today advised the Legation at Guatemala City that this Government supports the 1923 Treaties. The Legation was instructed to advise informally and orally the Guatemalan authorities that this Government's policy in the recognition of new Governments in Central America is as stated by Mr. Hughes on June 30, 1923 and as reaffirmed by the Secretary on September 17 last. While the Department does not desire to make a public state-

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<sup>6</sup> The same on the same date to the diplomatic missions in Costa Rica (34), Honduras (93), and Nicaragua (137).

ment at this time, it desires you to make known its position in conversation with the officials of the Government and other political leaders of the country to which you are accredited.

STIMSON

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814.001 Ch 34/21: Telegram

*The Secretary of State to the Minister in Guatemala (Whitehouse)*

WASHINGTON, December 22, 1930—6 p. m.

77. Legation's urgent telegram No. 117, December 20, 2 p. m.

1. Under the circumstances the Department considers it preferable not to grant a diplomatic visa to General Chacon and his family on a diplomatic passport issued by the authorities now in control of the Government.

2. If he possesses a valid diplomatic passport covering himself and his family issued during his tenure of office you may grant a diplomatic visa upon such document.

3. If he does not possess such a diplomatic passport you may grant to him and to his family gratis visas under Section 3 (1) of the Immigration Act of 1924, placing such visas upon duplicate consular Form 257 which would then serve as his travel document. Personal appearance at the Legation in order to apply for such visas may be waived at your discretion.

4. Telegraph Department final action taken by you as well as names of the members of his party and the vessel, date and port of arrival in the United States.

STIMSON

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814.01/17: Telegram

*The Minister in Guatemala (Whitehouse) to the Secretary of State*

GUATEMALA, December 22, 1930—10 p. m.

[Received December 23—5:35 a. m.]

120. Your telegram No. 76, December 20, 8 p. m. arrived most opportunely. I had already seen President Chacon who is paralyzed on the right side but recognized me and said he wanted me to help him get away. He will be incapacitated for so long that his possible return to power is out of the question. This afternoon I saw Skinner

Klee<sup>7</sup> who is in bed and in a bad nervous condition. I told him you considered the 1923 treaty applied and would not recognize an Orellana government. He agreed you were right and suggested my seeing Palomo, Acting Minister of Foreign Affairs. I went there and Palomo tried to argue but I told him it was useless. He then asked me to notify Rodriguez Beteta, Secretary General of the Government and apparently the political brains of the Orellana movement.

Rodriguez Beteta came at six and I communicated your decision. He talked lengthily about their point of view but I told him such discussions were useless. He then said it would be difficult to get back to a constitutional regime and asked if you would be satisfied if General Orellana decreed new elections. I replied in the negative. He then asked what suggestions I could offer. I said I presumed it would be possible to arrange for a Provisional President who had had no connection with recent events and could be appointed constitutionally to hold the elections. He pondered this for a while and finally said he thought something could be done along these lines. He then asked me to see Orellana's son as he would like some one to bear witness to our conversation, to which I naturally agreed.

Rodriguez Beteta and young Orellana came together just now. The latter tried to argue but appeared very crestfallen at your decision. They said they would try and think of some constitutional way out and presumably will let me know. I have informed the Central American Ministers and some other colleagues and important Guatemalans of our course of action which I believe will have salutary effects.

Mexican Ambassador has just informed me that he has received instructions from his Government not to commit himself in any way.

WHITEHOUSE

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814.01/18: Telegram

*The Chargé in Honduras (Higgins) to the Secretary of State*

TEGUCIGALPA, December 23, 1930—noon.

[Received 5:05 p. m.]

130. Department's telegram No. 93, December 20, 8 p. m.<sup>8</sup> Minister for Foreign Affairs states that his Government's policy will conform to that of the United States Government with regard to the recognition of the Guatemalan Government.

HIGGINS

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<sup>7</sup> Alfredo Skinner Klee, Minister for Foreign Affairs.

<sup>8</sup> See footnote 6, p. 183.

814.00/1028: Telegram

*The Minister in Guatemala (Whitehouse) to the Secretary of State*

[Paraphrase]

GUATEMALA, December 23, 1930—2 p. m.

[Received 7:06 p. m.]

121. Every one with whom I have talked is agreed that there is one way of returning to a constitutional regime, namely, to have General Chacon resign the Presidency and then for General Orellana to restore to the Assembly the powers conferred upon him, which were for the duration of the President's incapacity. The resignation of the President would end the incapacity and bring about a vacancy in the Presidency. Since all the Vice Presidents are dead or have resigned, the Assembly would then elect others and the first of these would constitutionally become the Provisional President and call an election. There is one unconstitutional point in this procedure, namely, that the Assembly is only empowered to elect the Vice Presidents during ordinary sessions, and this would have to be an extraordinary one. There appears to be no other practical way, however, and no one will make any difficulty about it.

General Chacon is . . . quite ready to resign, and since there are already signs of a split among the present authorities I think that Orellana will eventually agree to be eliminated. The real difficulty will be for the various parties to agree on a choice for Provisional President because he will be a decisive factor in the coming election. Two candidates for the regular election are being talked of, Recinos and General Ubico.

WHITEHOUSE

814.00/1030: Telegram

*The Minister in Guatemala (Whitehouse) to the Secretary of State*

GUATEMALA, December 24, 1930—6 p.m.

[Received December 25—1:34 a.m.]

124. As I had some reason to believe that your decision not to recognize the Orellana Government had either not been communicated to Orellana or else greatly softened in transmission, I arranged a meeting with the General this afternoon at the house of the president of the Assembly. The General started off with the usual remarks about his having restored the constitutional regime, how wonderfully it has been received by the country, how he was going to reform all abuses, had no personal ambition and would be only too glad to turn back the power to Chacon when the latter's health was restored. I answered him briefly that your decision was final not to recognize his government and that I did not wish to enter into a constitutional

discussion as it would be futile. However, as he said he had no personal ambition it seemed to me a way could be found to return to a recognized constitutional regime by the method I outlined in my 121, December 23, 2 p.m. He objected sharply to this, said he would summon the Assembly to elect a Vice President and would follow strictly the constitution. I then pointed out that if he intended to remain in power the Assembly could not constitutionally elect Vice Presidents until the March session. Their election now could only be justified by a vacancy in the Presidency and three Vice Presidencies. I added that if he had illusions about being recognized by other countries I was positive he was wrong and sincerely hoped he would endeavor to find a solution of the present situation which the United States could accept. As he then started back over old ground I changed the conversation to General Chacon's desire to leave the country and asked if he had any objection to his doing so. He replied none whatever, and that he would summon the Assembly so that the necessary permission could be granted.

[Paraphrase.] Despite his intransigent attitude I still have hopes that he will be more reasonable when he has had time to think matters over. Also, from all reports reaching this Legation, as the news of our attitude spreads his position is weakened. [End paraphrase.]

WHITEHOUSE

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814.00/1029: Telegram

*The Secretary of State to the Minister in Guatemala (Whitehouse)*

WASHINGTON, December 24, 1930—7 p.m.

78. Your 123, December 23, 6 p. m.<sup>8a</sup> Department's position fully explained to Recinos this afternoon. He finally agreed that Orellana is debarred by constitution and made a suggestion of way out similar to that in your number 121<sup>9</sup> and said he would make such a suggestion to Guatemalan authorities and requested no public statement be made for a few days. Recinos was told that solution of matter is one for the Guatemalan authorities to deal with and that the Department's concern is merely that the arrangement should not be imposed by force and should be constitutional. He was further told that Department's position regarding recognition of Orellana having been communicated to Guatemalan authorities and other Central American Governments no public statement is contemplated in immediate future.

Recinos feels Congress can legally appoint designate in extraordinary session as constitution merely stipulates that such action

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<sup>8a</sup> Not printed.

<sup>9</sup> Dated December 23, 2 p. m., p. 186.



shall take place before March 15th each year. He will suggest appointment of first designate after January 1st, resignation of Orellana and appointment of first designate by Congress in agreement with Chacon as temporary President during Chacon's illness. In case of death of Chacon acting President would then as first designate call for elections within 6 months.

STIMSON

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814.00/1032 : Telegram

*The Minister in Guatemala (Whitehouse) to the Secretary of State*

GUATEMALA, December 26, 1930—10 a. m.

[Received 4:22 p. m.]

125. Rodriguez Beteta and Orellana's son came to see me last night and told me the General was ready to follow the plan outlined in my 121, December 23, 2 p. m., but wanted a little time . . . I asked how much; and they replied three or four days, which seemed reasonable. They explained that the new Provisional President must be someone that guarantees them from molestation and asked if you would recognize him at once. I told them I thought so if he was a suitable person. Time, in my opinion, is of great importance to avoid further trouble, and the sooner we have a regularly elected President the better. There are a good many people who, for personal reasons, desire to gain time before the elections, and among them is Recinos, but the country as a whole will suffer.

WHITEHOUSE

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814.00/1033 : Telegram

*The Minister in Guatemala (Whitehouse) to the Secretary of State*

GUATEMALA, December 27, 1930—4 p. m.

[Received 9:45 p. m.]

126. President Chacon was to have resigned this afternoon but, owing to the absence of the Chief Justice whom he desired as a witness to his signature, the act is postponed till Monday<sup>10</sup> morning. Congress is to meet on Tuesday. No agreement yet reached as to who is to be Provisional President, but the names mentioned are General Reyes, Reina Andrade, who is a deputy, and General Arisa, who is apparently a candidate of the opponents of Ubico.

[Paraphrase.] Everything seems to be headed towards a peaceful and constitutional settlement of the crisis, but the place is a powder mine and there are many careless smokers. I should appreciate

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<sup>10</sup> December 29.

instructions as to recognition of the new Provisional President, and I venture to suggest, in case anything unexpected occurs, that I be given discretion as to the time of recognition because it might be advisable to delay the same until he has actually issued the call for new elections. [End paraphrase.]

WHITEHOUSE

814.00/1028 : Telegram

*The Secretary of State to the Minister in Guatemala (Whitehouse)*

WASHINGTON, December 27, 1930—6 p. m.

79. Your 121, December 23, 2 p. m. Has third designado Luis Chacon resigned? Did Palma resign as second designado or only as provisional president?

STIMSON

814.00/1034 : Telegram

*The Minister in Guatemala (Whitehouse) to the Secretary of State*

GUATEMALA, December 28, 1930—10 a. m.

[Received 10 p. m.]

127. Replying to your December 27, 6 p. m., Luis Chacon's resignation as Third Designado was submitted to the Legislative Assembly, on December 17, 1930, but Congress had never accepted or rejected it. Palma has only resigned as Provisional President.

WHITEHOUSE

814.00/1035 : Telegram

*The Minister in Guatemala (Whitehouse) to the Secretary of State*

GUATEMALA, December 28, 1930—8 p. m.

[Received December 29—3:12 a. m.]

128. Have just had another interview with Orellana . . .

Prior to this discussion I had told him I considered four points of great importance:

First, that there should be forgetfulness of recent events.

Second, that no one involved in them should be a member of the Provisional Government.

Third, that elections should be held as soon as possible.

Fourth, that the Provisional President should not meddle in the elections.

[Paraphrase.] First. It resulted in talk about his own patriotism.

Second. He did not answer.

Third. He agreed at once that they should be held before March 1

Fourth. He inquired, rather surprised, if I wanted free elections, to which I naturally replied that I did.

Since he can force his nominee through the Assembly, unless I openly oppose it, it is urgent that I know what will satisfy you, and what importance you attach to my second point because I hear rumors that he desires to become Minister of War. I think that the moral benefit of our stand to Central America will be lost if we content ourselves with a sham. According to my best information your stand has met with general approval with the exception of some . . . involved.

In view of the meeting of the Assembly on Tuesday, December 30, please answer immediately. [End paraphrase.]

WHITEHOUSE

814.00/1036: Telegram

*The Minister in Guatemala (Whitehouse) to the Secretary of State*

GUATEMALA, December 29, 1930—noon.

[Received 3:20 p. m.]

129. President Chacon has just resigned in the presence of the president of the Assembly and the Chief Justice. I was in the room at the time. The document was put in the possession of the president of the Assembly.

[Paraphrase.] The majority of the Assembly is clearly hostile to General Orellana and unless overawed by display of force by General Orellana its course of action is uncertain. If things go wrong, they will go very wrong, and, as I suppose no warship is nearer than Panama, it is recommended that one be ordered immediately to San José. If things go peaceably, the Provisional President might be strengthened if the captain and a few other officers came to Guatemala City to pay their respects to him. If otherwise, the mere presence of a warship in San José might prevent greater disorders. [End paraphrase.]

WHITEHOUSE

814.00/1035: Telegram

*The Secretary of State to the Minister in Guatemala (Whitehouse)*

[Paraphrase]

WASHINGTON, December 29, 1930—4 p. m.

80. Your 128, December 28, 8 p. m. Department concurs in your four recommendations to General Orellana and it attaches imperative importance to the second point. The Department believes that it would vitiate the new provisional Government were any of the persons concerned with the military movement of December 16 carried over into it. If such further action seems necessary, you may inform General Orellana of the attitude of the Government of the United States in that respect.

STIMSON

814.01/23 : Telegram

*The Secretary of State to the Minister in Guatemala (Whitehouse)*

[Paraphrase]

WASHINGTON, December 29, 1930—7 p. m.

81. Your 126, December 27, 4 p. m. While the Government of the United States is disposed to accord prompt recognition of the Provisional President who may be constitutionally appointed, yet it wishes to reserve its decision until it is in possession of all the facts in the case. Furthermore, the Department may wish to exchange views with the Governments of the other Central American Republics before acting. Please keep the Department fully informed of all developments, but do not extend recognition until specifically instructed to do so.

STIMSON

814.00/1037 : Telegram

*The Minister in Guatemala (Whitehouse) to the Secretary of State*

GUATEMALA, December 30, 1930—noon

[Received 3:15 p. m.]

131. Baudilio Palma's resignation as Second Vice President was sent to the Assembly this morning. Owing to the delay in securing it and the absence of a good many Deputies, the meeting of the Assembly has been postponed until tomorrow. Meanwhile, eight or ten people are either under arrest or being looked for.

[Paraphrase.] I have just told Orellana that I thought no more arrests should be made and that those arrested should be set free. He replied that it was a preventive measure and that they were being held only until after the meeting of the Assembly. . . . I then asked that there be no armed forces in the precincts of the Assembly to which Orellana agreed.

My view is that General Reyes will probably be elected First Vice President which will be satisfactory . . .

WHITEHOUSE

814.00/1036 : Telegram

*The Secretary of State to the Minister in Guatemala (Whitehouse)*

[Paraphrase]

WASHINGTON, December 30, 1930—3 p. m.

82. Your 129, December 29, 12 noon. In the absence of immediate danger to American lives and property or other very compelling motives, the Department considers it to be inadvisable to dispatch a war vessel to Guatemala at this time. The Department is following the situation with the greatest concern and in order to be in readiness

it desires to receive full and timely reports of all developments, together with such further recommendations as you may judge necessary.

Also, the Department desires you to telegraph a statement of the American citizens and the American interests which may be endangered by civil disturbances.

STIMSON

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814.00/1038 : Telegram

*The Minister in Guatemala (Whitehouse) to the Secretary of State*

GUATEMALA, December 30, 1930—5 p. m.

[Received 11:40 p. m.]

132. Your 82, December 30, 3 p. m. Estimated number of American citizens in Guatemala 968, of whom 324 reside in the Capital. Principal American interests [are] International Railway of Central America, Electric Light Company, United Fruit Company, W. R. Grace and Company and its subsidiaries, National Aviation Company, Rosenthal bankers, Pacific Bank and Trust Company, Standard Oil Company, Union Oil, Pan American Airways, Retalhuleu Electric Company, Amsinck Sanne and Company, British American Tobacco Company and twelve other smaller concerns.

[Paraphrase.] When I recommended that a warship be sent to San José I did not mean to imply that it would be necessary to send any forces to the Capital, but merely that the presence of a warship in port would have a quieting effect. If trouble comes, it will come suddenly.

The difficulty is that the present Assembly was elected under Chacon, and many Deputies are endeavoring to profit by our action either to regain lost power for their group or to place obstacles in the way of their enemies without the slightest thought for the good of the country. They admit that if the elections are held soon they cannot beat Ubico because they have no candidate; but if the elections can be put off for the full 6 months they hope to be able to whip one up. [End paraphrase.]

WHITEHOUSE

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814.00/1040 : Telegram

*The Minister in Guatemala (Whitehouse) to the Secretary of State*

GUATEMALA, December 31, 1930—6 p. m.

[Received 11:34 p. m.]

134. Assembly met at 4 p. m., accepted resignation of Palma and Luis Chacon, then elected Reina Andrade First Vice President by 50 votes to 11 for General Arisa and 3 for Chief Justice Medrano. Gen-

eral Reyes was elected Second Vice President and General Solorzano, Third. First reading was then given to President Chacon's resignation and also to the Amnesty Bill. Second readings will be tomorrow and third Friday,<sup>11</sup> when Andrade will assume the Provisional Presidency. The meeting of the Assembly was orderly and so far everything has gone all right.

WHITEHOUSE

INABILITY OF THE GOVERNMENT OF THE UNITED STATES TO UNDERTAKE TO EXTEND DIRECT ASSISTANCE TO THE GOVERNMENT OF GUATEMALA TO OBTAIN A LOAN

814.51/651

*The Chargé in Guatemala (Hawks) to the Secretary of State*

No. 2753

GUATEMALA, February 5, 1930.

[Received February 13.]

SIR: I have the honor to report that at the request of President Chacón, I called upon him on January 29 and he asked me if I would assist him in the desire of the Government of Guatemala to obtain a loan. The Minister of Finance, Mr. Samuel Franco, was present at the interview. I replied that I would be very glad to be of any proper assistance in the matter. He stated that it was desired to obtain a loan to consolidate various of the outstanding debts of the Republic and to provide enough funds to put into operation the National Mortgage Credit Bank (see previous despatches), all of which would necessitate approximately ten or eleven million dollars. I told the President that I felt that he should realize that it might be difficult to obtain a loan at this time, as the bond market in New York was rather weak, but that I would be glad to discuss the details of this matter with the Minister of Finance and submit the proposal to the Department of State at Washington, in the hope that it might be able to interest American banking institutions therein. Immediately after this interview I called upon the Minister of Finance at his office and he stated that it was the desire of the Government to fund the following debts covering at present the following amounts:

Internal debt. . . . .	\$ 37, 271. 67
Bonds of Ferrocarril al Norte. . . . .	30, 210. 00
Bonds of Ferrocarril de Los Altos. . . . .	2, 790, 000. 00
Bonds of International Railways of Central America	2, 408, 000. 00
Automatic Telephones, A. E. G. . . . .	620, 535. 65
Debt to Anglo-South American Bank, Ltd. . . . .	1, 134, 599. 54
Construction of Ferrocarril de Oriente. . . . .	830, 000. 00
(Branch from Zacapa to Salvador of International Railways of Central America)	\$7, 850, 616. 86

<sup>11</sup> January 2, 1931.

He said that two or three million dollars more would be necessary in order to establish the National Mortgage Credit Bank bringing the total to approximately eleven million dollars, the amounts to be allotted for the service of this funding debt being the same as those allotted previously to each individual debt, namely:

Internal Debt.....	no special revenue
Ferrocarril al Norte.....	no special revenue
Ferrocarril de los Altos.....	5 cents tax per bottle of aguardiente
	3% Consular invoice tax
	2% Parcel post tax
	Annual revenues from the Railway and the Santa María Electric Plant.
International Railways of Cen- tral America .....	3% Consular invoice tax
	2% Parcel post tax
Automatic Telephones, A. E. G.	Monthly revenues from the tele- phones
Debt to Anglo-South Ameri- can Bank.	50 cents of the two dollar per quintal export tax on coffee.

I asked Mr. Franco whether the revenue allotted to these various debts would be sufficient to service the loan contemplated. He replied that he thought so but was not sure. I then inquired what the attitude of the Government was concerning allotting a portion of the customs for the service of the loan. He stated that this had been discussed with the President but that the latter was not ready at this time to take such action. I mentioned the possibility that perhaps the bankers might not be willing to make any loan without a control of the revenue assigned thereto. Mr. Franco stated that, of course, he understood and appreciated that any bank lending money would wish to supervise the collection of whatever funds were set aside for the payment of the loan but that at the present time he did not believe that the Government would be willing to commit itself to handing over the customs, leaving aside the question as to whether or not such a measure could be put through the National Legislative Assembly. My conversation with the Minister of Finance was entirely personal and understood as such by him. I said that I would be very glad to submit his proposition to the Department of State with the request that it endeavor to interest banks in the United States.

With regard to the debts as listed above to be consolidated, it should be pointed out that it is probable that the internal debt amounts to slightly more than the figure given above, the same being true of the Ferrocarril al Norte. The advisability of including this latter debt in any funding operation is very questionable. . . . According to this information, these bonds have been bought at a very cheap price as a gamble with the hope that, in the event of a funding operation, a very large profit could be made. There also arises in this connection

the possibility of certain persons trying to have the Department exert pressure upon the Government of Guatemala to have these bonds redeemed at a price near their face value. See the Legation's strictly confidential despatch No. 2622 of October 25, 1929.<sup>12</sup>

Concerning the revenues received from the amounts to be allotted for the service of the above debt, the following figures may be of interest:

	<i>Five Cent Liquor [Tax]</i>
1925.....	\$313, 432. 00
1926.....	353, 721. 00
1927.....	351, 418. 00
1928.....	400, 590. 00
1929.....	271, 737. 70 (first six months)

The combined six percent Consular invoice tax plus the four percent parcel post tax:

1928.....	\$1, 195, 825. 78
1929.....	1, 168, 598. 11

The fifty cents of the two dollar per quintal export tax on coffee:

1927.....	\$499, 628. 00
1928.....	615, 840. 00

Accurate figures for 1929 are not yet available.

The revenue from the Automatic Telephones is said practically to cover the service on that debt.

Up to the present time there has been no profit from the Los Altos Railway nor from the Santa María Electric Plant and there is not likely to be for several years to come.

In the contemplated loan proposed by the Government, it is not proposed to include the British Debt nor is any provision made for the deficit in the budget which on December 31, 1929 is estimated to have been 1,973,852 quetzales and which, due to the lack of the necessary retrenchment in the Government administration, the decrease in imports and other causes, will probably be increased rather than diminished during the last six months of the current fiscal year.

Since my return to Guatemala I have been struck by the extreme pessimism expressed on all sides as to the financial condition of the Government and the country. I have discussed this situation with several people, including members of the Government, and everyone seems to agree that a practical state of general moratorium exists in which nearly everybody owes everybody else and nobody pays.

<sup>12</sup> Not printed.



As far as I have been able to ascertain, the Banco Central still maintains its legal reserves but there is not much doubt but that it has exceeded its lawful rights in the question of making loans on mortgages and thus a great deal of its assets are tied up in frozen paper of one kind or another. The impression seems to exist that the President does not realize the seriousness of the financial situation due to his being told by his close advisers that everything is all right. I have endeavored to impress upon various officials with whom I have discussed this matter informally the absolute necessity of not allowing the value of the quetzal to start falling below par as this would ruin the credit of the country abroad.

Either one of two types of loans might be feasible at present, one: a strictly funding loan plus sufficient money to establish the National Mortgage Credit Bank, such as is now proposed by the Government, or two: a funding loan plus money for the Mortgage Bank and an additional six or seven million dollars for essential public works, principally roads. It is the opinion of a great many people, in which I concur, that this type of loan with the proper control would be the better for the present situation as it would provide employment, increase imports and give the country a chance to recover itself. In order to obtain such a loan it would probably be necessary to pledge a portion of the customs receipts and, while the Government states that it is not willing to do so, it is my opinion that if it is necessary in order to obtain a loan the Government will agree to it.

The attitude of the general public has changed to a great extent during the past few months towards the question of a loan. Most of the people, both in and outside of the Government, who have knowledge of such things, freely admit that that is the only thing which will pull the country out of its present bad financial condition and I think that even the general public would approve of a loan but only provided that it was given the strictest control both as to receipts and expenditure . . .

I have [etc.]

STANLEY HAWKS

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814.51/651

*The Acting Secretary of State to the Chargé in Guatemala (Hawks)*

No. 1234

WASHINGTON, February 20, 1930.

SIR: Reference is made to the Legation's confidential despatch No. 2753, dated February 5, 1930, in which it is reported that the President of Guatemala has requested the Legation to extend its assistance to the Government of Guatemala in its efforts to obtain a loan in the United States.

This Government, as you are of course aware, cannot undertake to extend direct assistance in matters of this kind. It is accordingly suggested that you inform President Chacón of the Department's regret at its inability to be of assistance to him in the present instance, and to suggest to him that he authorize his representatives in the United States to initiate direct negotiations with responsible banking institutions.

The Department, in this connection, can be of assistance and it will be very glad indeed to ascertain for the representatives of Guatemala in the United States the responsibility and standing of any such banking institutions in which they may become interested.

I am [etc.]

For the Acting Secretary of State  
FRANCIS WHITE

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**BOUNDARY DISPUTE WITH HONDURAS**

(See volume I, pages 344 ff.)

## HAITI

### THE PRESIDENT'S COMMISSION FOR THE STUDY AND REVIEW OF CONDITIONS IN THE REPUBLIC OF HAITI <sup>1</sup>

838.00 Commission of Investigation/63:Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary  
of State*

PORT-AU-PRINCE, February 28, 1930—6 p. m.

[Received 8:03 p. m.]

27. Commissioners <sup>2</sup> arrived this afternoon and were presented by me to the President.

RUSSELL

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838.00 Commission of Investigation/132, 138:Telegram

*The Chairman of the President's Commission for the Study and Review  
of Conditions in the Republic of Haiti (Forbes) to President Hoover*

[Paraphrase]

[PORT-AU-PRINCE, March 7, 1930.]

[Received March 8.]

1. The Commission finds the situation in Haiti critical and the people greatly inflamed. Representatives of large groups of people organized in various patriotic leagues have appeared in public sessions and without exception have stated that they would not accept any election of President by the Council of State. The Council of State is an appointive body which has acted as a legislature in Haiti for about twelve years and which has elected and reelected President Louis Borno. The demand which has been made by practically all those who have appeared, and supported as advisable by the Archbishop speaking for the Church, is for the restoration of representative government by a legislature elected by the people and their choice of a President. This, they state, is the only way that can satisfy the popular demand; that any other course will not be accepted by the people and will be opposed by acts of violence.

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<sup>1</sup> Continued from *Foreign Relations*, 1929, vol. III, pp. 204-208.

<sup>2</sup> The Commissioners were W. Cameron Forbes, Chairman, Henry P. Fletcher, Elie Vezina, James Kerney, and William Allen White; see report of the President's Commission for the Study and Review of Conditions in the Republic of Haiti, p. 217.

Quoting marine officers, the observations of High Commissioner Russell himself and General Frank E. Evans, representing the National Guard, which is the Haitian police force, all agree that the situation is tense and likely to result in bloodshed, and in the present state of the public mind some small incident may precipitate serious consequences.

With the approval of High Commissioner Russell, the Commission has convened a group of five leaders representing the various patriotic leagues, and represented to the Commission as likely to be able to control the situation, and at the Commission's suggestion they have issued a statement calculated to calm the public mind.

After considerable discussion it was suggested to them that a compromise candidate for the Presidency might be found, some person wholly out of politics, neutral and satisfactory to both sides, and willing to accept the election as President until a duly elected body can be convened.

On the one hand, the objection of representatives of the patriotic leagues, that the public and they would not recognize the election by the Council of State, has been met by their proposal to convene delegates from the country at large who will endorse and select the candidate agreed upon. On the other hand, after this has been done, the plan is for President Borno to secure the election of the compromise candidate by the Council of State. The new President is to agree to call the election of the two chambers of the legislature as soon as possible and then present his resignation, permitting the National Assembly to elect the new President. High Commissioner Russell has fully endorsed this program and he believes that President Borno will accept it. The five representatives with whom the Commission has talked are confident that they can find the necessary candidate acceptable to both sides and to the general public. This plan contemplates that only the candidate designated by the plan outlined above and elected by the Council of State should be recognized by the Government of the United States as President with the understanding that the plan will be carried out in its entirety.

In trying to effect a compromise which will satisfy the popular demand and at the same time comply with the provisions of the constitution with regard to the election of a President, the Commission has made it clear to the five representatives with whom it has discussed the matter that it was acting entirely unofficially. The Commission understands that High Commissioner Russell approved and is telegraphing the Department of State to this effect.

If you approve this plan, the Commission would appreciate a reply at the earliest moment because of the danger of premature publicity which is imminent. The time is very short because the leaders desire to submit and receive from the public assemblies throughout the

Republic of Haiti the endorsement and approval of the compromise candidate before April 14.

On Sunday morning, March 9, the Commission will leave for a tour of the Republic, but arrangements have been made to receive your reply promptly.

FORBES

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838.00 Commission of Investigation/132: Telegram

*President Hoover to the Chairman of the President's Commission (Forbes)*

[Paraphrase]

[WASHINGTON, March 8, 1930.]

I concur entirely in the recommendation set forth in your telegram No. 1 of March 7.

HERBERT HOOVER

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838.00 Commission of Investigation/84

*Press Release Issued by the President's Commission on March 9, 1930*<sup>3</sup>

The President's Commission has suggested that the various elements composing the opposition to the present Haitian Government should organize a group of delegates satisfactory to themselves and designate some neutral and non-political candidate, satisfactory also to President Borno, who should then receive their votes and also be elected regularly. The President thus chosen will call a popular election at the earliest possible date and present his resignation to the new Legislature, so that it will elect the President for the regular term. This plan has the approval of President Hoover and has been accepted, in principle, by both of the Haitian sides. Details have to be worked out. The Commission has no candidate to present.

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838.00 Commission of Investigation/132, 143: Telegram

*The Chairman of the President's Commission (Forbes) to President Hoover*

[Paraphrase]

[CAP-HAITIEN, March 10, 1930.]

[Received March 11.]

3. The President's Commission understands that its plan was acceptable both to President Borno and the Opposition. It was made public on the afternoon of Sunday, March 9th. The President's Commission left Port-au-Prince on Sunday morning, March 9th, for

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<sup>3</sup> Copy transmitted to the Department by the High Commissioner in Haiti in his despatch No. 1643, March 10, 1930; received March 14.

a trip into the interior. It learned on Monday morning, March 10th, at Hinche by seeing a copy of the telegram that President Borno had telegraphed the prefects on March 8 setting forth among other things that the news propagated by political agitators was false; that there would be no Provisional Government; that the Council of State would elect new President; and that there would be no legislative elections before 1932. The Commission received telephone messages to the effect that this had caused concern in Opposition circles. Considerable excitement prevails. High Commissioner Russell telephoned us stating that he had been informed of the situation and had tried to have President Borno correct the impression caused by his telegram by informing the prefects of his approval of the Commission's plan which President Borno has so far refused to do. The situation, therefore, is somewhat complicated. No compromise candidate for temporary President had been, or has been, agreed upon. The Commission understands that High Commissioner Russell is trying to straighten out the situation with President Borno.

The Commission will return to Port-au-Prince on the evening of Wednesday, March 12th, and will immediately resume negotiations; it plans, after making visits to several other ports, to sail for Florida about March 18th.

A telegram received from Port-au-Prince at 11 p. m. states that satisfactory progress is being made.

FORBES

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838.00 Commission of Investigation/132

*The President of Haiti (Borno) to the High Commissioner in Haiti (Russell)*<sup>4</sup>

[Translation <sup>5</sup>]

PORT-AU-PRINCE, March 10, 1930

MR. HIGH COMMISSIONER: Yesterday at noon the Chargé d'Affaires of the United States delivered to me on your behalf a note in English in the following terms:

"The President's Commission has suggested that the various elements comprising the opposition to the present Haitian Government should organize a group of delegates satisfactory to themselves and designate some neutral and nonpolitical candidate, satisfactory also to President Borno, who should then receive their votes and also be elected regularly. The President thus chosen will call a popular election at the earliest possible date and present his resignation to the new legislature, so that it will elect the President for the regular term.

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<sup>4</sup> Copy transmitted to the Department as an annex to a confidential memorandum of the President's Commission, dated March 26, 1930; not printed.

<sup>5</sup> Translation supplied by the editors.

This plan has the approval of President Hoover and has been accepted, in principle, by both [of] the Haitian sides. Details have to be worked out. The Commission has no candidate to present."

The French translation of this text is the following:

I wish to say, Mr. High Commissioner, that neither do I have a candidate to present. My term ending on May 15th next, I cannot contemplate the political plan recorded above except in the sole part that I have the constitutional duty to assure its execution, that is to say the election of my successor by the Council of State on April 14 next.

It remains understood, however, that I have not given my approval of the above plan except on the formal condition that the plan will be executed in conformity with the Constitution of Haiti<sup>6</sup> and the treaty of 1915<sup>7</sup> which binds our two Governments.

I renew [etc.]

BORNO

838.00 Commission of Investigation/76 : Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary of State*

PORT-AU-PRINCE, March 12, 1930—9 a. m.  
[Received 4:52 p. m.]

31. Referring to the declaration made by the President's Commission,<sup>8</sup> copy of which was forwarded to the Department on March 10th, President Borno addressed a letter<sup>9</sup> informing me that he has no candidate, that his term ends on May 15th, and that he cannot contemplate the political plan under consideration except on the understanding that the election of his successor will be by the Council of State on April 14th next. He further states that it must be well understood that he does not give approbation of the above plan except on the formal condition that the plan will be executed in entire conformity with the Constitution and the treaty of 1915 that binds our two Governments.

I acknowledged receipt of President Borno's letter above referred to confirming his verbal approval of the plan; and, with a view to allaying rumors, suggested to him the advisability of issuing a public statement to the effect that it is his irrevocable intention to retire from office on

<sup>6</sup> For Constitution of June 12, 1918, see *Foreign Relations*, 1918, p. 487; see also amendments to the Constitution of 1918, *ibid.*, 1927, vol. III, p. 48.

<sup>7</sup> Treaty between the United States and Haiti relating to the finances, economic development, and tranquillity of Haiti, signed September 16, 1915; for text, and supplementary agreements and protocols signed in 1916, see *ibid.*, 1916, pp. 328-338; for additional act extending the duration of the treaty, signed March 28, 1917, see *ibid.*, 1917, p. 807.

<sup>8</sup> See press release issued by the President's Commission on March 9, 1930, p. 200.

<sup>9</sup> *Supra*.

May 15, that he has no candidate to propose, and that he approves of the plan.

In this general connection I feel it to be of the utmost importance for the maintenance of American prestige in Haiti, as well as the responsibilities of Latin America, that the execution of the projected plan (1) observes strictly the provisions of the Constitution and of the treaty, and (2) that President Borno's prestige be preserved intact to the end of his term.

RUSSELL

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838.00 Commission of Investigation / 132, 144: Telegram

*The Chairman of the President's Commission (Forbes) to President Hoover*

[Paraphrase]

[PORT-AU-PRINCE, March 12, 1930.]

[Received March 13.]

5. In Commission's telegram No. 1 of March 7 it was stated that the proposed agreement should be that the new President was to agree to call the election of the two chambers of the legislature "as soon as possible." Conflicting interpretations have arisen over this phrase regarding the time, under the Constitution of Haiti, when legislative elections may be called. President Borno insists that such elections cannot be held before January 1932. On the other hand the opposition claims that they may be called on an earlier date. In such a situation the Commission should like to feel that the Government of the United States will recognize the definitive President if elected earlier than January 1932, and it strongly recommends that it be given this assurance in confidence.

[FORBES]

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838.00 Commission of Investigation / 95: Telegram

*The Acting Secretary of State to the Chairman of the President's Commission (Forbes)*

[Paraphrase]

WASHINGTON, March 13, 1930.

2. Your telegram No. 5, dated March 12, received. You will realize that the Government of the United States, on account of its Central American Treaties,<sup>10</sup> is committed to the general principle of the recognition of peacefully and constitutionally created governments. Also, that if your plan is carried out, the new President who will, by agreement among the various political parties, take President Borno's place as his lawful successor will undoubtedly be recognized

<sup>10</sup> See *Foreign Relations*, 1923, vol. 1, pp. 320 ff.; also *Conference on Central American Affairs*, Washington, December 4, 1922-February 7, 1923.



by the Government of the United States, provided he has not obtained the position by force or fraud; but we have encountered difficulties in the constitutional questions of electing a legislature and a further President before 1932. If, under the Constitution of Haiti, such an election could be construed as a delayed election, it might do. But on first reading of the Constitution of Haiti, especially the transitory clauses, it appears there might be a really serious question as to the legality of such an election; again, we are not willing to make a secret promise to any group in Haiti which the Government of the United States might be obliged to honor at some future period when the President's Commission had gone out of existence and when the persons who received the promise may have proved unworthy of it.

Please examine the constitutional questions involved and suggest a solution.

COTTON

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838.00 Commission of Investigation/132, 146: Telegram

*The Chairman of the President's Commission (Forbes) to President Hoover and the Acting Secretary of State*

[Paraphrase]

[PORT-AU-PRINCE, March 14, 1930.]

[Received March 14.]

7. Department's 2, March 13. The Commission is under the impression that the Department of State has misunderstood the question raised in Commission's No. 5, March 12. The Commission is not asking the Government of the United States to give a secret promise to any group in Haiti.

For ten years the people of Haiti have been deprived of their constitutional, representative assemblies. They complain that during that time they have been ruled entirely by appointive officers, executive and legislative, removable by the President and held in power by fear of the machine guns of the marines, against the popular will and in violation of what they say is the guarantee of representative democratic institutions contained in the Constitution of Haiti. The responsible leaders of the articulate elements of the Haitian public have convinced the Commission of their sincerity when they say that if they are compelled to wait for two years more for their legislative assemblies, the Government of the United States will be held responsible for a period of riots and disorders, to quell which it may be compelled to use the marines.

The Department accepted President Borno's contention that he had discretion to call or not to call elections last October. The solution which the Commission recommends is that the Department allow the Haitians themselves to settle this matter. They claim that

President Borno has violated the Constitution of Haiti by not calling elections and they wish to redress this injury to their institutions as quickly as possible.

In the belief that it will be possible to hold the legislative elections without waiting until 1932, the Opposition leaders are preparing to carry out the compromise plan. They say that they cannot hold their people in line if the elections are postponed to that date. It would indeed be bad faith on our part to allow them to act on this assumption if, after the President shall be elected, he will be met with the Department's veto of any legislative elections before 1932. The call for the primaries to endorse the neutral candidate has already been issued. It is understood that the delegates will meet in Port-au-Prince on March 20. No time, therefore, must be lost. If the Commission cannot feel safe on the point raised, it must so inform the leaders with whom it has been negotiating.

For our own protection we wish to know, before we go any further whether or not the Government of the United States will insist that the new President of Haiti must wait until next year to call legislative elections to be held in 1932. If the Department intends to insist on this interpretation, it is the unanimous opinion of the Commission that the compromise plan will be jeopardized and that measures which the President would be reluctant to order may become necessary.

We most earnestly submit that the Constitution of Haiti was written and adopted to secure representative government and that the people of Haiti should not be deprived of their fundamental constitutional rights by a technicality affecting merely the time set for elections.

Further progress awaits your reply.

FORBES  
FLETCHER  
WHITE  
KERNEY  
VEZINA

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838.00 Commission of Investigation/132,147: Telegram

*The Chairman of the President's Commission (Forbes) to President Hoover and the Acting Secretary of State*

[Paraphrase]

[PORT-AU-PRINCE, March 14, 1930.]

[Received March 14.]

8. In amplification of Commission's telegram of last night. The Commission met President Borno on March 13. The President said he was well pleased with the plan. The Opposition handed in five

names of neutral candidates for President. High Commissioner Russell will endeavor to get President Borno to approve one or two.

The Commission conducts all negotiations with the Opposition but approaches the administration solely through High Commissioner Russell who arranged yesterday's meeting.

The Commission believes that the entire matter can be settled shortly if it can get a favorable reply to its telegram No. 7 of March 14.

FORBES

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838.00 Commission of Investigation/96: Telegram

*The Acting Secretary of State to the Chairman of the President's Commission (Forbes)*

[Paraphrase]

WASHINGTON, March 14, 1930—5 p. m.

3. Your No. 7, March 14, and No. 8, March 14, have been considered. The Department has construed, and still continues to construe, the transitory provisions of the Constitution of Haiti as empowering the President of Haiti to determine when an elective assembly should be first constituted. Therefore, the Department has not felt, and does not now feel, that President Borno has violated the Constitution, or that there is in that respect an injury to be redressed. The Department construes the transitory provisions of the Constitution as requiring the President of Haiti, at biennial periods, to consider and determine the question of whether or not he should call an elective assembly. If a new Provisional President should assume the office as the successor to President Borno and should call an elective assembly at a date sooner than January of 1932, the Department would not consider the fact that the date of the election does not fall on such a January as being in itself a reason for not recognizing a President chosen by an assembly so elected, because the Department is of the opinion that it is a permissible construction of the Constitution that the transitory provisions as to elections in January of an even year are only directory upon the President.

We do not desire any public statement made as to the Department's opinion because we should regard as likewise permissible the other construction of the Constitution of Haiti. We should not, therefore, like the pledge of a compromise President to call an early election to rest in any degree on our opinion; nor do we desire any moral duty to see that a pledge in that regard is carried out. It would appear desirable that the various factions with whom you are negotiating be informed of this position and that it be made clear that while we do not object to it, we do not insist upon it.

COTTON

838.00 Commission of Investigation/132, 140 : Telegram

*The Chairman of the President's Commission (Forbes) to the Acting Secretary of State*

[Paraphrase]

[PORT-AU-PRINCE, March 15, 1930.]

[Received March 15.]

9. The Commission is gratified with approval received this morning.<sup>11</sup> It believes it can get the entire matter settled without further delay because no debated point now remains at issue. It hopes to get all necessary documents signed today.

All data necessary for survey and report have been assembled, and, unless the Commission receives orders to the contrary, it sees no good reason why it should not leave Port-au-Prince tomorrow and proceed to Guantanamo to coal U. S. S. *Rochester*, and arrive at Miami about daylight March 20. The Commission will then proceed direct to Washington.

FORBES

838.00 Commission of Investigation/98 : Telegram

*The Acting Secretary of State to the Chairman of the President's Commission (Forbes)*

[Paraphrase]

WASHINGTON, March 15, 1930.

5. We have received your 9 of March 15 and discussed the same with President Hoover. It is deemed absolutely essential that there should be a signed document so clear that a dispute over its meaning cannot well arise. Please telegraph the text of the document so that we can see and comment on it before you sail.

We emphasize the danger that may arise if for any reason the hopes of any part of the people of Haiti are raised too high or likely later to be disappointed if difficulties should arise in carrying out the plan.

COTTON

838.00 Commission of Investigation/132, 149 : Telegram

*The Chairman of the President's Commission (Forbes) to the Acting Secretary of State*

[Paraphrase]

[PORT-AU-PRINCE, March 15, 1930.]

[Received March 16.]

11. Your No. 5, March 15. Every precaution has been taken by the President's Commission to avoid misunderstanding and the Com-

<sup>11</sup> See telegram No. 3, March 14, 5 p. m., from the Acting Secretary of State, *supra*.

mission believes it has done so. Our compromise plan and the compromise candidate have been formally accepted by the leaders of all the patriotic groups, eight in number, representing the opposition with whom we have been dealing, and by President Borno. Today the Commission issued the following statement to the press: (Statement forwarded in a separate telegram).<sup>12</sup>

Before this statement was issued to the press every word of it was definitely approved by a committee representing the leaders of the Opposition, and High Commissioner Russell submitted it to President Borno and secured his approval of the text. The above announcement has caused such universal favorable comment that it is felt there is little chance that effective opposition will arise. The situation has calmed down completely. The signed documents upon which we based our plans will follow in plain language as a part of this report.<sup>13</sup>

As High Commissioner Russell has conducted all negotiations with President Borno, the Commission has requested him to inform the Department of the steps which he has taken to secure the President's approval and to telegraph the way in which it came about.

The Commission has announced the completion of its work here, interviewed M. Eugene Roy, the candidate, paid a farewell call upon President Borno, and it does not believe it can secure anything helpful by a longer stay in Haiti, and that to return will be misunderstood and probably hurt the situation.<sup>14</sup> If the Department desires additional documents and signatures, the Commission believes High Commissioner Russell is in a position to secure them.

The Commission has read this report to High Commissioner Russell and he concurs in every statement therein.

W. CAMERON FORBES

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838.00 Commission of Investigation/91, 139: Telegram

*The Chairman of the President's Commission (Forbes) to the Acting Secretary of State*

[PORT-AU-PRINCE,] March 15, 1930.

[Received March 16.]

Document No. 1.<sup>15</sup>

Mémoire relative to the plan accepted by the Federated Committee

<sup>12</sup> Dated March 16, p. 211.

<sup>13</sup> See separate telegram of March 15, *infra*.

<sup>14</sup> The members of the President's Commission had evidently boarded the U. S. S. *Rochester* in preparation for their departure on March 16.

In its telegram No. 6 of March 17 (not printed), the Department informed the Commission that it perceived no objection to the Commission's returning to the United States at once (832.00 Commission of Investigation/99).

<sup>15</sup> The texts of Documents 1, 2, and 3 were transmitted in French; file translations have been revised on basis of copies of texts of the documents transmitted to the Department as annexes to a confidential memorandum of the President's Commission, dated March 26, 1930 (838.00 Commission of Investigation/132).

of Patriotic Associations.

1. Each *arrondissement* shall on or before March 20, 1930, designate a delegate, except for [the *arrondissement* of Port-au-Prince, which shall designate three delegates, and] the *arrondissements* of Cap Haitien, Cayes, Gonaives, Port de Paix, Jacmel, Jeremie, St. Marc, Leogane, and Nippes, which shall each designate two delegates—a total of thirty-eight delegates.

2. The representatives of the various Patriotic groups shall meet at the principal town (*chef-lieu*) of each *arrondissement* in order to proceed to the designation of delegates.

3. The delegates shall meet at Port-au-Prince not later than March 28, 1930, in order to form the Central Committee, which shall have as its mission the choosing of the candidate of the nation for the Presidency of the Republic. The Committee shall be presided over by the oldest member (*doyen d'âge*).

4. It is admitted and understood that the American Government is under the obligation to respect the constitutional political organization [of the Republic of Haiti. This declaration in no wise prejudices] the right of future Haitian Governments to revise the Haitian Constitution through suitable methods. All changes which may affect the contractual relations now existing between the United States and Haiti will naturally be the object of a previous negotiation between the two Governments.

5. The candidate chosen must be neutral in politics and must satisfy the conditions required by the Constitution. He must be acceptable both to President Borno and to the groups of the Opposition represented by their several chiefs.

6. The citizen chosen conformably with article 3 above must publicly and solemnly pledge himself, and this shall constitute a previous condition for his election, to call the legislative elections as soon as possible. These legislative elections must take place within a period of three months from the calling of the primary assemblies. He must likewise pledge himself to take the necessary measures to guarantee an honest election (*sincérité du vote*) without placing any restriction on the right of universal suffrage. He must pledge himself to call the National Assembly in extraordinary session immediately after the elections, and thereupon immediately to present his resignation as President of the Republic. He must, lastly, pledge himself not to be a candidate for the Presidency of the Republic at the new and definitive Presidential election.—Le Comité Federatif, President Rigal; L'Union Patriotique; [La Ligue des Droits de l'Homme et du Citoyen;] La Ligue d'Action Sociale Haitienne; La Ligue Nationale d'Action Constitutionnelle; La Ligue de Defense Nationale; La Ligue de la Jeunesse Patriote; Le Parti National Travailleiste; L'Union Nationaliste.

All signed by Presidents of Leagues except two who were out of town but whose signatures are guaranteed by the others.

## Document No. 2.

President Hoover's Commission.

Gentlemen: Article 6 of the draft of the mémoire relative to the plan for the formation of a Provisional Government provided that the citizen who might be designated in accordance with article 3 of the said mémoire would pledge himself, among other things, to call the legislative elections "within fifteen days from his installation."

You have preferred, in the final text, the phrase, "as soon as possible". The Federated Committee has accepted with the understanding that that expression "as soon as possible" signifies that "the first legislative elections shall take place in the course of the same year 1930 and not in January 1932.

Kindly take note of this and acknowledge receipt thereof and accept, Gentlemen, the assurances of our distinguished sentiments.

Signed by same League[s] as mémoire.

## Document No. 3.

President Hoover's Commission.

Gentlemen: The Federated Committee states that any one of the citizens whose names follow will be acceptable both to the Haitian nation and the Federated Committee as candidate for the office of provisional president: Dr. Felix Armand, Ernest Douyon, Dr. Price Mars, Fouchard Martineau, Eugene Roy. We beg you to accept the assurances of our distinguished sentiments.

Signatures same as mémoire.

## Document No. 4.

Reply to explanation [*sic*] letter of Comité Federatif of March 15, 1930, Document No. 2.

Mr. Rigal, President of the Federated Committee of Political Groups, Port-au-Prince. Dear Sir: The President's Commission for the Study and Review of Conditions in the Republic of Haiti has the honor to acknowledge the receipt today of your communication accepting, on behalf of the Federated Committee of Political Groups, the plan formulated by the Commission with regard to the election of the temporary President of the Republic, etc. The Commission has also received your letter explaining the Federated Committee's interpretation of the phrase "as soon as possible" appearing in the said plan relating to the approaching presidential election and states that it has no objection to formulate in regard to this interpretation. The President's Commission also acknowledges the receipt of the list submitted by your Committee containing the names of five gentlemen any one of whom will be satisfactory to the Federated Committee and to the people of Haiti as the candidate for temporary President. Yours very truly, W. Cameron Forbes, Chairman.

[FORBES]

838.00 Commission of Investigation/88: Telegram

*The Chairman of the President's Commission (Forbes) to the Acting Secretary of State*

PORT-AU-PRINCE, March 16, 1930.

[Received 8 a. m.]

Statement to the press March 15, 1930:

The Commission is glad to announce that its plan made public on March 9<sup>16</sup> is now in a fair way to become effective. The Federated groups have formulated and sent in a signed statement of a program satisfactory to the Commission and to President Borno.<sup>17</sup> They have also suggested five names of candidates for the temporary Presidency who would be acceptable to them.<sup>18</sup> President Borno has informed the Commission through General Russell that of these names that of Eugene Roy was satisfactory to him thus making Mr. Roy the coalition candidate. The plan provides briefly "that the convention of electors representing the different Patriotic groups and organizations be assembled and vote on March 20 for a candidate for the Presidency whose name will then be submitted to the Council of State who will vote on it April 14. Approved by both sides in due course, he will then succeed to the Presidency at the expiration of President Borno's term, having pledged himself to call elections for the legislative chambers at the earliest possible date. He will present his resignation to the chambers when they convene. The latter will then proceed to elect a president for the regular term.['']

The program also has the sanction and approval of President Hoover and the State Department in Washington.

The Commission feels that this is a happy solution of the problem and wishes to express its thanks to President Borno and the officers of the Government on one side and to the representatives and delegates of the Federated groups on the other for their gracious conduct and conciliatory spirit without which this solution of the difficult Haitian situation would have been impossible.

[FORBES]

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838.00 Elections/5: Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary of State*

PORT-AU-PRINCE, March 20, 1930—9 a. m.

[Received 4:50 p. m.]

36. Committee of Federal groups representing the opposition has issued formal invitation as follows:

"The Federative Committee of the Patriot Groups of Haiti has the honor of inviting you to the solemn meeting of the Assembly of the

<sup>16</sup> See press release issued by the President's Commission on March 9, 1930, p. 200.

<sup>17</sup> See Document No. 1 contained in telegram of March 15 from the Chairman of the President's Commission, *supra*.

<sup>18</sup> See Document No. 3 contained in telegram of March 15 from the Chairman of the President's Commission, *supra*.



delegates of the *arrondissements* of the Republic which will take place at the Hotel de Ville of Port-au-Prince Thursday, the 20th of March, at 10 o'clock in the morning. The meeting will proceed to the election of the Provisional President of the Republic."

These invitations were sent to President Borno and to members of the Cabinet. The Minister for Foreign Affairs called on me late yesterday afternoon and informed me of the above and that the president of the communal commission has been instructed to write to the committee stating that the Government cannot allow a meeting in the Hotel de Ville for the purpose stated in the invitation. The Minister then said that the meeting could be held only to vote for a party candidate and that the Government will instruct him to prevent the meeting.

The plan and statements of the President's Commission clearly state that the purpose of the meeting is to vote Patriots' candidate for the Presidency.

I have endeavored to adjust this matter through Leger and Pradel, who were in thorough accord with my viewpoint and had not known of the issuance of the invitation. Pradel arranged an interview for Grummon<sup>19</sup> with Rigal, president of the Opposition groups. At the meeting were also Moravia and Vilaire *doyen* of today's meeting, all of whom showed themselves absolutely intransigent. Moravia stated that the time had come to shed blood and that Haitians were prepared to die for their country as in 1802. However, Mangones, Poae [Placide] David and Chauvet later joined the group and urged conciliation. After much vituperation and vacillation, through the efforts of the moderates they decided to hold the meeting at the Chamber of Commerce instead of the Hotel de Ville; so as to advise the public through the morning papers and at the same time they decided to state that the meeting would be in harmony with the plan of the President's Commission. Leger and Pradel are at this time comparatively moderate but I am uncertain as to whether they will be able to control the radical element.

RUSSELL

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838.00 Elections/6:Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary of State*

PORT-AU-PRINCE, March 20, 1930—noon.

[Received 5:42 p. m.]

38. Delegates of patriotic groups met at the Parisian, a theater, this morning and selected Eugene Roy as their candidate for the

<sup>19</sup> Stuart E. Grummon, Second Secretary of Legation.

Presidency. Thirty-seven votes were for Roy, one blank.<sup>20</sup> Announcement made from the platform that Roy had been chosen in accordance with President Hoover's plan as their candidate for the Presidency.

RUSSELL

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838.00 Elections/8: Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary of State*

PORT-AU-PRINCE, March 21, 1930—2 p. m.  
[Received 5:55 p. m.]

40. Referring to my telegram number 36, March 20, 9 a. m. The local newspaper *La Presse* this morning publishes a procès-verbal of yesterday's meeting of delegates of the Federated groups representing the opposition. This document clearly shows that:

(a) A vote was taken on the election of the candidate for the temporary Presidency of the Republic;

(b) That the presiding officer announced Monsieur Eugene Roy elected to the temporary Presidency of the Republic by virtue of the protocol agreed to between the representatives of the Federative Committee of the societies and patriotic groups and the American Presidential Commission;

(c) That Delegate Dr. Price Mars read the decree proclaiming Eugene Roy the elected (chosen) of the nation for the execution of the Hoover plan with mention of the engagements taken by the individual elected.

I have received a letter from Etzer Vilaire who announces himself as president of the assembly of delegates of the *arrondissement* of the Republic.

Vilaire brings to my attention the election of the candidate of the nation Mr. Eugene Roy for the temporary Presidency of the Republic of Haiti and asks me to inform President Hoover and the Department of State.

The decree of nomination enclosed in Mr. Vilaire's letter states in article 1: "The Assembly proclaims the citizen Eugene Roy (chosen) of the nation for the execution of the plan of the Hoover Commission."

I suggest that I be authorized to [inform?] Vilaire in writing that the United States Government only recognizes Monsieur Eugene Roy as the candidate of the Federated Patriotic Groups for the Presidency, his name to be submitted to the Council of State which will vote on it on April 14.

RUSSELL

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<sup>20</sup> A decree of nomination, dated [March 20, 1930, stated that "out of thirty-four votes citizen Eugene Roy has received thirty-four". (838.00 Elections /16).

838.00 Elections/9: Telegram

*The High Commissioner in Haiti (Russell) to the Secretary of State*

PORT-AU-PRINCE, March 21, 1930—2 p. m.  
[Received 8:30 p. m.]

41. Referring to my urgent telegram 40, March 21, 2 p. m. I have just had a note from the Haitian Government as follows:

“In accordance with the so-called Hoover plan proposed on March 15, 1930, by President Hoover’s Commission<sup>22</sup> and approved by our two Governments, the various groups of the Opposition were on March 20, to elect Mr. Eugene Roy in accordance with the very terms of the plan to be a ‘candidate for the Presidency whose name would be submitted to the Council of State,’ in the above quality as candidate.”

The note further points out that the procès-verbal referred to in my above-referred-to telegram violates the plan in the three respects named by me in that telegram.

The note concludes as follows:

“We are therefore in full revolution, anarchy is complete.

Despite the Constitutional Government of the Republic, despite the American Government which has undertaken by treaty to maintain that Constitutional Government, Opposition groups without any popular mandate are arrogating to themselves the right to issue a decree proclaiming a citizen temporary President and that in derogation of the Hoover plan which only authorized the simple approval of a ‘coalition candidate’ to submit on the 14th of April to the vote of the Council of State.

The Haitian Government through me (Minister for Foreign Affairs) hereby formally renews the protest contained in my letter of yesterday and considers itself henceforth relieved of any obligation accruing to it as a result of the Hoover plan manifestly violated by the Opposition.”

The protest of yesterday, above referred to, related to the wording of the invitation of the Patriotic groups and was satisfactorily adjusted. See my telegram 36 March 20, 9 a. m.

I propose tomorrow to inform President Borno that I have transmitted the contents of his note to the Department and that I consider the decision mentioned in the last paragraph of the above-mentioned note to be precipitate and ill-advised.

RUSSELL

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<sup>22</sup> See telegram No. 11, March 15, 1930, from the Chairman of the President’s Commission, p. 207.

838.00 Elections/13 : Telegram

*The Acting Secretary of State to the High Commissioner in Haiti  
(Russell)*

WASHINGTON, March 22, 1930—5 p. m.

30. Your numbers 40 March 21, 2 p. m. and 41 March 21, 2 p. m. After conference with President's Commission now assembled in Department you will please acknowledge Mr. Velaire's letter bringing to your attention the election of Mr. Eugene Roy as candidate of the patriotic groups for the temporary presidency of the Republic, and state to him that as soon as the other steps contemplated by the plan elaborated by the President's Commission which has been accepted by both parties shall be completed by the election of Mr. Roy as President by the Council of State and his peaceful assumption of office at the expiration of the constitutional term of President Borno on May 15, he will be recognized as such by this Government. You will inform Mr. Velaire that until such time no acts or decrees of any group of persons other than the present Government, assuming to act officially for the Haitian people will be recognized by the United States.

Referring to the communication which you have received from the Minister of Foreign Affairs of the Haitian Government, the Department of State suggests that you enclose to him a copy of the letter you will write to Mr. Velaire and inform him verbally that as far as the United States Government is concerned, Mr. Roy, irrespective of the Procès verbal you mention, is considered as having been selected by the delegates of the federated groups as the candidate for the temporary presidency of the Republic. You should make it clear to the Haitian Government that in these circumstances the United States Government considers that the Haitian Government is in no wise relieved of its obligation to carry out the plan of the President's Commission and that irrespective of any decrees attempted to be issued or official acts attempted to be performed by bodies claiming to represent the people or a portion of the people of Haiti, the United States Government expects the present Government of Haiti to carry out the compromise plan of the President's Commission accepted by it.

The Department suggests that you assure both President Borno and Mr. Roy personally, that the President's Commission and the Department have full confidence that they will carry out, both in letter and spirit, irrespective of any excesses of political enthusiasm, their respective parts of the plan of the President's Commission.

The Department and the Commission has every confidence in your ability to handle this situation and see the plan through.

COTTON

838.00 Elections/11 : Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary of State*

PORT-AU-PRINCE, March 25, 1930—1 p. m.

[Received March 25—9:11 a. m.]

45. Department's 40, March 21, 1 p. m.<sup>23</sup> The instructions contained in the above reference have been carried out.

This morning I learned that President Borno had telegraphed the prefects as follows:

"That the assembly of the Opposition groups which met at the Capital on the 20th of March, 1930, had violated the Hoover plan in electing a temporary President of the Republic in place of simply confirming the choice that President Borno made of Mr. Eugene Roy as neutral candidate for the Presidency. The Government considers his election as null and void. Mr. Eugene Roy, then, has no other political quality before the Council of State on April 14th next than that of candidate to the Presidency. The Government will firmly maintain respect for the Constitution. Make this known in all your jurisdictions and make report to me."

I at once interviewed President Borno who stated that it is generally believed throughout the country that a Provisional Government is in power and that his action was solely to counteract such propaganda. He then showed me a declaration made by Mr. Rigal to the *doyen* of the Court of First Instance at Port-au-Prince which in paragraph 1 opposed the judgment of the court against his client, said judgment being given by default and in view of Mr. Rigal's absence. In paragraph 2 he states as follows:

"A Commission, named by the President of the United States, has sat at Port-au-Prince and has proclaimed by its action the Constitution of 1918 is nonexistent, that the Borno-Russell regime constitutes a dictatorship and that the country is living under the rule of martial law. Under these conditions and before the reestablishment of legal order the courts have for their duty to refrain from judging in civil cases except if the two parties are present, in which case they will be [deemed?] to have given their mandate. That Mr. Rigal, administrator delegate of the Patriotic Union and President of the Federative Committee of the Patriotic Groups of Haiti, defend the cause of the country, maintaining that the people had voted neither the constitution nor the organic laws of the courts which the dictatorship wished to place under the dependency of the executive power by suppressing the feature of irremovability."

President Borno again assured me of his earnest desire to see the plan carried out and stated that if Mr. Roy would refrain from making any declaration, he is certain that there may be no difficulty in having

<sup>23</sup> Apparently an error for Department's 30, March 22, 5 p. m.

the Council of State elect him. On the other hand if Mr. Roy makes any statement between now and April 14th which obligates him to violate the Constitution there may be considerable difficulty in obtaining his election by the Council of State. I have requested Mr. Roy to refrain from making any such statement.

RUSSELL

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838.00 Commission of Investigation/127

*Report of the President's Commission for the Study and Review  
of Conditions in the Republic of Haiti*

WASHINGTON, March 26, 1930.

APPOINTMENT OF THE COMMISSION

On February 7, 1930, the President named the following members of the Commission for the Study and Review of Conditions in Haiti:

W. Cameron Forbes, of Massachusetts, Chairman.  
Henry P. Fletcher, of Pennsylvania.  
Elie Vezina, of Rhode Island.  
James Kerney, of New Jersey.  
William Allen White, of Kansas.

On February 4 the President had set forth the purpose and powers of this special Commission as follows:

The primary question which is to be investigated is when and how we are to withdraw from Haiti. The second question is what we shall do in the meantime. Certainly we shall withdraw our Marines and officials sometime. There are some people who wish for us to scuttle overnight. I am informed that every group in Haiti considers that such action would result in disaster to the Haitian people. On the other hand, our treaty of 1915, under which our forces are present in that country, in the main expires in 1936, or six years hence. We have no mandate to continue the present relationship after that date.

We have an obligation to the people of Haiti, and we need to plan how we will discharge that obligation. There is need to build up a certainty of efficient and stable government, in order that life and property may be protected after we withdraw. We need to know, therefore, what sequent steps should be taken in cooperation with the Haitian people to bring about this result.

The answers to these questions must be worked out in broad vision after careful investigation of the entire subject by men of unbiased minds. It is for this reason that I have proposed to send a commission to Haiti to determine the facts, to study and survey the whole problem in the light of our experience in the past 15 years and the social and political background of the Haitian people, to confer with all sides, to recommend the sequent and positive steps which will lead to the liquidation of our responsibilities and at the same time assure stable government in Haiti.

As I have stated before, I have no desire for representation of the American Government abroad through our military forces. We entered

Haiti in 1915 for reasons arising from chaotic and distressing conditions, the consequence of a long period of civil war and disorganization. We assumed by treaty the obligation to assist the Republic of Haiti in the restoration of order; the organization of an efficient police force; the rehabilitation of its finances; and the development of its natural resources. We have the implied obligation of assisting in building up of a stable self-government. Peace and order have been restored, finances have been largely rehabilitated, a police force is functioning under the leadership of Marine officers. The economic development of Haiti has shown extraordinary improvement under this régime. It is marked by highway systems, vocational schools, and public-health measures. General Russell deserves great credit for these accomplishments.

We need now a new and definite policy looking forward to the expiration of our treaties.

The President announced on February 7 that after consultation with the chairman of the commission, he had requested Dr. R. E. Moton, president of the Tuskegee Institute, on behalf of the Institute and such other educational affiliations as he might suggest, to undertake an exhaustive investigation into the educational system of Haiti with a view to recommendations for the future.<sup>24</sup> Doctor Moton selected the following members of his committee:

- Dr. Mordecai Johnson, President of Howard University.
- Prof. Leo M. Favrot, Field Secretary of the General Education Board.
- Prof. Benjamin F. Hubert, President of Georgia State Industrial College.
- Dr. W. T. B. Williams, Dean of the College, Tuskegee Institute, and Field Agent of the Jeanes and Slater Funds.

The commission extended an invitation to Doctor Moton to accompany them on the U.S.S. *Rochester*, but in view of the fact that Doctor Moton had not had time to complete his plans, it was announced that he would proceed at a later date. Pending the receipt of Doctor Moton's report the commission has dealt only incidentally with educational matters.

The President's commission assembled at Palm Beach, Fla., February 20-24, 1930, preparatory to its departure for Haiti.

On February 25, 1930, the commission embarked at Key West, Fla., on the U.S.S. *Rochester*, which had been placed at its disposal. It arrived at Port au Prince on February 28 at 3 o'clock in the afternoon and immediately called upon the American High Commissioner, General John H. Russell, and His Excellency Louis Borno, the President of the Republic. The commission then issued the following statement:

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<sup>24</sup> See Department of State, Latin American Series No. 5: *Report of the United States Commission on Education in Haiti* (Washington, Government Printing Office, 1931).

In order to be readily accessible the commission will reside at the Excelsior Hotel, where the offices of the commission are likewise to be located. Beginning to-morrow (Saturday) morning, the commission will hold open sessions every day, except Sunday, from 9 a. m. until 12 o'clock noon, to which all citizens are invited. The offices of the commission will be open daily from 9 a. m. to 5 p. m. for receiving information and for the making of appointments with those who care to appear in person before the commission. It is the desire of the commission that all elements of the Haitian people shall be heard freely and frankly. Citizens who for any reason may desire to have private interviews will be welcome, and their communications will be treated as confidential. Following our meetings in Port au Prince the commission will visit other important points in the Republic and pursue the same course as to hearings and interviews. The purpose of our mission is to gather as completely as is humanly possible all facts concerning the situation.

The commission took up its residence in the Excelsior Hotel, where it established offices the following day and was in session daily from 9 a. m. until 6 p. m. It gave public or private audience, as desired by those who appeared before it. Briefs were also filed. No one was deprived of the opportunity of presenting his views.

The opposition to the Borno administration had manifested itself in the formation of eight groups or political leagues, the names of which were:

L'Union Patriotique  
La Ligue des Droits de l'Homme et du Citoyen  
La Ligue d'Action Sociale Haitienne  
La Ligue Nationale d'Action Constitutionnelle  
La Ligue de Defense Nationale  
La Ligue de la Jeunesse Patriote  
Le Parti National Travailleiste  
L'Union Nationaliste

The presidents of these leagues had set up a committee which they called "The Federated Committee of the Associated Groups of the Opposition." This committee was the central organization directing the movement against the American Occupation and the Borno administration, and took charge of the presentation of the opposition case before the commission. The Federated Committee had selected George N. Leger, a prominent Haitian, to assist in the presentation of their case. Mr. Leger attended all of the public sessions held by the commission at Port au Prince and acted as counsel for all those who appeared before the commission for the purpose of presenting the claims of the opposition.

Many plans were submitted both verbally and in writing, most of which related to the withdrawal of the American Occupation, the reestablishment of a representative government by the election of the Legislative Assembly and the abolition of the Council of State.



Various courses were suggested, some very extreme and one going so far as to advocate that the affairs of the Republic of Haiti should be managed by the President's commission until such time as the legislative body could convene. Another plan would replace the Council of State with a legislative body composed of 51 members, of which 26 members were to be appointed by the President of the Republic.

After holding sessions at Port au Prince from the 1st of March until Saturday evening, the 8th of March, the commission left on March 9, by automobile, for a trip through the northern half of the Republic, stopping at Pont Beudet, Mirebelais, Las Cohobas, and Thomonde and spending that night at Hinche. At each of these towns gatherings of citizens met the commission to present complaints and petitions.

On Monday the 10th the commission proceeded to Cape Haitien by motor, stopping at Maissade, St. Michel, Ennery, Plaisance, and Limbe. Large crowds greeted the commission, and speeches were made by the opposition leaders. At Cape Haitien the town had turned out in very large numbers, and throngs of people lined the road, displaying signs and banners. That night the commission attended a reception given by the members of the Union Club, a Haitian social organization.

The following morning hearings were held by the commission at the American Consulate and briefs were presented. A visit was also made to the sisal plantation of the Haitian Corporation of America.

The commission embarked that night on the *Rochester* for Gonaïves, which they reached the following morning at 8 o'clock. A large crowd with banners met them at the dock and followed them to the Hotel de Ville, where hearings were held.

The commission left Gonaïves on the *Rochester* at noon and arrived at Port au Prince that evening. Hearings were resumed there on the 13th and continued until the evening of Saturday the 15th. The commission sailed on the *Rochester* the morning of the 16th, arriving at Miami Thursday, March 20.

#### POLITICAL AGITATION

Announcement that President Hoover had appointed a commission of inquiry and review to proceed to Haiti was enough to excite a volatile population. When President Borno, a few days before the arrival of the commission, removed four members of the Council of State, agitators spread the rumor that this was done to afford President Borno a pliable majority in the council through which he might execute a *coup d'état*, electing a new president for a six-year term.

The night before the commission arrived in Port au Prince, crowds thronged the streets and masses gathered in the "Champ de Mars," which might easily have become a dangerous mob. The Haitian Garde used their clubs in breaking up the crowd. The entrance of the commissioners to Port au Prince the next day was dramatic. People thronged the streets from the wharf to the hotel and remained cheering while the commission made its ceremonial calls. The crowd paraded before the hotel of the commission and displayed flags and banners calling for legislative elections and the end of the American Occupation. They were variously worded but all of one tenor: Opposition to the Borno government and the Occupation.

These banners and the crowds were clearly the work of organization. In a country with a low rate of literacy the mob is a form of political expression, and revolution, which is the mob in action, seems to be a part of the evolutionary process. Wherever the commission went in Haiti, evidence of this technique was conspicuous. The same banners—scarcely varying a word from Port au Prince to Cape Haitien—waved everywhere. Women, singing the same songs, thronged the rural highways. The same paper flags, darkened with black paper bars to indicate a state of mourning for lost liberties, greeted the commission in a dozen widely separated parts of the Republic. The same agitators were often seen in the crowds in distant parts of the Republic. Having said this, it is only just to say that the politicians of the opposition did their work so thoroughly that no counter demonstration was attempted by citizens favorable to the Borno government. It is fair to assume that public sentiment in Haiti was more responsive to the opposition than to the government.

#### THE ELECTORAL CRISIS

The commission found the situation in regard to the election of a new president critical. The evidence submitted to it, not only by the witnesses who appeared in the public and private hearings, but also in the reports of American officers charged with the maintenance of order, was so complete that the commission was convinced that the election of a new president by the means practiced in the last two elections, namely, by the Council of State, would not be accepted quietly by the populace. Conditions became so tense that, after discussing the matter with General Russell, the commission called in the leaders of the opposition, representing the so-called patriotic groups. After persuading these leaders to issue a note asking the public to be calm and await with patience its report, the commission suggested the possibility of the selection of some neutral, nonpolitical candidate for the presidency who would be acceptable both to President Borno and his party and also to the opposition. Serious objec-

tion was raised by the opposition leaders to any election by the Council of State which, they declared, would not be acceptable to the people. They finally assented to a compromise by which delegates elected by the patriotic groups should select a neutral candidate who would later be elected President by the Council of State.

After protracted negotiations carried on by members of the commission with the opposition, and, through General Russell, with President Borno, a definite plan was drawn up which was approved by President Hoover.

This plan provided that as soon as possible after assuming office, on May 15, the temporary president would call an election of the Legislative Assembly consisting of two chambers which, when convened, would proceed to elect a permanent president of the Republic for a full term of six years, the temporary president having agreed to present his resignation at that time and not to be a candidate for election.

Five names were submitted by the opposition, of which that of Eugene Roy was accepted by President Borno. On the day preceding the departure of the commission from Port au Prince it had the satisfaction of announcing to the public and, by wireless, to Washington, that the plan providing for the election of Mr. Roy as temporary president had been accepted by both sides.

#### AMERICAN INTERVENTION<sup>25</sup>

The reasons which impelled the United States to enter Haiti in 1915<sup>25</sup> are so well known that they need not be set forth in this report.

Conditions were chaotic; means of communication were largely nonexistent; the peasant class was impoverished; disease was general; property was menaced; and the debt of the government, indeterminate in amount, had risen—at least on paper—to staggering proportions.

Having landed a force of Marines, thus restoring public order and protecting the citizens of the United States and other countries from violence, the United States by treaty obtained control of a variety of governmental agencies with a view to assisting in the reestablishment of a stable government. There was not and there never has been on the part of the United States any desire to impair Haitian sovereignty.

There is no room for doubt that Haiti, under the control of the American Occupation, has made great material progress in the past fifteen years.

Indeed, the greater part of what has been done has been accomplished in the past eight years, because it was not until the disastrous and involved financial situation could be straightened out by the

<sup>25</sup> See *Foreign Relations*, 1915, pp. 461 ff.

flotation of the loan of 1922<sup>26</sup> that a constructive policy could be carried out.

Peace and order were restored by the Marines by 1920 and road building was begun under Marine auspices. The essential primary steps for the reform of the administration were taken as soon as peace was restored by the elimination of banditry, but the American officials were working at cross purposes and progress was hampered. It was therefore decided to entrust General Russell, of the United States Marine Corps, who had served in Haiti almost from the beginning of the Occupation, with the duty of coordinating and directing the efforts of the treaty officials. In order that he might also have the highest civilian rank it was decided not to appoint an American Minister, and he was given the title of High Commissioner.<sup>27</sup> As such he is the representative of the United States near the Haitian Government.

The commission desires to record its high praise of General Russell's whole-hearted and single-minded devotion to the interests of Haiti as he conceived them, his unremitting labor, and his patient and painstaking efforts to bring order out of chaos and to reconstruct a governmental machine which had been largely destroyed by years of abuse, incapacity, and anarchy. Since the Occupation the Haitian Government, especially under President Borno, with the guidance and assistance of the American officials in its service, has a fine record of accomplishment. Eight hundred miles of highways have been built. Before the intervention the road between Port au Prince and Cape Haitien, the two principal ports and cities of the Republic, was practically impassable except on horseback. The journey of 180 miles took three days. Now it is done in six hours by automobile. A most involved financial situation has been liquidated and the entire fiscal system renovated and modernized. In a word, order has been created where there was only disorder in the collection and disbursement of the Government funds. An efficient constabulary has been organized and trained and has maintained peace and order. Few are the instances where the assistance of the United States Marines had to be called upon in the past eight years. A Public Health and Sanitary Service, which is a model of devotion and efficiency, has been organized and maintained.

Under the treaty of 1915 the assistance of the United States was not provided for in the matter of education, and it has been only recently and indirectly that the American Occupation has interested itself in this field. Since the Occupation an efficient Coast Guard has been organized, lighthouses have been built and navigation

<sup>26</sup> See *ibid.*, 1922, vol. II, pp. 472, 515.

<sup>27</sup> See *ibid.*, pp. 461ff.

rendered much safer, agriculture has been encouraged, and hospitals, public buildings, and parks have been constructed.

Figures indicative of progress have been submitted showing an increase in the registration of automobiles in seven years from 400 to 2,800. The number of linear feet of bridges built has been multiplied by three. There has been a notable increase in the number of permits issued for private building construction and a wholesome increase in the gross trade as measured by the value of exports and imports. The automatic lighthouses have been increased from 4 to 15; telephone subscribers have increased from about 400 to nearly 1,200 and the number of telephone calls a year from about 1,000,000 to over 5,000,000.

There is attached to this report as an appendix, a series of graphs which makes it easy to visualize the notable material progress achieved.<sup>28</sup>

The commission was disappointed at the evidence it received of the lack of appreciation on the part of the educated and cultured Haitians of the services rendered them by the Occupation and their own Government. Out of many dozen witnesses only one or two made favorable mention of the achievements of their administration.

It is to be hoped that the Haitian people will come in the course of the next six years to realize that an enlightened self-interest will require that this rate of progress be maintained, particularly in the matter of public health and public works, especially roads.

#### POLITICAL ASPECTS

Under the American Occupation—and with its consent—the legislative chambers were dissolved in 1918, and by an interpretation of a new constitution, adopted under itsegis,<sup>29</sup> they have not since been reassembled. The country has been ruled by a President and a Council of State exercising, under the direction of American officials, the legislative authority. Local self-government has also largely disappeared. The important municipalities and communes are ruled by commissioners appointed by the President. The members of the Council of State itself have been appointed and removed by him. The Council of State under the legislative authority vested in it by the 1918 constitution has exercised the powers of a National Assembly in electing the President.<sup>30</sup>

<sup>28</sup> For the appendix, see Department of State, Latin American Series No. 2, *Report of the President's Commission for the Study and Review of Conditions in the Republic of Haiti* (Washington, Government Printing Office, 1930).

<sup>29</sup> Constitution of 1918, *Foreign Relations*, 1918, p. 487; amendments, *ibid.*, 1927, vol. III, p. 48.

<sup>30</sup> See article D of title VIII, transitory provisions, Constitution of 1918, *ibid.*, 1918, p. 502.

The people of Haiti, since the dissolution of the National Assembly by President Dartignave, have had no popularly elected representatives in control of their Government. The American Occupation has accepted—if not indeed encouraged—this state of affairs. Certainly reforms could be instituted and governmental measures carried through more easily in these circumstances, and were.

The acts and attitude of the treaty officials gave your commission the impression that they had been based upon the assumption that the Occupation would continue indefinitely. In other words, their plans and projects did not seem to take into account that their work should be completed by 1936, and the commission was disappointed to find that the preparation for the political and administrative training of Haitians for the responsibilities of government had been inadequate.

The commission is under no delusions as to what may happen in Haiti after the convocation of the elected legislative assembly and, to a greater extent, after the complete withdrawal of the United States forces. The Government of Haiti before American intervention was, so far as the commission could learn, more democratic and representative in name than in fact. The Deputies and Senators were, the commission was informed, more often chosen by the President than elected by the people.

The commission is not convinced that the foundations for democratic and representative government are now broad enough in Haiti. The educated public opinion and literate minority are so small that any government formed in these circumstances is liable to become an oligarchy. The literate few too often look to public office as a means of livelihood. Until the basis of political structure is broadened by education—a matter of years—the Government must necessarily be more or less unstable and in constant danger of political upheavals.

#### TREATY RELATIONS

The commission is of the opinion that the progressive steps looking toward the withdrawal of the assistance now being given by the American Occupation should be taken on the theory and understanding that the present treaty will remain in force until 1936, it being understood that such modifications as circumstances require and the two Governments agree upon may be made at any time. It is too early to suggest in what form the American Occupation should be liquidated upon the expiration of the treaty or in what form such further aid and assistance as the Haitian Government might desire from the United States should be provided. This can be more wisely decided in the light of the experience of the next few years.

## MARINES

The question of the withdrawal of the Marine Brigade, which acts as a stabilizing and supporting force in the preservation of order, is one which the commission has carefully considered. Very little complaint was heard of the presence of the Marines, except as they formed part of the American Occupation. They are not much in evidence. All except about one hundred and fifty are stationed in Port au Prince; the rest are at Cape Haitien. The commission considered the question of removing the Marines from these two centers and putting them in barracks a short distance from these cities, but concluded that this was impracticable and unwise. The commission recommends the gradual reduction of the Marine Brigade if and as, in the judgment of the two Governments, the political situation warrants. No reduction of the Marine Brigade should be made without consultation with the commandant of the Garde. It should also be remembered that in case of riots and uprisings this force might be necessary to protect the lives of American families, both private and official, and of foreigners residing in Port au Prince and other cities.

The money spent in Haiti by the Marine Brigade, consisting, as it now does, of about eight hundred officers and men, is an important factor in the economic life of the country, especially in the present depression of trade. The expense of the Marine Occupation is borne entirely by the United States Government.

## LAW AND ORDER

By article 10 of the treaty the Haitian Government is obligated to create a constabulary, composed of native Haitians and organized and officered by Americans, for the preservation of domestic peace, the security of individual rights, and the full observance of the treaty.

It is also further provided that these American officers will be replaced by Haitians as they are found qualified by examination conducted by a board to be selected by the senior American officer of the Constabulary (Garde) and in the presence of a representative of the Haitian Government.

These treaty provisions have been supplemented by agreements between the two Governments (known as the Gendarmerie Agreements) fixing salaries, duties, etc. In addition to their police duties, district and subdistrict commanders of the Garde have also been charged with the duty of communal advisers in connection with the collection and disbursing of the communal revenues and have charge of the Coast Guard and lighthouses.

It is obvious that after the withdrawal of the American forces, the orderly functioning of the Haitian Government will depend in large measure upon the efficiency and discipline of the Garde.

The primary and principal duty of the Garde—the maintenance of law and order—has been well and conscientiously performed. The replacement of American officers of the Garde by Haitians, contemplated by the treaty, has not been carried out, however, as rapidly as, in the opinion of the commission, it should have been done. There is not now and there never has been a Haitian officer of the Garde above the grade of captain. There are now but 2 Haitian captains on duty with troops out of a total of 23, 17 Haitian first lieutenants out of a total of 58, 19 Haitian second lieutenants out of a total of 57, and 28 aspirant officers (cadets), all of whom are Haitians.

At the request of the commission the commandant of the Garde has submitted tables (see Appendix, Tables Nos. 1 and 2) showing the program now proposed by the High Command for the progressive Haitianization of the Garde over the period from 1930 until 1936. It should be noted that these plans have not yet been approved and ordered to be put into operation.

The commission believes that no change in the treaty or the Gendarmerie Agreement nor increase in the funds voted for the Garde, is necessary to effect a more rapid Haitianization. The commandant of the Garde testified that American officers serving with the Garde could be transferred back to the Marine Corps at any time to make room for the promotion of Haitians, and this should be done where vacancies occurring in the ordinary course are not sufficient to give the opportunity for a faster promotion of Haitians.

Notwithstanding the fact that there are a number of American noncommissioned officers serving as company officers in the Garde who have rendered fine service for from eight to fourteen and one-half years, not one of them has ever been promoted above the grade of captain in the Haitian Garde. The commission believes that some of these men are at least as well fitted by training and experience to be promoted to field rank as Marine officers who have not had their experience in Haiti.

The Haitianization program rests with the Navy Department and Marine Corps headquarters in Washington, which can, by recalling the Navy and Marine officers on service with the Haitian Garde, make room for the promotion of Haitians. The selection of the officers recalled and promoted should be left to the commandant of the Garde in Haiti. Even if discipline and efficiency suffer temporarily, the commission feels that they will undoubtedly suffer more by delaying this reform.



The *École Militaire*, temporarily closed at the end of last year, is an important factor in the training of Haitian officers, and it should be immediately reopened and should receive support from now through the period of American control.

The commission believes that when the *Garde* is Haitianized it would be advisable that some provision be made for orderly promotion and retirement and for protection against promotion by political influence.

#### THE FINANCIAL SITUATION

The financial achievement of the American administration is noteworthy. A modern and up-to-date budgetary system has been established with preaudit, which is one of the latest and most effective devices for accurate, economical, and expeditious management of accounts.

Some witnesses who appeared before your commission criticized the financial management of the Government and even went so far as to charge improprieties in connection with it. Many complained that they were kept in ignorance as to how their money was collected and how spent. This shows that they had not read the careful reports issued by the Financial Adviser in both English and French. Nor did any of the witnesses mention the fact that six auditors from the United States Comptroller's Office had made a thorough analysis of all accounts of the Government, which were found correct except for certain very minor errors and adjustments, since rectified.

The revenues and expenses have been carefully balanced with a conservative margin of revenues in excess of expenditures, resulting in a steadily increasing treasury surplus. (See Appendix.)

The Service of the Public Debt has been cared for and several million dollars of the principal thereof paid off out of revenues in excess of the amount called for by the amortization plan. The wisdom of this course is open to question; it might have been better to have reduced the taxation, especially the export tax, and left the debt to work itself out during its normal term, thus keeping more money in the country where experience has shown it was badly needed.

Little by little the American Occupation has extended its intervention in the financial operation of Haiti, until 60 per cent of the revenues are now expended under American supervision, including the Service of the Public Debt.

The commission believes that the 5 per cent maximum allowed out of the Government revenues to cover the cost of the General Receivership should not be considered a flat allowance, but a limitation within which the receiver must operate. The commission recommends that appropriations disbursed by the treaty services in Haiti

should be budgeted with the same detail as are the appropriations for the regular public services of the Haitian Government.

#### HEALTH AND MEDICAL RELIEF

At the time of the American Occupation in 1915, it has been estimated, fully 70 per cent of the people of Haiti were afflicted with dangerous and incapacitating diseases; yaws and syphilis were prevalent. Except for a little aid in a few of the towns no relief was available. In the country districts the population suffered without knowing that remedies could be had. The doctors of the country showed no willingness to bring relief to remote places. To-day, thanks to an efficient United States [Navy] Medical Service, there are 153 rural clinics to which 1,341,596 visits were made in 1929. The few inefficient hospitals were rebuilt and new ones established so that there are now 11 modern hospitals with a capacity of over a thousand beds, where before there were only a few hundred of the almshouse type.

In Haiti practically the entire burden for medical care falls upon the Government. Private hospitals and volunteer aid are almost entirely lacking.

#### LACK OF CENSUS

It is greatly to be regretted that no census was available in 1915 which would have made possible an accurate measurement of benefits that have been conferred by the American Occupation. There are, however, census figures for small groups made by the Rockefeller Foundation in 1924 which justify the belief that an unquestioned benefit has resulted to the health and well-being of the people of Haiti.

#### MALARIA

Malaria has sapped the vitality of the population for several centuries and has had an important influence in retarding agricultural development. With the advent of the American Occupation modern measures for the control of the diseases are being invoked as rapidly as the resources permit. Much progress has resulted. Port au Prince and other large towns are now practically free of the disease, and there is little likelihood of contracting it. In many rural areas malaria is being brought under control, but much remains to be done which will probably have to wait until the economic conditions improve.

#### OTHER DISEASES

There are not sufficient data to judge of the importance of tuberculosis. The records of the Gendarmerie show that the incidence of

the disease is very high. In 700 autopsies at the General Hospital of Port au Prince 26 per cent of the deaths were due to tuberculosis. On the other hand, hospital experience in many places shows a small admission rate.

Typhoid fever, which had a high rate in Port au Prince, has been nearly eliminated by chlorinating the water supply. According to recent records there is a remarkable relative freedom from many diseases. The great waves of dysentery that sweep over tropical countries and are responsible for so many deaths have not occurred in Haiti for many years.

Hookworm causes very little serious disability. Diabetes and stones of the gall bladder, kidney, and urinary bladder are rare. Heart disease and pneumonia are relatively unimportant.

#### MALNUTRITION

No one need go hungry in Haiti. Mangoes, yams, rice, beans, and other products of the soil occur in abundance and can be had with a minimum of effort.

There is, however, much reason to believe that the diet is deficient in proteins. In other words there is a great lack of eggs, milk, meat, and other foods that contain substances that are essential to a balanced ration.

In the past there have been serious outbreaks of disease due to improper nourishment. Owing to the dense ignorance which prevails, public-health education is difficult.

#### PROFESSIONAL TRAINING

After the Occupation it soon became obvious that if health and medical effort were to be successfully continued by Haitians, means must be provided for adequate training. A nurses' training school was started at the Port au Prince General Hospital which has produced nearly one hundred graduates, many of whom are already rendering excellent service throughout the country. Practical courses are in operation for training laboratory technicians. Hospital-corps men for the Gendarmerie are trained by its medical officers and the General Hospital.

Upon the recommendation of the Navy Medical Service the antiquated inefficient medical school was transferred to the National Public Health Service and appropriations secured for proper buildings and maintenance of essential services. A philanthropic organization of the United States donated equipment and provided fellowships to train Haitian doctors to become teachers of modern medicine.

In 1929 a modern health center was started in Port au Prince. This not only demonstrates the benefits of health measures but also

serves as a training base for health workers. A Haitian graduate nurse is now at Columbia University, N. Y., for special training in public health and is soon to return to open classes for nurses in the same subject at Port au Prince.

The direct and indirect effect of these measures is everywhere apparent. Four of the 10 health districts are now in charge of Haitians, and others are to follow as rapidly as trained personnel becomes available. Briefly, there are 2,225 persons employed in the National Public Health Service, of which 2,120 are Haitians. The balance is made up of 20 Naval medical officers, 14 Navy hospital-corps men whose salaries are paid by the United States, 63 French Nuns, 2 French Priests, 4 American Red Cross Nurses, 1 French librarian, and 1 Jamaican plumber. Of the 159 Haitian doctors in the country 40 percent are employed in the Government service.

#### GENERAL DEDUCTIONS

There is abundant evidence that great improvement has taken place in the health of the people since the Occupation. The National Public Health Service enjoys the confidence and approval of the public to an unusual degree. The streets of the towns are well swept; garbage and refuse are removed; slaughter houses are inspected; and an earnest effort made to control soil pollution and to provide safe drinking-water. The Gendarmerie has a good medical service. The jails are clean and sanitary, and the average health of the prisoners has been greatly improved. The hospitals are well administered, and high-grade medical and surgical skill is provided. Machinery is available for the control of epidemics and to prevent the introduction of disease from abroad. Medical relief through the vast rural clinic system can be had by everyone, even in the most remote sections of the country. Diagnosis based on laboratory findings is available for all necessary cases. The health and medical work has been directed and largely done by the United States Naval medical officers, ably assisted by Haitians and the French nuns.

Steps have been taken to provide training to enable Haitians to take over the entire National Public Health Service. In view of the importance of building up the disease-weakened Haitian people, it is recommended that it be made possible for the Government of Haiti to avail itself of United States Naval medical officers to serve as advisers after the present treaty expires. It might also be desirable to employ a few American medical men other than naval officers to insure longer tenure and continuity of service. In the meantime the assignments of the United States Naval medical officers and hospital-corps men should be lengthened, so that the experience gained in

language, customs and conditions may be available to the people of Haiti for the greatest possible period.

Unless these steps are taken, it is feared that the Medical Service may deteriorate and that ground will be lost which has been won with so much sacrifice and effort.

#### THE STATE CHURCH IN HAITI

The relations between the Roman Catholic Church and the Government of Haiti since 1860 are governed by a concordat. Two additional conventions entered into respectively in 1861 and 1862 and a statute referred to as the "Loi des Fabriques" provide for the carrying out of its terms.<sup>31</sup> There is no confusion of civil with ecclesiastical authority; there is no union of church and state, as the term is generally understood. The Government of Haiti, believing that the church and religion are essential to the well-being of the Haitian people, agrees to cooperate with the clergy and makes provisions to subsidize the church; and the church undertakes to establish parishes and missions throughout Haiti and to establish, in the words of the concordat, "those orders and institutions which are approved by the Catholic Church," including schools, hospitals, asylums, orphanages, etc.

The clergy, which came to Haiti in 1864, consisting of an Archbishop, a band of 40 Priests, and a small group of Brothers and Sisters, found religion in a lamentable condition; everything still had to be done. With but one exception, every church building in Haiti has been constructed since 1860.

Now, at the beginning of 1930, the organization of the church is as follows:

There are one archdiocese and four dioceses corresponding to the five departments which constitute the political subdivisions of Haiti. These dioceses with their respective populations as furnished by the church authorities, are as follows:

Archdiocese of Port au Prince . . . . .	population	942, 700
Diocese of Cape Haitien . . . . .	"	453, 000
Diocese of Aux Cayes . . . . .	"	628, 000
Diocese of Gonaïves . . . . .	"	475, 000
Diocese of Port de Paix . . . . .	"	153, 490

These population statistics are based on the statistics of births covering more than fifty years and are probably the most accurate estimate available.

<sup>31</sup> See Hannibal Price, *Dictionnaire de Législation Administrative Haïtienne*, (deuxième édition) (Port-au-Prince, Haiti, Imprimerie Chéraquit, 1923), pp. 441-447 and pp. 152-160.

At the head of each diocese there is either an Archbishop or a Bishop.

There are in all 205 Priests in Haiti; of these 156 are secular Priests engaged in active mission work, and in charge of parishes. All parishes in the diocese of Port de Paix and two in Port au Prince are in charge of regular clergy. The others are doing educational work or are engaged in other special services connected with the dioceses. Eight of the Priests are Haitians.

There are 105 Brothers of Christian instruction (83 French, 10 French-Canadian, 9 Spanish, and 3 Haitian).

There are three congregations of Sisters as follows:

St. Joseph de Cluny, with 146 Sisters  
Les Filles de la Sagesse, with 198 Sisters  
Les Filles de Marie, with 22 Sisters

The Priests, and especially the Brothers and Sisters, have devoted themselves, with such inadequate resources as they have had, not only to the spreading of religion, but to the founding of schools, parish churches, and mission chapels. The Brothers at present conduct seventeen boys' schools in the larger centers and rural districts and the Sisters have an even greater number of girls' schools and primary schools for both boys and girls.

By a law of 1913 the Priests were authorized to establish rural schools usually referred to as "presbyteral schools." The Filles de Marie are especially devoted to vocational and industrial education and to the preparation of teachers for the presbyteral schools.

The church institutions in Haiti are as follows:

- 112 parishes, usually one in each commune and several in the larger centers.
- 465 mission chapels.
- 153 presbyteral schools, with 10,623 pupils. These schools are all taught by lay teachers, generally women who receive a salary of about \$6 United States currency per month. They are the foundation of the educational system of Haiti and deserve more generous support.
- 17 Brothers' schools with 6,731 students; the instructors are about half Brothers and half laymen and receive salaries from the Government, averaging considerably less than \$40 per month. The Brother Superintendent, who is responsible for the supervision of these schools, receives a monthly salary of \$100.
- 4 colleges with a total attendance of about 2,500.
- 36 Sisters' schools.
- 1 girls' industrial school conducted by the Belgian Sisters and under the Service Technique of the Department of Agriculture.

The Haitian Government subsidizes a seminary in France for the special training of missionaries for Haiti. At Port au Prince there is a seminary for the training of Haitian Priests.

#### JUDICIAL PROCEDURE

Friction between the Haitian courts and the American treaty officials has arisen at various times because, on the one hand, the courts have refused to enforce or have obstructed the execution of certain administrative measures and because, on the other, the treaty officials have refused to obey the orders of the court on the ground that the treaty is the law of the land and its observance and the agencies set up by it can not be obstructed or interfered with by the judiciary. The question raised is delicate but goes to the heart of our treaty relations with Haiti, and the commission recommends that in case of future conflict of authority on this score the matter be settled by direct and friendly negotiations between the two Governments.

The unsatisfactory administration of Haitian justice and the necessity of reform of the system with more adequate salaries and more modern methods, was pointed out to the commission but as this is a matter for the Haitian people themselves to decide, the commission feels it is without its province to express any opinion. If a stable government is to be assured after the withdrawal of the Occupation, the question of the judiciary should receive careful consideration.

#### CONSTITUTION

Much complaint was made to the commission of the manner (by plebiscite) in which the present constitution of Haiti was adopted in 1918 and amended in 1928<sup>32</sup>—and especially of the manner in which the present Government of Haiti interpreted its provisions relating to the powers of the Council of State.

One accusation persistently brought against the American intervention concerns the inserting in the constitution of 1918 of an article granting to foreigners the right to take title to Haitian land. It is evident that the change has produced much irritation and suspicion. From the inception of the Republic in 1804, the Haitians had consistently excluded foreigners from owning real property, and in the face of such a tradition it was unfortunate to have had the land policy altered under American auspices. The commission recommends, in case the Haitian people desire to amend this provision, that our Government make no objection thereto, merely limiting itself to seeing that rights and titles acquired under the present constitution—which are comparatively few—be respected. The commission

<sup>32</sup> See *Foreign Relations*, 1927, vol. III, pp. 48-77, especially footnote 20, p. 77.

found no instance of undue advantage having been taken by Americans of the clause enabling foreigners, under certain restrictions, to acquire real estate.

#### RACE PREJUDICE

Race antipathies lie behind many of the difficulties which the United States military and civil forces have met in Haiti. The race situation there is unique; the Negro race after more than a century of freedom has developed a highly cultured, highly sophisticated, race-conscious leadership. This group, which is proud to be known as the "Elite," forms the governing class. It is an urban group, comprising a very small proportion of the population, probably less than 5 per cent, generally mulatto but shading from octoroon to black, and because it is educated, comparatively wealthy and highly privileged with leadership, this class is as careful in maintaining its caste distinction as any other ruling class. Their language is French. Their Catholicism is French. The masses of Haiti are poor and ignorant. Generally speaking, they are of pure African descent. Illiteracy keeps the peasant masses politically inarticulate, except in case of mobs or bandit gangs, which formerly infested the countryside and often furnished the forces of revolution. These bandit gangs have been broken up and have disappeared under American rule, but the social forces that created them still remain—poverty, ignorance, and the lack of a tradition or desire for orderly free government. It has been the aim of the American Occupation to try to broaden the base of the articulate proletariat and thus make for a sounder democracy and ultimately provide for a more representative government in Haiti. Hence its work in education, in sanitation, in agencies of communication such as roads, telephones, telegraph lines, and regular mail routes. These things naturally are deemed of secondary importance by the Elite, who see in the rise of a middle class a threat to the continuation of their own leadership.

The failure of the Occupation to understand the social problems of Haiti, its brusque attempt to plant democracy there by drill and harrow, its determination to set up a middle class—however wise and necessary it may seem to Americans—all these explain why, in part, the high hopes of our good works in this land have not been realized.

#### RECOMMENDATIONS

The personnel of some of the services are officers selected from the Navy and the Marine Corps. The commission finds certain inherent difficulties in this connection. Naval officers are detailed for a period of three years; it takes two years to learn the language and to become familiar with conditions, and it is obvious that men subject to such short details could not, in the nature of things, be the most efficient.



The commission recommends:

(1) That the detail of Naval and Marine officers for all Haitian services be made for a minimum of four years and that an effort be made to secure Americans who will agree to continue employment in these services, so that upon the expiration of the treaty a force of American doctors, engineers, and police officers will be available for continued assistance to the Haitian Government, should it then desire it;

(2) That, if possible, some form of continuing appropriation for roads be urged for expenditure by the Haitian Government, with a policy that will provide enough funds to keep all existing roads in suitable repair before any new construction is undertaken; also, in regard to further construction, that only roads most urgently needed to develop regions now settled and under cultivation be undertaken until the present economic depression has passed;

(3) That the United States interpose no objections to a moderate reduction of the customs duties, internal revenue taxes, especially those imposed upon alcohol and tobacco, or to a reduction or elimination of the export tax on coffee, if the condition of the Treasury so warrants;

(4) That it be suggested to the Haitian Government that it employ one American adviser in each administrative department of the Government to perform such work as the respective Cabinet Minister may delegate to him, these officers to give expert advice and assistance to the Haitian Government, similar to that given by American officers in China, Siam, and Nicaragua, for naval matters in Brazil, and for educational matters in Peru;

(5) That, as an act of graciousness on the part of the United States, a moderate appropriation be made available during the continuance of the treaty to defray the cost of American civil officials in the Haitian Government service;

(6) That an appointment of a military attaché be made to the Legation when the time shall arrive for a Minister to replace the High Commissioner, as the question of the preservation of order is of first importance and the Minister should have the advantage of his advice on military and police matters;

(7) That an adequate Legation building be constructed immediately by the Government of the United States in the city of Port au Prince to provide a suitable residence for the American Minister and appropriate offices.

#### SEQUENT STEPS

Complying with your instructions to suggest sequent steps to be taken with respect to the Haitian situation your commission offers the following:

(1) That the President declare that the United States will approve a policy, the details of which all the United States officials in Haiti are directed to assist in working out, providing for an increasingly rapid Haitianization of the services, with the object of having Haitians experienced in every department of the Government ready to take over full responsibility at the expiration of the existing treaty;

(2) That in retaining officers now in the Haitian service, or selecting new Americans for employment therein, the utmost care be taken that only those free from strong racial antipathies should be preferred;

(3) That the United States recognize the temporary President when elected, provided the election is in accordance with the agreement reached by your commission with President Borno and the leaders representing the opposition;

(4) That the United States recognize the President elected by the new legislature, acting as a National Assembly, provided that neither force nor fraud have been used in the elections;

(5) That at the expiration of General Russell's tour of duty in Haiti, and in any such event [not?] before the inauguration of the permanent President, the office of High Commissioner be abolished and a nonmilitary Minister appointed to take over his duties as well as those of diplomatic representative;

(6) That whether or not a certain loss of efficiency is entailed, the new Minister to Haiti be charged with the duty of carrying out the early Haitianization of the services called for in the Declaration of the President of the United States above recommended;

(7) That, as the commission found the immediate withdrawal of the Marines inadvisable, it recommends their gradual withdrawal in accordance with arrangements to be made in future agreement between the two Governments;

(8) That the United States limit its intervention in Haitian affairs definitely to those activities for which provision is made for American assistance by treaty, or by specific agreement between the two Governments;

(9) That the new Minister be charged with the duty of negotiating with the Haitian Government further modifications of the existing treaty and agreements providing for less intervention in Haitian domestic affairs and defining the conditions under which the United States would lend its assistance in the restoration of order or maintenance of credit.

Respectfully submitted,

W. CAMERON FORBES  
HENRY P. FLETCHER  
ELIE VEZINA  
JAMES KERNEY  
W. A. WHITE

838.00 Elections/12: Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary of State*

PORT-AU-PRINCE, March 28, 1930—1 p. m.

[Received 8:25 p. m.]

46. This morning, President Borno informed me that yesterday he had sent a telegram to the Haitian Legation at Washington, directing the Chargé d'Affaires to present his views to the Department of State regarding the carrying out of the plan of the President's Commission. He then stated in substance that the Council of State will not elect Mr. Roy unless it receives a declaration from the latter that he will not call legislative elections until January 1932. President Borno feels that there should be a declaration made by the President's Commission or by the Department of State to the above effect.

I argued with President Borno for an hour, pointing out to him that the United States Government desires his administration to end with prestige; that he has carried out the laws and the Constitution of Haiti during his administration and that on May 15th his responsibility ends; that that [*the?*] Council of State should elect Mr. Roy as the neutral candidate; and that Mr. Roy will have to take the oath of office in article 74 of the Constitution. I added that Mr. Roy's intended action after his assumption of office is something not to be considered by President Borno or the Council of State. Furthermore, that it appeared to me that the members of the Council of State are placing their own interests above the interests of their country; that failure to elect Mr. Roy will unquestionably mean a revolution in Haiti and that responsibility for any bloodshed would only rest on his administration, including the Council of State. President Borno countered by saying that the holding of national elections before 1932 would be a violation of the Constitution and would in itself mean revolution. I used every endeavor to win President Borno to my opinion, informing him, however, that the views I have presented were only personal views. He remained intransigent.

He then stated that if the Department of State fails to agree with his point of view and refuses to issue an announcement that national elections [*cannot be?*] held before January 10, 1932, the only possible cause [*course?*] of action will be for him and the Council of State to resign before the 7th of April next, the date when the Council meets in regular session. In such event President Borno stated that an American military government would have to be installed. The military government would then, according to President Borno, draft and place before the people a new constitution permitting the calling of national elections immediately. I informed President Borno that I considered such a step would be a catastrophe, and I asked him again

if he would not consider the transitory provision of the Constitution regarding the calling of elections as being directly [*directory?*] in nature rather than obligatory. Borno stated he could not. He said that there are but three men at the present time in the Council of State who would vote for Mr. Roy. Mr. Roy has informed him that he intends to dismiss the Council of State on the 16th of May and that he will not remain in office for more than five months. Knowing Mr. Roy's intentions which he believes violate the Constitution and the Council of State knowing that they are to be dismissed, President Borno considers the election of Mr. Roy by the Council of State to be an impossibility. I informed President Borno that I would place his views before the Department.

RUSSELL

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838.00 Elections/14:Telegram

*The Acting Secretary of State to the High Commissioner in Haiti (Russell)*

WASHINGTON, March 29, 1930—4 p. m.

35. For General Russell. Your 46, March 28, 1 p. m. Please inform President Borno that the Government of the United States gave its approval to the plan agreed upon between himself, the leaders of the opposition and the President's Commission because it felt that it offered the best means for averting serious difficulties and probable bloodshed in Haiti, and assuring that the President who took office on May 15 would be satisfactory to and representative of the wishes of all factions. This Government gave its consent to the plan because it felt confident that President Borno, with the same patriotism and good faith which has characterized his other official acts, would faithfully carry out his part therein. In his letter of March 10 accepting the plan President Borno specifically recognized that the question of the date of the congressional elections was one for the consideration of the new President, and that his own obligation under the plan was limited to bringing about the election by the Council of State of the candidate mutually agreed upon. This Government cannot therefore understand how any question regarding the date of the congressional elections can properly be raised at this time.

In order that there may be no misunderstanding, however, it should be made clear that the Haitian Constitution, in this Government's opinion, could properly be construed to permit the calling of congressional elections at a date earlier than January 1932. This position does not imply any criticism of President Borno for not calling elections himself, as the call is clearly left to the President's discretion.

The only step to be taken at present is the election by the Council of State of the candidate already agreed upon. This Government can-

not countenance any alteration of the essential features of the plan to which both this Government and all parties in Haiti are definitely committed, and it feels that any political group which prevented the orderly execution of the plan would assume the entire responsibility for the very grave consequences which would ensue. The Government of the United States consequently confidently expects that President Borno and his followers in the Council of State will carry out their part of the plan in accordance with the commitments definitely assumed by him as the head of the Haitian Government and as the leader of his political party.

A similar statement is being made to the Haitian Chargé d'Affaires, who called at the Department on March 27 to make a statement similar to that made by President Borno to you.

COTTON

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838.00 Elections/15: Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary of State*

PORT-AU-PRINCE, March 31, 1930—10 a. m.

[Received 7:26 p. m.]

50. Department's 35, March 29, 3 [4] p. m. Have informed President Borno of the contents of the above telegram. He has assured me that he will urge Council of State to elect Mr. Roy and is sending the names of certain members of the Council of State to me with the request that I talk with them. I informed him I would urge them to carry out the plan. President Borno is concerned that his party will not be considered when the new administration comes into office on May 15th. I told him that the President's Commission had spoken to the leaders of the opposition on this matter and urged that Mr. Roy's administration be a coalition one and that when opportunity offered I intended to speak to Mr. Roy along the same lines. President Borno feels that if he urges the Council of State to elect Mr. Roy, as he intends doing, there is a strong probability of Roy's election.

President Borno then stated that, purely as a theoretical matter, he would like to direct my attention to article 34 of the Constitution and ask how my [*the?*] Deputies or Senators could enter into the functions of their office prior to the first Monday of April 1932. I replied that this was a question to be discussed with the new administration.

RUSSELL

838.00/2770 : Telegram

*The Acting Secretary of State to the High Commissioner in Haiti  
(Russell)*

WASHINGTON, April 1, 1930—6 p. m.

38. For General Russell. The Department will later send you more detailed instructions regarding the execution of the recommendations of the President's Commission. In the meantime we feel that you and the treaty officials should carry on substantially as heretofore so far as ordinary business is concerned.<sup>33</sup> The maintenance of order and of the authority of the Haitian Government is of course the first consideration. The financial administration should also continue as nearly as possible in a normal manner. It is appreciated that it will be difficult to formulate the budget, but a budget should nevertheless be submitted providing for the normal requirements of the administration as at present conducted. The other treaty services should continue to function. Please inform the Department in some detail regarding the present situation of the treaty services and the immediate problems with which you are confronted, together with your recommendations regarding the steps which should be taken at once to prevent undue disorganization of government activities owing to the political situation, and regarding the manner in which the recommendations of the President's Commission may be carried out most effectively and in a manner which will bring the most ultimate benefit to the government and people of Haiti.

We have just seen Cutts' cable of yesterday to Marine Corps headquarters and we wish to emphasize (1) that the plan agreed upon by the political leaders with the President's Commission must be carried through, and (2) that public order and the authority of the Haitian Government must be maintained in the meantime. Please keep the Department fully informed of all developments and of any recommendations which you think it advisable to make.

COTTON

838.00/2771 : Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary  
of State*

PORT-AU-PRINCE, April 2, 1930—noon.

[Received 5:15 p. m.]

51. Your 38, April 1, 6 p. m., referring to the telegram of Colonel Cutts, to Marine Corps headquarters.

<sup>33</sup> For summaries of reports of the treaty services, see Department of State, Latin American Series No. 3: *Eighth Annual Report of the American High Commissioner at Port au Prince, Haiti, to the Secretary of State, 1929* (Washington, Government Printing Office, 1930).

I had not seen telegram until today. Have instructed him, hereafter, to send no messages without first showing them to me.

I entirely disagree with Cutts. Situation is not grave nor at present serious. I am using every endeavor to put plan through and am discussing it with prominent members of Council of State. President Borno has stated he will assist me. I am hopeful that Roy will be elected on April 14th, next, without serious difficulty. In any event the situation can be handled and order will be maintained.

RUSSELL

838.00 Elections/22 : Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary of State*

PORT-AU-PRINCE, April 4, 1930—11 a. m.

[Received 6:35 p. m.]

53. President Borno and I have separately interviewed members of the Council of State. At the present time I feel that Roy has a majority. In reply to inquiries I have informed members of the Council of State that Roy is a compromise candidate; that at my request the President's Commission informed the opposition leaders that it expected Mr. Roy's administration to be a coalition one and that as soon as Mr. Roy was elected I intended urging on him the necessity of having President Borno's party represented in the new Government.

I have requested Mr. Roy to write a letter to the Council of State informing that body that he is a candidate for the Presidency. This is the normal procedure in order that his name may be considered. I have further urgently requested Roy to make no declaration whatsoever.

This morning President Borno stated that it would be very dangerous for Roy to issue a call for congressional elections while the Council of State is in session or before July 7th; that he realizes the interpretation placed on the article of the Constitution regarding the calling for national elections is one controlled by expediency, but that it will require careful leadership on the part of Mr. Roy as there are some hot heads in the Council of State.

RUSSELL

838.00/2772 : Telegram

*The Acting Secretary of State to the High Commissioner in Haiti (Russell)*

WASHINGTON, April 8, 1930—2 p. m.

41. Your 52, April 3.<sup>34</sup> The Department approves your general recommendation that no changes be made in the conduct of the

<sup>34</sup> Not printed.

treaty services until the installment of the permanent President, although in following out the recommendations of the Commission it may be found necessary to make certain minor changes. The Department will be glad to receive suggestions from the head of each treaty service outlining a policy and program to be put into effect upon the inauguration of the permanent President.

If any new appropriation is made for roads the Department feels that new construction should be confined to roads which are urgently and immediately needed for the movement of the coffee crop or other products. Furthermore, no plan of new construction should actually be carried out until it has been approved by the new temporary President. The Department assumes that you have already considered the necessity for providing funds to cover the cost of the congressional elections.

COTTON

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838.00 Elections/29: Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary of State*

PORT-AU-PRINCE, April 9, 1930—noon.

[Received 5:11 p. m.]

57. Rumors from many sources are current that the Council of State will not elect Roy on Monday, next, and it may elect Nemours. During the last few days I have had Roy get in touch with members of the Council of State and he has had an agreeable talk with Robin[son], the president of that [body?]. Nemours has assured me that he will vote for Roy. I have the assurance from Roy that he will not dismiss the Council of State during its present session. I am now suggesting his assuring me that the call for congressional elections will not be made while the Council of State is in its present session.

President Borno informs me that he is not at all satisfied with the attitude of the Council of State. Last Monday he had the entire Council of State at the palace, explained the plan in detail and urged them to vote for it. He then asked Nemours for his reaction to the plan. Nemours replied that he was a soldier and would do what he thought was his duty. Robin[son] when questioned by Borno intimated that he would vote against Roy, although Borno has always considered he would follow Borno's advice.

President Borno then said that he is absolutely decided to put through the plan. If the Council of State fails to meet, two courses of action will be open to him: (a) To resign and dismiss the Council of State; (b) to adjourn the Council of State and dismiss certain members replacing them by men who would vote for Roy.



The second course of action will be the one he will follow should occasion arise.

This morning Georges Leger called on me and asked if it would be possible for the United States Government to announce that it would not recognize any other election than that of Roy. I replied that I did not believe it possible. In my talks with members of the Council of State, however, I have conveyed the impression that it was very doubtful if any other candidate would be recognized. I would appreciate the Department's views in the event of the Council of State electing a President other than Roy.

At the present time fifteen members of the Council of State are in secret session.

RUSSELL

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838.00 Elections/30 : Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary of State*

PORT-AU-PRINCE, April 9, 1930—1 p. m.

[Received 11:50 p. m.]

58. My 57, April 9, noon. Sixteen members of the Council of State met in secret session this morning. It is reported that Nemours requested the members to adopt the plan of the President's Commission and elect Mr. Roy on April 14th. Mr. Leon protested vigorously against such action and was greeted with applause. Arguments and discussions against Nemours' proposal followed. The closed session lasted for 55 minutes.

RUSSELL

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838.00 Elections/33 : Telegram

*The Acting Secretary of State to the High Commissioner in Haiti (Russell)*

WASHINGTON, April 10, 1930—1 p. m.

42. For General Russell. Your 57, April 9, noon, and 58, April 9, 1 p. m. Please express to President Borno our appreciation of his loyal determination to carry out the plan agreed upon by him and the President's Commission. You may say that this Government would not recognize a temporary President elected in violation of this agreement, and point out the disastrous results which would follow an attempt to establish at this time a Haitian Government which could not be recognized and supported by the United States. We are confident that President Borno will find the necessary means to carry out the plan and thus by his firm and patriotic attitude to

bring to a fitting close an administration which has done so much for Haiti. You may show all or part of foregoing to members of Council of State if you deem advisable.

COTTON

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838.00 Elections/40: Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary of State*

PORT-AU-PRINCE, April 11, 1930—9 a. m.

[Received 3:52 p. m.]

60. Reliable information has reached me that the Council of State will not elect Roy on April 14th. . . .

Borno said that . . . he had determined to withdraw his support of Roy. I argued with him for over an hour and finally obtained his consent to recommend Roy although he said he would do no more. I requested that he adjourn the Council of State tomorrow, dismiss members opposed to Roy and replace them by Councilors who would vote for him. This he absolutely refused to do.

Late this afternoon I again had a long discussion with President Borno and as a result I am to have a conference tomorrow at 9 a. m. with him, Robinson, Tribie and Beauvoir, the latter Councilors of State. At that conference I shall assure them that Roy has stated that he will not interfere with the regular session of the Council of State. Furthermore that as the Constitution provides the Council of State shall function until the holding of congressional elections and the meeting of the duly elected legislative body, I feel that the Council of State must exist until that time.

I have just had a conference with Georges Leger who states that he is convinced the Council of State is against Roy and that it is prepared to elect Thezan or Nemours in order to throw the country into disorder. I believe this to be the present attitude of the Council of State but hope to change it before Monday.<sup>35</sup>

RUSSELL

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838.00 Elections/42: Telegram

*The Acting Secretary of State to the High Commissioner in Haiti*  
(Russell)

[Paraphrase]

WASHINGTON, April 11, 1930—6 p. m.

43. The Department has just received your 60, April 11, 9 a. m. The Government of the United States is prepared to take such steps as may prove necessary to have Eugene Roy installed as temporary

<sup>35</sup> April 14.

President of Haiti to carry out the Commission's plan on May 15, and is prepared, therefore, to disregard any action of the Council of State which is in violation of the provisions of the plan.

The above is for your information and discreet use.

COTTON

538.00 Elections/43 : Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary of State*

PORT-AU-PRINCE, April 12, 1930—11 a. m.

[Received 11:49 p. m.]

61. Department's telegram No. 42, April 12 [10], 1 p. m. Yesterday I had a long conference with President Borno and Councilors Robinson, Tribie and Beauvoir. Borno urged them to elect Roy on Monday and I informed them of the attitude of the United States Government. I left with a feeling that the three Councilors are opposed to Roy. Later the Council of State held session and I am reliably informed that they decided not to elect Roy and that their probable choice will be Thezan. . . . I again talked with President Borno early this morning and urged him at once to adjourn the Council of State and change its membership. I pointed out to him that as a purely selfish consideration a failure of the Council of State to consummate the plan on Monday next would mean disaster to his political group. I was not able to win him over to my viewpoint. I do not feel that he is now giving his full support although he may be awaiting developments before taking drastic action involving changes in the Council of State. I shall see him again this morning and again strongly urge immediate adjournment of the Council of State and the making of necessary changes in its membership.

RUSSELL

538.00 Elections/45 : Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary of State*

PORT-AU-PRINCE, April 12, 1930—2 p. m.

[Received 9:35 p. m.]

63. I have had another long conference with President Borno. He informed me that if Roy should not be elected on Monday he would change the members of the Council of State. I replied that now is the

time to act and pointed out to him the many serious consequences of waiting until after the election. After much argument he requested that I inform him by letter advising him from reports I have received of the opinion that the Council of State will not elect Roy and that in view of Borno's agreement to the plan I bring the matter to his attention. This I have done and it is the understanding that he will now take appropriate action to enforce Roy's election. Borno stated, however, that if he were to adjourn the Council of State today it would be materially impossible for him to find by Monday next men representing the various counties [*departments?*] to replace members of Congress [*Council?*] dismissed and that the Council of State would have to be adjourned until a later date next week thus postponing the election. I pointed out to him that there is nothing in the Constitution precluding the replacing of Councilors of State by men from Port-au-Prince. This he refused to consider.

RUSSELL

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838.00 Elections/46 : Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary of State*

PORT-AU-PRINCE, April 13, 1930—10 a. m.  
[Received 5:10 p. m.]

64. This evening Georges Leger informed [me?] that Roy did not meet the Council of State this afternoon as planned, as he found that Thezan had also been invited. Thezan received an ovation and was practically proclaimed President. I at once called on President Borno who informed [me?] that he had seen the Council of State and that they are intractable. He then said that he could not adjourn the Council of State as his Cabinet is strongly opposed to such action. The members of his Cabinet were in the palace and I therefore requested that we all meet in conference to discuss the situation. President Borno agreed to this.

I pointed out to the Cabinet that the Haitian Government is committed to the plan and that it is possible for the latter to put it through within the limits of the Constitution. Furthermore that the United States Government expects the Haitian Government to do its part.

After much discussion and arguing it was agreed that the Council of State should be adjourned for eight days or until Monday, April 21st. That during that time steps should be taken by President Borno

to assure the election of Roy when the Council meets as the National Assembly on April 21st.

April 13, 11 a. m. Council of State has been adjourned sine die.<sup>36</sup>

RUSSELL

838.00 Elections/64: Telegram

*The Acting Secretary of State to the High Commissioner in Haiti (Russell)*

WASHINGTON, April 14, 1930—noon.

46. For General Russell. Your 64, April 13, 10 a. m. The Department approves your action. Please let us know whether there is anything which we can do to strengthen your hand. We assume that it will now be possible to take steps which will assure the execution of the Commission's plan. If necessary you may inform President Borno of our considered decision not to afford him or his adherents any support or protection in a course of action contrary to the plan.

COTTON

838.00 Elections/56: Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary of State*

PORT-AU-PRINCE, April 14, 1930—8 p. m.

[Received 10 p. m.]

66. I have just received a note from President Borno informing me that he has encountered great difficulties on the part of the Council of State principally due to the grave faults committed by the Opposition press. He then states that these difficulties have been overcome and that I can give to my Government the assurance that Mr. Roy will be elected at once.

RUSSELL

<sup>36</sup> Translation of decree adjourning the Council of State:

"Borno, President of the Republic: Bearing in mind articles 50 and D of the Constitution;

"Considering that a dangerous effervescence, created by blind passions and a complete ignorance of the necessities of the present situation, and of paramount and permanent interests of the Republic, have rendered indispensable to the public peace the adjournment of the Council of State in its present session;

"Upon the advice of the Council of Secretaries of State

"Decrees: Art. 1. The Council of State in its present session is adjourned. . . ."—Port-au-Prince *Le Moniteur*, April 13, 1930 (838.00 Elections/70).

838.00 Elections/65: Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary of State*

PORT-AU-PRINCE, April 15, 1930—9 a. m.

[Received 3:10 p. m.]

67. Your 46, April 14, noon. President Borno has drafted a declaration committing those members of Council of State who sign it to the plan and the election of Roy. As soon as it is signed by a safe majority he intends publishing it. President Borno expects to obtain the signatures today and if so he will call the Council of State in session April 16th. If unable to obtain sufficient signatures today, requiring the removal [of] certain members, the Council of State will not meet until Monday April 21st.

RUSSELL

838.00 Elections/69: Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary of State*

PORT-AU-PRINCE, April 16, 1930—1 p. m.

[Received 5:23 p. m.]

70. President Borno has issued a decree placing twelve new men in the Council of State; another decree reconvenes the Council of State on Saturday, April 19th.

RUSSELL

838.00 Elections/74: Telegram

*The High Commissioner in Haiti (Russell) to the Acting Secretary of State*

PORT-AU-PRINCE, April 21, 1930—11 a. m.

[Received 3:30 p. m.]

73. This morning the Council of State sitting as National Assembly unanimously elected Eugene Roy President of Haiti. Twenty-one votes cast. I shall immediately recognize Mr. Roy as the President-elect.

RUSSELL

838.001B64/14A : Telegram

*The Acting Secretary of State to the High Commissioner in Haiti  
(Russell)*

WASHINGTON, April 22, 1930—4 p. m.

48. Your 73, April 21, 11 a. m. Please deliver following message to President Borno:

“Your cooperation in carrying out the recommendation of the President’s Committee in Haiti is very much appreciated. It has been your constant helpful and friendly cooperation that has made possible the success of the assistance which the United States Government has been privileged to extend to Haiti over the last eight years and it affords me much pleasure to take this opportunity to express to you the sincere appreciation of this Government for your unfailingly helpful and sympathetic attitude. Without your support this most recent constructive measure could not have been accomplished and it makes a most happy climax to your administration. Signed J. P. Cotton, Acting Secretary of State.”

COTTON

838.001B64/16

*The High Commissioner in Haiti (Russell) to the Secretary of State*

No. 1702

PORT-AU-PRINCE, May 7, 1930.

[Received May 20.]

SIR: I have the honor to forward herewith for the Department’s information a translation of a letter this date received from His Excellency Louis Borno, President of Haiti.

I have [etc.]

JOHN H. RUSSELL

[Enclosure—Translation]

*The President of Haiti (Borno) to the American High Commissioner  
(Russell)*

PORT-AU-PRINCE, May 6, 1930.

MR. HIGH COMMISSIONER: I have read with lively satisfaction the communication you sent me on the 4th of May, on behalf of your Government, and I beg you to transmit to it my sincere thanks.

I have the conviction of having served my country well in cordially cooperating in the efficacious execution of the Treaty of 1915 which bears my signature; and I am happy to express to you on this occasion my full gratitude for the valuable and fruitful aid which you personally, as High Commissioner, have always given me during the eight years of my administration.

Despite all biased utterances the Intervention of the United States has been beneficial to Haiti:—history will so record.

I renew to you the assurance of my special friendship and my very high consideration.

BORNO

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838.00/2810 : Telegram

*The High Commissioner in Haiti (Russell) to the Secretary of State*

PORT-AU-PRINCE, May 9, 1930—11 a. m.

[Received 6:33 p. m.]

84. At the request of the President-elect, Eugène Roy, I called on him yesterday. He stated that he desired to know the attitude of the United States on certain matters relative to Haitian affairs. Specifically he stated that he was being urged to dissolve the Council of State as soon as he took office and to legislate by decrees. I replied that article D of the treaty provisions of the Constitution vested the legislative in the Council of State until the constitution of the legislative body at which time the Council of State would cease to exist. He replied that he was glad to hear me make such a statement as he had not wanted to take the action urged upon him.

Mr. Roy then said that on May 15 he would [have?] to take an oath to uphold the Constitution and there was a question in his mind as to whether he could take such an oath and then call legislative elections before 1931. I replied to him along the lines indicated in the Department's telegram number 3 to the President's Commission, March 14th. Mr. Roy expressed satisfaction at the attitude of the United States Government and said that he will consider further before deciding upon a date for the elections.

RUSSELL

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838.001 Roy, Eugene/7 : Telegram

*The High Commissioner in Haiti (Russell) to the Secretary of State*

PORT-AU-PRINCE, May 15, 1930—noon.

[Received May 16—5:42 a. m.]

86. Eugène Roy inaugurated as President of Haiti at 8:30 this morning. Took oath provided for in Constitution. President Borno formally turned over administration to Roy at 10:15 a. m. after a brief mass at the cathedral. Large and enthusiastic crowd in the streets near the palace. No untoward incidents.

New Cabinet as follows: Frederic Bernardin, Foreign Relations; Frank Roy, Finance; Rodolphe Barau, Interior and Justice; Ernest Douyon, Public Works; Damocles Vieux, Education.

RUSSELL



838.001B64/17 : Telegram

*The High Commissioner in Haiti (Russell) to the Secretary of State*

PORT-AU-PRINCE, May 23, 1930—1 p. m.  
[Received 9:40 p. m.]

90. Ex-President Borno and his son left by plane this noon for Camaguey proceeding thence tomorrow to Habana. If unable to take ship within a few days for France or Italy he will proceed to Europe via the United States.

RUSSELL

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838.00 Elections/84 : Telegram

*The Chargé in Haiti (Grummon) to the Secretary of State*

PORT-AU-PRINCE, June 4, 1930—10 a. m.  
[Received 2:40 p. m.]

95. President Roy has announced in a press interview published in the *Nouvelliste* that the reconstitution of the legislative chambers will take place in October; that until that time the Council of State will be maintained and that modifications in the present electoral law will be made early in July.

GRUMMON

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838.61/128 : Telegram

*The Secretary of State to the Chargé in Haiti (Grummon)*

WASHINGTON, June 27, 1930—5 p. m.

67. Your 121, June 26, 10 a. m.<sup>37</sup> Please make it very clear to President Roy and if necessary to the members of his Cabinet that this Government feels that there should be no changes in the organization or operations of the treaty services during the term of the temporary government in Haiti. The temporary government was established for the sole purpose of holding congressional elections and preparing the way for a new permanent government. When the latter is installed the Department will be glad to consider and discuss with it such changes in the work of the treaty services as may in the opinion of the two governments seem advisable.

STIMSON

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<sup>37</sup> Not printed.

838.51A/177a: Telegram

*The Secretary of State to the Chargé in Haiti (Grummon)*

WASHINGTON, July 1, 1930—1 p. m.

72. For the Legation's information and for such publicity as you may deem advisable, you are informed that General Russell has been granted leave of absence, at the expiration of which (about September 1) he will return to Haiti and will remain there until the inauguration of the new President, at which time the new Minister will assume charge of the Legation and General Russell will return to the United States.<sup>38</sup>

For your information and that of the President, you are advised that the Department has granted the Financial Adviser leave commencing July 5th. He will return to his post shortly after the middle of August.

STIMSON

838.00/2849: Telegram

*The Chargé in Haiti (Grummon) to the Secretary of State*

PORT-AU-PRINCE, July 11, 1930—10 a. m.

[Received 2:28 p. m.]

141. Presidential decree published in this morning's press calls for legislative elections on the 14th of October. Full text of decree will go forward by air mail.<sup>39</sup>

GRUMMON

838.011/104: Telegram

*The Secretary of State to the Chargé in Haiti (Grummon)*

WASHINGTON, July 11, 1930—7 p. m.

79. Your 139, July 9, noon, and previous correspondence.<sup>40</sup> Please say to President Roy with reference to his inquiry regarding the amendment of Article 128 of the Constitution that as has been stated heretofore it is the Department's understanding that the present temporary Government is to devote its principal efforts to the passage of an electoral law and the holding of elections; that the present measure, which does not seem to be related to the electoral processes, is

<sup>38</sup> See pp. 255 ff.

<sup>39</sup> Transmitted in despatch No. 1230, July 11, 1930; not printed. The decree of July 9, 1930, was published in *Le Moniteur*, Port-au-Prince, July 10, 1930 (838.00 Elections/89).

<sup>40</sup> Not printed.

not essential to the conduct of the elections and on the contrary is likely to introduce into the situation unnecessary discussions and considerations and therefore should not be taken up before the inauguration of the next Government.

STIMSON

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838.011/107: Telegram

*The Chargé in Haiti (Grummon) to the Secretary of State*

PORT-AU-PRINCE, July 12, 1930—1 p. m.

[Received 10:29 p. m.]

146. President Roy acquiesces in the attitude expressed in the Department's telegram 79, July 11, 7 p. m. He stated that the object of the proposed amendment was to provide a means for the new permanent government to reorganize the Haitian judiciary system before the 2 years' constitutional period.

GRUMMON

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838.00 Elections/101: Telegram

*The High Commissioner in Haiti (Russell) to the Secretary of State*

[Extract]

PORT-AU-PRINCE, October 16, 1930—noon.

[Received 11:04 p. m.]

220. Incomplete election returns indicate almost a clean sweep by the Cartelistes or radical group largely controlled by Jolibois. This result came as a great surprise to the mulatto Elite who are much disturbed. Reliably informed that the Cartelistes state they will drive out of Haiti all those connected with the Borno administration.

RUSSELL

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838.032/103: Telegram

*The High Commissioner in Haiti (Russell) to the Secretary of State*

PORT-AU-PRINCE, November 8, 1930—10 a. m.

[Received 3 p. m.]

226. Department's 127, November 7, 6 p. m.<sup>41</sup> Decree convoking legislative bodies in extraordinary session on November 10th, next, has been promulgated. Legislature will assemble on the 10th and organize. When organized, both bodies will report to President Roy who will then call them to meet as National Assembly. It will take about a week to organize, including the examination of credentials.

RUSSELL

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<sup>41</sup> Not printed.

838.001 Roy, Eugene/20 : Telegram

*The Minister in Haiti (Munro) to the Secretary of State*

PORT-AU-PRINCE, November 17, 1930—1 p. m.  
[Received 4:23 p. m.]

235. National Assembly met today and received the resignation of President Roy. Session closed with no action on the election of a successor, postponed until tomorrow.

MUNRO

838.001 Vincent, Stenio/1 : Telegram

*The Minister in Haiti (Munro) to the Secretary of State*

PORT-AU-PRINCE, November 18, 1930—4 p. m.  
[Received 9:12 p. m.]

237. Stenio Vincent was elected President this afternoon on the fourth ballot and took the oath of office at once.

MUNRO

**ASSUMPTION BY THE MINISTER IN HAITI OF FUNCTIONS PREVIOUSLY EXERCISED BY THE AMERICAN HIGH COMMISSIONER** <sup>42</sup>

123M92/93a

*The Secretary of State to the Appointed Minister in Haiti (Munro)*

WASHINGTON, October 18, 1930.

SIR: Upon your arrival at Port au Prince you will assume the functions hitherto exercised by the American High Commissioner,<sup>43</sup> both with respect to the conduct of diplomatic relations between this Government and the Government of Haiti, and also with respect to the supervision of the activities of other American officials in Haiti. You will represent the President of the United States in Haiti in the same manner as did the High Commissioner, for the purpose of directing, coordinating, and reporting upon the work of the Financial Adviser-General Receiver, the officers commanding the Garde d'Haiti, and all other officers nominated by the President of the United States in accordance with the provisions of the Treaty of September 16, 1915.<sup>44</sup>

<sup>42</sup> In accordance with the recommendations of the President's Commission for the Study and Review of Conditions in the Republic of Haiti (see pp. 217 ff.), a Minister Plenipotentiary was appointed to assume the functions hitherto discharged by the American High Commissioner in Haiti. Mr. Dana G. Munro presented his credentials on November 16, 1930 (123M92/89, 98e, 100).

<sup>43</sup> See "Appointment of a High Commissioner by President Harding," *Foreign Relations*, 1922, vol. II, p. 461.

<sup>44</sup> For text of treaty, see *ibid.*, 1916, p. 328; for text of additional act extending the duration of the treaty, see *ibid.*, 1917, p. 807.

You will therefore consult with the Treaty Officials above referred to, study the problems with which they are dealing, and formulate the general policy which they are to follow in their relations with the Haitian Ministries to which they are attached, with a view to the accomplishment of the purposes of the Treaty and the execution of the recommendations of the President's Commission for the study and review of conditions in the Republic of Haiti.

You will be expected from time to time to report to the Department upon the efficiency of the various treaty services, and to recommend any changes in personnel which you consider advisable. When there is a vacancy among the heads of the treaty services the nomination of the new official will be communicated to you by the Department after consultation with the President, and will be presented by you to the Haitian Government. Nominations of subordinate officials in the treaty services will be presented by you to the President of Haiti in the name of the President of the United States without prior consultation with the Department, following the procedure outlined in the Department's instruction No. 136 of November 22, 1923 to the High Commissioner.<sup>45</sup> In presenting such nominations you will of course be guided by the advice of the heads of the respective services, except where you consider that there are compelling reasons for not accepting such advice. You are authorized to make any changes in subordinate personnel which you consider necessary, acting after consultation with the head of the treaty service concerned.

Acting as the representative of the President of the United States you will also direct those activities of the Marine Brigade which affect its relations with the Haitian Government or the Haitian people. The Brigade Commander will be instructed to take no action under authority of the existing technical state of martial law without first consulting you and obtaining your approval. This applies to the issue of proclamations, the trial of Haitian citizens by provost courts, and in general to any steps which it may appear necessary for the Marine Brigade to take in assisting the Haitian authorities to maintain order. The Brigade Commander will likewise consult with you in every case before taking action in incidents involving relations between individual members of the Brigade and civilians in Haiti.

The President desires to reduce or withdraw the Marine Brigade when such action can be taken without jeopardizing the peace of Haiti or the safety of Americans or other foreigners, and you will, therefore, report to the Department, after consultation with the Brigade Commander and the Chief of the Garde, when you consider that the situation in Haiti makes such withdrawal or reduction feasible. In the meantime it is contemplated that the Marine Brigade should take

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<sup>45</sup> *Foreign Relations*, 1923, vol. II, p. 393.

no part in the maintenance of order or the conduct of affairs in Haiti except in emergencies where you consider its participation necessary to the fulfillment of the obligations assumed by the United States under the Treaty of 1915. As stated in previous instructions to the High Commissioner, Haitians should not be tried by provost courts except in cases where the safety of members of the Brigade is involved.

In accordance with the arrangement which has existed since 1922 neither the Chief of the Garde d'Haiti nor marine and naval officers serving as treaty officials will report to or in any respect function under the Brigade Commander.

In the exercise of your duties you will bear constantly in mind the fact that the primary purpose of the Government of the United States in its relations with Haiti is to assist the people of that country through friendly advice and through cooperation in administrative matters to eliminate political and financial instability, in order that they may enjoy a real independence secure from the complications to which disorder and inability to fulfill international obligations have in the past exposed them. It was this purpose which inspired the Treaty of 1915, under which the Government of the United States obligated itself by its good offices to aid the Haitian Government in the maintenance of order, the development of its natural resources, the sanitation of the Republic, and the establishment of the finances of Haiti on a firm basis. It is this Government's desire to withdraw from any participation in the internal affairs of Haiti at the earliest moment when such withdrawal can be effected with a reasonable hope that there will be no return to the conditions which compelled its intervention in 1915. It desires that you should bend every effort to the creation of a situation where such withdrawal will be possible. As soon as possible after your arrival in Haiti, therefore, you will make a careful study of the existing situation with a view to determining to what extent and in what manner the functions now being exercised by American treaty officials may best be turned over to Haitian citizens. You will be guided in this matter by the recommendations of the President's Commission for the study and review of conditions in the Republic of Haiti, whose report has received the approval of the President of the United States.

The Treaty of 1915 will expire by its own terms on May 3, 1936. This Government has no wish to exercise any control in Haiti after that date save for such financial arrangements as will be required under the provisions of the Protocol of 1919.<sup>46</sup> It is prepared to relinquish a part of the authority exercised by it under the Treaty before 1936 upon ascertaining that the purposes for which it has been

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<sup>46</sup> Signed at Port-au-Prince, October 3, 1919, *ibid.*, 1919, vol. II, p. 347.

exercising that authority have been substantially fulfilled, and that the Haitian Government desires a change in the existing arrangements.

So long as the Treaty continues in effect, however, and in so far as its provisions have not been changed by mutual agreement this Government must insist upon the full recognition of the rights and authority granted to it thereunder. It cannot otherwise fulfill the responsibilities which it has assumed toward the Haitian Government and toward the Haitian people. This Government will, therefore, expect that the Haitian Government will promptly appoint all officials nominated by the President of the United States under the Treaty; that it will give them full authority with respect to the administration of the services under their control; and that it will cooperate with them, and with you, for the fullest realization of the purposes of the Treaty. It will also expect that laws relating to subjects covered by the Treaty or affecting the treaty services will be submitted to the diplomatic representative of the United States for an expression of his views before promulgation, in accord with the practice established by the agreement of August 24, 1918.<sup>47</sup> This applies with special force to any changes affecting the present law of finance and to legislation which in the opinion of the Financial Adviser would impair the Republic's credit or prevent the maintenance of a balanced budget. In view of the provisions of Article 127 of the Haitian Constitution,<sup>48</sup> this Government considers that a law which would tend to prevent the United States from carrying out its obligations under the Treaty would be invalid, and that you would, therefore, be justified, if it became necessary, in directing the treaty officials not to recognize such a law or to give it effect.

The Department does not desire, however, that you should exercise the authority herein given you except in cases where it appears absolutely necessary to do so. It desires you to avoid so far as possible any interference with the freedom of action of the Haitian Government. You should not, therefore, formally object to the enactment of a law simply because you are not in full accord as to its wisdom or propriety. While you should not hesitate to give such friendly advice and suggestions as you may deem appropriate in the matter of new legislation, you should not invoke the authority conferred upon the United States by the Treaty except in cases where a proposed law would clearly operate to prevent the effective work of one of the treaty services, and then only in cases where this interference would be of a sufficiently serious nature to make it improper for the United States Government to acquiesce therein.

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<sup>47</sup> See note of August 24, 1918, from the Haitian Secretary of State for Foreign Affairs, *Foreign Relations*, 1919, vol. II, p. 309.

<sup>48</sup> Constitution of June 12, 1918, *ibid.*, 1918, pp. 487, 501; also amendments to the Constitution of 1918, *ibid.*, 1927, vol. III, pp. 48 ff.

Contracts and concessions relating to subjects affecting the purposes of the Treaty of 1915 will receive more careful consideration by the Legation than other laws, particularly when the establishment of new enterprises financed by American capital is contemplated. While the Department no longer desires to make a detailed examination itself of such contracts in advance of their submission by the American interests concerned to the Haitian Government, it desires that you should keep fully informed of the progress of the negotiations, and that you should consult the Department regarding the attitude which the Legation is to assume when you consider that the questions of policy involved require the Department's consideration. It will be the duty of the Treaty Officials whose departments are affected to advise the Haitian Government regarding the details of negotiations after receiving instructions from you as to the principles upon which their advice is to be based, and it is assumed that their cooperation will usually eliminate any question as to the acceptability of the contract as a whole after its signature.

While the Department desires that you and the Treaty Officials should give the frankest and fullest advice to the Haitian Government regarding the details of contracts and concessions, it does not desire that you should withhold consent to the conclusion of a contract simply because you and the Treaty Officials are not in accord with all of its provisions. You will withhold consent only in cases where the contract appears to be seriously detrimental to the interests of Haiti, or where it would otherwise affect the performance by the United States of its obligations to Haiti under the Treaty of 1915. In other cases the final responsibility must rest with the Haitian Government.

With regard to judicial decisions affecting the public acts of treaty officials, this Government has considered that it could not satisfactorily perform its obligations under the Treaty if its representatives were instructed to obey without question all orders emanating from the Haitian courts. The fact that the Treaty imposes upon the Financial Adviser, for example, duties which could not be properly performed if he were subject to the control of any other organ of the Haitian Government has compelled the Government of the United States to assume the position that a decision by the courts which undertakes to control the treaty officials in the discharge of their duties under the Treaty is in itself inconsistent with the Treaty and need not, therefore, be given effect. This Government does not, however, desire to invoke this principle except in extreme cases, and you and the Financial Adviser should, therefore, regard decisions of the Haitian courts as *prime facie* evidence of a valid claim against the Treasury. In cases where such a decision appears so improper that to give it effect would be incompatible with the proper performance of the Financial Ad-



viser's duties under the Treaty, you may instruct the Financial Adviser to disregard it. In such a case you should discuss the question in a frank and friendly manner with the Haitian Government in an effort to find a solution of the difficulty.

You should maintain the position hitherto assumed that American treaty officials enjoy complete immunity from the jurisdiction of Haitian courts except when such immunity may be waived by the United States Government. In cases of offenses committed by or claims against treaty officials who are in the military service of the United States the matter will ordinarily be dealt with by their military superiors. In other cases you will make a careful investigation and take such action as you may find practicable to effect an adjustment. If you feel that the United States Government should waive the immunity of the treaty official concerned you should submit your recommendations with a full statement of the facts to the Department for its consideration.

The final recommendation of the President's Commission for the study and review of conditions in the Republic of Haiti is: "That the new Minister be charged with the duty of negotiating with the Haitian Government further modifications of the existing Treaty and agreements providing for less intervention in Haitian domestic affairs and defining the conditions under which the United States would lend its assistance in the restoration of order or maintenance of credit." You will give careful consideration to this matter as soon as practicable after your arrival at Port au Prince.<sup>49</sup> As indicated above, this Government has no desire to continue to exercise any authority or control in the internal affairs of Haiti. It wishes to withdraw its military forces at the earliest practicable moment and it would not consider any arrangement which provided for an indefinite continuance of the present military occupation. It likewise desires to relinquish the control now exercised by American treaty officials in so far as this can be done under the existing contractual arrangements and without placing this Government in the position of failing to fulfill the responsibilities assumed by it under the Treaty. The Government of the United States, however, will always have a deep interest in the political and financial stability, the economic welfare and the sanitation of Haiti, not only because of its friendship for the people of that country but also for reasons closely affecting the national security of the United States. It will, therefore, be disposed to discuss with a Haitian Government freely elected by the people of Haiti the continuance of cooperation and assistance in such form and manner as may be mutually agreed upon by the two Governments. You are authorized

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<sup>49</sup> See "Negotiations between the United States and Haiti for the Haitianization of the Treaty Services," p. 261.

to discuss this subject informally with the appropriate authorities at such time as may seem most suitable, in order to inform the Department of the views of the Haitian Government regarding the negotiation now or at a later date of a new Treaty or other international agreement which on the one hand would materially diminish the participation of the United States in Haiti's internal affairs, and on the other would establish a permanent basis for cooperation in a form acceptable to both governments. The Department will await your recommendations on this subject.

In conclusion you will be guided throughout your service as Minister to Haiti by the principles set forth in the following paragraph from an instruction addressed to the High Commissioner at Port au Prince on March 14, 1929: <sup>50</sup>

"The Department wishes in the first place to observe that the provisions of the Treaty between the United States and Haiti, signed at Port au Prince on September 16, 1915, places the United States in a relation to Haiti of the very highest fiduciary character. Every consideration and requirement of good neighborhood, good faith, and national interest and honor demand that this Government shall spare no effort, be lacking in no measure, and exert every influence necessary for the due and proper performance of its responsibilities and obligations under the Treaty. The Government of the United States and the Treaty Officials are under the most urgent duty of seeing that the interests and the welfare of Haiti and its people are at all hazards promoted and protected. Indeed the Department is of the opinion that, in the unfortunate contingency that the interests of citizens of the United States should conflict with the true interests of Haiti and her people, the interests of the former must yield to those of the latter. The United States, having voluntarily assumed a conventional relationship which, by virtue of its superiority in prestige and power, would enable it to impose its will to the advantage of its own interests and the interests of its nationals, must, for the vindication of its own prestige and honor, see to it that its every act and the every act of the Treaty Officials are put beyond the possibility of challenge on any such ground. Yourself, as High Commissioner, and every Treaty Official must be constantly guided by these principles."

Very truly yours,

H. L. STIMSON

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**NEGOTIATIONS BETWEEN THE UNITED STATES AND HAITI FOR  
THE HAITIANIZATION OF THE TREATY SERVICES**

838.00/2915

*The Minister in Haiti (Munro) to the Secretary of State*

No. 14

PORT-AU-PRINCE, December 5, 1930.

[Received December 9.]

SIR: With reference to my telegram No. 249, December 5, 1930, 1 p. m.,<sup>51</sup> I have the honor to transmit herewith copies in French and

<sup>50</sup> *Foreign Relations*, 1929, vol. III, p. 208.

<sup>51</sup> Not printed.

English of the plan prepared by the Haitian Government for the immediate Haitianization of the Treaty Services.

The Minister for Foreign Affairs called at the Legation and handed this plan to me with the statement that it was intended to serve as a basis for discussion and that he and the President would like to talk the whole subject over with me and reach an understanding satisfactory to both governments regarding the course to be pursued. I promised to study the plan and said that I should probably wish to submit a matter of this importance to the Department for its consideration.

This morning, when I called on the Minister for Foreign Affairs about another matter, he asked me whether I was prepared to discuss the Haitianization plan. I said that I had not yet completed my study of it, but that I would endeavor to do so as soon as possible. I remarked, however, that I thought that it would prove impossible to carry out the Haitianization of the Treaty Services as rapidly as the plan contemplated. The Minister said that the question of time was not particularly important so long as there was no doubt about the ultimate intention of the Government of the United States to turn over the control of the Treaty Services in accordance with the Forbes plan.<sup>52</sup> He said that the Haitian Government wished to proceed in the closest harmony with the Legation in this matter and also wished to effect the change in such a way as to preserve the efficiency of the Treaty Services. His statement confirmed my impression based on information from unofficial sources that the purpose of the Government in presenting the plan was to convince the public that it was carrying out the platform on which it had been elected, rather than to attempt to force any immediate radical changes in the Treaty Services. Mr. Chauvet, whose attitude is well known to the Department, remarked to one of the Secretaries of the Legation that the acceptance in full of the plan by the United States would of course be a betrayal of trust and would show a disregard of our obligations under the Treaty. I may say that the Government has permitted the publication of the substance of the plan in the newspapers.

The Minister for Foreign Affairs has informed me that the Government will subsequently present a plan dealing with the Garde d'Haiti. I suspect that it is not prepared to request such rapid Haitianization of this organization as of the other Treaty Services.

I intend to discuss the problem of Haitianization in each Treaty Service with the Treaty Officials during the next few days. As the Department is aware, the Treaty Services have already worked out more or less definite programs for Haitianization and I intend to use these as a basis for further discussion with the Haitian Government.

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<sup>52</sup> See report of the President's Commission for the Study and Review of Conditions in the Republic of Haiti, p. 217.

I shall keep the Department informed of all developments and shall request instructions when matters have reached a point where it appears proper to do so.

Respectfully yours,

DANA G. MUNRO

[Enclosure—Translation]

*The Haitian Minister for Foreign Affairs (Sannon) to the American Minister (Munro)*

The Secretary of State for Foreign Affairs presents his compliments to His Excellency M. Dana G. Munro, Envoy Extraordinary and Minister Plenipotentiary of the United States of America and has the honor to submit to him, in accordance with their interview, the plan prepared by the Haitian Government for the immediate Haitianization of the Public Services established by virtue of the Treaty between Haiti and the United States, a plan based upon the recommendations of the Forbes Commission and in conformity with the declarations of President Hoover.

PORT-AU-PRINCE, December 2, 1930.

[Subenclosure—Translation]

*Plan for Haitianization of the Treaty Services, Based on the Recommendations of the Forbes Commission and in Conformity with the Declarations of President Hoover*

During the last fifteen years, the Haitians have been sufficiently trained in the functioning of the different Treaty Services.<sup>53</sup> It now remains to complete their training in executive functions within wisely prescribed periods for the Haitianization of the said Services.

#### I. TRAVAUX PUBLICS

1. Maximum period for Haitianization: 1 year.
2. Immediate appointment of a Haitian Engineer-in-Chief who will direct the service, the duties of the present American Engineer, during the Haitianization period, to consist in giving technical advice to the Government and lending it his assistance.
3. On the first of December of next year, the duties of the American Advisor-Engineer shall cease and the Haitian Engineer-in-Chief shall remain in sole charge of the technical service of the Department.
4. Immediate dismissal of all foreign employees, engineers or others who are not commissioned.
5. Replacement of all foreign employees who are not commissioned by Haitians, according to the needs of the service.

<sup>53</sup> For summaries of reports of the treaty services, see *Eighth Annual Report of the American High Commissioner at Port au Prince, Haiti, to the Secretary of State, 1929.*

6. Within three months, all the section chiefs of the department of Public Works shall be Haitians.

7. Immediate commencement of road building, with the object of completing the Haitian road system. This work shall be carried out in conformity with decisions which shall be given by the Haitian Government. For the time being, no large bridges shall be constructed of which the cost exceeds the present capacity of the Treasury.

8. Incorporation of the School of Applied Sciences in the Public Works Service, for the training and assured recruiting of technical personnel.

9. Creation of an apprentice school of Public Works at the side of the School of Applied Sciences, designed to train foremen and competent workmen for the different branches of the Service.

10. Immediate suppression of the agency of the D. G. T. P. in New York for the furnishing of material to the Service. Opening of bids for the supply of this material in conformity with Haitian law, in the interest of commerce.

## II. SERVICE D'HYGIENE

Maximum Haitianization period: 2 years.

1. Immediate Haitianization of the sanitary districts.
2. Immediate appointment of a Haitian co-director of the Haitian General Hospital, who will assume exclusive direction of this establishment from the first of December of next year.
3. Immediate appointment of a Haitian co-director-general of the Service d'Hygiene. Upon the expiration of the two years prescribed for the Haitianization of this Service, the Haitian co-director-general will assume the sole direction thereof.
4. In posts in this Service which cannot be occupied immediately by a Haitian, either due to lack of technical experience or for any other reason recognized by the two high parties, shall be directed jointly by the present head and a Haitian shall be attached to him until this latter will be sufficiently trained in the executive functions, either technical or administrative.
5. During the two years for the Haitianization of this Service, intensive training of Haitian doctors shall be carried on throughout the Service.

## III. SERVICE TECHNIQUE

Maximum period for Haitianization: 2 years.

Division of the Service into two distinct branches:

- (a) Primary rural and urban instruction and professional instruction.
- (b) Agricultural instruction and experimental stations for the improvement and intensification of agriculture.

Branch (a) of this Service shall be directed by a Haitian.

The direction of branch (b) can be given to a foreign specialist. In that case a Haitian sub-director shall be attached.

(A) PRIMARY RURAL AND URBAN INSTRUCTION AND PROFESSIONAL INSTRUCTION

1. Transformation of the Ecole Centrale into a Normal School for the creation of professors for all primary and professional schools of the Republic. This Normal School shall be divided into two sections:

- (1) Classical Section.
- (2) Professional Section.

2. The existing Normal School for girls shall be reorganized in such a way as to form the basis of the recruitment of the girl schools of the Republic.

3. Primary instruction shall constitute, together with the professional instruction, a unified system having at its head a special director and inspectors.

4. The setting up of such a structure may require the aid of competent foreigners at the beginning. These foreigners shall be employed by the Haitian Government on a temporary basis prior to the training of Haitians chosen to replace them after the period of Haitianization.

5. The professional schools will only be open to those holding a certificate of primary instruction of the first class or to those who at least can read and write. These schools shall be organized in such a way as to be wholly or largely self-supporting.

(B) AGRICULTURAL INSTRUCTION AND EXPERIMENTAL STATIONS FOR THE IMPROVEMENT AND INTENSIFICATION OF AGRICULTURE

6. The improvement and intensification of agriculture shall be undertaken first of all by the division of the country, into agricultural districts, each one directed by an agricultural agent and his assistants.

7. The creation of agricultural agents shall be accomplished by a special agricultural school, this school to be essentially practical, where only the primary school certificate of second class shall be required for admission.

8. In addition, there shall be created a system of agricultural experimental stations, established on an absolutely commercial basis.

9. The agricultural station shall have as its object, in addition to conducting the necessary experiments for the purpose of adapting the surest methods for the cultivation of our principal products and with the object of introducing into the country new plants of commercial value, to cultivate on a grand scale any product which can be

grown in the region where it will be established and permitting it not only to cover expenses but also to make a profit.

10. A sales agency shall be charged with marketing the production of the experimental stations.

11. At the head of the system of experimental stations and the sales agency there shall be established an administrative council, renewable every two years, on a very broad basis, with the object of assuring a strict control of all the commercial operations of the experimental stations and the sales agency.

12. The Government shall advance the first funds necessary for the proper functioning of the experimental stations.

13. A foreign technical advisor may be attached to the Department of Agriculture, whose duties shall consist in giving to the Secretary of Agriculture advice in all matters concerning practical agriculture and agricultural extension.

14. The technical advisor shall be employed by a contract duly made with the Haitian Government. The period of this contract shall not exceed the Haitianization period of the Service. It shall be renewable at the option of the parties thereto.

#### IV. SERVICE OF THE FINANCIAL ADVISER-GENERAL RECEIVER

Maximum Haitianization period: 2 years.

1. Immediate and complete Haitianization of the Contributions Service.

2. Immediate and complete Haitianization of the customs personnel.

3. Progressive Haitianization of the office of the Financial Adviser-General Receiver during the period of two years.

General principle: Wherever it shall be demonstrated that a Haitian cannot be appointed immediately, a Haitian shall be attached to the present office holder and the function shall be transferred to the Haitian as soon as his administrative instruction shall be considered sufficient.

4. The immediate re-establishment of the Haitian control institution, known as *Chambre des Comptes*.

5. Re-establishment and reorganization of the *Bureaux de l'Enregistrement* and the *Conservation des Hypothèques*.

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838.00/2921

*The Minister in Haiti (Munro) to the Secretary of State*

No. 21

PORT-AU-PRINCE, December 22, 1930.

[Received December 27.]

SIR: In response to the Department's telegram No. 141, of December 19th. 6 p. m.,<sup>54</sup> I have the honor to transmit herewith a summary

<sup>54</sup> Not printed.

of the Haitianization plans upon which the Treaty Services are now working and a few observations regarding the general problem of carrying out the recommendations of the President's Commission for the study and review of conditions in the Republic of Haiti. In each of the Treaty Services the problem of replacing American by Haitian officials had already received detailed study before the departure of the High Commissioner. The tentative programs which were worked out under his direction have already been put into execution to some extent. Since my arrival, I have been making a careful study of these programs and of the general problem of reducing the activities of the American Treaty Officials. The problem is an exceedingly complicated one and I am not prepared after so short a stay in Haiti to express definite or final opinions regarding it. Any recommendations made in this despatch must therefore be regarded as tentative. The situation in each Treaty Service may briefly be described as follows:

The Military School has been reestablished in accordance with the recommendations of the Forbes Commission. An unexpectedly large number of candidates applied for admission and somewhat over fifty were enrolled. The Commandant of the Garde had expected to eliminate many of these by a process of selection during the first few months of the course, but the students have maintained such a high standard in their work that it has been impossible without unfairness to reduce their number materially and forty-five cadets are still enrolled. They are mainly from the best Haitian families and they have shown an interest in their work and their willingness to submit themselves to discipline which has been exceedingly encouraging.

#### I. The Garde d'Haiti.

On page 25 of the report of the President's Commission for the Study and Review of Conditions in the Republic of Haiti, the Department will find a table entitled "Summary of Plan for the Progressive Haitianization of the Garde d'Haiti".<sup>55</sup> General Williams informs me that he is now somewhat ahead of this plan and that he believes that it will prove possible to appoint Haitian officers during the next few years somewhat more rapidly than the plan contemplates. As the Department is aware, the Garde has also recently taken a most important step toward the imposition of responsibility on Haitian officers by placing under native control the entire Department of the Center. A Haitian Captain with the temporary rank of Major is in command of this Department, under the general supervision of the former American commanding officer who will live in Port-au-Prince and make weekly trips of inspection. Since entrusting an independent

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<sup>55</sup> Reference is to text of report printed by the Department of State as Latin American Series No. 2. The tables annexed to the report are not included with the text printed *ante*, p. 217.



command to a Haitian officer is a much more radical experiment than merely promoting Haitians in organizations where they are constantly under the eye of an American superior, I believe that it will be advisable to watch the result of this experiment for a period before turning over other departments to complete Haitian control.

## II. The Office of the Financial Adviser-General Receiver.

The Financial Adviser states that further extensive Haitianization of his service is practically impossible if he is to perform the important duties placed upon his office by the Treaty. I am inclined to concur in this view. The Service is operated with Haitian employees except for a group of Americans who occupy key positions where any dishonesty or break-down in efficiency might mean a serious financial loss to the Government. The situation of the financial service is different from that of the other Treaty Services because of its special responsibility toward the foreign bond-holders and because the Service must continue in existence under the Protocol of 1919<sup>56</sup> and the loan contracts after the expiration of the Treaty. It would obviously be particularly unwise to undermine the efficiency of this service in the face of the present difficult economic situation.

There will, however, undoubtedly be an insistent demand by the Haitian public and probably by the Government, for the removal of the Internal Revenue Service from American control. The Haitianization of the Internal Revenue Service would be a calamity for Haiti because it would further reduce the Government's now inadequate revenue and would probably prevent the ultimate abolition of the onerous export taxes which the new internal revenue taxes were intended to replace. On the other hand, from our own point of view, there would be obvious advantages in taking American Treaty officials altogether out of the business of collecting taxes from the people. To do so would remove one of the principal causes of ill feeling against the Treaty Services. I am not yet prepared to express a final opinion on this subject as a matter of policy.

There is, however, a legal side to the internal revenue question which should receive the Department's consideration. It would appear that the United States Government could not relinquish the control of the internal revenues without violating obligations assumed toward the holders of Haiti's bonds in the Protocol of 1919. It would be very helpful to have a study of this question made by the Solicitor's Office in the near future and to have definite instructions from the Department on this particular phase of the internal revenue question for use when the Haitian Government brings it up.

The activity of the Financial Adviser's Office which can best be given up if desired as a matter of policy is the administration of State

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<sup>56</sup> *Foreign Relations*, 1919, vol. II, p. 347.

lands. The reclaiming of State property for the Government and the collection of rents from tenants thereon has caused much friction and was the immediate occasion, though not the cause, of some of the unfortunate incidents which occurred last year. There are now reports that propaganda is being spread in the interior to induce State tenants to refuse to pay their rents and this propaganda if it becomes serious will involve the Internal Revenue Service and the Legation in further difficulties. I am inclined to believe that we may find it advisable to abandon this phase of the Financial Adviser's work, even though such action will entail the loss of much property and considerable revenue and will thus be seriously harmful to the best interests of the Haitian Government.

### III. The Public Works Service.

The Public Works Service has eight important departments or district offices as follows: Cape Haitien, Port de Paix, Gonaives, St. Marc, Petitgoave, Cayes, Jacmel, and Jeremie. All except those at Cayes, and Jeremie, are now under the administration of Haitian engineers. It will probably be possible to turn over the office at Cayes within three or four months. There is no Haitian engineer immediately available to take over the office at Jeremie, but one is being trained for this position.

At the main office at Port-au-Prince, the work is divided into eight services: irrigation, public buildings, telegraphs, roads, municipal engineering, shop supply and transport, cadastre, and general administration. Haitian engineers are now being trained to become the heads of these services and the first two above mentioned can probably be turned over in the very near future. If present plans can be carried out, two additional services will be placed under Haitian engineers in each year between now and 1933. The Engineer in Chief believes that it will be essential so long as we retain any responsibility for the administration of Public Works in Haiti to retain the eleven Naval engineers now detailed to his department, as they will all be necessary for purposes of supervision and control. The Service also employs a number of American civilians and it is this group that the Engineer in Chief plans to relieve as Haitianization progresses. There are at present eleven such American technical employees as compared with twenty-six in 1927. Three of the eleven will leave during the next few weeks and two or three others during the coming year.

### IV. The Public Health Service.

The Haitianization of the Public Health Service has already proceeded somewhat farther than in the case of the other Services. The Republic is divided into ten sanitary districts of which four, at Port de Paix, St. Marc, Jeremie and Petitgoave, have already been placed under Haitian officials. The Hinche district will be Haitian-

ized about January 1st. and the Jacmel district sometime during the coming year. Dr. Stuart hopes to turn over the districts of Gonaives and Cayes in 1932 or 1933, leaving under American control only the districts of Port-au-Prince and Cape Haitien, which in my opinion should not be turned over so long as we have any large number of American civilians and Marines in these two cities.

The personnel at the Headquarters at Port-au-Prince and at the Haitian General Hospital is already very largely Haitian. There are, however, six Americans in the former, including the division of supplies and transportation, and six at the hospital. Dr. Stuart believes that it will be possible by 1934 to relieve some of these.

The Director General of the Service is now training a Haitian physician in the administrative work at Headquarters with the view to fitting him to take over eventually the direction of the Service as a whole.

The Medical School is now directed by Haitian doctors.

I see little object in pushing very energetically the further Haitianization of this Service. It is the most popular of the Treaty Services and each American doctor who can be retained is a distinct gain to the community. So long as we have any considerable number of Americans in Haiti, proper medical attention will be essential to their safety and morale and proper attention cannot be assured unless at least the hospitals at Port-au-Prince and Cape Haitien and the sanitation of Port-au-Prince are under effective American control.

#### V. The Service Technique.

The Service Technique presents special problems which will require very careful study and full discussion with the Haitian Government. I am not prepared as yet to report on these problems in detail. I am, however, transmitting a chart prepared by Dr. Colvin showing his plan for the Haitianization of the Service. This plan may be altered by the reorganization which it will probably be necessary to effect.

The morale of the Americans in the Service Technique has been especially affected by the developments of the past year and the service has already lost approximately fifty percent of its American employees by resignation. Dr. Colvin expects that approximately twenty-five percent of the remainder will leave during the present year. It will be difficult to hold any of the better men who will have opportunities for employment elsewhere unless definite plans for the future of this service are formulated very soon.

It would be extremely unfortunate to discontinue entirely the work which this Service has been performing. Its activities in developing new products, including especially an excellent variety of long staple cotton, and in improving livestock are just beginning to show results and their abandonment would not only inflict a heavy

loss upon the Haitian people but would make it appear that the United States Government had carried on expensive and unproductive experiments in Haiti, the futility of which it finally realized. I think that the Haitian Government will desire to continue much of this agricultural work.

I am more inclined to reduce the educational work of the Service Technique, not because it is not extremely necessary, but because there is less probability of achieving definite results during the life of the Treaty. Dr. Colvin and I have been discussing the possibility of proposing to the Haitian Government the integration of the Service Technique Schools into the existing Haitian system with a measure of control by the Service Technique at least over the industrial and vocational end of the work. I think that we can go very far toward meeting the Haitian Government's proposals with respect to the Service Technique as that portion of the memorandum of December 2, 1930,<sup>57</sup> which deals with this Service was apparently somewhat more carefully and intelligently thought out than the other sections. The Haitian Government is apparently willing to employ a number of American experts under contract both in the agricultural and educational work, and I believe that this would afford the best possible basis for the continuance of American cooperation in these lines.

We shall of course have to insist that the Director General of the Service Technique be nominated by the President of the United States at least for the time being; and we should in my opinion insist that Dr. Colvin's appointment to this position be confirmed if any definite steps are to be taken toward the reorganization and Haitianization of this service.

I have hardly supposed that the Department would wish to give serious detailed consideration to the Haitian Government's memorandum of December 2nd. I believe that the Haitian Government would be surprised and perhaps dismayed if its proposals were accepted. The memorandum bears every evidence of having been prepared primarily with the view to the internal political situation in Haiti rather than as a serious indication of what the Haitian Government hopes to obtain. It is said that President Vincent now realizes that its presentation and especially the publication of its main features was a serious mistake, into which he was probably led by the radical members of his Cabinet.

The acceptance of the plan proposed by the memorandum would mean the destruction of virtually the whole organization which has been built up here by the Treaty Services. It must be remembered that the process of training Haitians to fill the higher positions in Treaty Services has only begun within the last few years. For some

<sup>57</sup> *Ante*, p. 263.

time after 1922, when the appointment of the High Commissioner<sup>58</sup> and the inauguration of a policy of cooperation by the Borno Government made it possible for the Treaty Services to begin work effectively, they were rather fully occupied with the task of organization and with the execution of much needed concrete projects. Haitian engineers, doctors, etc., played an important part in the services from the first, but the training of Haitian personnel was subordinated to the development work which was obviously more urgent.

\* On June 11, 1928, the High Commissioner issued an order instructing the Treaty Services to devote more care to the training and indoctrination of Haitian personnel and to the development of understudies for each position held by an American. "All organizations under the supervision of Treaty Officials", the High Commissioner said, "are now well organized and consequently they are able to turn their attention to this very important duty in connection with the rehabilitation of Haiti, in order that, during the remaining eight years, intensive work of this nature may be carried on; and when the American aid is withdrawn by reason of the expiration of the Treaty, the various departments will continue to function in a high state of efficiency". This order, it will be noted, was issued some eighteen months before the visit of the Forbes Commission. Much has already been accomplished in selecting and training Haitian personnel, but I am convinced from what I have seen thus far that the five years still remaining before the expiration of the Treaty will be none too long a period for the completion of this phase of the Treaty Services' work. It is believed that the plan outlined in the body of this despatch, if carried out with a reasonable amount of cooperation by the Haitian Government, would make it possible to leave in Haiti a group of public services which might be able to function with a fair degree of efficiency after 1936, provided that they were not broken down by politics. It appears to me that the major problem of our policy in Haiti from now on is so to develop the Treaty Services that the magnificent constructive work already accomplished will not be wholly lost and repudiated. I believe from what I have already seen that President Vincent will be prepared to work with us to this end, if we follow a firm and consistent policy during the next six years, but that he and the moderate element among his supporters will be swept off their feet by the radical nationalist faction if the latter are able to influence the policy of the United States Government by a program of criticism and complaint.

One of the principal obstacles to the efficient functioning of the Treaty Services is the very low morale of the personnel. This is especially true of the Americans. They feel that they have been unjustly criticized during the past year by persons who have not been willing to take either the time or the trouble to give fair consideration

<sup>58</sup> See *Foreign Relations*, 1922, vol. II, pp. 461 ff.

to the real facts of the case and that the notable achievements which the Treaty Services have realized are not only not appreciated but are likely to be sacrificed to considerations of expediency. The doubt as to the continued tenure of their positions has also lowered their efficiency and caused them to lose interest in their work. One of the most pressing necessities here at present is to adopt a definite program which will make it possible, particularly in the case of the civilian Treaty Officials, to give them some assurance that their services with the Haitian Government will continue for a more or less definite length of time.

I have not considered it advisable to request instructions from the Department on the general question of Haitianization until I had carried my own study of the problem somewhat farther and until I had ascertained more definitely what the Haitian Government really desires. I considered it inadvisable, however, to postpone indefinitely the making of any response to the Government's memorandum of December 2nd. On December 20, 1930, therefore, I addressed to the Minister for Foreign Affairs a personal and confidential letter outlining the present tentative plans of the Treaty Services in order that the Government might have something in writing to serve as a basis for further discussion. A copy of this letter is transmitted herewith.

I believe that the Haitian Government has in mind the signature of some form of protocol or agreement for the Haitianization of the Treaty Services. I should be very reluctant to advise the acceptance by the United States Government of any definite and inflexible commitments regarding the appointment of Haitians to specific positions at a given time. It may, however, appear advisable after further discussion to enter into some form of written agreement on the subject in order to enable the Government to demonstrate that it has actually carried out a part of the program upon which the Nationalists came into power. This is a matter for future consideration.

Respectfully yours,

DANA G. MUNRO

[Enclosure]

*The American Minister (Munro) to the Haitian Minister for Foreign Affairs (Sannon)*

PORT-AU-PRINCE, December 20, 1930.

MY DEAR MR. MINISTER: I have given careful consideration to your Memorandum of December 2, 1930, transmitting a plan for the Haitianization of the Treaty Services. I am sure that you will appreciate the fact that a matter of this nature cannot be adequately dealt with without a detailed study. Each of the Treaty Officials has been training Haitian officers and employees to take over various

phases of the work in his Department and it has been necessary to ascertain in the case of each position to be Haitianized how far this training has now progressed and how soon a change from American to Haitian personnel can be made with assurance that the efficient functioning of the office will not be interrupted. I am not yet prepared, therefore, to make a definite reply to the proposals in your Memorandum; but I am, nevertheless, communicating to you herewith in an entirely unofficial and personal manner my observations on some of the points involved, in order that we may continue our discussions of the whole subject with the least possible loss of time.

The Public Works Service, as Your Excellency knows, has eight important departments or district offices, as follows: Cape Haitien, Port de Paix, Gonaives, St. Marc, Petitgoave, Cayes, Jacmel, and Jeremie. All except those at Cayes, and Jeremie, are now under the administration of Haitian engineers. It will probably be possible to turn over the office at Cayes within three or four months. There is no Haitian engineer immediately available to take over the office at Jeremie, but one is being trained for this position.

At the main office at Port-au-Prince, the work is divided into eight services: irrigation, public buildings, telegraphs, roads, municipal engineering, shop supply and transport, cadastre, and general administration. Haitian engineers are now being trained to become the heads of these services and the first two above mentioned can probably be turned over in the very near future. If present plans can be carried out, two additional services will be placed under Haitian engineers in each year between now and 1933.

I have already advised Your Excellency informally regarding the status of the eleven American civilians now employed by this service. It is contemplated that approximately five of these should be discharged within the next year if the plan of Haitianization proceeds as is hoped.

I fully concur with Your Excellency that steps should be taken immediately to carry out further road construction insofar as funds are available, and I understand that this matter is already under discussion between the Haitian Government and the Engineer in Chief.

In the Public Health Service, there are ten sanitary districts of which four: at Port de Paix, St. Marc, Jeremie, and Petitgoave, have already been placed under Haitian officials. I believe that it will be possible to withdraw American doctors from Hinche in the very near future and from Jacmel sometime during the coming year. It is also probable that the districts of Gonaives and Cayes can be Haitianized in 1932 or 1933, leaving only the districts of Port-au-Prince and Cape Haitien under American health officers. The personnel at the head-

quarters at Port-au-Prince, and at the Haitian General Hospital is now very largely Haitian, but it will be further Haitianized as the time approaches for the expiration of the Treaty.

In the Service Technique, the number of Americans has already been reduced by nearly fifty percent. A further substantial reduction can probably be made during the present fiscal year, but a number of specially trained scientists and experts will have to be retained for the present if the important work which this Service is doing is to be continued.

The proposed reorganization of the Service Technique involves so many difficult and technical problems that I am very reluctant to comment on it without further careful study. I am, however, prepared to recommend to my Government the acceptance in principle of Your Excellency's suggestion that the service be divided into two separate branches embracing respectively primary and professional instruction, and agricultural work, and that the first branch be placed under the immediate direction of a Haitian official attached to the Service Technique. I also believe that it would be possible to transform the Ecole Centrale into a Normal School and to unify the entire system of primary instruction. There are certain questions connected with these proposals and with the Service in general, however, which I should wish to discuss further with Your Excellency before recommending to my Government the acceptance of any definite plan.

Your Excellency's proposals for the immediate stimulation of agricultural production appear to me most timely and I believe that this matter should receive immediate study with a view to inaugurating active practical steps along the general lines suggested by Your Excellency for the encouragement of the production of products for export to assured markets.

The situation of the office of the Financial Adviser-General Receiver is different from that of the other Treaty Services because the major activities of this office under the Protocol of 1919 and the loan contracts will continue after the expiration of the Treaty and until the amortization of the existing debt. Furthermore, in view of the world-wide financial depression and the very difficult present financial situation of the Haitian Government, it is necessary to proceed with the greatest caution in taking any steps which might result in a reduction in revenue. For these reasons I doubt whether it would be possible to make any substantial change in the present organization of the financial service, which is already Haitianized to the extent of nearly ninety-five percent.

With the assurances [etc.]

[DANA G. MUNRO]



838.00/2925

*The Minister in Haiti (Munro) to the Secretary of State*

No. 36

PORT-AU-PRINCE, January 2, 1931.

[Received January 6.]

SIR: With reference to my telegram No. 263 of December 31st, 12 noon,<sup>59</sup> I have the honor to transmit herewith copy and translation of an informal letter from the Haitian Secretary of State for Foreign Affairs replying to my personal letter of December 20th. which contained certain observations regarding the question of Haitianizing the Treaty Services.

The outstanding feature of Mr. Sannon's letter is its apparent acceptance of the plan set forth in my letter of December 20th. as a basis for further negotiations. Mr. Sannon carefully leaves the Haitian Government free, so far as his letter is concerned, to ask a very much more rapid replacement of American officials than my letter had contemplated and it is of course probable that the Haitian Government will demand just as much along this line as it thinks it might be possible to obtain. It will be difficult, however, after carrying on conversations along the lines which I laid down in my letter of December 20th. for the Government to revert to some of the extreme and objectionable features of its own plan, such as the demand for complete American withdrawal from the Treaty Services in one or two years and for the immediate appointment of Haitian co-directors of the Treaty Services, who would practically take control of the Services at once. I believe that there is every indication at the present time that a satisfactory accord on the question of Haitianization can be reached. What the Haitian Government and Haitian public opinion chiefly desire appears to be some assurance that the withdrawal of American officials is actually under way and that there is no intention to impose an extension of the Treaty after 1936.

I am by no means certain that it will not be possible eventually to permit a more rapid withdrawal of Americans from the Treaty Services than our present plans contemplate. The advice given by the heads of the Services on this point is naturally influenced by a desire to maintain a maximum of efficiency in their organizations and a reluctance to handicap their Services in the performance of constructive work. It is very difficult to determine to what extent efficiency should be sacrificed in the interest of a more rapid training of the Haitian personnel. I should not recommend going beyond the plans already formulated by the Treaty Services without mature consideration of the consequences. The process of Haitianization cannot be reversed when it is once under way and any ill-considered step along this line

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<sup>59</sup> Not printed.

might therefore do irreparable damage for which the Government of the United States could not avoid responsibility so long as the Treaty remains in effect. I intend therefore to discuss the matter with the Haitian Government for the present on the basis of the programs formulated by the Treaty officials. It may be possible to make changes in these programs on the basis of a better knowledge of conditions in Haiti and after more detailed observation of the work performed by each Service in various parts of the Republic.

As I indicated in my telegram of December 30th., No. 259, 2 [5] p. m.,<sup>60</sup> the Secretary of State for Foreign Affairs discussed with me that portion of his letter regarding the Financial Adviser-General Receiver before actually sending the letter to me. He said that the Government fully recognized that the Protocol of 1919 and the Loan contracts would require some arrangement to safe-guard the interest of the bondholders after 1936, but that he did not think that they would require that the office of the Financial Adviser-General Receiver continue to function exactly in its present form. He thought that a special accord between the two governments on this point would be necessary. I said that I agreed with him on this point and that I had not meant to indicate in my letter of December 20th. that no change would be made in the work of the Financial Services after the expiration of the Treaty. What I had intended to bring out was the fact that since the collection and application of the pledged revenues must remain in the hands of American officials during the life of the loan, the situation of this Service was entirely different from that of the Services which would be turned over completely to Haitian control during the next six years. It was clear that a much more rapid and far-reaching program of Haitianization must be adopted in these latter Services. Neither the Minister nor I touched on the question of the control over the internal revenue, although I could see that it was in his mind. In this connection I have the honor again to request that the Department furnish me as soon as practicable with its views regarding the question whether the internal revenue must remain under American control under the terms of the Protocol and the Loan Contracts.

Respectfully yours,

DANA G. MUNRO

[Enclosure—Translation]

*The Haitian Minister for Foreign Affairs (Sannon) to the American Minister (Munro)*

PORT-AU-PRINCE, December 30, 1930.

DEAR MR. MINISTER: On the occasion of your visit on the 20th of this month to the Department for Foreign Affairs, and at the end of

<sup>60</sup> Not printed.

our interview, you had the kindness to hand me a personal and confidential letter of the same date, in reply to the memorandum which I had the honor to address to the Legation of the United States on the Haitianization of the Treaty Services.

Although the proposals contained in the said memorandum were the result of a long preparation and are in conformity with the objects envisaged by our two Governments in anticipation of the approaching expiration of the Treaty, I agree with you that there is occasion to undertake a minute study of the entire question. I am, therefore, fully prepared to proceed with you without loss of time to an examination of the Haitianization plan submitted to your Legation.

The importance which the Government attaches to a definitive accord on all the points under discussion is in its eyes the more important in that the results which it is proposed to obtain have for it a national interest.

Our pressing desire to conclude this accord fortunately is in harmony with that which the Government of the United States itself continues to manifest.

Before submitting to you reflections and reservations which your observations on the Haitianization plan have suggested to me, I wish to point out my appreciation of the friendly spirit in which you have undertaken the negotiations.

*a. On the Haitianization of the Public Works Service.*

In reply to this section of the Memorandum, you inform me that all of the eight departments or districts which make up this service are now under the direction of Haitian engineers, with the exception of the districts of Cayes and Jérémie.

You add that the office at Aux Cayes will probably be turned over to a Haitian engineer within three or four months, if I understand your idea correctly.

With regard to Jérémie, you say that there is no Haitian engineer immediately available, but one is being trained for this district. I understand that the Haitian engineer, Salès, now at Jérémie, is well prepared by his long practice to take charge of that office immediately. M. Salès during two or three years was the assistant to the departmental engineer of the Artibonite and of the Northwest. He was even provisionally in charge of the administration of that department and, subsequently, was in charge of the sub-district of St. Marc, before going to Jérémie. He has, therefore, the desired training and competence to take charge without delay of the district of Jérémie.

The Haitianization indicated for the departments of the North and the Artibonite is far from being complete. There are still two American inspectors over the Haitian engineers Champana and Sixto who are stationed there, and orders and instructions from the headquarters of the Public Works service are transmitted to them through the

American inspectors. The Government proposes that these two inspectors be at least recalled to the central office at Port-au-Prince.

By Haitianization, my Government understands in effect the promotion of Haitians to directive and administrative positions and it is certainly in this sense that it is understood by the Government of the United States.

Under these conditions, in every service or branch of service where there is a Haitian assistant who is discharging his duties with competence, he is qualified to replace the American superior. It is, besides, you will agree with me, the only practical means of preparing the way in time for the liquidation of the Treaty and of carrying out the intentions of the two interested Governments.

*b. On the services of the Central Office of Port-au-Prince.*

I note with pleasure the assurance which you give me that Haitian engineers are now being trained to become chiefs of the eight divisions of this office, and that the services of Irrigation and Public Buildings will soon be confided to them.

The Government is convinced that the Haitian engineers, L. C. Ethéart, Maignan, Léon Ménos, Péreira, F. Azor, Louis Roy and Jeannot, respectively assistants in the services of Irrigation, Public Buildings, Telegraphs, Roads or Municipal Engineering, Cadastral Survey and General Administration, can without disadvantage to these services replace the American employees who are now in charge thereof.

You repeat the assurance that five out of the eleven American civilian employees in the central office at Port-au-Prince will be dismissed within a short time.

*c. On the Haitianization of the Service d'Hygiene.*

You inform me that of the ten sanitary districts four, namely those of Port-au-Prince, St. Marc, Jérémie and Petit Goâve, have all been placed under the direction of Haitians. I shall await an opportunity to discuss this question with you at greater length. I note that the American doctors will soon leave the hospitals at Hinche and Jacmel, to make place, if I understand you correctly, for Haitian doctors.

You add that the sanitary districts at Gonaïves and Aux Cayes may be Haitianized in 1932 or 1933, leaving only the districts of Port-au-Prince and Cape Haitien under American health officers.

I shall wish to discuss the period indicated for the Haitianization here envisaged because it seems to me too long.

Concerning the Service d'Hygiene, you inform me that the personnel of the headquarters at Port-au-Prince and the General Hospital is now largely Haitian and that it will be more so as the expiration of the Treaty draws near.

The Government does not deny that the personnel at the headquarters of the Service and at the General Hospital includes many

Haitians, but it wishes to call your attention to this fact: That true Haitianization should aim toward the promotion of the Haitian doctors and employees to positions of administration and authority before the expiration of the Treaty.

*d. On the Service Technique.*

I note with satisfaction that our views on the broad lines of the reorganization proposed in the memorandum of the Government are in accord.

It appears easy to me to accomplish rather rapidly the Haitianization of this important service.

A Haitian assistant is attached to each of the departments of this service. There are, besides, a number of young Haitians who have already specialized, or are now specializing, for all branches of this service in universities in the United States.

It would be appropriate to increase the number of these Haitian students. This is a question which I would like to make the subject of one of our early interviews.

Since you are willing to recommend to your Government the acceptance of the proposal, providing for the division of the Service Technique into two branches, and you wish to discuss further with me the question in its entirety before recommending to your Government the acceptance of a definitive plan, I can only place myself at your entire disposition for the discussion in question.

*e. On the Haitianization of the Office of the Financial Adviser-General Receiver.*

Here, the views of the Haitian Government are not at all in accord with those which you express in your letter. There is certainly some misunderstanding in your mind which I wish above all to dissipate. The Government absolutely does not believe that the Protocol of 1919 and the loan contract constitute obstacles to the Haitianization of the Treaty Services directed by the Financial Adviser-General Receiver. I reserve this question, nevertheless, preferring to make it the subject of one of our future interviews.

In thanking you for your communication, I take [etc.]

H. PAULÉUS SANNON

## HEJAZ AND NEJD

### DISINCLINATION OF THE UNITED STATES TO ENTER INTO DIPLOMATIC RELATIONS WITH THE KINGDOM OF THE HEJAZ AND NEJD

890f.01/8

*The Acting Director for Foreign Affairs of the Kingdom of the Hejaz and Nejd (Hamza) to the Secretary of State*

No. 57/1/1

MECCA, HEJAZ, September 29, 1928.

[Received October 18.]

YOUR EXCELLENCY: At a moment when Your Excellency's Government has taken a historic step in the direction of ensuring the maintenance of peace in the world, and has sent invitations to all the states with which it is in treaty relations to adhere to the Pact which was signed last month at Paris,<sup>1</sup> The Government of the Kingdom of the Hejaz and Nejd and its Dependencies considers the moment particularly opportune to abroad [*approach?*] Your Excellency's Government with a view to an arrangement for the exchange of diplomatic instruments of mutual recognition.

I am accordingly charged by my august sovereign His Majesty the King of the Hejaz and Nejd and its Dependencies to seek, through the good offices of Your Excellency, the formal recognition of the Kingdom of the Hejaz and Nejd and its Dependencies by the Government of the United States of America. And in this connection I am to forward for Your Excellency's perusal the attached brief statement<sup>2</sup> giving such information, about the country under His Majesty's rule, as may be of interest to Your Excellency.

Please accept [etc.]

FUAD HAMZA

890f.01/10

*The Secretary of State to the Minister in Egypt (Gunther)*

No. 24

WASHINGTON, January 7, 1929.

SIR: The Department has received your despatch No. 73 of November 9, 1928<sup>2</sup> enclosing a copy of a communication addressed to the Secretary of State by the Acting Director for Foreign Affairs of the Kingdom of the Hejaz and Nejd and its Dependencies<sup>3</sup> in which the

<sup>1</sup> Treaty for the Renunciation of War, signed at Paris, August 27, 1928; *Foreign Relations*, 1928, vol. 1, p. 153.

<sup>2</sup> Not printed.

<sup>3</sup> A duplicate of the text sent direct to the Department, *supra*.

question of the recognition of that Kingdom by the United States is raised.

The Department desires that the Legation should seek an early opportunity of conveying under appropriate informal circumstances and orally to the Hedjazian Agent at Cairo a message substantially to the following effect with the request that the message be duly communicated to the proper authorities at Mecca:

The Secretary of State has received and has read with appreciation the note No. 57/1/1 which His Excellency Fuad Hamza, the Acting Director for Foreign Affairs of the Kingdom of the Hejaz and Nejd and Dependencies, was good enough to address to him under date of September 29, 1928. The friendly tone of the Acting Director's communication is much appreciated and is cordially reciprocated. The question of the recognition by the United States of the Kingdom of the Hejaz and Nejd and Dependencies is one to which the Secretary of State finds it impracticable to reply definitively at the present time. The Secretary of State feels confident, however, that at the appropriate time the question which His Excellency Fuad Hamza has raised in his esteemed communication will receive the sympathetic consideration which it deserves. Meanwhile the Secretary of State would be glad if the expression of his cordial greetings and good wishes could be conveyed to His Excellency, the Acting Director for Foreign Affairs.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, JR

890f.01/13

*The Minister in Egypt (Gunther) to the Secretary of State*

[Extract]

No. 143

CAIRO, February 19, 1929:

[Received March 13.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 24 of January 27 [?], 1929, File No. 890f.01/10, in reply to my despatch No. 73 of November 9, 1928,<sup>4</sup> enclosing a copy of a communication addressed to the Secretary of State by the Acting Director for Foreign Affairs of the Kingdom of the Hejaz and Nejd and its Dependencies, in which the question of the recognition of that Kingdom by the United States was raised. The Legation was directed to seek an early opportunity of conveying under appropriate informal circumstances and orally to the Hedjazian Agent at Cairo the substance of your reply and to request that such reply should be communicated to the appropriate authorities at Mecca.

<sup>4</sup> Not printed.

In reply I have the honor to report that on this date, under my instructions, the Secretary of the Legation, Mr. Wadsworth, called by appointment on the Hedjazian Agent and communicated to him, in the manner indicated, your message to the Acting Director for Foreign Affairs of King Ibn Saud's Government.

There was present at the interview Sheik Hafez Wahba, a personal counselor of King Ibn Saud, who has been spending the past month in Cairo. Both Sheik Hafez Wahba and the Hedjazian Agent expressed their appreciation of your cordial and friendly message and, while manifesting some disappointment that it was not more favorable to the expressed desire of their Government, assured Mr. Wadsworth that it would be communicated fully and promptly to their Sovereign.

I have [etc.]

FRANKLIN MOTT GUNTHER

890f.01/15

*The Acting Secretary of State to the Minister in Egypt (Gunther)*

No. 100

WASHINGTON, February 28, 1930.

SIR: The Department has received your despatch No. 315 of January 11, 1930,<sup>5</sup> with regard to the recognition by this Government of the Kingdom of the Hejaz and of Nejd and its Dependencies, and has noted with interest your views that the time has come when favorable consideration may be given to the formal request for recognition made by the Acting Director of Foreign Affairs of the Hejaz in his note of September 29, 1928, addressed to the Secretary of State.

The Department has taken due note of the conclusion by the Hejaz Government during recent months of treaties with Germany,<sup>6</sup> Persia<sup>7</sup> and Turkey,<sup>8</sup> and of the more recent action of several Powers in raising the rank of their representation at Jeddah to diplomatic status, and considers that these developments are pertinent to the consideration of eventual recognition by the United States. Inasmuch, however, as the final decision in this matter may be largely influenced by the character and extent of American commercial interest, actual as well as potential, in the Hejaz, the Department would be glad to receive any information available to you on this subject.

<sup>5</sup> Not printed.

<sup>6</sup> Signed at Cairo, April 26, 1929; League of Nations Treaty Series, vol. **cxv**, p. 265.

<sup>7</sup> Signed at Teheran, August 24, 1929; *ibid.*, vol. **cv**, p. 269.

<sup>8</sup> Signed at Mecca, August 3, 1929; *British and Foreign State Papers*, vol. **cxv**, p. 491.



For your confidential information it may be stated that the Department is at present inclined to the opinion that if, and when, recognition is extended to the Government of King Ibn Saud, it should at the same time be extended to the Government of the Iman of Yemen.<sup>9</sup> The Department does not contemplate that it will be in a position to give further consideration to the question of recognition of either of these States until it has determined the character of American representation in Iraq. A decision in this latter question must await the ratification of the recent tripartite convention between the United States and Great Britain and Iraq.<sup>10</sup>

I am [etc.]

For the Acting Secretary of State  
G. HOWLAND SHAW

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<sup>9</sup> See *Foreign Relations*, 1927, vol. III, pp. 825 ff.

<sup>10</sup> *Post*, p. 302.

## HONDURAS

### **BOUNDARY DISPUTE WITH GUATEMALA**

(See volume I, pages 344 ff.)

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### **BOUNDARY DISPUTE WITH NICARAGUA**

(See volume I, pages 361 ff.)

## ICELAND

### ARBITRATION TREATY BETWEEN THE UNITED STATES AND ICELAND, SIGNED MAY 15, 1930

711.59a12A/1

*The Danish Minister (Brun) to the Acting Secretary of State*

No. 34

WASHINGTON, April 12, 1930.

[Received April 14.]

SIR: I have the honor to refer to the note of June 13, 1928 of Mr. Secretary of State Kellogg<sup>1</sup> in which, after having declared his readiness to sign with me on the following day, June 14th 1928, the proposed treaty of arbitration between the United States and Denmark,<sup>2</sup> the Secretary added a proposal to the effect that a similar treaty of arbitration should, if agreeable to the Government of Iceland, be concluded between the United States and Iceland.

This proposal was in due course placed before the Government of Iceland through the Danish Foreign Office, and I now have the pleasure to advise you, that the Government of Iceland will be glad to conclude with the Government of the United States a treaty of arbitration similar to the Danish-American treaty of June 14th 1928, and that I have been authorized to negotiate and sign such a treaty by a Royal full power signed by His Majesty the King on March 19th 1930, which is now in my possession.

With regard to the proposed treaty I am directed to state, that it will be sufficient and satisfactory to the Government of Iceland that only the English language be used, and that the text be identical with the Danish-American treaty, with the following exceptions:

1) The Preamble.

Instead of "His Majesty the King of Denmark and Iceland and the President of the United States of America" should be said "His Majesty the King of Iceland and Denmark and the President of the United States of America".

Instead of "His Majesty the King of Denmark and Iceland: Mr. Constantin Brun, His Majesty's Envoy Extraordinary and Minister Plenipotentiary at Washington" should be said "His Majesty the King of Iceland and Denmark: Mr. Constantin Brun, Envoy Extraordinary and Minister Plenipotentiary at Washington" (leaving out the words "His Majesty's").

<sup>1</sup> Not printed.

<sup>2</sup> *Foreign Relations*, 1928, vol. II, p. 720.

2) Article II d, should be replaced by a provision to the effect that, in the event that Iceland becomes a member of the League of Nations, the treaty shall not be invoked in respect of any dispute which depends upon or involves the observance of the obligations of Iceland in accordance with the covenant of the League of Nations.

3) Article III, first paragraph, should say "The present treaty shall be ratified". In view of the circumstance that, in due time, the treaty is to be ratified by Denmark on behalf of Iceland, it should be avoided to state in the text, as in the Danish-American treaty, in which way or by whom the ratification of Iceland is to be done. On the other hand, if the Government of the United States so desire, there is no objection to a provision in a new paragraph stating the procedure to be followed with regard to the ratification of the United States.

4) The signature on behalf of Iceland should be as follows: "For Iceland: C. Brun". Perhaps it might be considered appropriate that in return the signature of the American Plenipotentiary should be as follows: "For the United States: N. N."

5) Finally the text should in a few instances be changed as made necessary by the fact that the treaty is concluded for Iceland, not for Denmark, and in the English language only. A copy of the Danish edition of the Danish-American treaty is herewith enclosed, in which the desired alterations have been underlined (in red).<sup>3</sup>

I venture to hope that no objections will be found to the above named changes and that you will be pleased to cause a draft in the English language to be transmitted to me in such terms as you may wish to propose.

I have [etc.]

C. BRUN

711.59a12A/1

*The Acting Secretary of State to the Danish Minister (Brun)*

WASHINGTON, April 29, 1930.

SIR: I have the honor to acknowledge the receipt of your note of April 12, 1930, in which, referring to a note of this Department dated June 13, 1928, you convey the gratifying information that the Government of Iceland is prepared to enter into a treaty of arbitration with the Government of the United States, in terms similar to those of the treaty of June 14, 1928, between the United States and Denmark.

You set forth in your note certain alterations in the text of the treaty of June 14, 1928, which are deemed necessary in order to make the text suitable for acceptance in a treaty with Iceland. These alterations are entirely acceptable to the Government of the United States,

<sup>3</sup> Not printed.

and I take pleasure in transmitting herewith a draft of a treaty in which I have undertaken to embody them.<sup>4</sup>

If the enclosed draft is satisfactory, I shall be glad to have the treaty put into final form and to recommend that the President authorize me to sign the same with you at your early convenience.

The draft treaty, following the text of the treaty of arbitration between the United States and Denmark, contains references to the former arbitration treaty of May 18, 1908,<sup>5</sup> which expired by limitation on March 29, 1914, and also to the conciliation treaty of April 17, 1914,<sup>6</sup> between the United States and Denmark. This Government understands these references in the sense that the treaty of 1908, when it was in force, extended to Iceland, and that the treaty of 1914 is now in force as between the United States and Iceland as well as between the United States and Denmark.

Accept [etc.]

J. P. COTTON

711.59a12A/4

*The Danish Minister (Brun) to the Secretary of State*

No. 44

WASHINGTON, May 8, 1930.

SIR: I have the honor to acknowledge the receipt of the note from your Department of April 29, 1930, by which the Acting Secretary of State, Mr. Cotton was good enough to send me a draft of the proposed arbitration treaty between Iceland and the United States, embodying the alterations in the text of the treaty of June 14, 1928 between Denmark and the United States, which I have proposed in my note of April 12, 1930.

In reply I beg to state, that the text as now proposed in the draft is entirely satisfactory with the exception of the wording of the reference to Iceland in the second paragraph of Article I. It is noted that the wording: "on the part of Iceland in accordance with constitutional law" has been inserted in the place of the first proposed wording which was: "on the part of Iceland in accordance with its constitutional laws".

This was done on account of a doubt as to which law should govern the case.

I have however by a cablegram to Copenhagen ascertained, that the original wording is considered correct, and that the Danish Ministry of Foreign Affairs does not wish any change of text on this point, because it is the constitutional laws of Iceland to which reference is made and which are to be applied.

<sup>4</sup> Not printed.

<sup>5</sup> *Foreign Relations*, 1909, p. 239.

<sup>6</sup> *Ibid.*, 1915, p. 276.

I have already had the pleasure to explain this point in an informal letter to your Department<sup>7</sup> and trust that this alteration will meet with no objection.

On this assumption I shall hold myself ready to sign the proposed treaty with you at any time which may be convenient to you.

I have [etc.]

C. BRUN

Treaty Series No. 828

*Treaty Between the United States of America and Iceland, Signed at Washington, May 15, 1930*<sup>8</sup>

The President of the United States of America and His Majesty the King of Iceland and Denmark

Determined to prevent so far as in their power lies any interruption in the peaceful relations that have always existed between the United States and Iceland;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between the two countries; 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 new treaty of arbitration enlarging the scope and obligations of the arbitration convention signed at Washington on May 18, 1908, which expired by limitation on March 29, 1914, 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; and

His Majesty the King of Iceland and Denmark: Mr. Constantin Brun, Envoy Extraordinary and Minister Plenipotentiary at Washington;

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

<sup>7</sup> Not printed.

<sup>8</sup> Ratification advised by the Senate, June 16, 1930; ratified by the President, June 28, 1930; ratifications exchanged at Washington, October 2, 1930; proclaimed by the President, October 3, 1930.

been possible to adjust by diplomacy, which have not been adjusted as a result of reference to the Permanent International Commission constituted pursuant to the treaty signed at Washington April 17, 1914, 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 Iceland 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 by Iceland, in the event that Iceland becomes a Party to the Covenant of the League of Nations, of its obligations in accordance with the Covenant.

## ARTICLE III

The present treaty shall be ratified. 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 language and hereunto affixed their seals.

Done at Washington the 15th day of May, one thousand nine hundred and thirty.

For the United States of America:

[SEAL] HENRY L. STIMSON

For Iceland:

[SEAL] C. BRUN

## IRAQ

### CONVENTION BETWEEN THE UNITED STATES, GREAT BRITAIN, AND IRAQ REGARDING THE RIGHTS OF THE UNITED STATES AND OF ITS NATIONALS IN IRAQ, SIGNED JANUARY 9, 1930<sup>1</sup>

890g.01/206

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

No. 3388

LONDON, February 20, 1929.

[Received March 8.]

SIR: I have the honor to refer to the Embassy's despatch No. 3245, December 12, 1928,<sup>2</sup> relating to the proposed convention between the United States, Great Britain and Iraq, and to enclose a copy, in triplicate, of the Foreign Office reply to the Embassy's note<sup>3</sup> transmitted with the despatch first above mentioned.

I have [etc.]

For the Ambassador:

RAY ATHERTON

*Counselor of Embassy*

[Enclosure]

*The Head of the Eastern Department, British Foreign Office (Monteagle),  
to the Counselor of the American Embassy (Atherton)*

No. E 751/245/93

[LONDON,] 18 February, 1929.

MY DEAR ATHERTON: We had hoped to be able to answer before now Mr. Houghton's note No. 2133 of December 12th last, regarding the proposed Convention between the United States, the United Kingdom and Iraq, and to make arrangements for the signature of the Convention and of the assurances set forth in the memorandum enclosed in that note. Unfortunately since that date the Iraqi Cabinet has resigned, in consequence of certain difficulties which arose over the negotiation of the new Military and Financial Agreements referred to in Articles 12 and 13 of the new and as yet unratified Anglo-Iraqi treaty of December 14th, 1927<sup>4</sup>—a copy of which was sent to you two days later; and as a new Cabinet has not yet been

<sup>1</sup> For previous correspondence, see *Foreign Relations*, 1928, vol. II, pp. 952 ff.

<sup>2</sup> Not printed.

<sup>3</sup> Note No. 2133, December 12, 1928, based on instruction No. 1616, November 30, 1928, from the Secretary of State, *Foreign Relations*, 1928, vol. II, p. 955.

<sup>4</sup> Great Britain, Cmd. 2998, *Iraq, Treaty between the United Kingdom and Iraq*.



formed, and the Ministers who resigned are at present only carrying on current business, it has proved impossible to obtain their agreement to the final settling up of this matter. We understand that they do not consider that in their present position they possess authority to conclude treaties with foreign Powers. Their present unwillingness to proceed to signature arises therefore out of constitutional scruples and, as they have explained, is not to be ascribed to any wish to withdraw from their previous acceptance of individual clauses of the Convention or of the assurances which will accompany it. We hope that there may be no further delay in getting the Convention signed when a new Cabinet is formed at Bagdad.

Meanwhile, the Secretary of State wishes me to let you know confidentially, before any public announcement is made on the subject, that His Majesty's Government have recently had under consideration the various anomalies and difficulties created by the existing Anglo-Iraqi Judicial Agreement of March 25th, 1924,<sup>5</sup> and have come to the conclusion that it is desirable to take preliminary steps with a view to the eventual abolition of that Agreement, and the institution in its place of an uniform system of justice for all in Iraq. Sir Austen<sup>6</sup> is going to bring this matter before the Council of the League of Nations at their next meeting early in March; and I enclose herein for your information a copy of a memorandum which is about to be circulated to the members of the Council,<sup>7</sup> setting forth the motives and intentions of His Majesty's Government in making this proposal. You will see from the last paragraph of the memorandum that all we are doing at present is to invite the Council to approve *in principle* the proposal to abrogate the Agreement, and to authorise the preparation of detailed proposals for submission to the Council at a later session. This process is bound to take a considerable time, and meanwhile the existing Judicial Agreement will continue to have full force and effect. It is, moreover, clearly understood here that in view of the terms of Article 6 of the proposed Convention with the United States, no modification (such as the abolition of the Judicial Agreement) in the existing "special relations" between Great Britain and Iraq can make any change in the rights of the United States under the Convention, before the assent of the United States Government has been obtained. The position of the United States as regards any eventual change of this kind in the "special relations" is, in fact, exactly similar to that as regards the other contemplated changes in those relations (i. e. the treaty of December 14th, 1927) of which we informed you at that time—namely that in the event of any such change being made, the rights of the United States and its citizens

<sup>5</sup> League of Nations Treaty Series, vol. xxxv, p. 131.

<sup>6</sup> Sir Austen Chamberlain, British Secretary of State for Foreign Affairs.

<sup>7</sup> See League of Nations, *Official Journal*, 10th year, No. 4 (April 1929), p. 777.

in Iraq would be fully protected by Article 6 of the draft Convention. In these circumstances, and having regard to the considerable time which must elapse before anything in the nature of abolishing the Judicial Agreement can be negotiated and brought into force, your Government will no doubt agree that we should proceed to sign the Convention in its present form as soon as the consent of the new Iraqi Cabinet has been obtained.

As regards the treaty of 1927, the present position is that until the new Military and Financial Agreements have been concluded, it is impossible to take any steps to obtain the approval of the treaty by the Iraqi Parliament and the League Council, which must be secured before it can be brought into force. We will of course see to it that your Government are informed as soon as steps to this end are contemplated.

Yours sincerely

MONTAGLE

890g.01/209

*The Consul at Baghdad (Randolph) to the Secretary of State*

No. 848

BAGHDAD, February 28, 1929.

[Received March 28.]

SIR: I have the honor to refer to the American-British-Iraq treaty, which has been under negotiation for several years, and to report that on February 18, 1929, I received a visit from Saiyid Hussain Afnan, Master of Ceremonies of the Iraq Ministry of Foreign Affairs, who informed me that he came under instructions from his chief, Sir Abdul Muhsin Beg Al Sa'dun, Prime Minister and Minister of Foreign Affairs, to tell me that the final draft of the Treaty has reached Baghdad and is acceptable to the Iraq Government.

The Master of Ceremonies went on to say that the High Commissioner had urged the Iraq Government to authorize that the Treaty be signed at once but that the Cabinet hesitated to undertake such action, in view of the fact that the present ministers are merely "acting," in other words, holding office provisionally (after resigning). I was informed, further, that the Prime Minister would be pleased if I would inform my Government that the present draft of the Treaty is quite acceptable and explain the reasons for the Iraq Government's delay in signing.

In this connection I have the honor to report that the Iraq Government submitted its resignation to the King on January 21, 1929 when the Iraq and British Governments failed to agree on the provisions of the new Military and Financial Agreements and that, at the request of His Majesty the King, the Cabinet consented to carry on provision-

ally until the arrival of the new High Commissioner Sir Gilbert Clayton, who is expected within a few days.

I have [etc.]

JOHN RANDOLPH

790g.00/1

*The Consul at Baghdad (Randolph) to the Secretary of State*

[Extract]

No. 875

BAGHDAD, May 6, 1929.  
[Received May 28.]

SIR:

The treaty between the United States, Great Britain and Iraq, which has been under negotiation during the last three years, was about to be signed by the Iraq Government just before the resignation of the late Cabinet of Sir Abdul Muhsin Beg al Sa'dun, its provisions being agreeable at that time to the Iraq Government. From statements made to me by the new Prime Minister, during a recent informal conversation, I understand that the provisions in the draft regarding the Capitulations are probably no longer agreeable to the Iraq Government.

I have [etc.]

JOHN RANDOLPH

890g.01/206: Telegram

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

WASHINGTON, June 21, 1929—4 p. m.

151. Your mail despatch No. 3388, February 20, 1929. Please telegraph briefly present status of tripartite treaty negotiations.

STIMSON

890g.01/216: Telegram

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

LONDON, June 22, 1929—1 p. m.

[Received June 22—9:05 a. m.]

165. Your 151, June 21, 4 p. m. Foreign Office states that inquiry was sent to Baghdad in this matter some weeks ago but that no reply has been received. No difficulties are anticipated and efforts will be made to expedite action.

DAWES

890g.01/218

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

No. 101

LONDON, July 26, 1929.

[Received August 5.]

SIR: I have the honor to refer to my telegram No. 205, July 25, 1929, 3 p. m.,<sup>8</sup> and to forward herewith the draft Convention between the United States, the United Kingdom and Iraq, with Annexes.<sup>9</sup> The explanatory Foreign Office note states that as soon as a reply is received as to various points set forth they will proceed to prepare the documents for signature.

I have [etc.]

(For the Ambassador)

RAY ATHERTON

*Counselor of Embassy*

[Enclosure]

*The Head of the Eastern Department, British Foreign Office (Monteagle),  
to the Counselor of the American Embassy (Atherton)*

No. E 3723/171/93

[LONDON,] 25 July, 1929.

MY DEAR ATHERTON: In my letter to you of February 18 under our No. E 751/245/93, I explained to you that the final stages of negotiating the proposed Convention between the United States, the United Kingdom and Iraq had to be held up until a new Government in Iraq should announce that they were ready to proceed to signature. When Belin<sup>10</sup> rang me up some weeks ago to ask whether there were any developments, I told him that a new Government had only recently been formed at Bagdad and that we were still waiting for news.

We have now heard officially from the Colonial Office that Jafar Pasha, the Iraqi Minister in London, has been authorised by his Government to sign on their behalf and in terms upon which we are already agreed, both the Convention and the Protocol containing the Assurances—(you will remember that a Protocol was suggested in the memorandum which accompanied Mr. Houghton's note No. 2133 of December 12th).

Jafar Pasha has, however, received a further instruction from his Government with reference to the Assurance about American schools: this Assurance figures as Article 2 of the Protocol which I am sending you in draft form herewith marked Annex A.<sup>8</sup> He has been instructed to point out to the United States plenipotentiary prior to signature of the Convention, and to obtain an acknowledgment from him, that

<sup>8</sup> Not printed.<sup>9</sup> Not printed; for texts as signed January 9, 1930, see pp. 302-308.<sup>10</sup> F. Lamot Belin, First Secretary of the American Embassy in Great Britain.

the provisions of Article 2 of the Protocol will not override the provisions of Article 28 of the new Iraqi Public Instruction Law of 1929 which came into force on April 22nd. Article 28 of this law reads as follows:

“It is obligatory to teach the Arabic language and the history and geography of Iraq and the history of the Arabs in accordance with the prospectus of the Ministry of Education in all private schools, primary and secondary. The hours devoted to the Arabic language must not be less than five hours a week in primary classes and three hours in the secondary classes”.

The High Commissioner for Iraq has explained to us that the new law will not introduce any change into existing practice. At the present day a private school, before receiving permission to open, has to obtain the approval of the Minister to its curriculum, and such curricula invariably contain provisions for the teaching of Arabic, and would not be approved did they not contain such provisions. All that the law does is to compel the Minister to follow the present practice.

The communication therefore which Jafar will want to make is, as far as we can see, non-contentious. If you are able to accept and acknowledge it, it would, we think, involve an exchange of notes between the United States and Iraqi plenipotentiaries only, as it is a simple statement, and not an Assurance. I will try to arrange for Jafar to show you as early as possible a draft of the note which he would propose to address to the United States Plenipotentiary. That and the United States note of acknowledgment could be signed at the same time as the Convention itself, the Protocol, and the notes which our two Governments are to exchange in regard to the duplicate annual report to the Council of the League of Nations.

Turning to the draft Protocol you will see that, apart from altering “American” into “of the United States of America” in the second, and textual alterations in the third Articles, it follows the lines of your memorandum already referred to. It also includes under Article 4, the text of the Assurance in regard to possible expropriation of the United States property, as it stands on page 4 of your letter to Oliphant<sup>12</sup> of March 14th, 1927,<sup>13</sup> under the heading Paragraph 9.

The Convention itself, of which I am enclosing a copy in what we hope and believe to be its final form, marked Annex B,<sup>14</sup> is practically identical with the one Mr. Houghton sent us on December 12th, 1928. On technical grounds, however, we have introduced the following minor textual amendments in the Preamble:—

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<sup>12</sup> Lancelot Oliphant, then Head of the Eastern Department, British Foreign Office.

<sup>13</sup> Not printed; it was based on instruction No. 848, March 1, 1927, from the Acting Secretary of State, *Foreign Relations*, 1927, vol. II, p. 802.

<sup>14</sup> Not printed.

(i) *Section II.* "His Britannic Majesty's Government" has been substituted for "British Government".

(ii) *Section V.* The words "in Great Britain" have been omitted after "His Britannic Majesty's Government".

(iii) *Section XI.* The word "of" is omitted between "Ireland" and "British Dominions".

If you are able to concur in the procedure proposed above, there would be in all four documents for signature:—

1. The Convention.
2. The Protocol.
3. The exchange of notes in regard to our undertaking to furnish a duplicate annual report. Drafts of these are given in Annexes C and C1.<sup>15</sup> they follow closely your memorandum of December 12th.
4. The exchange of notes over Jafar Pasha's statement as to Article 2 of the Protocol.

Of these, Nos. 1 and 2 would be signed by all three plenipotentiaries: No. 3 by the United States and British, and No. 4 by the United States and Iraqi plenipotentiaries.

Jafar Pasha has enquired who the other plenipotentiaries will be. May we assume that your Ambassador will sign on behalf of the United States Government?

As soon as I get your reply to the various points in this letter, we will proceed to prepare the documents for signature with all despatch. I am of course at your disposal if you want to clear up any points by conversation.

Yours sincerely,

MONTEAGLE

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890g.01/220

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

No. 158

LONDON, August 15, 1929.

[Received August 24.]

SIR: With reference to my despatch No. 101, July 26, 1929, concerning the draft convention between the United States, the United Kingdom and Iraq, I have the honor to transmit herewith a copy, in triplicate, of a letter from the Foreign Office suggesting a small alteration in the text of Article 4 of the Protocol, and asking whether the United States Government would be willing to accept the same.

I have [etc.]

(For the Ambassador)

F. L. BELIN

*First Secretary of Embassy*

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<sup>15</sup> Not printed.

[Enclosure]

*The Head of the Eastern Department, British Foreign Office (Monteagle),  
to the Counselor of the American Embassy (Atherton)*

No. E 3988/171/93

[LONDON,] 14 August, 1929.

MY DEAR ATHERTON: Would you kindly refer to my letter of July 25th on the subject of the Iraq Convention, as I have one small alteration to suggest in the text of Article 4 of the Protocol which was enclosed as Annex A?<sup>16</sup> Jafar Pasha has pointed out that the present wording of the article from the word "under" onwards is not altogether clear. This is mainly because we inadvertently allowed a comma to creep in after the word "application", but even if this is deleted, the text is perhaps not as clear as it might be. What I would suggest is that the wording should now run:

"under normal expropriation laws of general application, and subject to the previous provision for just and reasonable compensation".

This, I think, removes any possible doubt as regards the meaning of the assurance which your Government had in mind, and I shall be glad to hear whether you can accept it.

Yours sincerely,

MONTEAGLE

890g.01/225

*The Consul at Baghdad (Randolph) to the Secretary of State*

No. 945

BAGHDAD, August 24, 1929.

[Received October 9.]

SIR: I have the honor to refer to article V of the Anglo-Iraq Treaty of October 10, 1922<sup>17</sup> which gives the British at least a partial control over Iraq's foreign relations.

When the writer came to Baghdad towards the end of 1923 it was the practice of this Consulate to address official communications to the Iraq Government through the High Commissioner for Iraq.

When I first called upon the High Commissioner (Sir R. C. Dobbs) he suggested that the above procedure be continued.

A year later, when I called to present the new Italian Consul, His Excellency made a similar suggestion for the benefit of the Italian Consul, namely, that all official communications to the Iraq Government be addressed through the High Commissioner.

This practice is still followed by the Consul of the United States, although I understand that some of the Consuls of other Powers

<sup>16</sup> Annex not printed.

<sup>17</sup> Treaty of alliance between Great Britain and Iraq, League of Nations Treaty Series, vol. xxxv, p. 13.

write direct to the Iraq Government, specially those Consuls whose Governments have recognised the Government of Iraq.

Enclosed is a copy of a communication No. 8902 dated August 24, 1929, from the High Commissioner<sup>18</sup> concerning the manner in which different foreign Consuls in Baghdad should address the Iraq Government.

Whereas official communications have been addressed by this Consulate through the High Commissioner I have been continuously dealing direct with different officials of the Iraq Government for trade information and in connection with protection of interests.

I have [etc.]

JOHN RANDOLPH

890g.01/220:Telegram

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

WASHINGTON, September 26, 1929—11 a. m.

259. Your mail despatches No. 101, July 26, 1929 and No. 158, August 15, 1929. The alterations in the preamble to the treaty and in the protocol, proposed in the enclosures to the above mentioned despatches, are acceptable to the Department, which is also agreeable in principle to making an acknowledgment of a communication from the Iraqi plenipotentiary to the effect that Article 2 of the protocol will not override the provisions of Article 28 of the Iraqi Public Education Law of 1929. Before agreeing definitely to such an acknowledgment, however, the Department would wish to receive a draft of the communication which Jafar Pasha is instructed to make with regard to this matter. This you should endeavor to obtain as soon as possible and repeat to the Department by telegraph.

If the Iraqi communication is acceptable the Department will be prepared forthwith to proceed to the signature of the treaty and the documents accompanying it. With this in view full powers will be forwarded authorizing the Ambassador to sign as American plenipotentiary.

STIMSON

890g.01/220:Telegram

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

WASHINGTON, October 19, 1929—2 p. m.

277. Department's No. 259, September 26, 11 a. m. Is there likely to be delay in receiving the Iraqi communication regarding Article 28 of the Public Education Law?

STIMSON

<sup>18</sup> Not printed.



890g.01/227: Telegram

*The Counselor of Embassy in Great Britain (Atherton) to the Secretary of State*

LONDON, October 21, 1929—noon.  
[Received October 21—10:10 a. m.]

302. Department's 277, October 19, 2 p. m. Inquiry was made last week of the Foreign Office which stated the draft of Jafar Pasha's communication had been referred to Baghdad and an answer was expected momentarily. I am further assured this morning that Colonial Office will appropriately press this matter.

ATHERTON

890g.01/228: Telegram

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

LONDON, November 22, 1929—11 a. m.  
[Received 1:45 p. m.<sup>19</sup>]

338. Department's 259, September 26, 11 a. m. Informal Foreign Office note received today states:

"We have now received the draft of the note which Jafar Pasha proposes to address to the United States plenipotentiaries on this subject and I enclose a copy. You will see that the text of Article 28 of the Iraqi law, as quoted in the note, differs slightly from that given in paragraph 3 of Monteagle's letter to you of July 25, in that the word 'non-technical' has been inserted in the first sentence before the words 'private schools'. This insertion renders the translation of the Arabic text of the law more accurate, and does not, so far as we can see, adversely affect the position between Iraq and the United States.

If the State Department thinks the terms of Jafar's draft note satisfactory, perhaps you would be good enough to send us a draft of the note in which your plenipotentiary would propose to acknowledge its receipt. We would then, after communicating it to Jafar Pasha, be able to prepare the requisite copies of the convention itself, and obtain all the other documents which will be signed with it: and we will suggest to you in due course a date on which signature should take place."

The enclosure, being a draft copy of a communication from Jafar Pasha to the United States plenipotentiary, is as follows:

[Here follows text of the draft note. For text as signed on January 9, 1930, see page 307.]

DAWES

<sup>19</sup> Telegram in two sections.

890g.01/229: Telegram

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

WASHINGTON, November 27, 1929—1 p. m.

317. Your 338, November 22, 11 a. m. and 343, November 24, 11 a. m.<sup>20</sup> You should inform the Foreign Office that the Department perceives no objection to the form or content of the note which Jafar Pasha proposes to address to you upon the signature of the tripartite convention, and that accordingly you have been authorized, upon receipt of the note, to reply textually as follows:

“I have the honor to acknowledge the receipt of Your Excellency’s note of today’s date, which reads as follows: (Here insert the body of Jafar Pasha’s proposed note.)

In taking note of this communication, I avail myself of this opportunity to renew to Your Excellency the assurance of my high consideration.”

COTTON

890g.01/233: Telegram

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

LONDON, December 24, 1929—11 a. m.

[Received December 24—10:05 a. m.]

389. Department’s 352, December 19, 4 p. m.<sup>21</sup> I have received an oral message from the Foreign Office stating that Jafar Pasha is agreeable to the note contained in Department’s 317, November 27, 1 p. m. The Foreign Office suggests proceeding with the signatures sometime during the week, beginning January 6, to which I shall agree, failing instructions to the contrary.

DAWES

890g.01/234: Telegram

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

LONDON, January 8, 1930—3 p. m.

[Received 3:05 p. m.]

7. Embassy’s 389, December 24, 11 a. m. Foreign Office stated yesterday that Henderson<sup>22</sup> would be prepared to sign the treaty with me tomorrow at 4 p. m. and also indicated the following unessential substitutes and omissions in texts:

1. Substitute more correct phrase “the United Kingdom” for “Great Britain” in line 4 of note from Jafar Pasha to United States

<sup>20</sup> Latter not printed.<sup>21</sup> Not printed.<sup>22</sup> Arthur Henderson, British Secretary of State for Foreign Affairs.

Plenipotentiary (Embassy's telegram 338 of November 22, 11 a. m.).

2. Corresponding change in my reply to Jafar Pasha (Department's 317 of November 27, 1 p. m.).

3. Omit "Britannic," as word superfluous, in line 7 of note from Foreign Secretary to the United States Plenipotentiary regarding annual report (annex C<sup>23</sup> of enclosures to my despatch number 101 of July 26, 1929).

4. Corresponding omission in my acknowledgment to Foreign Secretary (annex C1<sup>23</sup> of above despatch).

5. Omit first two words "Anglo-Iraq" in heading to schedule 2 of convention so that corrected heading may read "Treaty of Alliance between Great Britain and Iraq of, etc."

6. Omit enclosure to letter in schedule 4 (i. e., Anglo-Iraq Treaty of January 13, 1926<sup>24</sup>) as it already appears as schedule 3.

I shall proceed with signing documents as amended above at that time unless instructed otherwise.

DAWES

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Treaty Series No. 835

*Convention and Protocol Between the United States of America,  
Great Britain, and Iraq, Signed at London, January 9, 1930<sup>25</sup>*

(i.) WHEREAS in virtue of the Treaty of Peace concluded with the Allied Powers and signed at Lausanne on the 24th day of July, 1923,<sup>26</sup> and in virtue of the Treaty concluded with His Britannic Majesty and His Majesty the King of Iraq, signed at Angora on the 5th day of June, 1926,<sup>27</sup> Turkey has renounced all rights and titles over the territory of Iraq; and

(ii.) WHEREAS by their decision of the 27th day of September, 1924, which is set forth in the first schedule hereto,<sup>28</sup> the Council of the League of Nations agreed that, in so far as concerns Iraq, effect had been given to the provisions of article 22 of the Covenant of the League of Nations in the Treaty of Versailles<sup>29</sup> by the communication received by them from His Britannic Majesty's Government on that date; and

(iii.) WHEREAS the Treaty of Alliance<sup>30</sup> referred to in the aforesaid decision of the Council of the League of Nations, and set forth

<sup>23</sup> Annex not printed.

<sup>24</sup> Treaty between Great Britain and Iraq, signed at Baghdad, January 13, 1926; League of Nations Treaty Series, vol. XLVII, p. 419.

<sup>25</sup> In English and Arabic; Arabic text not printed. Ratification advised by the Senate, April 22 (legislative day of April 21), 1930; ratified by the President, April 28, 1930; ratifications exchanged at London, February 24, 1931; proclaimed by the President, March 11, 1931.

<sup>26</sup> League of Nations Treaty Series, vol. XXVIII, p. 11.

<sup>27</sup> *Ibid.*, vol. LXIV, p. 379.

<sup>28</sup> Printed in Department of State Treaty Series No. 835; 47 Stat. 1820.

<sup>29</sup> *Treaties, Conventions, etc.*, 1910-1923, vol. III, pp. 3329, 3342.

<sup>30</sup> Signed at Baghdad, October 10, 1922; League of Nations Treaty Series, vol. XXXV, p. 13.

in the second schedule hereto,<sup>31</sup> entered into force on the 19th day of December, 1924; and

(iv.) WHEREAS, with the object of extending the duration of the aforesaid Treaty of Alliance, a new Treaty between His Britannic Majesty and His Majesty the King of Iraq was signed at Baghdad on the 13th day of January, 1926,<sup>32</sup> as set forth in the third schedule hereto,<sup>33</sup> and hereinafter referred to as the Treaty of 1926; and

(v.) WHEREAS on the 2nd day of March, 1926, a letter in the terms set forth in the fourth schedule hereto<sup>34</sup> was addressed by His Britannic Majesty's Government to the League of Nations; and

(vi.) WHEREAS on the 11th day of March, 1926, the Council of the League of Nations recorded a resolution taking note of the Treaty of 1926; and

(vii.) WHEREAS the Treaty of 1926 entered into force on the 30th day of March, 1926; and

(viii.) WHEREAS the United States of America, by participating in the war against Germany, contributed to her defeat and the defeat of her Allies, and to the renunciation of the rights and titles of her Allies in the territory transferred by them, but has not ratified the Covenant of the League of Nations embodied in the Treaty of Versailles; and

(ix.) WHEREAS the United States of America recognises Iraq as an independent State; and

(x.) WHEREAS the President of the United States and His Britannic Majesty and His Majesty the King of Iraq desire to reach a definite understanding with respect to the rights of the United States and of its nationals in Iraq;

(xi.) The President of the United States of America of the one part and His Britannic Majesty and His Majesty the King of Iraq of the other part have decided to conclude a Convention to this effect, and have named as their plenipotentiaries:—

The President of the United States of America;

His Excellency General Charles G. Dawes, Ambassador Extraordinary and Plenipotentiary of the United States at London;

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India;  
for Great Britain and Northern Ireland;

The Right Honourable Arthur Henderson, M.P., His Majesty's Principal Secretary of State for Foreign Affairs;

His Majesty the King of Iraq;

Ja'far Pasha El Askeri, C.M.G., His Majesty's Envoy Extraordinary and Minister Plenipotentiary at London;

<sup>31</sup> Printed in Department of State Treaty Series No. 835, p. 7; 47 Stat. 1822.

<sup>32</sup> League of Nations Treaty Series, vol. XLVII, p. 419.

<sup>33</sup> Printed in Department of State Treaty Series No. 835, p. 43; 47 Stat. 1855.

<sup>34</sup> Printed in Department of State Treaty Series No. 835, p. 45; 47 Stat. 1857.

who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:—

#### ARTICLE 1

Subject to the provisions of the present Convention, the United States consents to the régime established in virtue of the decisions of the Council of the League of Nations of the 27th day of September, 1924, and of the 11th day of March, 1926, the Treaty of Alliance (as defined in the said decision of the 27th day of September, 1924), and the Treaty of 1926, and recognises the special relations existing between His Britannic Majesty and His Majesty the King of Iraq as defined in those instruments.

#### ARTICLE 2

The United States and its nationals shall have and enjoy all the rights and benefits secured under the terms of the aforesaid decisions and treaties to members of the League of Nations and their nationals, notwithstanding the fact that the United States is not a member of the League of Nations.

#### ARTICLE 3

Vested American property rights in Iraq shall be respected and in no way impaired.

#### ARTICLE 4

Subject to the provisions of any local laws for the maintenance of public order and public morals, and to any general educational requirements prescribed by law in Iraq, the nationals of the United States will be permitted freely to establish and maintain educational, philanthropic and religious institutions in Iraq, to receive voluntary applicants and to teach in the English language.

#### ARTICLE 5

Negotiations shall be entered into as soon as possible for the purpose of concluding an Extradition Treaty between the United States and Iraq in accordance with the usages prevailing among friendly States.

#### ARTICLE 6

No modification of the special relations existing between His Britannic Majesty and His Majesty the King of Iraq, as defined in article 1 (other than the termination of such special relations as contemplated in article 7 of the present Convention) shall make any change in the rights of the United States as defined in this Conven-

tion, unless such change has been assented to by the Government of the United States.

#### ARTICLE 7

The present Convention shall be ratified in accordance with the respective constitutional methods of the High Contracting Parties. The ratifications shall be exchanged in London as soon as practicable. The present Convention shall take effect on the date of the exchange of ratifications, and shall cease to have effect on the termination of the special relations existing between His Britannic Majesty and His Majesty the King of Iraq in accordance with the Treaty of Alliance and the Treaty of 1926.

On the termination of the said special relations, negotiations shall be entered into between the United States and Iraq for the conclusion of a treaty in regard to their future relations and the rights of the nationals of each country in the territories of the other. Pending the conclusion of such an agreement, the nationals, vessels, goods and aircraft of the United States and all goods in transit across Iraq, originating in or destined for the United States, shall receive in Iraq the most-favoured-nation treatment; provided that the benefit of this provision cannot be claimed in respect of any matter in regard to which the nationals, vessels, goods and aircraft of Iraq, and all goods in transit across the United States, originating in or destined for Iraq, do not receive in the United States the most-favoured-nation treatment, it being understood that Iraq shall not be entitled to claim the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on the 11th day of December, 1902,<sup>35</sup> or any other commercial convention which may hereafter be concluded by the United States with Cuba or to the commerce of the United States with any of its dependencies and the Panamá Canal Zone under existing or future laws, and that the United States shall not be entitled to claim any special treatment which may be accorded by Iraq to the nationals or commerce of neighbouring States exclusively.

IN WITNESS WHEREOF, the undersigned have signed the present Convention, and have thereunto affixed their seals.

DONE in triplicate in English and Arabic, of which, in case of divergence, the English text shall prevail, at London this 9<sup>th</sup> day of January, 1930.

[SEAL]	CHARLES G. DAWES
[SEAL]	ARTHUR HENDERSON
[SEAL]	JA'FAR EL ASKERI

<sup>35</sup> *Foreign Relations*, 1903, p. 375.

## PROTOCOL

On the signature this day of the Convention between His Britannic Majesty and His Majesty the King of Iraq, respectively, of the one part, and the President of the United States of America of the other part, the undersigned Plenipotentiaries, duly authorised thereto, have agreed as follows:—

- (1.) It is understood by the High Contracting Parties that the term “exercise of industries” as employed in article XI of the Anglo-Iraq Treaty of Alliance signed the 10th October, 1922, covers the granting and operation of concessions.
- (2.) With reference to article 4 of the Convention signed this day, it is understood by the High Contracting Parties that the Iraq Government will not interfere in matters concerning the curriculum, such as the time-table, discipline and purely internal administration in schools established or maintained by nationals of the United States of America in Iraq.
- (3.) It is understood that upon the entry into force of the Convention signed this day and during the period of the special relations existing between His Britannic Majesty and His Majesty the King of Iraq, defined in article I of the said Convention, there will be a suspension of the capitulatory régime in Iraq so far as the rights of the United States and its nationals are concerned, and that such rights will be exercised in conformity with the decision of the Council of the League of Nations dated the 27th September, 1924.
- (4.) It is understood that article 3 of the Convention signed this day does not prohibit the Iraq Government from expropriating American property for public purposes under normal expropriation laws of general application, and subject to the previous provision for just and reasonable compensation.

The present Protocol shall be deemed an integral part of the Convention signed this day and shall be ratified at the same time as that Convention.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed the present Protocol and have affixed thereto their seals.

DONE in triplicate in English and Arabic, of which, in case of divergence, the English text shall prevail, at London, this 9<sup>th</sup> day of January, 1930.

[SEAL]	CHARLES G. DAWES
[SEAL]	ARTHUR HENDERSON
[SEAL]	JA'FAR EL ASKERI

Treaty Series No. 835

*The British Secretary of State for Foreign Affairs (Henderson) to the American Ambassador in Great Britain (Dawes)*

[LONDON,] 9 January, 1930.

YOUR EXCELLENCY, On the signature this day of the Convention between His Britannic Majesty and His Majesty the King of Iraq respectively of the one part, and the President of the United States of America of the other part, I have the honour to inform Your Excellency that His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland agree to furnish to the Government of the United States a duplicate of the Annual Report to be made in accordance with the terms of the Decision of the Council of the League of Nations on the 27th day of September 1924.

I have [etc.]

ARTHUR HENDERSON

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Treaty Series No. 835

*The American Ambassador in Great Britain (Dawes) to the British Secretary of State for Foreign Affairs (Henderson)*

No. 372

LONDON, January 9, 1930.

SIR: On the signature this day of the Convention between the President of the United States of America of the one part, and His Britannic Majesty and His Majesty the King of Iraq of the other part, I have the honor to take note of your declaration that His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland agree to furnish the United States Government with a duplicate of the Annual Report to be made in accordance with the terms of the Decision of the Council of the League of Nations on the 27th day of September, 1924.

I have [etc.]

CHARLES G. DAWES

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Treaty Series No. 835

*The Iraq Minister in Great Britain (Ja'far El Askeri) to the American Ambassador in Great Britain (Dawes)*

[LONDON,] January 9, 1930.

YOUR EXCELLENCY, I have the honour to bring to your notice a point connected with Article 2 of the Protocol attached to the Tripartite Convention between the United States of America, The United Kingdom and Iraq. Article 2 of the Protocol provides that the Government of Iraq shall not interfere in matters concerning the curriculum, such as the time-tables, discipline and purely internal administration in schools established or maintained by nationals of the United



States of America in Iraq. The Iraq Government interpret this Article as not preventing the enforcement on the said schools of Article 28 of the Public Instruction Law of 1929 the translation of which runs:—

It is obligatory to teach the Arabic language and the history and geography of Iraq and the history of the Arabs in accordance with the programme of the Ministry of Education in all non-technical private schools both primary and secondary. The hours devoted to the Arabic language must be not less than five hours a week in primary classes and three hours a week in secondary classes.

I have therefore been instructed by my Government to inform Your Excellency that the Iraq Government consider that Article 2 of the said Protocol shall not override the provisions of Article 28 of the above mentioned Law.

I have [etc.]

JA'FAR EL ASKERI

Treaty Series No. 835

*The American Ambassador in Great Britain (Dawes) to the Iraq Minister in Great Britain (Ja'far El Askeri)*

LONDON, January 9, 1930.

YOUR EXCELLENCY:—I have the honor to acknowledge the receipt of Your Excellency's note of today's date, which reads as follows:

"I have the honour to bring to your notice a point connected with Article 2 of the Protocol attached to the Tripartite Convention between the United States of America, the United Kingdom and Iraq. Article 2 of the Protocol provides that the Government of Iraq shall not interfere in matters concerning the curriculum, such as the time-tables, discipline and purely internal administration in schools established or maintained by nationals of the United States of America in Iraq. The Iraq Government interpret this Article as not preventing the enforcement on the said schools of Article 28 of the Public Instruction Law of 1929, the translation of which runs:

It is obligatory to teach the Arabic language and the history and geography of Iraq and the history of the Arabs in accordance with the programme of the Ministry of Education in all non-technical private schools, both primary and secondary. The hours devoted to the Arabic language must be not less than five hours a week in primary classes and three hours a week in secondary classes.

"I have therefore been instructed by my Government to inform Your Excellency that the Iraq Government consider that Article 2 of the said Protocol shall not override the provisions of Article 28 of the above mentioned Law."

In taking note of this communication I avail myself of this opportunity to renew to Your Excellency the assurance of my high consideration.

I have [etc.]

CHARLES G. DAWES

GOOD OFFICES TO AMERICAN FIRMS INTERESTED IN ENTERING  
THE IRAQ OIL FIELDS <sup>36</sup>

890g.6363 Getty Oil Company, George F./6

*The Acting Secretary of State to the Consul at Baghdad (Sloan)*

WASHINGTON, March 7, 1930.

SIR: The Department has received and read with interest your despatches No. 11 of January 25 and Nos. 16 and 19 of February 2, 1930,<sup>37</sup> concerning developments in the petroleum situation in Iraq, with especial reference to the recent visit of Mr. H. M. Macomber on behalf of George F. Getty, Incorporated.

In order that you may understand the attitude of this Government with reference to the entrance of American petroleum companies into the Iraq field, there are set forth below certain of the considerations that the Department has had in mind in connection with this question.

As you are aware, extensive correspondence on this subject was exchanged between the Department and the British Foreign Office during 1920 and 1921.<sup>38</sup> The viewpoint of the United States with respect to the economic development of Iraq and other similar territories was set forth originally in a note handed to the British Secretary of State for Foreign Affairs by the American Ambassador in London on May 12, 1920.<sup>39</sup> In that note were recited certain propositions which embodied or illustrated the principles which the United States Government desired to see applied in certain of the regions detached from the former Ottoman Empire. Among these propositions were the following:

(1) "That there be guaranteed to the nationals or subjects of all nations treatment equal in law and in fact, to that accorded nationals or subjects of the mandatory power with respect to taxation or other matters affecting residence, business profession, concessions, freedom of transit for persons and goods, freedom of communication, trade, navigation, commerce, industrial property, and other economic rights or commercial activities."

(2) "That no exclusive economic concessions covering the whole of any mandated region or sufficiently large to be virtually exclusive shall be granted, and that no monopolistic concessions relating to any commodity or to any economic privilege subsidiary and essential to the production, development, or exploitation of such commodity shall be granted."

(3) "That reasonable provision shall be made for publicity of applications for concessions and of governmental acts or regulations relating to the economic resources of the mandated territories; and that, in general, regulations or legislation regarding the granting of

<sup>36</sup> For previous correspondence relating to the open-door principle in Iraq, see *Foreign Relations*, 1927, vol. II, pp. 816 ff.

<sup>37</sup> None printed.

<sup>38</sup> See *Foreign Relations*, 1920, vol. II, pp. 649 ff.; *ibid.*, 1921, vol. II, pp. 80 ff.

<sup>39</sup> *Ibid.*, 1920, vol. II, p. 651.

concessions relating to exploring or exploiting economic resources, or regarding other privileges in connection with these, shall not have the effect of placing American citizens or companies, or those of other nations or companies controlled by American citizens or nationals of other countries, at a disadvantage compared with the nationals or companies of the mandate nation, or companies controlled by nationals of the mandate nation or others."

In brief, this Government desired to see applied the principles of the Open Door and of equality of commercial opportunity.

These principles, so far as the exploitation of petroleum resources in Iraq is concerned, are understood to have been provided for in the Agreement between the Iraq Government and the Iraq (then Turkish) Petroleum Company, signed at Baghdad on March 14, 1925.<sup>40</sup> One of the clauses of this Agreement provides that the Iraq Government shall offer plots "for competition . . . between all responsible corporations, firms and individuals, without distinction of nationality". It is the Department's understanding that under this provision American companies or individuals are able to bid for petroleum concessions in certain areas of the Iraq field. Moreover, an American group of petroleum companies has already obtained an interest in portions of the Iraq field through its holdings in the Iraq Petroleum Company.

The Department has, however, never supported any particular American company or group of companies in Iraq in preference to or in exclusion of any other American companies. The interest of the Department is to maintain the Open Door and suitable opportunity for American enterprise in Iraq. It is left to the American companies and individuals who may be interested to take advantage of the opportunities that are offered.

You will of course bear in mind that you should not support any particular American group or company as against another. As among such companies the Department desires you to maintain a strictly impartial attitude. At the same time you should be diligent to report any discrimination, or attempted discrimination, against American interests, including, of course, those of the American group which holds shares in the Iraq Petroleum Company.

You may, of course, extend your good offices to any bona fide American company which seeks your assistance in entering the Iraq field, under the appropriate provisions of the Agreement between the Iraq Government and the Iraq Petroleum Company. Such assistance should generally be limited to placing the inquirer in

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<sup>40</sup> Turkish Petroleum Company, Limited, *Convention with the Government of Iraq, made the 14th day of March, 1925* ([London,] Blundell, Taylor & Co. [1925]).

touch with the appropriate authorities and to seeing that opportunity is afforded the American interest involved to obtain the consideration to which its proposals may be entitled.

I am [etc.]

For the Acting Secretary of State:  
G. HOWLAND SHAW

890g.6363T84/425a

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

No. 454

WASHINGTON, August 1, 1930.

SIR: In several recent despatches, notably No. 84 of June 30, 1930, and No. 88 of July 1, 1930,<sup>41</sup> copies of which were sent direct to the Embassy, the Consulate at Baghdad reported the transfer from Iraq to London of negotiations regarding the revision of the agreement between the Iraq Government and the Iraq Petroleum Company originally signed on March 14, 1925.

It is requested that the Embassy report fully upon the progress and outcome of these negotiations in which the Department is particularly interested.

In connection with the general aspects of the petroleum situation in Iraq, the Department is also interested in receiving any information that may be available with respect to the reported negotiations of the British Oil Development Company with the Iraq Government.

Very truly yours,

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

890g.6363T84/430 : Telegram

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

LONDON, August 23, 1930—1 p.m.

[Received August 23—8 : 30 a.m.]

196. Department's instruction No. 454, August 1. Understand upon completion of discussions Iraq Prime Minister has made definite proposals for modification of Turkish petroleum convention of 1925. Sir John Cadman, chairman of Anglo-Persian Oil Company, will submit terms of these modifications to interested American oil group for consideration.<sup>42</sup>

ATHERTON

<sup>41</sup> Neither printed.

<sup>42</sup> For text of agreements signed March 24, 1931, see *Iraq Government Gazette*, No. 21a, Baghdad, May 21, 1931, "Law ratifying the two agreements amending the Turkish Petroleum Company's concession, No. 71 for 1931", dated May 18, 1931.

## ITALY

### DENIAL BY THE SECRETARY OF STATE OF REPORTS THAT THE UNITED STATES GOVERNMENT, AS A MEANS OF BRINGING PRESSURE FOR DISARMAMENT, WAS DISAPPROVING LOANS TO ITALY

865.51/597

*Memorandum by the Assistant Secretary of State (Castle)*

[WASHINGTON,] December 6, 1930.

MR. SECRETARY: The Italian Ambassador, who came to see me this morning, read me a very vigorous telegram from Mr. Grandi asking him what on earth was going on in the American press on the subject of American loans to Italy. The Ambassador asked if you would not be willing, at the press conference on Monday, to reiterate the fact very strongly and clearly that this Department has not been consulted as to any recent Italian loan and that it has not refused to O. K. such a loan. You made a denial last Monday which was not printed in many papers. The continued talk which goes on seems to be based on the fact that some of the correspondents felt that your denial was with reservations. I cannot see how it could be so taken, but as it was I think it would be only fair to the Italian Government very vigorously to make a statement that these various press reports are thoroughly misleading. Martino asked me whether he could tell Grandi that you would deny these reports at the next press conference. I said that, of course, he could not telegraph any such thing as I did not know what your reaction would be, but that I should be glad to put the matter up to you, advising that a further statement be made.

W. R. CASTLE, JR.

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865.51/596a: Telegram

*The Secretary of State to the Ambassador in Italy (Garrett)*

WASHINGTON, December 8, 1930—1 p.m.

108. The press has continued with persistent stories to the effect that the United States and France have concluded an agreement not to loan money to countries spending large sums on armaments or that this Government has informally indicated to bankers its disapproval of loans to Italy as a means of bringing pressure in favor

of disarmament. When these rumors were called to the attention of the Secretary of State in his press conference on December 1, he replied that they were not true. He called attention to the fact that these rumors had been denied in France and added that there was absolutely nothing to it and no conversations whatever had been held on the subject. As the rumors persisted this morning, the Secretary again said:

“ I wish to make it perfectly clear that there is absolutely no foundation for any such rumors. No loans to Italy have been discussed by this Department formally or informally or in any way whatever and I have not heard of any such suggestion or discussion by any representative of this Government.”

The Italian Ambassador has been considerably disturbed by the persistence of these stories and I wish you to inform Grandi of the nature and vigor of the denials which have been given to these reports here.

Telegram repeated to Paris and Geneva.

STIMSON

865.51/601

*The Secretary of State to the Ambassador in Italy (Garrett)* <sup>1</sup>

No. 295

WASHINGTON, December 20, 1930.

SIR: The Italian Ambassador called on December 11 and first thanked me for my statement on the eighth denying the story in the press that France and this country were going to combine to refuse loans to Italy as a means of forcing Italy to disarm. He said that that denial had now been published widely by the press and was perfectly satisfactory.

He then said that he had now received all the despatches in regard to the negotiations at Geneva <sup>2</sup> in which Gibson, Craigie, Rosso and Massigli had participated, and asked me what was going to be the next step. I told him we were waiting now for a French Government to be formed, and that I hoped the interval would be used by everybody to gather momentum for the next step in these negotiations. I told him that I had heard from Gibson that Rosso, Massigli and Craigie had all been hopeful of the last proposition which had seemed to them to offer a basis for further negotiations, and had therefore regretted greatly the interruption caused by the fall of the French Government. The Ambassador said, yes, he agreed with me; that

<sup>1</sup> The same to the Ambassadors in Belgium, Germany, and Great Britain, and to the Chargé in France.

<sup>2</sup> For negotiations regarding French and Italian naval construction, see vol. I, pp. 132 ff.

the last proposal had seemed to offer a basis for further negotiations. He asked me where the next negotiations should take place. I said that was immaterial to us and I should authorize Mr. Gibson to go wherever it would be most convenient for the other parties in case they desire Mr. Gibson's presence, only I hoped there would be no delay in deciding upon some place and proceeding with the negotiations.

He said that the press and some speech in the Senate had suggested that some nation, perhaps Great Britain, was seeking to open the debt settlements. I said that I was not paying any attention to what was said on this subject from those sources and that no such suggestion had come to me. He, the Ambassador, went on to say that this was probably an inauspicious moment for opening debt settlements, in view of the depression and the consequent inadvisability of asking the American taxpayer to pay any higher taxes. I replied that I did not know whether Great Britain had made any suggestion, but I could say in all frankness that if anybody took the initiative in opening those debt settlements it could hardly be Italy who was regarded by American taxpayers as the one who had received the most generous bargain. He laughed and said he agreed with me.

Similar instructions are being sent to the Embassies at London, Paris, Brussels, and Berlin.

Very truly yours,

H. L. STIMSON

865.51/602

*The Secretary of State to the Ambassador in Italy (Garrett)*

No. 303

WASHINGTON, January 2, 1931.

SIR: With reference to your despatch No. 642, of December 5, 1930,<sup>3</sup> I quote for your confidential information the memorandum of my conversation with the Italian Ambassador on December 15, 1930, as follows:

"The Italian Ambassador came in to read me a translation of a telegram which had come from Foreign Minister Grandi thanking me personally for my intervention in the press campaign against Italy on the subject of the use of foreign loans to force disarmament. The telegram also said that Mussolini was very appreciative of the friendship which we had thus shown towards Italy.

"After the Ambassador had finished the telegram he said that now despatches from Holland indicated that a campaign was being commenced against the lira."

Very truly yours,

H. L. STIMSON

<sup>3</sup> Not printed.

## JAPAN

### THE EXCLUSION CLAUSE OF THE AMERICAN IMMIGRATION ACT OF MAY 26, 1924<sup>1</sup>

150.946/240

#### *Memorandum by the Secretary of State*

[WASHINGTON,] October 30, 1930.

During the call of the Japanese Ambassador today, he said that when he came here there were two subjects which he was anxious to help settle. One was the Naval Treaty<sup>2</sup>—the other was the immigration question. The Naval Treaty had been settled and that left only the immigration question. He said that he had made trips to the Pacific coast and apparently had sounded out public opinion upon the subject, and that he felt very hopeful about the possibility of accomplishing something within the next two months. He said he knew he had better not take this thing up officially with me, but he wanted to know whether I would have any objections to his talking the matter over confidentially with Mr. Castle.<sup>3</sup> I told him I had no objection and that I was as anxious as he was, that the sore spot created by the immigration question should be dissolved and that intercourse between his country and mine should be free from any irritation upon the subject.

H[ENRY] L. S[TIMSON]

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150.946/240

#### *Memorandum by the Assistant Secretary of State (Castle) of a Conversation With the Japanese Ambassador (Debuchi)*

[WASHINGTON,] November 4, 1930.

As he told the Secretary he planned to do, the Ambassador came to see me to discuss the Japanese exclusion question. Mr. Debuchi said he had come to Washington with the hope that he might be able to straighten out three matters, or at least help along those lines. One was naval rivalry, one was misunderstandings over

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<sup>1</sup> For previous correspondence, see *Foreign Relations*, 1924, vol. II, pp. 333 ff.

<sup>2</sup> For correspondence concerning the London Naval Conference, see vol. I, pp. 1 ff.

<sup>3</sup> William R. Castle, Jr., Assistant Secretary of State and, during the London Naval Conference, Ambassador in Japan.



China, the other the immigration question. The Ambassador said that the London Agreement <sup>4</sup> had happily settled the naval question; that there seemed no longer to be any Chinese question between the two Governments. Japan's attitude toward China was practically identical with that of the United States. There remained the immigration question. The Ambassador said that he had talked with a great many people while he was on the Pacific Coast and had found great friendliness, in fact had seen no one who was opposed to putting Japan on the quota. He said that he had always let other people bring the matter up and had not introduced it himself because he knew the danger of appearing to bring any kind of pressure. For the same reason he said that he wanted his talk with me to be entirely unofficial and secret, that he should not telegraph his Government anything about it, but would write merely a personal letter to Baron Shidehara.<sup>5</sup> We discussed the matter from all angles. Mr. Debuchi thoroughly understands that it cannot be introduced in Congress by the Department of State; also that it should be brought up as originating on the Pacific Coast but he fears that no California Senator or Congressman will be prodded to introduce the matter and that it may simply go by default. He said it seemed to him that all the psychological elements were present to make a change in the law successful at the present time and that if it could not be effected in the next session of Congress he would feel there was little hope. I told him that he should not have this feeling because the next, or short session of Congress, which might well be very turbulent, was not a good time to get through legislation. I pointed out that obviously nothing must be done until we were sure of a favorable result since a reaffirmation of the exclusion would be worse than the original law.

I gained nothing new from this conversation, nor did the Ambassador, except I think that he realized, as he had perhaps not done before, that we were watching the situation carefully.

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

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150.946/240

*Memorandum by the Assistant Secretary of State (Castle) of a Conversation With the Japanese Ambassador (Debuchi)*

[WASHINGTON,] November 28, 1930.

The Ambassador came to talk with me again on the subject of Japanese exclusion. He said that in connection with Senator Reed's <sup>6</sup> bill to stop all immigration for two years it seemed to him there was

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<sup>4</sup> Signed April 22, 1930; vol. I, p. 107.

<sup>5</sup> Japanese Minister for Foreign Affairs.

<sup>6</sup> David A. Reed of Pennsylvania, delegate at the London Naval Conference.

an excellent opportunity at this time to put Japan on the quota. He said it seemed to him such an opportunity for the reason that since nobody could come in any case for two years, people need not worry about the Japanese. I told the Ambassador that if Senator Reed introduced the bill <sup>7</sup> he would probably not be willing to complicate it by any side issue, but that I should, of course, be glad to talk with him about it. The Ambassador said that Senator Reed and Senator Robinson <sup>8</sup> discussed the matter with Mr. Matsudaira <sup>9</sup> in London and told him that at the first suitable opportunity they would bring up the question in Congress. Naturally Mr. Matsudaira had sent a full account of this to his Government. Furthermore, at one of the most difficult stages of the Conference Mr. Stimson also took occasion to discuss the matter with Mr. Matsudaira and promised to assist in getting the law changed as much as he could. This conversation also Mr. Matsudaira reported to his Government. It was perfectly obvious that what Mr. Debuchi was trying to convey was the idea that unless something were done it will be to some extent a betrayal of confidence. He did not say it, but he certainly implied that in London the issue of immigration had been to some extent mixed up with treaty questions. Had Debuchi suggested this in so many words, I should have flatly denied it. Colonel Burnett <sup>10</sup> did join the issues unmistakably, going to the extent of making one dependent on the other, but it would have been easy to point out that Colonel Burnett in doing this was in no way speaking for the delegation. I told the Ambassador that the Secretary and the two Senators were men who did not promise lightly, but that they were also men who realized that there were times to take up new matters and times when these same matters should be left severely alone. I told Debuchi that if the Secretary and the two Senators felt that to bring up the issue at this time would result in a reaffirmation of the exclusion clause, they were certainly proving their loyalty to their agreements with Mr. Matsudaira in not bringing the matter up. Mr. Debuchi was compelled to recognize this, but was nevertheless inclined to be a little too insistent.

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

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<sup>7</sup> Introduced December 2, 1930, as S. J. Res. 207, 71st Cong., 3d sess.

<sup>8</sup> Joseph T. Robinson of Arkansas, delegate at the London Naval Conference.

<sup>9</sup> Japanese Ambassador in Great Britain and delegate at the London Naval Conference.

<sup>10</sup> Lieut. Col. C. Burnett, U. S. Army, member of the staff of the Secretary of State at the London Naval Conference.

## LATVIA

### TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND LATVIA, SIGNED JANUARY 14, 1930 <sup>1</sup>

Treaty Series No. 818

*Arbitration Treaty Between the United States of America and Latvia,  
Signed at Riga, January 14, 1930* <sup>2</sup>

The President of the United States of America and the President of the Republic of Latvia

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 for ever 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

His Excellency Mr. F. W. B. Coleman, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to the Republic of Latvia

The President of the Republic of Latvia

His Excellency Mr. Antons Balodis, 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

<sup>1</sup> For correspondence relating to the negotiation of these treaties, see *Foreign Relations*, 1929, vol. II, (Estonia) pp. 963 ff.

<sup>2</sup> Ratification advised by the Senate, March 22 (legislative day of January 6), 1930; ratified by the President, March 29, 1930; ratifications exchanged at Washington, July 10, 1930; proclaimed by the President, July 14, 1930.

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,<sup>3</sup> 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 Latvia 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 Latvia 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 Latvia 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 affixed their seals.

Done at Riga, the 14th day of January in the year of Our Lord one thousand nine hundred and thirty.

[SEAL]

F. W. B. COLEMAN

[SEAL]

A. BALODIS

Treaty Series No. 819

*Conciliation Treaty Between the United States of America and Latvia,  
Signed at Riga, January 14, 1930*<sup>4</sup>

The President of the United States of America and the President of the Republic of Latvia, 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

His Excellency Mr. F. W. B. Coleman, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to the Republic of Latvia

The President of the Republic of Latvia

His Excellency Mr. Antons Balodis, 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 Latvia, 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.

<sup>4</sup> Ratification advised by the Senate, March 22 (legislative day of January 6), 1930; ratified by the President, March 29, 1930; ratifications exchanged at Washington, July 10, 1930; proclaimed by the President, July 14, 1930.

## 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 Latvia 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 Riga, the 14th day of January in the year of Our Lord one thousand nine hundred and thirty.

[SEAL] F. W. B. COLEMAN  
[SEAL] A. BALODIS

REPRESENTATIONS AGAINST THE APPLICATION OF A RESIDENCE  
OR SOJOURN TAX ON AMERICAN CITIZENS IN LATVIA <sup>5</sup>

860 P.512 Residence/22

*The Chargé in Latvia (Sussdorff) to the Secretary of State*

No. 6960

RIGA, May 10, 1930.

[Received May 28.]

SIR: I have the honor to refer to the Department's Instruction No. 671, of September 24, 1929,<sup>5</sup> directing the Legation to take up the matter of the sojourn tax on American citizens in Latvia again with the Latvian Government and to point out the fact that the Latvian law of March 2 [7], 1927, in the second paragraph, provides specifically that the amount of the tax is based on reciprocity. In compliance with the Department's instruction, the Legation addressed a Note to the Latvian Foreign Office on October 18, 1929, in this sense, a copy of which is enclosed herewith for the Department's information.<sup>7</sup> I had already presented this argument orally to the Latvian Foreign Office on several occasions, as well as the argument that American citizens in Latvia are entitled to an exemption from the sojourn tax on the basis of the United States-Latvian Commercial Treaty.<sup>8</sup> The Foreign Office replied orally that it also felt that the American citizens in Latvia were entitled to exemption from the sojourn tax on the basis of reciprocity, but that it was unable to convert the Latvian Ministry of the Interior to its views, although it had used its best endeavors in that direction, and would continue to do so.

On March 3, 1930, I addressed a further Note to the Latvian Foreign Office<sup>7</sup> urgently requesting a favorable solution of the above question and also took the matter up informally with the Latvian Minister of the Interior. I am now glad to report that Mr. Birsneeks, Chief of the Administrative Section of the Latvian Foreign Office informed me today that the Ministry of the Interior has advised the Foreign Office orally that it agrees to the abolition of the sojourn tax on American citizens in Latvia. Mr. Birsneeks stated that he hoped that the Foreign Office would be able to inform me officially to that effect in a few days.

I have [etc.]

LOUIS SUSSDORFF, JR.

<sup>5</sup> Continued from *Foreign Relations*, 1929, vol. III, pp. 269-273.

<sup>6</sup> *Ibid.*, p. 272.

<sup>7</sup> Not printed.

<sup>8</sup> Treaty of friendship, commerce and consular rights, signed April 20, 1928, *Foreign Relations*, 1928, vol. III, p. 208.

860P.512 Residence/23

*The Minister in Latvia (Coleman) to the Secretary of State*

No. 7309

RIGA, October 23, 1930.

[Received November 6.]

SIR: I have the honor to refer to the Legation's despatch No. 6960, of May 10, 1930, reporting that Mr. Birznieks, Chief of the Administrative Division of the Latvian Ministry of Foreign Affairs had informed the Legation orally that the Latvian Ministry of the Interior had finally agreed to the abolition of the sojourn tax on American citizens residing in Latvia and had stated that the Foreign Office hoped to be able to inform the Legation officially to that effect in a few days.

The Legation did not fail to bring this matter up at frequent intervals in conversations with the appropriate officials of the Latvian Ministry of Foreign Affairs, but the latter always replied that it would require a few days more to adjust the matter. On September 19, 1930, Mr. Sussdorff, Counselor of the Legation, called at the Foreign Office and requested a definite reply to the Legation's Note of March 3, 1930, at the same time reminding Mr. Birznieks, the Foreign Office official who is handling the matter, that the latter had stated orally on May 10, 1930, that the question of the sojourn tax would be arranged satisfactorily in a few days. In order that the Department may be fully informed concerning this matter, I am enclosing herewith a memorandum setting forth the substance of Mr. Sussdorff's conversation with Mr. Birznieks and a copy of an informal letter, addressed by the former to the latter on September 20th.<sup>9</sup>

In view of the attempt of Mr. Birznieks to introduce into the negotiations matters relating to visas, I deemed it advisable to call personally on the Latvian Minister for Foreign Affairs, Mr. Celmins, in order to present him with a further Note, a copy of which is enclosed, and to make orally statements incorporated into a memorandum, a copy of which is also enclosed.<sup>9</sup>

The Legation has today received a Note from the Latvian Ministry of Foreign Affairs, a copy of which is enclosed,<sup>10</sup> stating that the competent Latvian authorities have found it possible to settle the question of the sojourn tax on American citizens residing in Latvia by fixing a registration fee of 2 lats for a year or for each time a permit of sojourn is issued. The new regulations will enter into force on November 1, 1930. It will be observed that the Latvian Foreign Office expresses the hope that "this solution will correspond to the desire of the United States Government."

<sup>9</sup> Neither printed.

<sup>10</sup> Not printed.



It should be pointed out that despite the fact that the law charge of 2 lats is described by the Latvian Foreign Office as a "registration fee" it is actually in the nature of a sojourn tax and the authority to collect it, according to informal information received from the Latvian Foreign Office, is based on the law regulating the question of sojourn taxes. The nationals of countries which are paying a sojourn tax are not charged registration fees, since the Latvian Government considers that registration fees are included in the sojourn tax. The only country whose nationals are paying neither a sojourn tax nor a registration fee is Estonia. The nationals of Great Britain residing in Latvia are paying 2 lats a year; and Latvian citizens in Great Britain are charged one shilling upon their arrival for the supply of an Alien's Registration Book. Under the new regulations, the nationals of the United States and of Great Britain \* residing in Latvia are paying a lower fee for their sojourn than the nationals of any other country except Estonia. The Latvian Government is treating the nationals of no country except Estonia on the basis of reciprocity with respect to sojourn taxes or fees. The Latvian Government has assumed the attitude that the provisions of the law of March 7, 1927, which state that the amount of the sojourn tax paid by foreign nationals residing in Latvia is to be based on reciprocity, are permissive, not mandatory.

In view of the fact that the registration fees provided for in the new regulations are, as has been pointed out, nothing else than a form of sojourn tax, and that Latvian citizens residing in the United States are not required to pay any form of sojourn tax, I deem it advisable to refer this matter to the Department before replying to the Latvian Government's Note of October 22, 1930.

Respectfully yours,

For the Minister:  
LOUIS SUSSDORFF, JR.  
*Counselor of Legation*

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860P.512 Residence/24

*The Secretary of State to the Minister in Latvia (Coleman)*

No. 772

WASHINGTON, October 28, 1930.

SIR: With reference to the Legation's despatch No. 6960, dated May 10, 1930, the Department desires to be informed whether the formal assurance of the abolition of the sojourn tax on American citizens, referred to in the final sentence of the despatch, was received by the Legation. If it was received, it should have been communi-

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\* See Legation's despatch No. 5601, October 3, 1928, Enclosure No. 1. [Footnote in the original; for text of despatch, see *Foreign Relations*, 1928, vol. III, p. 237.]

cated to the Department. If it was not received, the Legation should have again taken up the matter with the Foreign Office.

Very truly yours,

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

860P.512 Residence/25

*The Minister in Latvia (Coleman) to the Secretary of State*

No. 7864

RIGA, July 9, 1931.

[Received July 27.]

SIR: I have the honor to refer to the Legation's despatch No. 7309, dated October 23, 1930, and the Department's Instruction No. 772, of October 28, 1930, concerning the sojourn tax which is being applied to American citizens in Latvia, and to enclose for the Department's information, a copy of the Legation's Note dated May 22, 1931, and a memorandum of a conversation which took place on July 6, 1931, between an official of the Foreign Office and a member of the Legation's staff, on this subject.

Respectfully yours,

F. W. B. COLEMAN

[Enclosure 1]

*The American Minister (Coleman) to the Latvian Prime Minister and Minister for Foreign Affairs (Ulmanis)*

RIGA, May 22, 1931.

EXCELLENCY: I have the honor to refer to this Legation's Notes dated February 27, 1929, June 4, 1929, October 18, 1929, March 3, 1930, and September 29, 1930, in which the attention of Your Excellency's predecessors was called to the desire of my Government to secure the complete abolition of the Latvian sojourn tax on American citizens residing in Latvia.

In these Notes, the hope of my Government was expressed that, as Latvian nationals in the United States are not required to pay a sojourn tax and as the second paragraph of the Latvian law of March 7, 1927, contemplates that the sojourn tax in Latvia shall be executed on the basis of reciprocity, the Latvian Government might see its way to arrange for the exemption of American nationals from this tax.

In a Note from the Latvian Foreign Office dated October 22, 1930, I was informed that the appropriate Latvian authorities had found it possible "to settle this question by fixing a registration fee of Ls. 2 for a year or for each time a permit of sojourn is issued."

Since the registration fees mentioned above appear to be nothing else than a form of sojourn tax, I have the honor again to express the hope that Your Excellency's Government will arrange for the exemption of American nationals from this tax.

I avail myself [etc.]

[File copy not signed]

[Enclosure 2]

*Memorandum by the Second Secretary of the American Legation (Gallman) of a Conversation With the Chief of the Administrative Division of the Latvian Foreign Office (Munters), July 6, 1931*

1. At the request of Mr. Munters, Chief of the Administrative Division of the Foreign Office, I called on him today to discuss the Legation's Note of May 22, 1931, in which the hope was again expressed that the Latvian Government would arrange for the exemption of American nationals from the payment of the registration fee of two lats, which is being applied to American nationals instead of the sojourn tax.

2. Mr. Munters stated that a formal acknowledgment of the Legation's Note would embarrass the Foreign Office since it could merely reply that the Ministry of the Interior is not disposed to exempt American nationals from the payment of this fee. He added that the Foreign Office was desirous of avoiding a protracted exchange of notes dealing with the legal aspects of this matter, which such a reply would give rise to.

3. Mr. Munters explained, confidentially, that the Ministry of the Interior had adopted the policy of charging a sojourn tax, which varies in the case of different nationals, as a means of discouraging certain nationals from sojourning in Latvia. The charge is fixed at a nominal amount in the case of those nationals which Latvia welcomes. The highest annual tax is sixty lats. American nationals are subject only to an annual tax of two lats. This he added was the lowest with the exception of that paid by British nationals, which is a fee of one lat.

4. Mr. Munters then pointed out that the fee, in the case of British nationals, was fixed at one lat in view of the one shilling fee charged foreigners by the British Government. He stated, moreover, that an attempt would be made to induce the British Government to agree to an arrangement whereby British nationals would pay two lats in Latvia. Should it be found that such an arrangement could not be effected, then the fee for American nationals would be reduced to one lat, thus placing American nationals on the same footing as British nationals and according American nationals, in the opinion of the Latvian Government, most favored nation treatment as pro-

vided in the Treaty of Friendship, Commerce and Consular Rights between the United States and Latvia.

5. So far as the question of reciprocity is concerned, Mr. Munters stated that, in view of the sojourn fee now being charged American nationals, the Latvian Government could not, of course, voice any protest in case a similar fee were charged Latvian nationals in the United States.

6. I told Mr. Munters that the Legation did not desire to embarrass the Foreign Office unduly and that since the Foreign Office preferred not to make a formal reply to the Legation's Note, I would prepare a memorandum of his statements to be filed in lieu of such a reply. I added, however, that such action should not be interpreted as a recognition of the right of the Latvian Government to impose a sojourn fee on American nationals and that the Legation reserved the right to take this matter up again with the Foreign Office.

W. J. GALLMAN

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860P.512 Residence/27

*The Secretary of State to the Chargé in Latvia (Cole)*

No. 882

WASHINGTON, November 17, 1931.

SIR: The Department refers to the Legation's despatch No. 7864 of July 9, 1931, enclosing a copy of a Note addressed to the Latvian Foreign Office under date of May 22, 1931, and a Memorandum incorporating statements made by an official of the Foreign Office on May 22 [July 6], 1931, regarding fees charged American citizens registering as aliens residing in Latvia, and to previous correspondence on this subject.

The Department is of the opinion that in view of the provisions of the Treaty of Commerce and Consular Rights between the United States and Latvia, signed on April 20, 1928,<sup>11</sup> American nationals in Latvia are entitled to treatment with respect to registration charges no less favorable than that accorded to the nationals of the most favored nation, which in this instance appears to be Estonia. Nevertheless, in view of the small amount of the fees and of the expressed willingness of the Latvian authorities to charge American citizens fees no higher than those charged British subjects, it does not wish to pursue the matter further at this time.

The Legation in its telegram No. 75 of September 7, 1928,<sup>12</sup> and its despatch No. 5601 of October 3, 1928,<sup>13</sup> stated that British nationals

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<sup>11</sup> *Foreign Relations*, 1928, vol. III, p. 208.

<sup>12</sup> *Ibid.*, p. 235.

<sup>13</sup> *Ibid.*, p. 237.

registering as alien residents of Latvia [are] charged two lats per annum. Since this statement apparently conflicts with that contained in the Legation's despatch No. 7864, referred to above, it is suggested that a further investigation be made of the amount which British nationals actually are paying. If within a reasonable period arrangements are not made by the Latvian government so that American citizens are charged fees no higher than those charged British subjects, the Department should be notified.

It is desired that the Legation address no further formal communications to the Foreign Office regarding this subject without the specific authorization of the Department.

Very truly yours,

For the Secretary of State:  
JAMES GRAFTON ROGERS

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860P.512 Residence/30

*The Chargé in Latvia (Cole) to the Secretary of State*

No. 8322

RIGA, December 15, 1931.

[Received December 30.]

SIR: With reference to the penultimate paragraph of the Department's Instruction No. 882, dated November 17, 1931, I have the honor to report that the British consul in Riga informed the Legation verbally today, that British subjects are now paying an annual sojourn tax in Latvia of two Lats.

American citizens, it will be recalled, are charged a registration fee of two lats per annum.

Respectfully yours,

FELIX COLE

## LIBERIA

### DENIAL OF REPORTS REGARDING POSSIBILITY OF INTERVENTION IN LIBERIA BY THE UNITED STATES OR OTHER POWERS

882.00/824: Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

[Paraphrase]

MONROVIA, June 4, 1930—10 a. m.

[Received 1:27 p. m.]

75. I saw President King yesterday, taking occasion to assure the President of American friendship, and I stated further my assurance that the good offices of the United States would be forthcoming in the present admitted crisis in the event he had to call for them.<sup>1</sup>

He seemed to appreciate this attitude.

CARTER

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882.00/825: Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

[Paraphrase]

MONROVIA, June 7, 1930—3 p. m.

[Received June 9—10:40 a. m.]

77. Supplementing my 75, I wish to submit the following full account of the conversation I had with President King, since the Liberian Government either has misunderstood it or is now attempting to distort it. At the British Legation reception on June 3, at noon, I saw the President, and in the course of general conversation with him the question of the present difficulties of Liberia arose. The possibility of foreign intervention came up, and I inquired, quite informally, what the President would think of intervention by Germany. King said he was opposed to any sort of intervention. I then said that I doubted the United States would allow a foreign intervention; that I hoped, if intervention were ever necessary, it would be by the United States, but that it was my belief Liberia could solve its own problems and no intervention question would ever arise seriously. Then I assured King of the continued American friendly interest. The conversation was entirely informal, the President apparently understanding and appreciating this fact, and he also appreciated my assurance of friendship.

<sup>1</sup> See also pp. 394 ff.

On repeating it to Secretary Barclay, who was not present, President King either did not give a full account to him or, for reasons of his own, Barclay preferred making official use of it. On June 4, however, a very abrupt note reached me from Barclay who cited isolated extracts of my remarks to President King, stated profound objections to any sort of intervention, and inquired whether my remarks were intended as official horizon and, if so, whether they indicated any alteration in the traditional policy of the United States to Liberia.

Immediately I replied substantially as follows:

“Although I may be repeating, the historic United States attitude toward Liberia continues and will continue, and I extremely regret if my conversation with His Excellency the President was misunderstood”.

I would have personally presented this note in order to clear up any possible misunderstanding, but I have been confined the past three days to bed with a slight, though troublesome, heart affection.

It was my assumption that my reply would close the matter. However, I understand that Secretary Barclay intends carrying it further, for the purpose, presumably, of discrediting American activities in Liberia, and I am informed of a Cabinet meeting held June 5 (following receipt of my note) when it was decided to take up the matter directly with the Department.

In view of the use made of my informal remarks, I realize their indiscreet nature; but I was misled by the President's apparent understanding and appreciation as the conversation progressed and by the fact that we had been able previously, in numerous conversations, to discuss personally and informally the affairs of Liberia without having them made an official matter. As soon as I am allowed out, I intend to take up the matter personally with the President and the Secretary, in order to clear up any possible misunderstanding.

CARTER

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882.00/826: Telegram

*The Secretary of State to the Chargé in Liberia (Carter)*

WASHINGTON, June 9, 1930—5 p. m.

58. National City Bank requests full text of Liberian Department of State Communication Number 286 D of June 4. Please cable for possible transmission.

STIMSON

882.00/827:Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

MONROVIA, June 10, 1930—5 p. m.

[Received June 11—8:49 p. m.]

81. Department's 58, June 9, 5 p. m. Liberian note of June 4th reads as follows:

"Sir: I have the honor to bring to your attention certain statements made by you to the President of Liberia on June 3rd, of the present year, in a conversation which you had with His Excellency at the British Legation on that day.

2. In this conversation you enquired of the President whether the Liberians desired the Germans to come into Liberia and take over, and upon His Excellency replying that Liberians desired no one whatever [including?] the Americans to come in and take over the administration of the country you replied 'well, if you do not want the Americans to come in and take over you will have to submit to their doing so.' The President suggested to you that we should not 'cross that bridge until we get to it.' You declared that 'America will step in just the same.'

3. In view of the many declarations of your Government that its real policy towards Liberia in [*is?*] the maintenance of the sovereignty and independence of the Republic, the statements made by you in a conversation with the President of Liberia, which was unsought by His Excellency, indicate that the traditional policy of your Government has undergone a radical change of direction and objections [*objectives?*]. They raise the apprehension in the mind of the Liberian Government that perhaps recent events, both international and local, have been promoted by interests which are desirous of achieving the result declared to be inevitable by you, speaking officially.

4. The Government of Liberia, ignoring for the moment the discourtesy of language and manner which you adopted towards the President of the Republic during the course of your conversation, merely desire to place on record their recognition of the change in American policy towards this Republic.

Please accept the assurance of the high consideration and esteem with which, I have the honor to be, Mr. Chargé d'Affaires, your most humble and obedient servant, Edwin Barclay, Secretary of State."

I need hardly comment upon the intemperate and inaccurate character of the Liberian note but thought it wisest to make the reply quoted in my 77, June 7, 3 p. m., as there had obviously been a misunderstanding.

In my farewell interviews with Barclay and the President today the matter was fully and satisfactorily discussed on both sides and I believe all misapprehensions have been removed. Both stated that there had been so many rumors of intervention either by the United States, League of Nations, or Germany that they had become uneasy



and, therefore, not feeling certain of the import of my remarks, had thought it best to elicit a definite statement from me. I took occasion to assure them again that no change in American policy had occurred or was likely to occur and to inform them of my personal friendship and that of the United States towards Liberia. They both appeared completely satisfied that the whole affair was due to a misunderstanding and the incident may be considered closed. In these circumstances I consider it would be highly inadvisable to transmit the correspondence in question to the National City Bank as no good purpose could be served by any possible reopening of the incident.

CARTER

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882.00/828: Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

MONROVIA, June 11, 1930—4 p. m.

[Received June 12—9:20 a. m.]

82. Supplementing my telegram 81, June 10, 5 p. m. In checking records discovered that, through inadvertence, my original report of [*reply to?*] the Liberian note had never gone forward so I presented following memorandum personally to Barclay this morning which represents substance of original note.

“In view of certain rumors which have come to the attention of the Legation of the United States, the American Legation desires to state that there has been no change whatsoever in the traditional policy of the United States of friendly interest toward Liberia nor is there likely to be any. The Government of the United States has always been careful to abstain from interfering with the political affairs of Liberia, and the acts and statements made by the Legation have been consistent throughout in the furtherance of this policy. All rumors or reports to the contrary may safely be dismissed as misleading and unfounded”.

Barclay stated that he considered it a highly satisfactory statement. Second letter reported my 77, June 7, 3 p. m., was intended merely as a follow up to be presented by Hall<sup>2</sup> in my absence. Regret illness prevented my personal oversight of delivery of notes as much difficulty might have been thereby avoided.

CARTER

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<sup>2</sup> Claude H. Hall, Jr., Vice Consul at Monrovia.

882.00/827: Telegram

*The Secretary of State to the Chargé in Liberia (Hall)*

WASHINGTON, June 12, 1930—6 p. m.

60. The Liberian Consul General<sup>3</sup> called and read portions of a memorandum, which he did not leave with the Department, setting forth in general the substance of the conversation reported in the Liberian note of June 4, forwarded with your 81, June 10, 5 p. m. He inquired whether this would indicate any change in the attitude of the American Government toward the Liberian Government. The Under Secretary<sup>4</sup> assured him that there had been no change whatever in the traditional policy of this Government toward Liberia and that informal conversations at social functions could not be taken as influencing the course of action of friendly nations.

During the subsequent conversation on general conditions in Liberia, Mr. Lyon was told that this Government was interested in the efforts of Liberia to rehabilitate her finances and hoped some progress might be made under the Commission which President King had set up for the purpose of considering the cutting down of salaries or cutting out of unnecessary public offices, as only by rigid measures of economy could Liberia hope to attain financial equilibrium.

You may, in your discretion, make informal use of the substance of this telegram.

STIMSON

882.00/831: Telegram

*The Chargé in Liberia (Hall) to the Secretary of State*

[Paraphrase]

MONROVIA, June 25, 1930—4 p. m.

[Received June 25—3:43 p. m.]

88. There are being circulated in Monrovia several forged documents, one of them, purporting to be a Legation despatch which gives details of the activities and findings of the International Commission,<sup>5</sup> reports a conversation with Prime Minister Ramsay MacDonald (in which it was stated that the British Government was going to seize Liberia) and strongly criticizes the Liberian Government. Another document, purporting to be Department instructions to Dr. Johnson,<sup>6</sup> informs him that an American secret service reporter

<sup>3</sup> Ernest Lyon, at Baltimore.

<sup>4</sup> Joseph P. Cotton.

<sup>5</sup> See pp. 336 ff.

<sup>6</sup> Charles S. Johnson, American member of the International Commission of Inquiry.

would accompany him and also criticizes the Liberian Government. Copies of these documents are being sent by mail. Other documents which I have not seen purport to be Legation telegrams to the Department.

Though the documents are in the hands of the Liberian Government, which apparently believes them to be genuine, the Legation has no inquiry concerning them. Secretary Barclay has publicly spoken of them and bitterly condemned the United States Government and Legation. Thomas J. R. Faulkner read them at a mass meeting, and President King showed them to the Acting Financial Adviser, McCaskey, who declared them to be forgeries. I have been unable to ascertain the source of these documents, but I suspect the Liberian Government to be circulating them.

HALL

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882.00/832:Telegram

*The Chargé in Liberia (Hall) to the Secretary of State*

MONROVIA, June 27, 1930—11 a.m.

[Received 3:20 p.m.]

89. My 88, June 25, 4 p.m. Barclay sent the documents to the Legation this morning and inquired as to their authenticity. I replied that they were forgeries and asked what steps the Liberian Government was taking to ascertain their source.

HALL

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882.00/833:Telegram

*The Chargé in Liberia (Hall) to the Secretary of State*

MONROVIA, July 1, 1930—4 p.m.

[Received 9:41 p.m.]

91. My 89, June 27, 11 p.m. [*a.m.*] Barclay has requested consent of the Legation to make public the contents of my note declaring documents forgeries. Please instruct.

HALL

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882.00/833:Telegram

*The Secretary of State to the Chargé in Liberia (Hall)*

WASHINGTON, July 2, 1930—4 p.m.

65. Your 91, July 1, 4 p.m. In your discretion you may consent to publication of your note declaring documents submitted to you forgeries.

STIMSON

882.00/835: Telegram

*The Chargé in Liberia (Hall) to the Secretary of State*

[Paraphrase]

MONROVIA, July 14, 1930—noon.

[Received 2:55 p.m.]

97. My 88, June 25, 4 p.m. I hear the documents have been shown by the Liberian representative, Sottile, at Geneva. General distribution has occurred in Liberia.

Secretary Barclay has published the denial by me of their authenticity.

HALL

882.00/836: Telegram

*The Consul at Geneva (Blake) to the Secretary of State*

[Paraphrase]

GENEVA, July 23, 1930—4 p.m.

[Received July 24—7:02 a.m.]

Department's July 15, 3 p.m.<sup>7</sup> On about May 19 the Liberian representative here, Sottile, showed to the Secretary General of the League of Nations a document which purported to be a Department instruction to Dr. Johnson, American member on the International Commission, and which contained a reference to a possible Liberian mandate, in which the name of Sir Eric Drummond was mentioned. So far as is known, neither this nor similar documents have been shown anyone else in Geneva. An authentic record of the conversation on that occasion between Sottile and Drummond is as follows: Drummond informed Sottile that he, of course, did not know what instructions had been sent Johnson by the United States Government, but certainly the paragraph relating to the mandate was invented and he, therefore, assumed the whole document to be a forgery.

Sottile expressed pleasure on hearing this, and Drummond insisted that Sottile should immediately communicate with the Liberian Government to explain that the documents in their possession were assuredly forgeries.

Sottile then said he desired to ask a hypothetical question: namely, What would the League of Nations do in the event the United States Government suggested that Liberia should be administered under a mandate? Replying, Drummond stated his inability to conceive

<sup>7</sup> Not printed.

of such an eventuality and was not prepared for discussion of questions which, to his mind, were beyond the bounds of possibility.

I had heard nothing previously regarding this incident, but upon receiving the Department's telegram I made a discreet investigation.

BLAKE

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**INVESTIGATION OF FORCED LABOR CONDITIONS IN LIBERIA BY AN INTERNATIONAL COMMISSION;<sup>8</sup> OPPOSITION TO PROPOSED REFORMS; RESIGNATION OF PRESIDENT KING**

882.5048/197a: Telegram

*The Acting Secretary of State to the Chargé in Liberia (Wharton)*

WASHINGTON, January 9, 1930—1 p.m.

1. Referring to previous correspondence on the subject of the International Commission, please request of the Liberian Government definite information as to the appointment of the Liberian member, when the Commission is to meet and other collateral information. It is important that such information be furnished before the end of this week.

COTTON

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882.5048/200: Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

MONROVIA, January 14, 1930—5 p.m.

[Received January 15—10:34 p.m.]

6. With reference to your telegram of January 9, 1 p.m.

1. As a result of inquiries made today at the Liberian Department of State, Legation is in position to state definitely that the Commission will consist of ex-President Barclay,<sup>9</sup> Doctor Johnson<sup>10</sup> and Doctor Meek<sup>11</sup> and that it will convene in Monrovia as soon as possible after their arrival here, presumably on or about March 1st.

Suitable arrangements are being made by the Liberian Government for their living accommodations. Expense of travel within the interior will presumably be borne by Liberian Government, although Legation is still waiting for a definite statement on this point.

It appears that Doctor Meek has asked Liberian Government for a translator and the Liberian Government has consequently

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<sup>8</sup> For correspondence concerning the appointment of the Commission, see *Foreign Relations*, 1929, vol. III, pp. 274 ff.

<sup>9</sup> Arthur Barclay.

<sup>10</sup> Charles S. Johnson, of Fisk University.

<sup>11</sup> Sigvald Meek, Norwegian jurist.

been prompt to offer to supply all of the interpreters for the Commission. For obvious reasons the Legation has made no comment on this offer and will endeavor to secure trustworthy interpreters for Doctor Johnson on his arrival.

Legation hopes that Johnson is bringing a secretary or stenographer with him as reliable secretarial assistance is not available here. Please advise.

Wharton<sup>12</sup> expects to sail last week of January via England and will endeavor to see Johnson before latter sails from Hamburg. To this end it is requested that the Embassy in London be informed of ship Johnson is taking from New York and that Wharton be authorized to perform extra travel required should he request such authorization.

CARTER

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882.5048/200: Telegram

*The Acting Secretary of State to the Chargé in Liberia (Carter)*

WASHINGTON, January 18, 1930—4 p. m.

5. Your 6, January 14, 5 p. m. Johnson will be accompanied by a competent secretary. They sail from Rotterdam February 21. He will keep Embassy at London informed of his movements while in Europe.

Wharton is instructed to consult with Johnson at most convenient point in Europe while en route. His travel expenses authorized subject to travel regulations.

COTTON

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882.5048/212a: Telegram

*The Acting Secretary of State to the Chargé in Liberia (Carter)*

WASHINGTON, January 23, 1930—1 p. m.

7. As previously informed Dr. Johnson sails on January 29 S. S. *Roosevelt*; also his assistant John F. Matheus. Department would appreciate formal announcement of appointment by Liberian Government of all three members before January 29.

Department particularly desires definite statement as to name of Liberian member.

COTTON

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<sup>12</sup> Clifton R. Wharton, Third Secretary of Legation in Liberia and Consul at Monrovia.

882.5048/222a: Telegram

*The Acting Secretary of State to the Chargé in Liberia (Carter)*

WASHINGTON, January 29, 1930—4 p. m.

10. Geneva has advised the Department that Meek has resigned. Meek gives his reason that the work of the Commission cannot be completed before the rainy season and that he feels that the period provided for the investigation should be extended to continue after the rains. The League appears to be giving consideration to Meek's views. The Department has grounds for apprehension that any present suggestion to change the terms of reference<sup>13</sup> for the Commission which this proposal appears to involve might be seized upon by the Liberian Government to delay or even to prevent the work of the Commission.

This is regarded as a very delicate matter and is being taken up confidentially with Drummond<sup>14</sup> with a view to a substitute being immediately appointed under same arrangements as were made for Meek. While the Department would like to have any advices you may be in a position to submit respecting the foregoing, it is requested, should the subject arise in your conversations with the Liberian authorities, that you avoid making comments which might be construed as reflecting this Government's position and especially that you make no commitments without receiving further instructions.

COTTON

882.5048/222: Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

MONROVIA, January 30, 1930—1 p. m.

[Received January 31—4:25 p. m.]

17. Department's 10, January 29, 4 p. m. No commitments or comments as to the attitude of American Government have been made by the Legation and none will be made without further instruction.

Liberian Government is seriously alarmed, and not without reason, over possible outcome and effect of investigation and would gladly seize upon any pretext—such as a proposal at this time to alter the terms of reference—to prolong discussion to point where investigation might fail of its purpose. In fact the rumor is already being circulated here, presumably by the Liberian Government, that the Commission has been entirely called off. Have some rea-

<sup>13</sup> See telegram No. 105, September 11, 1929, 3 p. m., to the Minister in Switzerland, *Foreign Relations*, 1929, vol. III, p. 307.

<sup>14</sup> Sir Eric Drummond, Secretary General of the League of Nations.

son for believing that Meek's views may have been influenced in part by recent communications reported to have been made by Liberian Government, but would point out that travel in Liberia will be possible up to May 1st and perhaps even later, thus leaving two months for field work outside Monrovia by the Commission, assuming it begins work March 1st, after which it could continue its sittings in Monrovia regardless of rains.

Can only repeat suggestions made in the Legation's 14,<sup>15</sup> which crossed Department's 10, and recommend that League be encouraged to name Meek's substitute before Liberian Government can take any action to forestall such step and to arrange to have him here about March 1st. In view of the importance which element of time has now assumed, I believe Department will agree that even the appointment by the League of a less prominent investigator than Meek, provided that it be made at once, would be preferable to the danger involved in a further postponement.

CARTER

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882.5048/221: Telegram

*The Acting Secretary of State to the Chargé in Switzerland (Moffat)*

[Paraphrase]

WASHINGTON, February 4, 1930—6 p. m.

9. Reference your 14, January 31, 10 a. m.<sup>15</sup> The Department is appreciative of the efforts by Sir Eric Drummond to reach a solution as stated and is in agreement with the suggested notifications to a substitute for Dr. Meek, i. e., that travel during the rainy season will not be expected and that the substitute may, at the appropriate time, recommend extension of the period of investigation if this course becomes desirable. It is presumed that these notifications will be informal in character and will be made in such a manner as not to bring up the possibility at this time of changing the terms of reference.

Reference your 12, January 27, midnight,<sup>15</sup> regarding the desire of Drummond for confidential suggestions respecting a candidate, should a suitable outsider not be found, it would appear to be appropriate and within scope of the powers granted by the resolution of the League Council for a member either of the League Secretariat or of the International Labor Office personnel to be selected, especially since appointing a member of the League Secretariat would offer a solution which is well within the range of the resources of the League.

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<sup>15</sup> Not printed.



The paramount issue calls for a full Commission being present in Liberia to enter upon its activities by March 10 at the latest and operating under arrangements which have already been agreed to by the Liberian Government, particularly under the provisions of the terms of reference now existing.

The foregoing should be brought to the attention of Sir Eric Drummond; the Department wishes to be kept informed of developments by telegraph.

You may use in accordance with your own judgment the following: The position taken by the Department in this whole matter is confirmed by advices from Monrovia to the effect that there is a current rumor in Liberia about the investigation being given up.

The sole limit to be set, in the Department's view, on selecting the League's representative is, as previous telegrams have intimated, that he should be no national of a state with territorial possessions in Africa. This point is mentioned here because of your statement that appointment of such a national is being considered. A large range of nationalities still remains, as you see, from which a choice may be made.

COTTON

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882.5048/224: Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

MONROVIA, February 6, 1930—1 p. m.

[Received 1:43 p. m.]

19. My telegram No. 17, January 30, 1 p. m. Barclay<sup>17</sup> informed me this morning that the Liberian Government had requested the League to name successor to Meek but indicated that he doubted if the Commission would have time to accomplish much unless it meets by March 10th. This last I am inclined to regard as intended to lay the grounds for a reopening of discussion re terms of reference and a consequent indefinite delay in the investigation.

CARTER

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882.5048/233: Telegram

*The Chargé in Switzerland (Moffat) to the Secretary of State*

BERNE, February 12, 1930—3 p.m.

[Received 5:50 p.m.]

19. Legation's 17, February 7, noon.<sup>18</sup> Drummond telephoned this noon that he had just appointed Dr. Cuthbert Christy, a well-known African explorer and expert in tropical medicine, as your [*sic*] League member on the Liberian Inquiry Commission in the place

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<sup>17</sup> Edwin Barclay, Liberian Secretary of State.

<sup>18</sup> Not printed.

of Meek. Christy has already left Geneva in order to complete his arrangements and sail next week from Rotterdam on the same ship as Johnson. Sir Eric said that he had long regarded the appointment of any Britisher as excluded but that despite an intensive search he could not find any other qualified candidate who would agree to accept service on the Commission or who could leave on short notice. He asked me to say that he had been greatly impressed with Christy's personality and could guarantee that his inquiry would be unbiased and independent of any political considerations. Sottile<sup>18a</sup> stated that the Liberian Government might not like the selection and wished his name submitted to Monrovia for agreement; Drummond refused to do so (see Carter's telegram from Geneva of December 17)<sup>19</sup> telling Sottile that Liberia had asked the League to appoint a member and that in the circumstances any objections would give rise to a suspicion that Liberia did not desire the Commission to operate.

Parenthetically Christy told Sir Eric that the Commission could in all probability continue to function if necessary, even after the onset of the rainy season.

The following is a biography of Dr. Christy as complete as I was able to transcribe it over the telephone:

1898 to 1900 senior medical officer in Northern Nigeria; 1900 to 1901 special medical officer in Bombay for plague; 1902 member of Uganda Sickness Commission; 1903 Assistant Lecturer Liverpool School of Tropical Medicine; 1903 to 1904 studied sleeping sickness in the Congo; 1906 visited Ceylon; 1906 to 1909 in Uganda and East Africa; 1909 to 1910 in Nigeria, the Gold Coast and Cameroons; 1911 published a technical book on African rubber industry; 1911 to 1914 in the Congo making a natural history collection on behalf of the Belgian Government; during the war worked on malaria and sleeping sickness in Mesopotamia, the Sudan and the Congo; 1919 Royal Geographical medal for exploration in Central Africa; 1925 to 1928 in Tanganyika; 1928 to 1929 collecting in French Equatorial West Africa.

Drummond added that he must be well known to the eminent specialists in the Department.

MOFFAT

882.5048/233: Telegram

*The Acting Secretary of State to the Chargé in Switzerland (Moffat)*

WASHINGTON, February 14, 1930—6 p.m.

14. Your Numbers 19 and 20, February 12.<sup>20</sup> Please inform Drummond the Department is gratified to learn of Dr. Christy's appointment and that he will proceed to Liberia at time stated.

COTTON

<sup>18a</sup> Liberian representative at Geneva.

<sup>19</sup> Not printed.

<sup>20</sup> Telegram No. 20 not printed.

882.5048/235 : Telegram

*The Acting Secretary of State to the Chargé in Liberia (Carter)*

[Extract]

WASHINGTON, February 14, 1930—6 p. m.

18.

[Paraphrase.] The general position of Sir Eric Drummond regarding the Commission to Liberia is already known to you, as indicated in your report of a conversation with him (see your telegram of December 17, 4 p.m., from Geneva <sup>21</sup>). You are also aware of the fact that the appointment in Dr. Johnson's case was handled somewhat differently from that of the League member. However, it would be unfortunate if this Government's procedure in Dr. Johnson's case were now to be invoked as a pretext by the Liberian Government to delay or to prevent utilization of the services of Dr. Christy as a Commission member.

You may if necessary make discreet use of the above. [End paraphrase.]

Please keep Department advised of any important developments.

COTTON

882.5048/241 : Telegram

*The Acting Secretary of State to the Chargé in Liberia (Carter)*

WASHINGTON, February 19, 1930—6 p. m.

21. As Christy cannot complete his arrangements this week, he has had to postpone his sailing until March 7, arriving Monrovia March 20.

COTTON

882.5048/242 : Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

MONROVIA, February 20, 1930—2 p. m.

[Received 2:10 p.m.]

25. Am confidentially informed that the Liberian Government has accepted Christy.

CARTER

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<sup>21</sup> Not printed.

882.5048/255:Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

MONROVIA, March 27, 1930—5 p. m.

[Received March 28—9: 05 p. m.]

41. My telegram No. 37, March 20, 11 a.m.<sup>22</sup> Saw President of Liberia today and found him much better. Speaking of the Commission he said he thought first thing was for Commission to draw up rules of procedure and that the different members should make individual suggestions upon which the Government would then pass. I replied immediately that I had always understood that the question of procedure was in accordance with the terms of reference, that I thought that the Commission should be formally constituted and should then proceed to draw up rules of procedure which could, if necessary, be examined by the Government to determine whether they were in accord with the terms of reference. King made no reply to my remark but I strongly suspect that his remark was intended to open the way to prolonged discussion and represents an attempt to narrow the scope of the Commission's activities. Have informed Johnson<sup>23</sup> and will keep the Department informed of developments.

CARTER

882.5048/255:Telegram

*The Acting Secretary of State to the Chargé in Liberia (Carter)*

WASHINGTON, April 3, 1930—1 p.m.

34. Your 41, March 27. From the Department's viewpoint, from the time of the first meeting of the Commission the activities of the Commission should be arranged and carried on through direct relations between the Commission itself and the Liberian Government. The Department does not object to any purely informal action on your part to facilitate in a general way the efforts of the Commission to accomplish the purposes for which it was created, this Government being in full sympathy with those purposes. It is felt, however, that you should avoid acting in any way as an intermediary or becoming involved in any issue between the Liberian Government and the Commission. In the event of serious issues of this character arising, you are requested to obtain authority from the Department before taking action.

You have, moreover, intimated in certain communications that you are of the opinion that both the investigations of the Commis-

<sup>22</sup> Not printed.<sup>23</sup> Dr. Johnson and his secretary reached Monrovia on March 8, 1930.

sion and its report may result in unfortunate repercussions in Liberia, may give rise to controversies with the Liberian Government, and may in the end place the Liberian Government in a difficult position. It is felt, therefore, that the Legation should exercise great care to disassociate itself both in act and in appearance from such investigations as the Commission may undertake or from any of its operations. In particular it is believed that it would be unwise for officers or employees of the Legation to be present at hearings held by the Commission or during any phase of its work of investigation. Apprehension is felt that should members of the Legation staff be present on such occasions they might either at the time or later be drawn into controversies over facts or expressions of opinion which would present the aspect of the Legation's taking sides in such matters, or conveying the impression in the public mind or in the mind of the Government that the Legation was a party to the proceedings.

The Department does not wish to hamper you in obtaining information concerning the activities of the Commission and is confident that you will be able to obtain all essential information without recourse to being present in person at hearings and investigations.

The foregoing considerations by which it is desired you be governed represent, of course, solely the Department's objective viewpoint. Your comment is desired, and should local conditions afford reasons which might serve to modify the Department's opinion, you are invited to present them for the Department's further consideration.

COTTON

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882.5048/257: Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

MONROVIA, April 3, 1930—5 p.m.

[Received April 6—11:45 p.m.]

42. My 41, March 27, 5 p.m. King called for me yesterday and stated that Faulkner's<sup>24</sup> activities had extended from merely gathering testimony for the use of the Commission to urging natives to disregard governmental orders unless specifically approved by Faulkner. These "seditious activities" according to King had reached a point that he felt compelled to send platoon of frontier force to Kakata where disaffection seemed very marked. King also hinted that it might be necessary to take measures against Faulkner but said that he would let me know in advance of any further steps he may take in putting down sedition.

<sup>24</sup> Thomas J. R. Faulkner, of Monrovia.

King, I think, is being hard pressed by the more extreme anti-Faulkner, anti-Commission elements; and, in spite of his personal and confidential assurances to me, I anticipate determined attempt to sabotage work of Commission when it formally convenes on April 7th, possibly in the manner indicated in my 41, April 3 [*March 27*], 5 p.m.

CARTER

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882.5048/258 : Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

MONROVIA, April 7, 1930—7 p.m.

[Received 8:07 p.m.]

45. Department's 34, April 3, 1 p.m. Am in full agreement with Department's desire toward [*sic*] particularly re inadvisability of attending Commission's hearings and may add that my activities re Commission have throughout been guided by considerations identified with those set forth in Department's telegram.

Commission was formally constituted today and will meet tomorrow to discuss procedure. The Liberian Government attempted to lay down set instructions but Commission insisted successfully on its right to conduct its own affairs. Feel that that is gratifying beginning.

CARTER

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882.5048/282

*Proclamation by President King of Liberia* <sup>25</sup>

A PROCLAMATION BY THE PRESIDENT

WHEREAS, in consequence of representations having been made against the Government of the Republic of Liberia in relation to Slavery and forced Labour, the President of the Republic of Liberia proposed the setting up of a Commission of Enquiry to investigate the alleged existence in Liberia of these social conditions and in pursuance of said proposal and for the purpose of assuring an impartial enquiry and an authoritative report, did request the Secretariat of the League of Nations and the Government of the United States of America to nominate each a member to serve on the said Commission so proposed to be set up by the Government of Liberia; and

WHEREAS, the Legislature of the Republic of Liberia by a Joint Resolution of the Senate and House of Representatives approved December 12, 1929, did confirm said action of the President of the

<sup>25</sup> Printed copy transmitted to the Department by the Chargé in Liberia in despatch Diplomatic No. 52, May 8; received June 5.

Republic and did authorize him to take all proper steps to effectuate the object of the proposed Commission of Enquiry; and

WHEREAS, in pursuance of the request made as aforesaid to the Secretariat of the League of Nations and to the Government of the United States of America certain nominations of members to serve on the Commission were made by the League of Nations and the Government of the United States of America, which nominations were accepted by the Government of the Republic of Liberia, that is to say:

Dr. Charles S. Johnson, on the part of the United States,

Dr. Cuthbert Christy, on the part of the League of Nations,

NOW THEREFORE, I, Charles Dunbar Burgess King, President of the Republic of Liberia do hereby proclaim and give notice to the people of Liberia and to all residents within the borders of the Republic, that the Commission of Enquiry composed as follows:

On the part of the Republic of Liberia  
Honourable Arthur Barclay,

On the part of the United States:  
Dr. Charles S. Johnson,

On the part of the League of Nations:  
Dr. Cuthbert Christy,

has this day been constituted and set up under the Chairmanship of the Representative of the League of Nations with full authority to enquire into all matters coming within the scope of the Terms of Reference furnished them in relations to the alleged existence in the Republic of Liberia of slavery as a factor in the Social and industrial economy of the Republic, and of Forced Labour, otherwise than is sanctioned in the International Slavery Convention of 1926.<sup>26</sup> To which end the said Commission of Enquiry by virtue of the provisions of an Act of the Legislature of Liberia approved December 6, 1926, is empowered to summon witnesses, to administer oaths and take testimony, to compel the attendance of witnesses and punish for contempts.

And I do hereby call upon all citizens loyally to appear before said Commission when duly summoned and to comport themselves in such a manner as may facilitate the Enquiry; and towards that end I do advise that at no public meetings held during the life of the Commission shall be discussed any matters coming within the purview of the Commission of Enquiry as hereinbefore set forth.

<sup>26</sup> *Foreign Relations*, 1928, vol. 1, p. 419.

GIVEN under my hand and the Seal of the Republic at the City of Monrovia this 7th day of April in the Year of our Lord One Thousand Nine Hundred and Thirty and of the Republic the Eighty-Third.

C. D. B. KING

By the President:

EDWIN BARCLAY

*Secretary of State*

882.5048/260: Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

[Paraphrase]

MONROVIA, April 9, 1930—3 p.m.

[Received 4:51 p.m.]

46. My 45, April 7, 7 p.m. Under Christy's chairmanship, the Commission has virtually completed its organization; and the plan of procedure it is adopting gives it the broadest scope possible, which is very satisfactory. The Commission is expecting to hold a preliminary hearing for about 2 weeks in Monrovia and will then proceed to work in the field.

CARTER

882.5048/284: Telegram

*The Chargé in Liberia (Hall) to the Secretary of State*

MONROVIA, June 18, 1930—11 a.m.

[Received 4:59 p.m.]

86. Mass meeting was held yesterday by ex-President Howard, Chief Justice Johnson, Gray,<sup>27</sup> and Faulkner and adopted resolutions condemning the present administration for its part in the slave trade and further that the people of Liberia desired the officials responsible removed from office.

[Paraphrase.] In spite of the Liberian Government's determined opposition, the meeting was held and there were about 200 persons in attendance. While it is doubted that this meeting will have any direct effect, it does show the general feeling of a large portion of the population. Despatch follows by pouch.<sup>28</sup> [End paraphrase.]

HALL

<sup>27</sup> P. O. Gray, editor of the *Liberia Express and Agricultural World*.

<sup>28</sup> Not printed.



882.5048/298 : Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, September 8, 1930—3 p.m.

[Received September 9—8 a.m.]

114. The International Commission today handed its report jointly signed by the three members to the Liberian Government.<sup>29</sup> The report consists of four major sections: (1) Introduction, (2) slavery and analogous practices, (3) forced labor for public and private purposes, (4) recommendations. It is generally understood that the report will not be made public locally before it is submitted to the Legislature in October.

Dr. Johnson sails for the United States via England on September 11th carrying a signed copy for delivery to the Department.

[Paraphrase.] Exceedingly well documented, the report appears to be a clear indictment of the Liberian Government's policy of suppressing and intimidating the natives—a policy permitted, if not indulged in actually, by nearly all the high officials, the President included. From more than 260 depositions the conclusions are drawn, and there are citations of many suspicious criminal practices and even of torture.

It seems clear that, although the direct criminal participation is established with respect to the Vice President, several district commissioners, county superintendents and other minor officials in forced shipments of native labor to Fernando Po, these practices were known to the President and his Cabinet, who had received from the natives their recorded complaints and had taken no steps to put an end to these practices. The President is mentioned as having on one or two occasions sanctioned orders for shipment. Forced labor, often impressed ruthlessly under the guise of work for the Government, has been made use of by the President, the Vice President, two Cabinet members, and others, on their private farms.

The report follows immediately in telegraphic summary. [End paraphrase.]

REBER

882.5048/299: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, September 8, 1930—4 p.m.

[Received September 9—3 p.m.<sup>30</sup>]

115. Legation's telegram No. 114. The findings of the Commission relating to the terms of reference<sup>31</sup> (see enclosure to Legation's

<sup>29</sup> See Department of State, *Report of the International Commission of Inquiry into the Existence of Slavery and Forced Labor in the Republic of Liberia, Monrovia, Liberia, September 8, 1930* (Washington, Government Printing Office, 1931).

<sup>30</sup> Telegram in two sections.

<sup>31</sup> See Department of State, *Report of the Commission of Inquiry*, p. 149.

despatch No. 366 of September 3, 1929<sup>32</sup>) may be summarized as follows:

(a) Slavery as defined by the anti-Slavery Convention does exist but [*insofar as*] inter- and intra-tribal domestic slavery exists. Pawning is recognized in the social economy of the Republic.

(b) Domestic slavery is discouraged by the Government in that any slave appealing to the courts may be granted his freedom.

(c) There is no evidence that leading citizens of the country participate in domestic slavery but some Americos take natives as pawns and in some instances have criminally abused the system.

(d) Forced labor has been made use of for road construction, public buildings, portorage, et cetera. This labor has been wastefully recruited and used frequently under conditions involving intimidation and ill-treatment on the part of Government officials and frontier force soldiers. Labor recruited for public purposes has been devoted to private uses on farms of high Government officials and private citizens. None of this labor has been paid.

(e) A large proportion of contract laborers shipped to Fernando Po has been recruited under conditions of criminal compulsion scarcely distinguishable from slavery raiding and slave trading.

(f) Labor employed for private purposes has been impressed for this service on the authority [of] high Government officials. There is no evidence that the Firestone plantations consciously employ any but voluntary labor but this was not always the case when recruiting was subject to Government regulations over which the company had little control.

(g) The Vice President and other high officials, as well as county superintendents and district commissioners, have given their sanction to the compulsory recruiting of labor by the aid of the frontier force and have condoned the utilization of the force for physical compulsion on road construction, intimidation of villages, humiliation and degradation of chiefs, for imprisonment of inhabitants and for convoy of gangs of carbon natives to the coast.

The Commission recommends *inter alia*:

- (1) Policy of the open door in the interior;
- (2) Native policy to be radically reconstructed [and] policy of suppression abandoned;
- (3) Complete reorganization of the government of the interior with rearrangement of the political divisions of the country;
- (4) Removal of all present district commissioners;
- (5) Appointment of European or American commissioners with assistants selected by a form of civil service examination;
- (6) Reestablishment of tribal authority of chiefs;
- (7) Pawning and domestic slavery to be made illegal;
- (8) Shipment of laborers to Fernando Po to cease;
- (9) Temporary curtailment of road program until confidence of natives can be regained;
- (10) Stricter control of frontier force and reconsideration of its duties;
- (11) American negro immigration to be encouraged.

<sup>32</sup> Not printed.

The report concludes with the observation that more advances to greater efficiency and honesty will not be sufficient. Any hope of improvement is rendered futile "in the present conditions without the introduction of outside specialist assistance, the reduction of superfluous offices and other drastic internal provisions made."

REBER

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882.5048/300: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

[Paraphrase]

MONROVIA, September 11, 1930—6 p. m.

[Received September 12—2:15 p. m.]

116. The American and the League of Nations Commissioners sailed from Monrovia today, Dr. Johnson planning to leave England about October 3 for the United States.

Prior to the departure of the two foreign members, President King expressed to them his "mortification" over the conditions which had been found and stated that, while he considered their comments were too severe, the recommendations were not impossible to fulfill. This expression was used, it is felt, in an endeavor to determine the relative importance given the recommendations compared with the other sections.

Locally the general impression is that the Vice President is the only high official condemned definitely by the report. Apparently this impression is due to an administration effort to fasten guilt upon one individual whose punishment is possible. Hoping to vindicate himself, the President seems now to be seeking his own renomination, and his chances of success appear favorable.

The public is desirous of having the findings and recommendations released for its information.

REBER

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882.5048/308: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, September 17, 1930—3 p. m.

[Received 5:11 p. m.]

123. An official gazette was made public, "pending the printing of the full report" which contains the text of the International Commission of Inquiry's findings as well as a summary of their suggestions and recommendations.

REBER

882.00/844: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

[Paraphrase]

MONROVIA, September 21, 1930—9 p. m.

[Received September 22—5:35 p. m.]

125. The Financial Adviser, John Loomis, conferring with President King on September 17 and 20, was able to propose a complete and thorough reform campaign. The program was worked out carefully by Loomis before he detailed it to the President, and it conforms in general with the proposed reforms sent September 18 by radio from Harvey Firestone to his representative here, Hines.

The main provisions are:

1. Reform in fiscal matters;
2. Establishing an effective sanitary program and extending the memorandum agreement of 1929;<sup>32a</sup>
3. Reform of administration of the interior;
4. Other financial matters;
5. Appointing a commission to reform the judicial procedure;
6. Reorganizing the frontier force under Colonel Lewis' command;
7. Proclaiming the hinterland districts opened to commerce;
8. Appointing a foreign expert to be chief of the agricultural bureau.

Loomis reports also that President King has agreed to reply to the alleged breaches of the 1926 loan agreement in a form satisfying the Financial Adviser.<sup>33</sup> There was also discussed the possibility of requesting the United States Government's advice and aid in furthering this reform program and of assuring the Government of the United States and other nations that the Liberian Government would accept and adopt the International Commission's recommendations and suggestions, and President King appeared ready to do this. The President expressed his hope to Loomis that such or similar reforms might be accomplished before it might appear that pressure from outside sources, resulting from the report of the Commission, had forced him to act, thereby losing an opportunity to vindicate his own name and standing. I am told by Loomis that he believes the President will agree to put this program into effect; but President King is expected to meet with tremendous opposition from almost all other political factions and may try later to repudiate his stand. Loomis will endeavor on September 24 to obtain President King's confirmation of all the points agreed upon.

REBER

<sup>32a</sup> See telegram No. 37, October 8, 1929, to the Chargé in Liberia, *Foreign Relations*, 1929, vol. III, p. 324.

<sup>33</sup> See pp. 394 ff.

882.5048/308:Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

[Paraphrase]

MONROVIA, September 25, 1930—9 p.m.

[Received September 26—3:25 p.m.]

129. This afternoon the President sent for me to inform me that, subject to assent of his Cabinet tomorrow, he would request that I deliver to the Government of the United States a note assuring it of his intention to fulfill the recommendations of the International Commission and to ask the aid of the United States. He added that in conjunction with Financial Adviser Loomis he had worked out a reform program, and that they had agreed upon the text of the reply to the Finance Corporation before September 30. The President appeared worried that the United States Government would not lend its assistance and expressed apprehension that foreign nations had lost confidence in his administration. Undoubtedly this program will meet with opposition from many officials of his government, Barclay in particular, and it may be exceedingly difficult for President King to put this program into effect without amending or weakening it, even though his desire for improvement is sincere. It is rumored on good authority that Barclay said the Liberian Government would never consent to the appointment of white district commissioners.

Loomis informs me that the President has sanctioned in writing the reforms proposed (see my 125, September 21, 9 p. m.), and on October 1st, John Louis Morris, now Secretary of the Interior, will replace the present Secretary of the Treasury.

REBER

882.5048/311:Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

[Paraphrase]

MONROVIA, September 29, 1930—10 a. m.

[Received 4:30 p. m.]

131. A Cabinet committee which was appointed to examine the International Commission's report has submitted its own findings and recommendations. These, if adopted, promise a series of partial reforms, but lack measures for their enforcement. They suggest proclamations to declare slavery illegal, to prohibit the shipment of labor, and to abolish pawning. Other suggestions are the removal of restrictions within the Republic upon the movement of Liberians and the appointment of a European adviser to establish an adminis-

tration, without authority, assisted by Liberian district commissioners who are of higher type than those now employed.

This report, which has not been made public, in its tone indicates that certain facts are accepted, and it appears to be the committee's desire to promise a few reforms, which, however, will effect no real improvement or fundamental change in the situation.

REBER

882.5048/308: Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

[Paraphrase]

WASHINGTON, September 30, 1930—5 p. m.

84. Your 129, September 25, 9 p. m., and 131, September 29, 10 a. m. Unless you do not deem it advisable on account of the situation when this telegram reaches you, you should informally confer with President King and refer to your conversation with him on September 25 and to the information he then gave to you. You should state that you have had reports of a Cabinet committee having submitted its findings and recommendations which promise a series of partial reforms, yet make no provision for measures of enforcement. You should ask if this is true, since it would disappoint your Government exceedingly to learn of any program of reform being contemplated without including at the same time provision for full authority to enforce and execute every measure of reform as stipulated. You may say that in the past the difficulties have been due largely to the fact that appointed officials were not given real or adequate authority to enforce their functions, and it is thought that further action of this incomplete nature would not serve to meet in any way the criticisms contained in the report of the International Commission, while your Government would not feel at liberty to respond to the assistance request, mentioned in your 129, should it not be predicated on a program which has every assurance of success.

STIMSON

882.5048/312: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, September 30, 1930—11 p. m.

[Received October 1—11:50 a. m.]

133. The President has asked that the following, addressed to the Secretary of State, be forwarded immediately and that he be told of its receipt in Washington.

"The Government of Liberia takes this occasion to express its sincere appreciation and thanks for the services rendered by the American member of the International Commission appointed by the Government of the United States, in accord with its traditional friendly interest toward Liberia.

Although the Government of Liberia questions the accuracy as well as the motives behind the testimony of some witnesses before the Commission, it recognizes that the recommendations made by the Commission, as a result of an investigation by impartial minds, are motivated by a profound interest in the social and economic responsibilities of a sovereign state.

Considering the relatively unknown problems with which Liberia is faced, the Government of Liberia is not so much concerned with a controversy over facts as it is desirous of demonstrating to sympathetic and friendly nations its solemn purpose to improve conditions within its borders and to take all appropriate measures to vindicate its good name and standing in the community of sovereign states.

The Government of Liberia therefore wishes to assure the Government of the United States and other nations that it accepts the recommendations and suggestions of the International Commission of Inquiry and agrees to adopt the said recommendations.

Considering the friendship of the United States and its historic, traditional interest in the progress of Liberia, the Government of Liberia has determined to request the good offices of the United States to lend its friendly advice and assistance in reestablishing a sound economic system and bringing [about] reforms intended to preserve the good name of the Republic, which otherwise might be prejudiced, were not the good faith of the Government of Liberia clearly demonstrated."

Section 2 follows as telegram No. 134.

REBER

882.5048/313: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, September 30, 1930—midnight.

[Received October 1—1:25 p. m.]

134. Section 2.<sup>34</sup>

"With the object of facilitating the execution of reforms, the Government of Liberia suggests that the following program includes the major reforms to be adopted.

1. Reassurances of the Liberian Government that, in collaboration with the Financial Adviser, it will put its finances upon a sound economic basis in harmony with the terms of the loan agreement of 1926, and will cooperate with and assist the fiscal administration in attaining this object by adopting all lawful measures necessary.

<sup>34</sup> For section 1, see telegram No. 133, *supra*.

2. Establishment of a permanent sanitation program with sufficient authority and means for making this program effective.

3. Measures for the more expeditious and impartial administration of justice, as well as taking immediate steps to improve the standards of judicial procedure and qualifications of its judges and bar.

4. Reform of the interior administration and removal of unnecessary restrictions upon legitimate trade and communication with the hinterland.

5. Reorganization of the frontier force in accordance with plans to be drawn up and submitted by the American Military Adviser not contrary to law and approved by the President.

6. Definite and comprehensive program of public works under experienced direction for the purpose of assisting the economic and social development of [in] the interior.

C. D. B. King, President of Liberia, September 30, 1930."

[Paraphrase.] President King says he has not shown the note to any member of his Cabinet except the Secretary of State, who assented most reluctantly. The President appeared very anxious lest a meeting of the Faulkner group (scheduled to occur in a few days to protest against his administration) may result in active demonstrations in opposition to him and possibly in a demand for his impeachment. The President has spoken to the Financial Adviser, John Loomis, regarding the possibility of requesting American protection should violence be threatened.

However, I anticipate no serious disorder. [End paraphrase.]

REBER

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882.5048/314: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

[Paraphrase]

MONROVIA, October 1, 1930—3 p. m.

[Received 4:40 p. m.]

135. Department's 84, September 30, 5 p. m. I believe it preferable that the proposed interview with President King be put off until I am able to present an acknowledgment of the note quoted in my 133; on this occasion I can explain the Department's views regarding the necessity of enforcement measures.

REBER

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882.5048/313: Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

[Paraphrase]

WASHINGTON, October 1, 1930—6 p. m.

86. Your telegrams No. 133, September 30, 11 p. m., and No. 134, September 30, midnight. You will please comment on the substance



of the President's proposed program and advise as to what part of these measures could actually be put into effect by executive order, or otherwise, as an immediate earnest of the Liberian Government's intention to proceed with real reform. Do you have any suggestions regarding the nature of the reply by this Government to President King?

STIMSON

882.5048/315:Telegram

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*The Chargé in Liberia (Reber) to the Secretary of State*

[Paraphrase]

MONROVIA, October 2, 1930—2 p. m.

[Received 3:39 p. m.]

137. Department's 86, October 1, 6 p. m. President King has asked for an acknowledgment of his note. Am I authorized to inform him of the receipt in Washington of his communication and to present to him the views of the Department in regard to the importance of insuring proper enforcement of all corrective measures, at the same time stating that the Department is considering the best way to accede to the request of the Liberian Government for advice and aid? This would appear also to be a favorable time to discuss with President King the problem of how he proposes bringing about the suggested reforms.

In addition to accepting the Commission's recommendations, the President's note, it would seem, included almost all the major points at which an immediate improvement in local conditions would be desirable.

REBER

882.00/849:Telegram

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*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, October 3, 1930—9 a. m.

[Received 1:35 p. m.]

138. As a preliminary measure, prior to the opening of the Legislature, a Presidential proclamation has been issued declaring domestic servitude and pawning illegal and providing for the setting free of all persons and for the prosecution of persons taking pawns.

The meeting held on October 1st under the leadership of ex-President Howard, Chief Justice Johnson and the county attorney approved resolutions accepting the Commission's report, calling upon the Legislature to demand the resignation of the present Government and to establish a Provisional Government, and constituting a non-partisan league to petition the Legislature for reform. About 150 persons attended the meeting.

REBER

882.5048/315: Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

WASHINGTON, October 3, 1930—noon.

87. Your 137, October 2, 2 p. m. You should transmit to President King the following note from the Secretary of State in reply to his communication mentioned in your telegram No. 133, September 30, 11 p. m.

The Secretary of State has received with gratification the communication of the Government of Liberia suggesting a program of the reforms which it proposes to put into effect in order to comply with the recommendations made by the International Commission which recently completed its investigations of labor conditions in Liberia and certain other reforms calculated to enhance the well-being and prestige of Liberia. This Government takes pleasure in assuring the Liberian Government that in accordance with its traditional friendly interest in that state, it will be most happy to be of assistance to it in the execution of the reforms transmitted by the President of Liberia in whatever way it may be able to assist it to assure and effectuate their enforcement. As soon as the details of the plan to carry out the purposes suggested in the communication shall have been received, this Government will study it with a view to rendering all possible assistance.

STIMSON

882.5048/316: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

[Paraphrase]

MONROVIA, October 7, 1930—10 a. m.

[Received 8:14 p. m.]

140. Department's 87, October 3, noon. Yesterday I delivered the note to President King and took occasion to explain the views of the Department in regard to the necessity of enforcement means being provided for corrective measures.

As to the program of reform, the President appeared reluctant to discuss it in any save very general terms; but he promised to inform me of its details. He appeared hesitant particularly in regard to opening the interior; this would have to be done, he said, purely area by area by Presidential proclamations, in accordance with the law of 1923. In expressing the hope that this method would not cause too great a delay, I pointed out that the Commission had stressed the importance of opening the interior as providing a point of departure for any reform program. President King then inquired if the United States would, upon request, nominate a man who would be appointed senior district commissioner to work out a

reorganization plan before the remaining four commissioners were appointed.

The President spoke of a proclamation to be issued to prohibit the shipment of recruited laborers, of extending the sanitation memorandum agreement, and of reorganizing the frontier force under Colonel Lewis—he appears, in fact, to feel he has no further authority other than that of preparing a plan for improvements.

REBER

882.00/855

*The Chargé in Liberia (Reber) to the Secretary of State*

Diplomatic No. 20

MONROVIA, October 9, 1930.

[Received November 1.]

SIR: Supplementing the Legation's telegram No. 125 of September 22nd [21st], 9 p. m. and others relating to the program of reform proposed by President King, I have the honor to transmit herewith copies of letters exchanged between the Financial Adviser and the President outlining this program.

In a series of conferences initiated by the President shortly after the return of Mr. Loomis to Monrovia, for the purpose of discussing the differences which had arisen between the Liberian Government and the Finance Corporation, the Financial Adviser was able to suggest that reforms not be limited merely to the settlement of the alleged breaches of the loan agreement on the ground that the economic welfare of the Government was dependent upon general improvements. The failure of Mr. Loomis to interest foreign banks to take over the business of the British Bank of West Africa was another factor, which emphasized the necessity for such changes. The main provisions of the campaign of reform are outlined in the attached copies of letters written in confirmation of these conferences and approved by the President in writing. They are as follows:

1. Reform in fiscal matters. The letter to the Fiscal Agents (enclosure No. 1) <sup>35</sup>
2. Reform of the Administration of the Interior (letter No. 1 PCE—enclosure No. 2) <sup>36</sup>
3. Appointment of a commission to reform judicial procedure (letter No. 2 PCE—enclosure No. 3) <sup>36</sup>
4. Other financial matters, including construction of motor road (letter No. 3 PCE—enclosure No. 4) <sup>36</sup>
5. Agricultural improvement (letter No. 4 PCE—enclosure No. 5) <sup>36</sup>
6. Sanitary improvement (letter No. 5 PCE—enclosure No. 6) <sup>37</sup>

<sup>35</sup> *Post*, p. 407.

<sup>36</sup> Not printed.

<sup>37</sup> *Post*, p. 432.

The question of the reorganization of the Frontier Force under the authority and command of the Military Adviser was also discussed but no final agreement reached.

Moreover, in view of the disagreements which existed between the Secretary of the Treasury, James Cooper, and the fiscal officers, the President agreed that the former should exchange portfolios with the Secretary of Public Works, John Louis Morris, on the first of October, since it was felt that there could be a greater degree of cooperation between the latter and the loan officials. Although Mr. Morris was appointed Secretary of the Treasury on the first, Cooper was made Secretary of the Interior in the place of Jeremiah Harris who was moved to the Department of Public Works. By these appointments it would appear that the fiscal officers will be freer from the policy of obstruction which has heretofore characterized the actions of the former Secretary of the Treasury, but the situation in the Interior Department does not promise well in the future. The latter official is not apparently in sympathy with the program of reform and is opposed to foreign aid. It is to be feared that should the proposed appointment of European or American District Commissioners be agreed upon, they will not be free from constant petty attacks upon their authority and jurisdiction. . . .

On September 25th when the President proposed that the Legation transmit to the United States Government a note assuring it that the Liberian Government proposed to accept the recommendations and suggestions of the International Commission of Inquiry and to ask for the advice and assistance of the United States in the execution of reforms, he stated that it was his intention to submit this proposal to his Cabinet for its approval. It was felt at that time that the Cabinet would not be in sympathy with this project and would endeavor to change or weaken the terms of the note.

Cabinet meetings were being held daily at that time to discuss the report of the International Commission and to suggest action to be taken by the Liberian Government in regard to its findings and recommendations. A report signed by Edwin Barclay, Secretary of State, Jeremiah Harris and John Louis Morris was submitted on September 26th to the President and provided for a series of partial reforms without measures for their enforcement. A copy of this report which has not yet been made public is enclosed herewith. (Enclosure No. 7.)<sup>38</sup> Its tone indicates that the Committee accepted with reluctance certain of the findings of the International Commission and hoped that a few vague promises of reforms would satisfy others as to the intention of the Liberian Government to effect improvements in the conditions of slavery and forced labor which had been found to exist. In view of the discussion which

<sup>38</sup> Not printed.

arose in connection with this report the President has stated that he did not consider it an opportune moment for the submission of his note. Consequently he showed it only to the Secretary of State, who most unwillingly agreed that it should be sent.

The provision of this report that a proclamation declaring slavery and pawning to be illegal should be issued has already been carried out, and a copy of this proclamation is attached (enclosure No. 8).<sup>39</sup> It is considered that this proclamation will be difficult of enforcement unless effective supervision is exercised throughout the hinterland districts, where the existence of tribal slavery and pawning are reported to have become traditional and to be well recognized.

The President has stated that he will submit the details of his program of reform to the Legislature in his annual message to be delivered shortly after its opening session on October 13th. In a conversation held on the occasion of the delivery of the Department's reply to the President's communication, he stated to me that it was his desire to ask that the United States Government propose for appointment the name of a competent administrator to be appointed as senior District Commissioner who would draw up a plan for the reorganization of the hinterland administration. Should this official be granted adequate authority for the enforcement of his regulations and should his appointment be followed within a reasonable period by that of other competent Commissioners for the remaining Districts, it would appear that the recommendations of the Commission which suggest the immediate appointment of foreign officials for all Districts would not seriously be weakened. The President also indicated to me, however, that he did not intend that the interior should promptly be opened to foreign commercial penetration but merely area by area in accord with the law of 1923 which provides that districts in the Hinterland shall from time to time be declared open to trade and commerce by Presidential proclamation.

It is difficult to tell whether the President is sincere in his desire for reform or whether he is merely making a gesture which will upon its presentation to the Legislature endeavor to calm the opposition of the People's Party and to persuade other nations that reform can be brought about without interference.

The only measures adopted up to the date of writing have been the proclamation previously referred to and the approval of executive orders revising the numbering of checks as explained in paragraph No. 2 of the President's letter to the Fiscal Agents and placing the collection of internal revenues in the Counties in the hands of the

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<sup>39</sup> Not printed.

Commission of Internal Revenue, a loan official, rather than under the County District Commissioners, officials of the Department of Interior.

Respectfully yours,

SAMUEL REBER, JR.

882.00/850 : Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

[Paraphrase]

MONROVIA, October 13, 1930—6 p. m.

[Received October 14—3:50 p. m.]

142. My 138, October 3, 9 a. m. October 20 has been set by the Citizens' Non-Partisan League as the date for a meeting the object of which will be to prepare a petition to the Liberian Legislature to demand the resignations of the President and Cabinet. President King, I am reliably informed, is concerned over the situation and is taking steps for the safeguarding of his person.

Today the Legislature met, though it will not undertake business until after President King has read his annual message, and the date for this has not been set. If the Legislature refuses to act upon the petition of the citizens, they may attempt the use of force in order to carry it. There may be disturbances.

The Citizens' League appears to be gaining strength and to be under the control now of an anti-white faction. Its daily published gazette recommends changing the government and reforming all administrative departments, but seems to oppose appointing white district commissioners and extending the system of foreign advisers and states that the punishing of the leading offenders who are named in the report and the establishing of a new government will prove the Liberian people's good faith.

REBER

882.00/852 : Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

[Paraphrase]

MONROVIA, October 16, 1930—noon.

[Received 5:04 p. m.]

144. My 142, October 13, 6 p. m. It may be said that the political situation here is nearing a crisis, and it is difficult accurately to predict the outcome of the meeting set for October 20. Although the Citizens' League has counseled against violence and disorder, political feeling is running high, while the League appears to be equally firm in its insistence that the President's resignation be compulsory, if

possible by legal means. President King continues taking precautions and seems to be anxious regarding the situation. I foresee no danger to the white community's lives or property unless, in the as yet improbable event that President King no longer can retain control, there should break away from its leaders an unorganized mob to turn to looting of trading stores. The British Chargé d' Affaires, with whom I discussed the situation, agrees with me in seeing no immediate cause for alarm; however, we are watching developments very closely lest it should be considered desirable to protect foreign interests. Should events in the next few days appear to menace white residents or property, he feels he may be obliged to request a British war vessel for their protection.

The need for this might be avoided, even should the anti-white faction seize control, through the assumption of authority by the military and financial advisers acting as Liberian officials (in the absence of duly constituted government) to protect the Government's revenues and its treasury. In this event the Legation of course will refrain from any action and will confine its efforts to the request for the safeguarding of the lives and property of Americans and other foreign nationals and to the expression of hope for the avoidance of disorder and bloodshed.

It is not felt that the situation as yet requires such extreme measures, though due precautions are deemed advisable, since immediate action may be necessary if disorders arise. Instructions would be appreciated regarding the attitude of the Legation in either contingency.

REBER

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882.00/853 : Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

[Paraphrase]

MONROVIA, October 17, 1930—3 p. m.

[Received 8:55 p. m.]

145. My 144, October 16, noon. The British Chargé here has just called to inform me that he is asking, purely as a precautionary matter, for a small British warship to be assigned to patrol duty on the West African coast, to be close at hand on October 20 and 21, and to remain out of sight unless it is summoned, since, while both of us feel there may not be any need of its services, this precaution has been considered advisable in view of a possible unorganized anti-white mob.

REBER

882.00/852: Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

[Paraphrase]

WASHINGTON, October 17, 1930—7 p. m.

89. Your 144, October 16, noon. If the British Charge in Liberia deems it advisable to request a British warship, and if the British Government decides to send such a vessel, I do not perceive any objection to this course. You may inform your British colleague accordingly.

STIMSON

882.00/854: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, October 20, 1930—6 p. m.

[Received October 21—10:10 a. m.]

147. My telegram No. 144. The Citizens' League today presented its petition to both Houses of the Legislature, demanding impeachment of the President. Both Houses agreed to take the petition under consideration and to give their reply shortly.

This is an indication of the growing strength of the opposition as several months ago such actions would not have been tolerated by the Government.

There has been no evidence of disorder but the President has not relaxed his precautions. Armed forces are stationed at various strategic points throughout the town and will probably remain on duty for several days.

[Paraphrase.] The British sloop *Daffodil* now is in Freetown, British Sierra Leone, within 24 hours' sail of Monrovia, and will stay there pending instructions from the British Chargé here. [End paraphrase.]

REBER

882.5048/321: Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

[Paraphrase]

WASHINGTON, October 22, 1930—5 p. m.

92. Department's 80 [90], October 18, 6 p.m.<sup>40</sup> A copy of the Commission's report was delivered by Dr. Johnson to the Department on October 21. This copy is being studied. You may, in your discretion, so inform President King.

<sup>40</sup> Not printed.



If the press raises the question, the Department will reply substantially as in the two sentences above. The Department will keep you informed.

STIMSON

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882.5048/323:Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, October 23, 1930—9 a. m.

[Received 2:30 p. m.]

148. My telegram No. 140, October 7, 10 a.m. I saw President King yesterday and took occasion to inquire whether he was prepared to forward the details of his plan of reform. He replied that he would first have to submit the program to the Legislature in his annual message—now scheduled for October 30th.

This decision to submit the program to the Legislature before its details shall have been determined upon would appear the result of the citizens' actions, and he seems uncertain regarding his ability to carry it out. It is to be feared that he may endeavor to modify it on the ground that the people are opposed to the extension of foreign influence. No further developments have taken place with regard to the citizens' petition and the display of force on the part of the Government seems to have calmed any disorderly elements. Faulkner arrived yesterday and the President seems somewhat disturbed as to the effect this will have upon the opposition who look to him as leader.

REBER

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882.5048/325:Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, October 30, 1930—6 p.m.

[Received October 31—3:35 p.m.]

152. In his message to Congress today President King made reference [to] the text of his note of September 30<sup>40a</sup> and the Department's reply<sup>40b</sup> stating that he would lay before the Legislature the text of the Commission's report and the details of this program of reform. He reviewed the work of the International Commission, adding that he felt that it had gone beyond the terms of reference in some of the suggestions and in certain instances had been influenced by his opponents. He mentioned the two proclamations already issued

<sup>40a</sup> See telegrams No. 133 and No. 134 of September 30, from the Chargé in Liberia, pp. 353 and 354.

<sup>40b</sup> See telegram No. 87, October 3, to the Chargé in Liberia, p. 357.

prohibiting slavery and shipment of recruited labor as evidence of his intention to reform conditions and announced that, in order to abolish forced labor for public works, contracts hereafter would be assigned to private construction companies.

He bitterly criticised the opposition for its destructive attitude during "this critical period" emphasizing the need for orderly and constitutional government in order that Liberia might retain its place among sovereign states and declared unfounded all rumors that a mandate had been proposed stating that his representatives in Europe had made inquiry of the governments interested and they had denied any such intentions.

The attitude of many present was not sympathetic but it appears to be felt that the message which at least promises reform answers in part charges of the Opposition and may strengthen the President's position.

REBER

882.5048/321:Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

WASHINGTON, November 3, 1930—3 p.m.

97. Department's telegram No. 92, October 22, 5 p.m. Unless you perceive controlling reasons why it should not be done at the present time (in which case you should report to the Department by telegraph, soliciting further instructions) you will please deliver the following note to the Liberian Government:

"Under telegraphic instructions from my Government, I have the honor to inform you that the Secretary of State has received from the American member of the International Commission of Inquiry into the Existence of Slavery and Forced Labor in Liberia a signed copy of the unanimous report which was recently submitted by that Commission to the Liberian Government.

The Government of the United States is profoundly shocked at this revelation of the existence in the Republic established in the name of human freedom of conditions not only in tragic contrast to the ideals of its founders, but in denial of the engagements entered into by the Republic of Liberia through its adherence to the International Slavery Convention of 1926. My Government fears that the forthcoming publication of this report will cause a revulsion of feeling throughout the civilized world against the Republic of Liberia, which international public opinion will hold responsible for the conditions and practices reported by the International Commission.

In view of the recent assurance of the Liberian Government 'that it accepts the recommendations and suggestions of the International Commission of Inquiry and agrees to adopt said recommendations' the Government of the United States is convinced that the Government of Liberia fully realizes that its prestige before the world will now depend upon the sincerity and effectiveness with which it puts

promptly into execution the reform measures to which it stands solemnly committed.

I avail myself et cetera."

On the day on which you formally transmit the foregoing note to the Liberian Secretary of State, you are instructed to seek an audience with President King and to give him an unsigned copy thereof. At that time the Department desires you to stress to the President the extreme concern with which this Government regards the existence of the conditions outlined in the report. You should emphasize that while this Government is gratified at the expression of willingness on the part of Liberia to comply with the recommendations of the International Commission, nothing short of complete reforms, sincerely achieved, can satisfy the world-wide demand for positive action which the publication of the report will undoubtedly cause.

The Department proposes to release for publication the summary of the findings and recommendations of the Commission, taken from the report itself, immediately upon the receipt of information that you have delivered the note. The full report will be published as soon as certain supplementary material which Dr. Johnson is now preparing, is completed. It may be several weeks before the full report can be printed.

STIMSON

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882.5048/329:Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, November 5, 1930—1 p.m.

[Received 8:42 p.m.]

153. Department's telegram No. 97. The note was delivered to the Liberian Secretary of State and a copy handed President King this morning.

The President appeared much disturbed over its contents and stated that not only had he already given assurances to the United States Government of his desire to effect reforms, but had also submitted the program to the Legislature for approval. I repeated to him my telegraphic instructions and emphasized that concrete results would appear the best evidence of the sincerity of the Liberian Government. He asked that the United States Government again be informed of his desire to do all within his power to improve the conditions described in the report and to restore the prestige of his Government, but implied that he would meet with opposition of many factions in the Legislature and might not be able to put into effect all suggested reforms. I again stressed the Department's views regarding the necessity for positive action and enforcement of

reform measures, expressing the hope that I should shortly be able to inform the Department of progress already made.

He promised that within a few days he would inform me of what actions had been taken and of further details of the program to be followed. I added that, in view of the forthcoming publication of the report when public opinion would be formulated, it seemed important to me that this information be in the hands of the United States Government before that time. In this he concurred.

[Paraphrase.] President King may be trying to make use of the expressed opposition of some Government members as well as of his opponents to appointing white commissioners and to removing hinterland restrictions as an excuse for any failure or unwillingness in carrying out all the reforms. However, evidence that he is sincere or able to carry out the reform program should be manifested shortly in the action taken as a result of the note from the Department. [End paraphrase.]

REBER

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882.00/859: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

[Paraphrase]

MONROVIA, November 12, 1930—noon.

[Received 5:20 p. m.]

155. I am reliably informed that a frontier force detachment of soldiers is pillaging natives along the Kru Coast. This action is alleged to be taken to compel the natives to pay their hut taxes, although, I am informed by the Supervisor of Internal Revenue, in many of these towns money has already been collected and is awaiting transmission.

These acts of soldiers recently sent to the coast are, it is feared, in retaliation against the paramount chiefs and other Kru representatives for their testimony before the International Commission (see my despatch No. 6, August 20<sup>41</sup>). Should this policy be continued, organized opposition on the part of the natives may be expected to follow, with the creation of a situation of virtual revolt, in regard to which other nations will find it difficult to refrain from taking action.

May I be authorized informally to inquire of President King concerning this reported incident and to express to him the extreme disfavor with which the Department would regard the adoption of such a policy?

REBER

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<sup>41</sup> Not printed.

882.00/859 : Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

[Paraphrase]

WASHINGTON, November 13, 1930—1 p. m.

100. Your 155, November 12, noon. Your proposed action is approved. President King's reply and attitude in this connection should be immediately reported.

The Liberian Consul General at Baltimore will be summoned on November 17 to the Department to be questioned by me respecting these reports. This is for your information and is not to be imparted to President King.

STIMSON

882.5048/321 : Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

WASHINGTON, November 14, 1930—6 p. m.

101. Last paragraph Department's telegram No. 97, November 3, 3 p.m. On account of delays incident to copying, proofreading, et cetera, the Liberian report will probably not be ready for release before December 15. In the circumstances the Department has decided not to publish the summary referred to, and has declined to comment on the summary from the official gazette which has appeared in various newspapers here.

STIMSON

882.00/860 : Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

[Paraphrase]

MONROVIA, November 14, 1930—7 p. m.

[Received November 15—11:45 a. m.]

157. Department's 100, November 13, 1 p.m. This afternoon I told President King that I had been instructed to inquire concerning the alleged depredations by soldiers in Kru coast towns. He seemed much disturbed by the inquiry, but he implied that the Krus were themselves responsible for this situation through their seditious acts, just brought to the Government's attention. He stated he was investigating the reports and, owing to the difficulty of receiving reliable information otherwise from the Kru region, he proposed sending by the first steamer available an investigating commission headed by his aide-de-camp, Colonel McLean, and a Kru tribe member. I emphasized the unfortunate impression which would be created should the actions of soldiers cause a native upris-

ing and the extreme disfavor with which any reprisals against the natives would be regarded, and I expressed the hope of punishment for persons who were responsible for the acts of the soldiers. President King promised to inform me regarding the results of his investigations.

The earlier reports have been substantiated by further evidence, and now I await information concerning the more recent developments.

REBER

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882.5048/346: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, November 15, 1930—9 a. m.

[Received 2:25 p. m.]

158. The President spoke to me yesterday in regard to the publication of the Commission's report, stating that he desired to register the objection of the Liberian Government to its release in full. The report, he continued, has been submitted to the Liberian Government by a commission appointed by it and as such he thought should not be made public save by his Government although he had no objection to its being communicated to the other governments interested. It is doubtful whether he intends to publish the full text here.

I took occasion again to refer to the reform program and to the Department's desire to learn details thereof. The President replied that he had submitted for the approval of the Legislature a resolution authorizing him to carry out the program and was awaiting a reply.

REBER

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882.5048/347: Telegram

*The Department of State to the Liberian Consulate General at Baltimore*<sup>42</sup>

MEMORANDUM

The establishment of the International Commission of Inquiry into the Existence of Slavery and Forced Labor was agreed upon with extreme reluctance by the Liberian Government. The Liberian Government consistently denied, both before and during the investigation, that either slavery or forced labor existed in the Republic.

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<sup>42</sup> Handed by the Secretary of State to the Liberian Consul General (Lyon) at noon on November 17, 1930.

The Commission, comprising one American member, one member nominated by the League of Nations, and one member appointed by Liberia, began its work in April of this year. It submitted its unanimous report to the Liberian Government on September 8, 1930. The American member delivered a signed copy to the Department of State on October 21, 1930.

This report is a shocking indictment of the Liberian Government's policy of suppression of the natives,—permitted, if not actually indulged in, by nearly all the high officials of Liberia, including the Vice President of the Republic. The conclusions are drawn from over two hundred and sixty depositions. Many suspicious criminal practices and even torture are cited.

While direct criminal participation in the shipment of forced labor to the Spanish colony of Fernando Po, under conditions characterized by the report as "scarcely distinguishable from slave raiding and slave trading," is established against Vice President Yancy, several district commissioners, county superintendents and many other officials, the President of Liberia and members of his cabinet were aware of these and other abuses, having received recorded complaints from the natives. High officials of the Liberian Government made use on their private farms of forced labor, often brutally and ruthlessly impressed under the guise of Government work. The report establishes the existence of domestic and tribal slavery, as well as "pawning" of natives.

Since the submission of the report on September 8, 1930, the Government of Liberia has made numerous promises of reform, but, in so far as the American Government is aware, the Government of Liberia has failed to submit definite plans for their execution. The Department of State is informed that a Cabinet committee was appointed to examine the report, but that its recommendations comprised a series of only partial reforms, without measures for carrying them out. Subsequently, two Executive Proclamations were issued,—one forbidding the further exportation of Laborers, and the other declaring domestic servitude and "pawning" illegal. Neither carried adequate sanctions. With respect to the latter, the American Government points out that slavery has always been "illegal" in Liberia, having been expressly forbidden by the Constitution of 1847.

On September 30, 1930, the President of Liberia informed the American Government that the Liberian Government "accepted the recommendations of the International Commission" and agreed to carry them out. In its reply of October 3, the American Government stated that when the details of the reform program were received, the American Government would study them with a view to rendering assistance. Although the American Chargé d'Affaires

ad interim has made frequent inquiries, no such details have as yet been received from the Government of Liberia.

Ten weeks have now elapsed since the formal submission of the report to the Liberian Government. The American Government understands that not only has no action been taken against the officials whose guilt was established therein, but apparently all of these officials continue to hold public office.

It was brought to the attention of the American Government, during the course of the investigation, that the Government of Liberia was endeavoring through threats and intimidation to prevent the submission of testimony. The natives of Liberia came forward, nevertheless, and made their depositions before the members of the International Commission. It has now been reported that, instead of correcting its abuses the Government of Liberia has encouraged measures of retaliation against these helpless people.

Should this be true, the American Government is convinced that it will irreparably damage the good name of Liberia, and that it will banish from the world its belief in the sincerity of Liberia's intentions to institute reforms. International public opinion will no longer tolerate those twin scourges of slavery and forced labor. Unless they are abolished, and unless there is instituted by the Liberian Government a comprehensive system of reforms, loyally and sincerely put into effect, it will result in the final alienation of the friendly feelings which the American Government and people have entertained for Liberia since its establishment nearly a century ago.

WASHINGTON, November 17, 1930.

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882.5048/346 : Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

WASHINGTON, November 17, 1930—2 p. m.

102. Your telegram No. 158, November 15, 9 a. m. You may inform President King in reply that this Government regrets that it is unable to agree with his attitude regarding the publication of the report.

This Government is sure that he will readily understand that anything which might be construed by the nations parties to the International Slavery Convention of 1926 as an effort to suppress the unanimous findings of the International Commission which contained one Liberian member appointed by the President himself, could not fail to prejudice their confidence in the intentions of Liberia to institute reforms.

STIMSON



882.5048/347 : Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

WASHINGTON, November 17, 1930—3 p. m.

103. Department's telegram No. 100, November 13, 1 p. m. I received the Liberian Consul General at noon today and handed him a memorandum which I requested he communicate without delay to the President of Liberia.

[Here follow summary and extracts from the memorandum, printed on page 369.]

Should President King question you with regard to the memorandum, I believe it would be desirable to make no comment other than the statement that you had been informed of its delivery by your Government.

STIMSON

882.00/861: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, November 18, 1930—11 a. m.

[Received 5:25 p. m.]

160. [Paraphrase.] This morning there called at the Legation a delegation of the Kru peoples, headed by paramount chiefs, from the coast to confirm the recent reports that frontier force soldiers had pillaged and destroyed their villages and to express their hope of aid from the United States Government against the oppression of the Liberians whose Government not only has failed to protect them but, under the guise of other charges, is punishing them because of the information they gave to the International Commission.

I was at the same time presented with a petition signed by more than 1300 [900?] paramount chiefs, chiefs and headmen of the Kru and other native tribes, who requested it be rushed to the United States Government "with the prayer that our appeal for aid in succor in this hour of great need will be heard and acted upon".<sup>43</sup> Reference is made in the petition to promises of protection which the natives received from the early colonization societies and which were repeated at its foundation by the Liberian Government, and the petition alleges these pledges never were kept and the Liberian Government is charged with cruelty, oppression, and the denial of the rights of the natives in Liberia. It concludes with the appeal: [End paraphrase.]

"Therefore we prayerfully petition the Government and people of the United States of America to use its good offices and influence

<sup>43</sup> Quotation not paraphrased.

towards the institution immediately of the reforms in Liberia recommended by the International Commission of Inquiry and thus bring relief to a million or more African native people who have suffered oppression and injustice for many years.”

The chiefs desire the names of the signers be always kept in strictest confidence as otherwise they feared retaliation on the part of the Liberian Government. The original of the petition follows by mail.<sup>44</sup>

REBER

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882.5048/356

*The Liberian Consul General at Baltimore (Lyon) to the Secretary of State*

BALTIMORE, November 20, 1930.

The Liberian Consul General presents his compliments to His Excellency the Secretary of the American Government and begs him to accept his grateful consideration for his deep interest and concern for the Government and people of Liberia as expressed in the interview of the 17th instant. He feels confident that the Liberian authorities, upon the receipt of his dispatch, bearing upon the subject referred to, will take immediate steps to put into execution such reforms as are suggested and agreed upon by the International Commission, and by so doing continue to merit, the respect and confidence of the American Government, always its great and good friend.

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882.5048/357a

*The Secretary of State to the American Member of the International Commission of Inquiry (Johnson)*

WASHINGTON, November 22, 1930.

MY DEAR DR. JOHNSON: On the occasion of the termination of your services as American member of the International Commission of Inquiry into the Existence of Slavery and Forced Labor in Liberia I desire to express to you my appreciation for your valuable and unselfish contribution to the achievements of that body. I am hopeful that the findings and recommendations formulated as a result of the Inquiry may lead to an improvement in the conditions of the Liberian people, and that they will prove of enduring benefit to the country itself.

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<sup>44</sup> In despatch Diplomatic No. 49, December 10, 1930 (not printed); received January 5, 1931 (882.00/868).

At the same time, I acknowledge the receipt of the signed copy of the unanimous report of the International Commission, delivered to the Department of State on October 21, 1930, as well as of the supplementary documents, memoranda, et cetera, enumerated below.

I am [etc.]

HENRY L. STIMSON

Documents:<sup>45</sup>

1. Index to the report of the International Commission;
2. Two bound volumes, each with index, comprising the testimony taken by the International Commission;
3. A book of photographs;
4. A supplementary report and memorandum, with enclosures, dated October 1, 1930, made by the American Member and addressed to the Assistant Secretary of State;
5. A map indicating the various tribal areas of Liberia;
6. Miscellaneous notes, Liberian publications, memoranda, et cetera, bearing on the above subjects.

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882.5048/360: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

[Paraphrase]

MONROVIA, November 22, 1930—noon.

[Received 5:20 p. m.]

162. Department's 100 [103], November 17, 3 p.m. It is certain, from a conversation today with President King, that he has not received a copy of the memorandum of November 17 delivered by the Secretary to the Liberian Consul General. As Lyon's funds are very limited, it is believed probable that he is forwarding his report and the memorandum by mail.

Since the President's constant excuse for lack of progress is on the ground that the reform program is being blocked by the Legislature, it might be helpful to authorize me to hand a copy of the Secretary's memorandum to President King. He tells me that the Legislature desires now to effect the reform program by separate enactments which cover each point rather than by resolution, as mentioned in my 158, November 15, 9 a.m. Further delay will thereby be caused.

I continue stressing the concern felt over the existing conditions found by the Commission, emphasizing the importance of sincere reforms and pointing out the President's failure to inform the United

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<sup>45</sup> Of the documents listed, only the index to the report of the International Commission is printed in Department of State, *Report of International Commission of Inquiry Into the Existence of Slavery and Forced Labor in Liberia*.

States of the details of his improvement plan. President King intimated that he would like me to give him a written expression of these views. I responded that I considered my Government's views had already been set forth by the note recently handed him by me and by the memorandum delivered to his representative in the United States. I made no other comment regarding the memorandum, but President King appeared to be surprised to hear of it.

REBER

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882.5048/360a: Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

[Paraphrase]

WASHINGTON, November 24, 1930—1 p. m.

106. Your 162, November 22, noon. The information contained in Department's 100, November 13, 1 p. m., you may give to President King and tell him that he will receive through the Liberian Consul General at Baltimore the full text of the memorandum of November 17. A copy has been forwarded to you also.

STIMSON

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882.5048/361: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, November 27, 1930—2 p. m.

[Received 5:30 p. m.]

164. A committee formed by the Legislature to consider the recommendations made by the Commission is reported to have determined to ask for the President's resignation, alleging that he has exceeded his authority in accepting the report and its suggestions. If he does not do so by tomorrow it is further said that the Legislature will consider motion of impeachment and the President has told Loomis to inform Fiscal Agents he believes it will be approved.

Whether these reports are being circulated to provide the President with an excuse for further delay or whether he may be forced to resign cannot yet be determined, but it is apparent that every effort is being made to block progress on the reform program since the majority of Liberians (but not the natives) oppose it. Should the President be forced out of office, the established order of succession provides first that the Vice President and then the Secretary of State shall assume the Presidency. Both of these men are opposed to the reforms and the latter is notoriously anti-foreign.

The President seemed much disturbed over the situation when I saw him with regard to Department's telegram No. 106 and said

that he would instruct Lyon either to telegraph the text of the memorandum or to request the Department to forward it through the Legation so that he could present it to the Legislature.

As far as I have been able to ascertain this has not yet been done.

REBER

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882.5048/362:Telegram

*The Acting Secretary of State to the Chargé in Liberia (Reber)*

WASHINGTON, November 29, 1930—11 a. m.

107. Your 162, November 22, noon. Department has received request from the Liberian Consul General <sup>46</sup> under instructions from his Government for the Department to transmit the memorandum which the Secretary of State delivered to him November 17. The following is the text of the memorandum:

[Here follows text of the memorandum, printed on page 369.]

COTTON

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882.5048/363:Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, November 29, 1930—noon.

[Received 4 p. m.]

165. Legislative session yesterday was devoted to attacks upon the President for his acceptance of the Commission's report and expression of determination to repudiate his note to the United States Government and his promises of reform. Sessions were then adjourned until December 2nd to await the report of the committee which it is understood will recommend impeachment, see my telegram 164. It is reported that considerable pressure is being brought on the President either to resign before impeachment or to repudiate his reform program.

It appears to be the belief of the Legislature and an organization recently formed to combat the reform program that they will then be permitted to evolve their own plan of improvement and to disregard Commission's report, particularly the suggestion calling for the appointment of foreign commissioners and opening of the hinterland.

[Paraphrase.] The President states that under these circumstances he is powerless to insist upon his reform program being executed. Even though he remain in office, the prospects for a successful termination of his program now appear improbable without further demands and pressure from outside sources. No evidence exists that

<sup>46</sup> Not printed.

the situation can be controlled by the opposition leaders, and uniting the various factions under one man will be difficult. The only points of union at present seem to be opposition to the Commission's report and the anti-white sentiment. [End paraphrase.]

REBER

882.5048/365

*Memorandum by the Chief of the Division of Western European Affairs  
(Marriner)*

[WASHINGTON,] November 29, 1930.

The British Ambassador called to say that his Government was interested to know if they could cooperate in any way in the very bad condition in Liberia, as his Government had been informed that the Liberian Frontier Force was at present wreaking vengeance on natives who had testified before the Slavery Commission.

I told him that the Secretary of State had an interview with the Liberian Consul General on the 17th and read him the text of the memorandum. I told him that this text had been forwarded to Liberia only this morning and that we would welcome any added pressure for the enactment of the program of reform suggested by the Slavery Commission and the setting up of suitable machinery to carry them out. I told him that we had arranged to make a publication of the report simultaneous with that of the League of Nations on January 10th.

He said that the whole condition was shocking and that his Government was anxious to cooperate. He presumed, of course, that the matter would come before the Council of the League at its next meeting and wondered what could be done and what part we could take in any action which the Council might propose. I told him that, of course, we could take no part in an action by the Council as such, but that if informed of its action we would be ready to act along parallel lines.

J. T[HEODORE] M[ARRINER]

882.5048/363a:Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

WASHINGTON, December 1, 1930—5 p. m.

108. The British Ambassador called on November 29 and stated that his Government was concerned over the present situation in Liberia and desired to cooperate. He was informed that this Government naturally welcomed added pressure by the British Government in favor of the execution of Liberian reforms. The Ambassador

was shown a copy of the Secretary's memorandum of November 17, the full text of which has just been transmitted to you by cable, and also informed that this Government had recently agreed to the League's suggestion that publication of the report of the International Commission be made simultaneously in Washington and Geneva on January 10, next.

You may inform your British colleague and, if you deem it necessary, discuss the situation along the lines of paragraph one of your telegram No. 144, October 16, noon, and the Department's reply No. 89, October 17, 7 p.m.

STIMSON

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882.5048/364 : Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, December 2, 1930—9 p. m.

[Received December 3—9:05 a. m.]

168. My telegram No. 165, November 29, noon. The committee of the Legislature submitted its report today recommending that the President be asked to resign, that the Vice President be impeached and prosecuted, that the cases of Senators mentioned in the report of the International Commission be referred to the Senate for action, and that two representatives and three district commissioners be removed from office and prosecuted.

The Vice President resigned this afternoon and I am informed that the President will also resign this week, in which case it is believed Barclay will be appointed although there seems to be growing opposition to this. It is doubtful whether he can long retain control of the different factions and remain in office. Anti-foreign sentiment continues to be spread by speeches and propaganda with opposition specifically manifested toward the Commission's recommendations and the influence of the loan officials.

REBER

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882.001/54 : Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, December 3, 1930—2 p. m.

[Received 3:15 p. m.]

169. President King has just informed me that he will resign this afternoon at 3 o'clock. Edwin Barclay, the Secretary of State and lawful successor, will assume the Presidency.

President added that he was compelled to resign on account of the opposition to his reform program and made no further comment on the Secretary's memorandum.

Barclay is openly anti-white and opposed to the International Commission's recommendations. I shall await instructions before calling upon the new President.

REBER

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882.001/54: Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

WASHINGTON, December 3, 1930—5 p. m.

109. Your telegrams 168 and 169. Until the receipt of further instructions do not address new officials by title. The Department does not wish to restrict your informal dealings but desires to consider the constitutionality of the change of Government. Please inform the Department with reference thereto.

STIMSON

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882.001/55: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, December 4, 1930—noon.

[Received 4:25 p. m.]

171. Department's telegram No. 109, December 3, 5 p. m. The Constitution, article 3, section 2, states that the Legislature may provide for cases of resignation of both President and Vice President declaring what officer shall act as President. Section 971, Revised Statutes, further provides that in such an event the Secretary of State shall discharge the duties of President until the disability be removed or an election held.

The President's resignation was accepted by both Houses yesterday and Barclay declared his lawful successor. No announcements of the latter's program or new cabinet have yet been made.

REBER

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882.00/862: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

[Paraphrase]

MONROVIA, December 4, 1930—2 p. m.

[Received 4:42 p. m.]

172. President King presented the Legislature with a copy of the Secretary's memorandum of November 17, together with his



own resignation. The memorandum was not read, but subsequently it was circulated among the legislators, among whom it reportedly caused considerable uneasiness, and may weaken the position of Edwin Barclay.

The strength of Barclay is derived largely from his opposition to foreigners and to the suggested reforms, and it appears probable he will try to modify the reforms by further promises of partial reforms. At the present time it would seem important to insist upon a declaration by the new Government of its policy toward President King's acceptance of the Commission's report and toward his request for United States aid and then to exert additional pressure regarding the reform program, the punishment of guilty officials, and a full investigation by the Government of the recent Kru coast disturbances.

Whether Barclay is able to control the situation for long may be doubted, and his administration, it is feared, may cause more chaos in the ordinary conduct of duties and obligations by the Government.

REBER

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882.5048/367: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, December 5, 1930—3 p. m.

[Received December 6—10:25 a. m.]

173. I have just received from the Liberian Acting Secretary of State, Coleman, a reply to the Secretary's memorandum recently delivered to this Government. [Here follow summary and extracts from the note printed on page 382.]

The full text of the note follows by mail. The memorandum was delivered prior to the President's resignation.

REBER

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882.001/55: Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

WASHINGTON, December 5, 1930—4 p. m.

110. Your telegrams No. 171 and No. 172. Unless you have already received an official communication informing you of a change in Government you should address a note to Mr. Edwin Barclay, Secretary of State, stating that your Government, which is considering the course of its future relations with the Republic of Liberia, desires to be officially informed upon the following points:

1. Did the Vice President resign prior to the resignation of the President? To whom was the resignation of the Vice President addressed and when and by whom was it accepted?

2. Prior to his own resignation, did President King call a national election to fill the vacancy created by the resignation of the Vice President, as provided for by amendment of May 1907 to Article 3, section 2 of the Constitution?

3. To whom was the resignation of President King addressed and when and by whom was it accepted?

4. Was a law passed by the legislature naming a successor to President King? If so, did it establish his successor as provisional President or as Acting President? By whom was such a law signed in order to become effective?

5. What steps have been taken or are contemplated to provide for the election of a new President as provided for by Section 971 Revised Statutes?

Should you have been informed officially of a change of Government, you should, without acknowledging or making reference to such communication, request any information not already covered. In this connection you should address the official who is acting as the Secretary of State, addressing him by name but not by title. If no such official appears to have been named, you may address "Mr. Edwin Barclay" without title.

STIMSON

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882.001/56a:Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

[Paraphrase]

WASHINGTON, December 5, 1930—5 p. m.

111. Department's 110, December 5, 4 p.m. Before I consent to the conduct of relations with the new Liberian Government, I wish to establish the fact that a legal head of the Government is in existence. Should you meet Edwin Barclay, you may quite informally intimate your belief that the United States Government would be more disposed to acceptance of the present situation were it promptly to receive a declaration to the effect that President King's successor accepted the International Commission's report, intended carrying it out in full, and forthwith would create the necessary machinery to execute it; that those whose guilt the report established will be disqualified from office and punished for their offenses; and that the recently reported outrages against persons who testified for the International Commission will be fully investigated.

If you are not likely to meet Barclay, you may convey this information, in your discretion, by means of a reliable third person, such as the Financial Adviser, John Loomis.

STIMSON

882.00/869

*The Liberian Acting Secretary of State (Coleman) to the American Chargé in Liberia (Reber)*<sup>47</sup>

No. 663/D

MONROVIA, December 5, 1930.

MR. CHARGÉ D'AFFAIRES: I have the honour to acknowledge receipt of your despatch of the 3rd instant together with its enclosure—a memorandum handed by the Secretary of State of the United States of America to the Liberian Consul General in Baltimore on November seventeenth, which however, was not received at this Capital until you were kind enough to transmit same on the date herein above mentioned.

2. I wish in the first instance, to record the profound appreciation of the Government of Liberia for the frank tenor of said document and the friendly interest which your Government continues to manifest in the welfare of this Republic. Permit me in the meantime to call attention to certain statements contained in your Government's memorandum which would appear to be inexact. I refer for the moment particularly to the leading paragraph in which it is asserted that "the establishment of the International Commission of Enquiry into the existence of slavery and forced labour was agreed upon with extreme reluctance by the Liberian Government."

3. Perhaps you will recall that the idea of a Commission to examine into the alleged existence in Liberia of slavery and forced labour was spontaneously suggested to my Government and is contained in this Department's Note No. 297/D dated June 11, 1929.<sup>48</sup> The Government of Liberia is not therefore prepared to concede that the establishment of said Commission was agreed upon with extreme reluctance by them.

4. With reference to the observations contained in paragraphs 6th and 7th respectively of your memorandum

"Two months have now elapsed since the formal submission of the report to the Liberian Government. The American Government understands that not only has no action been taken against the officials whose guilt was established therein but apparently all of these officials continue to hold public office.

It was brought to the attention of the American Government during the course of the investigation that the Government of Liberia was endeavouring through threats and intimidation to prevent the submission of testimony. The natives of Liberia came forward nevertheless and made their deposition before the members of the International Commission. It has now been reported that instead

<sup>47</sup> Copy transmitted to the Department by the Chargé in Liberia in despatch Diplomatic No. 52, December 12, 1930; received January 5, 1931.

<sup>48</sup> See telegram No. 18, June 13, 1929, 9 p.m., from the Minister in Liberia, *Foreign Relations*, 1929, vol. III, p. 277.

of correcting its abuses the Government of Liberia has encouraged measures of retaliation against these helpless people.”

I desire to point out, that it was felt that any plan or mode of procedure decided upon could not be carried into effect without having first been laid before and approved by the National Legislature which was due to assemble within six weeks after the report had been submitted to the Executive Government. This was accordingly done and a committee of the House of Representatives which carefully scrutinized and considered the facts alleged in said report, has made a partial report the acceptance of which by the House itself has led to the expulsion on the second instant of some of its members, who appear from the Report to be involved in the charges and the acceptance of the resignation of the Vice President Allen N. Yancy who was about to be impeached. Moreover, under pressure of public opinion at the revelations therein contained the said Committee suggested, and His Excellency President King in accordance with their suggestions has tendered his resignation and retired to private life. The District Commissioners have also been dismissed; all of which took place before the receipt of your memorandum.

5. Arrangements have been made and witnesses are being collected with a view to institute prosecutions against all persons who by the report of said Commission would appear to be criminally liable under the existing laws of this Republic. In addition to this a more detailed programme of reforms is already being carefully worked out, further particulars of which will be submitted to you in a few days.

6. My Government desires to express in advance the hearty appreciation of the measures of support and cooperation which your Government have been good enough to promise.

I have [etc.]

S. DAVID COLEMAN

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882.5048/367: Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

[Paraphrase]

WASHINGTON, December 8, 1930—noon.

112. Your No. 173, December 5, 3 p.m. The Department does not feel that the considerations set forth in the Department's No. 111, December 5, 5 p. m., second sentence, are met by the Liberian reply, which evidently disregards the declaration already formally made in the Liberian Government's name by President King on September 30.

If this also is your opinion, you are authorized (in [the informal manner described in the Department's No. 111) to intimate as much to Edwin Barclay.

STIMSON

882.001 Barclay, Edwin/3a: Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

WASHINGTON, December 8, 1930—7 p. m.

114. Department's telegrams Nos. 110 and 111. The Department has just received a note, dated December 6, from Lyon, Liberian Consul General, informing it of the resignation of President and Vice President and that "Barclay was sworn in as President of the Republic in accordance with the Constitution of the Republic on the third instant."

[Paraphrase.] For the present no acknowledgment will be made. [End paraphrase.]

STIMSON

882.001/58 : Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, December 10, 1930—noon

[Received 5:11 p.m.<sup>49</sup>

174. Department's telegrams Nos. 110, 111, and 112. In its official notification of the change of government, the Liberian Department of State informed me Barclay was sworn in as Constitutional President. It has today replied to my recent inquiry stating:

"(1) The resignation of the Vice President was presented to the Legislature on the 2nd instant. It was addressed to the Honorable the Senate and House of Representatives in session. It was accepted by the Senate and House of Representatives on the 2nd instant.

(2) President King did not call a national election to fill the vacancy created by the resignation of the Vice President, as his own resignation followed the next day.

(3) President King's resignation was addressed to the Honorable the Senate and House of Representatives of Liberia in Legislature assembled. It was received and accepted on the 3rd instant by both Houses in joint convention.

(4) No law was passed by the Legislature naming a successor to President King as the agreement [*act of*] the Legislature passed 1901 in accordance with the provision of the Liberian Constitution, and which from that time to the present has been the law followed in such

<sup>49</sup> Telegram in two sections.

exigencies, provides what official shall succeed to the office of President in the event of resignation of both the President and Vice President.

(5) Under section 971 of the Revised Statutes referred to, arrangements are being made for the election of a President and Vice President for the Republic which is due to take place on the second Tuesday in May ensuing."

Election referred to is the regular quadrennial one for President.

[Paraphrase.] In view of the United States Government's position, the British Chargé here has requested instructions before he takes any step recognizing the new Liberian Government.

There has been no response by the new Government to my intimations with regard to the advisability of a declaration by it of its policy and intentions or to the inadequacy of its communication recently, though Barclay, I am informed, was considerably disturbed by them and is hastening to effect some of the suggested minor reforms. He is endeavoring also to settle differences with the Finance Corporation.

For the moment the opposition to Barclay appears to be relatively quiet, but his position as a leader of the anti-white element may be weakened if he is forced, as a result of foreign pressure, to adopt unpopular reform measures. [End paraphrase.]

REBER

882.01/11

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*Memorandum by the Secretary of State of an Interview With Mr. Harvey S. Firestone of Akron, Ohio*

[Extracts]

[WASHINGTON,] December 10, 1930.

Then Mr. Firestone said he had put into Liberia seven millions of investment, besides about two million dollars in a loan to the Liberian Government out of a possible loan of two million, five hundred thousand; so that he had invested already nine millions in Liberia. I interrupted to tell him that I had always heard good things about his labor policy in Liberia, and that no criticism had been made of his company. He said, no; that they had been getting on first rate with their labor; that they paid them off in cash and left them free to spend their money wherever they chose. He then told me how bad the situation was; . . . Mr. Firestone ended up by saying that the Liberian people were unable to handle their own affairs; that they must be controlled; that they were sinking down and down and there was nothing but anarchy ahead of them. He said the responsibility was always recognized to be ours and the time would probably come when Barclay would make a proposal of compromise and he hoped we would not accept it. I said I should not be in favor

of accepting any compromise that did not have as its condition absolute authority commensurate with the responsibility, but I told him frankly I saw no likelihood of the American Government being willing to assume responsibility in Liberia, across the Atlantic; that I thought that would have to be eventually handled by the League of Nations with such advice or help as we can give them, whatever that might be.

H[ENRY] L. S[TIMSON]

882.01/12 : Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

[Paraphrase]

MONROVIA, December 13, 1930—10 p. m.

[Received December 15—8:10 a. m.]

175. A law has been approved by the Liberian Senate, and referred to the House, to authorize the President's engagement of two Americans or Europeans of "certified experience in the administration of tropical territories" who shall serve as hinterland commissioners to supervise and to direct the hinterland administration. Authority is given the President to prescribe their jurisdictional limits. They are to submit within six months a report with recommendations for reorganization of the hinterland administration.

The President is understood to propose dividing the interior into two districts, retaining for the coast the present system of county superintendents.

This law apparently does not satisfactorily carry out the International Commission's recommendations or provide an adequate system of administration for the hinterland. Merely the extent of the area to be governed will make it impossible for two men to supervise its control effectively; they will be obliged to rely upon Liberian subordinates of character similar to the former district commissioners and they will be held responsible for their subordinates' maladministration.

This act, it would seem and some Liberian officials so admit it, is only a subterfuge on the Government's part to enable it to point to the progress made, and this would indicate its desire to effect merely partial and unsatisfactory reforms. Already I have intimated that measures such as this can be regarded abroad only most unfavorably.

According to reliable information, the present Liberian administration wishes to produce other measures of this type before its program is submitted to the United States Government early next week, and a law has also been passed by the Senate to open up certain interior regions to trade.

REBER

882.5048/414

*The Liberian Acting Secretary of State (Coleman) to the American Chargé in Liberia (Reber)*<sup>50</sup>

[No.] 635/D

MONROVIA, December 18, 1930.

MR. CHARGÉ D'AFFAIRES: The Legislature of Liberia having authorized the reorganization of the Hinterland Administration of Liberia, this Government is desirous of availing themselves of the offer of assistance so generously made by your Government in the memorandum which you had occasion to submit to the Department on the 3rd instant.

I should, therefore, be infinitely obliged to you if you would be good enough to transmit to your Government the request of the Government of Liberia that two persons of American nationality of proved experience in the administration of tropical territories and peoples be nominated by your Government for service as Commissioners in the Liberian Hinterland Administration.

The nominees who will be appointed when they arrive in Liberia, will immediately be charged with the reorganization, supervision and direction of the Hinterland Administration, and in the performance of their duties will be responsible to the President direct.

The salary which this Government now find themselves able to offer cannot exceed the sum of Four Thousand dollars per annum exclusive however of allowances.

I have [etc.]

S. DAVID COLEMAN

882.01/14: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, December 18, 1930—9 p. m.

[Received December 19—4:09 p. m.]

177. I have today received the following from the Acting Secretary of State:

[Here follows text of the note printed *supra*.]

[Paraphrase.] For the reasons given in my 175, December 13, 10 p. m., it appears to be important to appoint the five commissioners who were recommended by the International Commission's report. The one modification which might seem justified is former President King's suggestion to name two of them first and for them to submit a report before the others arrive in Liberia; however, this suggestion should not be brought forward until conclusion of a definite understanding based upon a legislative act providing for appointment of all five commissioners.

<sup>50</sup> Copy transmitted to the Department by the Chargé in Liberia in despatch Diplomatic No. 60, January 9, 1931; received January 30.



It has been intimated to me that Edwin Barclay unofficially wishes to discuss with me his program prior to submitting it to the United States Government, and I have let it be known that I should gladly do this on a purely informal basis. If this meeting occurs, perhaps early next week, again I shall refer to the requested policy declaration and emphasize as previously the importance of sincerely executing a program of complete reforms. [End paraphrase.]

REBER

882.01/14: Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

[Paraphrase]

WASHINGTON, December 20, 1930—3 p. m.

119. Your No. 177, December 18, 9 p. m. The Department's position having been outlined in its No. 111, December 5, 5 p. m., there is no reason for discussion with Liberia of partial compliance with the International Commission's recommendations. You are authorized to express this viewpoint in the informal manner you suggest in your No. 177, last paragraph.

There need be no formal acknowledgment of the Liberian communication.

STIMSON

882.01/15: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, December 22, 1930—9 a. m.

[Received 3:40 p. m.]

180. The act "permitting unrestricted trade in the hinterland," as approved, seems only partially to comply with the Commission's recommendations. Local merchants have expressed their dissatisfaction with it and state that under its provisions it will be difficult to engage in business without undue interference.

The act provides, *inter alia*, that the Secretary of the Interior is privileged to issue leases to cover one acre of public land; only in connection with Government grants will traders appear to be permitted to transport their own goods and under no circumstances will they be permitted to act as common carriers. Among other restrictions and under penalty of forfeiture of lease and loss of property traders shall refrain from molesting the natives in any way whatsoever. Such provision will be difficult of interpretation and provide unscrupulous officials with the means of hampering trade development and of discriminating against foreign firms. Moreover, local merchants state that one acre is insufficient for the establishment of stores or ware-

houses and that the period of twenty-one years with the option to renew only under terms then to be agreed upon does not provide ample security. In the act there is included no definition of the limits of the hinterland.

Full report by mail.

REBER

882.5048/375a

*The Secretary of State to the Minister in Switzerland (Wilson)*

No. 1204

WASHINGTON, December 23, 1930.

SIR: With reference to the investigation into slavery and forced labor recently concluded by an International Commission of Inquiry in Liberia, I am enclosing, for transmission to the Acting Secretary General of the League of Nations in the usual informal manner, a note with respect to the representations which I have already made to Liberia on this subject.<sup>51</sup>

It is requested that you inform the Department by cable upon the delivery of the above communication,<sup>52</sup> and that you also inform the Consulate at Geneva of this action in order that Mr. Gilbert may state informally, when occasion arises, that the American Government is making this information available in accordance with Article 4 of the International Slavery Convention of 1926.

Very truly yours,

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

882.5048/414

*The Liberian Acting Secretary of State (Coleman) to the American Chargé in Liberia (Reber)*<sup>53</sup>

[No.] 670/D

MONROVIA, December 23, 1930.

MR. CHARGÉ D'AFFAIRES: Replying further to the memorandum of your Government received at this Department on the 3rd instant, I have been instructed by my Government to confirm this Department's Note No. 663/D of the 5th instant in which it was pointed out that in conjunction with the measures already taken by my Government as intimated therein, a programme of the definite reforms contemplated as a means of convincing the International World of the Liberian Government's serious intentions and earnest desire, within the limits of its means, to carry out such social and administrative reforms as would remove the impressions unfortunately created by

<sup>51</sup> Enclosures printed in League of Nations document C.L.3.1931.VI (Geneva, January 9, 1931).

<sup>52</sup> Delivered January 8, 1931.

<sup>53</sup> Copy transmitted to the Department by the Chargé in Liberia in despatch Diplomatic No. 60, January 9, 1931; received January 30.

the report of the International Commission of Inquiry, to which end the Government sought Legislative approval for a programme of reform measures which was approved and is contained in the following Acts:

1. Reorganization of the Hinterland Administration and providing for the employment of foreign administrative officials.
2. An Act relating to Contract Labour recruited for service overseas.
3. An Act permitting unrestricted trade in the hinterland of Liberia, both to Citizens and Aliens alike.
4. An Act declaring pawning illegal.
5. An Act relating to Sanitation.
6. Investigations have been commenced in the Department of Justice for the purpose of collecting evidence to prosecute persons alleged in the report of the Commission to have committed breaches of the law.

In view of the very generous offer of assistance contained in your Government's memorandum; "that when the details of the reform programme were received the American Government would study them with a view to rendering assistance," my Government will greatly appreciate your communicating these facts to your Government towards the end of securing their cooperation.

Enclose please find two copies of the Acts above mentioned.<sup>54</sup>

I have [etc.]

S. DAVID COLEMAN

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892.5048/374: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, December 24, 1930—2 p. m.

[Received 11:20 p. m.]

181. The following note has today been received from the Acting Secretary:

[Here follows text of note of December 23, 1930, printed *supra*.]

[Paraphrase.] I have not seen Edwin Barclay yet, though I have learned today again that he desires to arrange a meeting following the holidays. I shall then point out to him the partial and unsatisfactory nature of these reforms and shall remind him that the United States Government's offer of assistance was predicated upon acceptance by the former Liberian Government of the Commission's report and upon that Government's assurances that the recommendations in the report would be effectively carried out.

The British Chargé also is informing this Government of his similar opinion as to the inadequacy of these reforms. [End paraphrase.]

REBER

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<sup>54</sup> Not printed.

882.5048/375: Telegram

*The Consul at Geneva (Gilbert) to the Secretary of State*

GENEVA, December 26, 1930—11 a. m.

[Received December 26—7:37 a. m.]

Consulate's December 18, 9 a. m.<sup>55</sup> Am informed that League has received formal note from British Government requesting that Liberian inquiry report be placed on the agenda of the next meeting of the Council. In order to be placed on the agenda, action is required by the Council at its first meeting. This action, however, is regarded as merely *pro forma*.

GILBERT

882.5048/374: Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

[Paraphrase]

WASHINGTON, December 27, 1930—2 p. m.

120. Your 181, December 24, 2 p. m. In my view, the Liberian note therein quoted changes in no way the Department's position (see my No. 119, December 20, 3 p. m., and previous). Do not make an acknowledgment.

STIMSON

882.01 Foreign Control/9

*Memorandum by Mr. Ellis O. Briggs, of the Division of Western European Affairs*<sup>56</sup>

[Extracts]

[WASHINGTON,] December 27, 1930.

As a result of the corruption and ineptitude of the Americo-Liberian governing minority, conditions in Liberia have now grown so serious,—and will shortly become so public,—that the American Government may be faced with a strong demand on the part of certain racial groups, philanthropic and religious organizations and others, in favor of positive action. It is the purpose of this memorandum to outline the principal elements in the present situation and to indicate briefly the course which the Department of State proposes to follow.

<sup>55</sup> Not printed.<sup>56</sup> This memorandum is initialed by Ellis O. Briggs, J. Theodore Marriner, Chief of the Division, and William R. Castle, Jr., Assistant Secretary of State.

An attached memorandum by the Secretary of State, dated January 3, 1931, reads: "I discussed this question with the President, who favors the third alternative outlined on page twelve: American participation in cooperation with other countries, on the basis of the precedent that there is American membership in the International Slavery Convention of 1926. H[ENRY] L. S[TIMSON]."

#### 4. Conclusion; Proposed Course of Action.

To bring about the reforms demanded at present, or any substantial part of them, is beyond the capacity or manifested desire of Liberian officials, but in the present temper of the world regarding slavery, forced labor and elementary measures of public health, it is doubtful whether the United States and other nations associated therewith in binding engagements in support of international social betterment, can longer remain indifferent to the corruption generated by the Liberian governing class and now about to be made public for the first time.

It follows that the achievement of Liberian reforms must depend upon the substitution of external for Liberian control.

Should the United States assume this responsibility alone, it would inevitably lead to active and long-continued participation in Africa which, while doubtless justified by many on philanthropic or racial grounds, could not fail to arouse the hostility of others as imperialism. The establishment of a virtual American colony in Africa might render the continued espousal of the Monroe Doctrine difficult to justify, and it would unquestionably arouse the suspicion of Europe and South America. Such a course would be contrary to American traditions and contrary to the real,—as contrasted with the sentimental or emotional,—best interests of the United States. No compensating gain, in profit or in prestige, would accrue to the United States if it took over Liberia.

It is proposed, therefore, to consider the present Liberian situation as an international question, and if necessary to cooperate, but not to accept exclusive responsibility, in its solution. The United States is a party to the International Slavery Convention of 1926 and it was partly in this connection that the recent inquiry by the International Commission was initiated. The United States has frequently communicated with the League of Nations on humanitarian and social subjects, and copies of its note and memorandum to Liberia of November, 1930, have already been made available to the other governments parties to the Slavery Convention, through the League of Nations.

Some form of international control for Liberia during the immediate future will probably be found necessary, and in this event, it is believed that the American Government should participate to the extent of representation upon such an international body. Since the United States would not desire to accept this responsibility itself, nor would American public opinion readily consent to seeing Liberia pass under the exclusive control of some foreign country or countries, the only

alternative appears to be joint international action. The United States can participate therein as a party to, and in accordance with, the International Slavery Convention of 1926.

*Summary.* The following alternatives therefore confront the United States:

(1) The United States itself to take over Liberia, assuming full responsibility therefor;

(2) Some other nation to take over Liberia on the above basis;

(3) The United States to cooperate with other nations in some form of joint international control for Liberia; American participation to be on the basis of membership in the International Slavery Convention of 1926.

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882.01 Foreign Control/6

*Memorandum by the Chief of the Division of Western European Affairs  
(Marriner)*

[WASHINGTON,] December 30, 1930.

The British Ambassador called to say that he had had a telegram from his Government requesting him to ascertain the views of this Government as to how far it could go in some kind of international control in Liberia. He said that the British Government were convinced that there was no hope in leaving the matter much longer to the sole control of the Liberians. He said that as the Council was meeting very soon in Geneva, the British Government were very anxious for our views on what cooperation we could extend so that they could present before the League something acceptable to us. His Government had mentioned in the telegram the possibility of a Commission of five, two to be appointed by the League of Nations, two by Liberia, and one by the United States.

I told him that before making any definite decision on this subject, the Secretary had been anxious to have a further talk with the President and possibly with Senator Borah<sup>58</sup> and that I would take the matter up with him at the earliest opportunity. Sir Ronald added that his Government thought that it might be wise for a suggestion for such control by a Commission to come from the Liberian Government itself, and I agreed with him that it would be the best method if possible.

J. T[HEODORE] M[ARRINER]

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<sup>58</sup> William E. Borah, of Idaho, chairman of the Senate Committee on *Foreign Relations*.

FINANCIAL DIFFICULTIES OF THE GOVERNMENT OF LIBERIA AND  
ITS ALLEGED FAILURE TO PERFORM ITS OBLIGATIONS UNDER  
THE LOAN AGREEMENT OF 1926

882.51/2089: Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

MONROVIA, April 10, 1930—5 p.m.

[Received April 11—8:10 p.m.]

48. On Tuesday <sup>59</sup> McCaskey <sup>60</sup> addressed the President of Liberia formally regarding the grave financial condition of the Government and the necessity for rigid and far-reaching measures of economy. According to McCaskey's figures, revenues had so fallen off that a deficit of over \$200,000 and perhaps as much as \$300,000 may be expected at the end of the year. Furthermore, at the present time only about one-half of the sum required to meet May 1st interest on bonds is available and it is not unlikely that the Liberian Government will be obliged to postpone this payment. The prospects for the payment of the November 1st interest and the amortization charges are even worse. Salaries in many departments are definitely in arrears, so much so that it is seriously proposed to pay off but 50 percent of these arrears at this time.

On Wednesday McCaskey was invited to discuss situation at a Cabinet meeting. As a result, the President intends to appoint commission to investigate various departments to determine what positions can be dispensed with and what economies can be effected by consolidations of various services and bureaus. Commission will probably consist of the American auditor and two others as yet not appointed.

[Paraphrase.] Concern is felt because 85 percent of Liberian expenditures go to salaries for positions filled strictly on a party basis, so that to vacate these great difficulty may be anticipated. Neither President King nor any of his Cabinet members seems willing to accept the onus of reducing salaries, though substantial economies can be effected only under the head of salaries. McCaskey informed me, in fact, that the apparent tendency at the Cabinet meeting was to ask him for a release of part of assigned revenues in order to meet salaries in arrears, rather than to face the fact that, if a deficit is to be avoided, future salary payments probably will have to be reduced to 65 percent.

Unless the Liberian Government takes rigorous measures, which I do not expect, I anticipate not only a default on interest but also a

<sup>59</sup> April 8, 1930.

<sup>60</sup> Charles I. McCaskey, Acting Financial Adviser.

serious paralysis here of responsible government, a condition which will be intensified by the probable discrediting of many high Government officials through the slavery inquiry.<sup>61</sup> This may tend to throw the Republic into a state likely to invite increasing intervention, and the United States Government, perhaps in a comparatively short time, may possibly have to consider the advisability of a temporary friendly intervention on Liberia's behalf in order to forestall European intervention, which probably would signify the end of Liberian independence.<sup>62</sup> [End paraphrase.]

CARTER

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882.51/2092: Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

MONROVIA, April 25, 1930—11 a. m.

[Received April 26—9:15 a. m.]

52. Legation's 48, April 10. King took occasion to call on me at my residence yesterday "to explain" financial situation. The Liberian Government is sending memorandum to the Fiscal Agents.<sup>63</sup> In speaking to him I stated as a matter of personal opinion that Fiscal Agents would be reluctant to extend further credit without some assurance that the Liberian Government was making serious effort. King said that he was appointing a committee to prune the Government offices consisting of McCaskey, ex-President Howard and Colonel Boyle (formerly of the frontier force). I said that the sooner the committee could get to work the better effect would be produced in America. King appeared to appreciate my voluntary advice and said that the committee would be in operation on Monday.<sup>64</sup>

[Paraphrase.] While King may mean what he said, I doubt if he gets effective support from his Cabinet members. The financial situation continues just as serious as—perhaps more serious than—reported in my 48. Liberia's only real safety, I fear, may lie in my suggestion of a temporary friendly intervention by the United States, but I do not feel justified to recommend it before the situation reaches a point at which the Liberian Government requests such intervention. [End paraphrase.]

CARTER

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<sup>61</sup> See pp. 336 ff.

<sup>62</sup> See also pp. 329 ff.

<sup>63</sup> The National City Bank of New York.

<sup>64</sup> April 28, 1930.



882.51/2093: Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

[Paraphrase]

MONROVIA, May 3, 1930—8 p. m.

[Received May 5—9:45 a. m.]

58. My 48, April 10, 5 p. m., and 52, April 25, 11 a. m. Secretary Barclay sent for me May 1 and discussed Liberia's serious financial condition much as President King had done. Barclay then handed to me a memorandum on the subject, signed by the Secretary of the Treasury, which is being sent the Fiscal Agents in America and which I was requested to transmit to the Department of State for its information. The memorandum in substance states that, owing to the present depression, the money left after meeting the 1926 loan charges will be insufficient to sustain the dollar on a workable basis. The memorandum specifically requests the Fiscal Agents' good offices to assist the Liberian Government in obtaining from the Bank of British West Africa enough funds (I understand the Government desires £40,000 sterling) to keep the Government running. (The bank has already declined to do this unless the Liberian Government pledges as collateral certain of its unassigned revenues; and the Acting Financial Adviser, McCaskey, feels that the Fiscal Agents, under the 1926 loan agreement,<sup>65</sup> already have a prior lien thereon. I understand that the bank is cognizant of McCaskey's point of view.) I informed Barclay of my willingness to transmit the memorandum, but said I was inclined to believe the matter would be regarded by the Department as one to be settled without its intervention between the Liberian Government and the Fiscal Agents.

I told Barclay what I had previously told King that the request for assistance would, in my opinion, receive a more sympathetic American welcome if it were accompanied by some such definite gesture as the Liberian Government's active support of the committee mentioned in my No. 52; and he appeared to appreciate my statement. The committee, in fact, has been formed and has begun its survey; but, as McCaskey and I opine, it is doubtful whether much practical effect will be given the committee's recommendations because of the many political and personal factors involved. It was hinted by Barclay rather obscurely, but quite definitely, in my view, that the Liberian Government would, in case the desired aid from the Fiscal Agents were not forthcoming, then seek assistance from certain extensive British and German interests (the United Fruit Company was also mentioned; see my 54, April 25, 3 p. m.<sup>66</sup>) which already had sought a

<sup>65</sup> *Foreign Relations*, 1926, vol. II, p. 574.

<sup>66</sup> Not printed.

Liberian foothold but had been turned down out of consideration for the United States. While this may be bluff, of course it is always a possibility.

I abstained from reminding Barclay that already the Liberian Government was late on the interest on the bonds for May and that on two occasions in the last few days the Liberian Secretary of the Treasury has openly taken action in clear violation of the 1926 loan agreement.

Should the Fiscal Agents decide on acceding to the Liberian Government's request, they would do well, pending such time when Liberian finances have been put in order and effective governmental reorganization has occurred, to insist upon American control to a degree well beyond that provided in the 1926 loan agreement. The Liberian Government would undoubtedly vigorously oppose this, but I do not see any other solution to a situation becoming daily worse and which easily may lead to chaotic social and political conditions. McCaskey and Ross, the Firestone general manager here, have expressed their full agreement with the above.

CARTER

882.51/2093: Telegram

*The Secretary of State to the Chargé in Liberia (Carter)*

[Paraphrase]

WASHINGTON, May 9, 1930—5 p.m.

48. Your 48, April 10, 5 p.m.; 52, April 25, 11 a.m., and 58, May 3, 8 p.m. The Department understands that payment has been made on the semi-annual interest due May 1 on the bonds and also that Liberia's salary expenditures amount to 46 rather than 85 percent of total expenditures. The cause of the present financial stringency is not stated in your telegrams. Since the loan's successive installments were earmarked, not for current expenditures, but for specific construction, sanitary, and floating debt purposes, the Department's assumption is that the withholding of the loan installment last April 1 is not responsible for the present situation. The Department wishes a very brief statement regarding the cause of this situation.

This Government has no intention whatsoever, as you, of course, are aware, of "intervening" in Liberia. As it is understood by the Department that the total foreign bonded indebtedness of Liberia is covered by the 1926 loan held in this country, and as the Department has no information that foreign lives and property in Liberia are in any danger, the Department does not understand on what facts your fear of foreign intervention is based.

The Department would gladly consider carefully any concrete suggestions which you may wish to make respecting informal advice for the Liberian Government in order to help it in the difficult situa-

tion at present. Upon receiving your recommendations, the Department will instruct you; and meanwhile you will not make any commitments nor express any views on this Government's behalf in regard to important developments in the internal affairs of Liberia.

STIMSON

882.51/2096:Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

[Paraphrase]

MONROVIA, May 12, 1930—noon.

[Received May 13—10:45 a.m.]

65. Department's 48, May 9, 5 p.m. A full report, together with the Liberian memorandum dated April 23, in despatch No. 55, May 11,<sup>67</sup> sent today by pouch.

(a) The figure 85 percent is confirmed by the office of the Financial Adviser. Neither interest on the loan nor payments from the loan money are included in "total expenditures".

(b) The principal causes of the present financial stringency are: (1) The curtailment of the Firestone operations and reduction of their expenditures due largely to the Government's labor policy and to the Fernando Po traffic; (2) the maladministration of the hinterland and the price control of the natives whose productivity is discouraged thereby; (3) the unwise financial policy of the Government, subordinated to political considerations which seem to preclude substantial economies or reductions; (4) the slump in the world price of exportable commodities and the general falling off of commerce and trade, thus materially reducing revenues. Withholding the loan money on April 1 was not an essential factor.

(c) My intervention references envisaged a possible intensifying of American control, including a financial dictatorship, a reform of government machinery, and a reorganization by American officials of the hinterland administration, thus approximating the 1921 loan plan<sup>68</sup> instead of forcible intervention. The initiative for adopting such a program would have to come from the Liberian Government in the form of a request for the good offices of the United States (see my 52, April 25, 11 a.m., last sentence). Consequently I have been careful to avoid making any commitments or statements which might be construed as reflecting the views of the United States Government.

(d) Danger from foreign intervention is not imminent; but it would be distinctly possible in the event of the Liberian Government's collapse unless the United States should then be prepared to take a firm stand and to undertake Liberia's rehabilitation.

CARTER

<sup>67</sup> Not printed.

<sup>68</sup> See *Foreign Relations*, 1921, vol. II, pp. 363 ff.

882.51/2098 : Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

[Paraphrase]

MONROVIA, May 15, 1930—2 p.m.

[Received May 16—10 a.m.]

66. My 65, May 12, noon, last sentence of paragraph (b). After consulting McCaskey and Ross, I am inclined to consider the Fiscal Agents mistaken in failing to forward the loan money on April 1. They had made a clear agreement to forward the said sum, and, although I appreciate their unwillingness to risk more good money, especially in view of the violations at present of the loan agreement, I do believe that their failure may be made the basis for a charge that they have endeavored purposely to embarrass Liberian finances now and in the approaching crisis. The withholding of this loan money (all of it earmarked) will result in the cessation of the present sanitary work <sup>69</sup> (except for the contribution by the Advisory Commission) and of the Booker T. Washington Institute and in the suspension of road and bridge construction, which, among other things, will cut off the Firestone Plantations from direct communication with this Capital during the rains just now setting in. Withholding this sum is not having any effect upon the Liberian Government's financial policy, since the sum will in no case be available for salary purposes. I suggest that the sum be at once made available to the Liberian Government for the completion of essential road and bridge construction and for the continuation of the sanitary and educational projects mentioned.

CARTER

882.51/2116

*The Finance Corporation of America at Cleveland to the Department of State*

CLEVELAND, June 24, 1930.

GENTLEMEN: We enclose to you herewith a copy of a communication dated June 14, 1930 from this company to the National City Bank, New York, Fiscal Agent under the Loan Agreement dated September 1, 1926, between the Government of the Republic of Liberia and this Company.

As the owner of bonds issued under the Loan Agreement we feel that the security of the bonds has been impaired by the failure of the Liberian Government to perform its obligations under the express and implied terms of the Agreement and by conduct on the part of the Liberian Government which might very properly be interpreted as

<sup>69</sup> See pp. 415 ff.

designed to obstruct or defeat the due and proper administration of the Loan.

We feel that unless these breaches are promptly corrected and adequate measures immediately taken to restore the administration of the Loan to its full effectiveness, it is not unreasonable to anticipate the coming about of such an unsatisfactory condition in the financial affairs of the Liberian Government as will result in an incapacity on its part at that time to perform its obligations under the Loan Agreement, a happening we feel sure the Liberian Government will be as anxious to avoid as we are.

We therefore respectfully request your aid in bringing about such action on the part of the Liberian Government as will restore the administration of the Loan to its full effectiveness according to the terms of the Agreement.

Respectfully submitted,

FINANCE CORPORATION OF AMERICA  
By WM. P. BELDEN  
*President*

[Enclosure]

*The Finance Corporation of America at Cleveland to the National City  
Bank of New York*

CLEVELAND, June 14, 1930.

Under date of March 4, 1930 you transmitted to us the request of the Liberian Government that we take up \$100,000 face value Liberian bonds on April 1, 1930. We replied on March 29 that we would take this request under advisement. As the owner of bonds of Liberia issued under the Loan Agreement dated September 1, 1926 between the Government of the Republic of Liberia and Finance Corporation of America, we have been seriously disturbed at the failure on the part of the Liberian Government to observe and carry into effect certain of the terms of such Agreement which vitally and detrimentally affects the security of the bonds, and unless adequate and appropriate measures are taken to restore the administration of the Loan to its full effectiveness according to the purposes and terms of the Loan Agreement, Finance Corporation regrets that it must continue to hold under advisement the Government's request for our acceptance of delivery of bonds.

We have observed that:

1. The Government has refused to make payment of the salaries of the employees of the revenue service, both customs and internal from funds available and due such employees, in violation of the express terms of Section 1 of Article XIII of the Loan Agreement, and has notified the Financial Adviser that it proposes to continue

to refuse to make such payments out of the specifically assigned revenues of the Government in priority to payment of salaries to other employees of the Government not entitled to such priority under the express terms of Article XIII of the Loan Agreement.

2. The Government has failed to issue a certain Executive Order in the form and manner requested by the Financial Adviser pursuant to authority given by Article XII, paragraph 1 of the Loan Agreement and necessary to carry into effect rules and regulations governing the operation of the Fiscal Service.

3. The Government has failed to formally designate a depository bank as provided in Article XVIII of the Loan Agreement.

4. The Secretary of State and the Secretary of the Treasury have failed to compel certain consular officers of the Government to submit an accounting of and pay consular fees into the treasury although their attention has been called to such delinquencies.

5. The Government has failed to diligently or effectively prosecute officers of the Fiscal Service for malfeasance in office, and has failed and refused to institute suit on the bonds of such officers to secure reimbursement of the financial loss so sustained by the Government in revenues specifically assigned to the service of the Loan.

6. The Secretary of the Treasury failed to prepare and submit to the Financial Adviser the budget at the time and in the manner as specifically required by the Loan Agreement, although the Government had been previously notified by the Financial Adviser of the time provided for such preparation and submission, thus delaying and hampering the administration of the Fiscal Service of the Loan.

7. The Liberian Government has denied the authority of nomination of an acting Financial Adviser by the President of the United States under the Loan Agreement.<sup>70</sup>

8. Upon remonstrance by American Supervisor of Customs against unlawful shipment of certain labor from Montserrado, the Secretary of the Treasury replied in writing approving and directing such action asserting that "the organic law of this country . . . gives the President the right to set aside or annul any existing acts of the Legislature. No subordinate administrative official in the President's administration can refuse to comply with his instructions, and when this is done he becomes personally responsible and unanswerable."

9. The authority of the Financial Adviser over the officers of the Fiscal Service has been repeatedly and openly challenged and a program of obstruction to the service of the Loan has been carried out by the Liberian Government; for example:

a. In derogation of the express terms and intent of the Loan Agreement, the Government addressed the Financial Adviser in writing, asserting that the Financial Adviser is a member of and subject to the Treasury Department of the Government of Liberia.

b. In derogation of the express terms and intent of the Loan Agreement, the Government addressed a communication from its Solicitor General to the Financial Adviser, asserting that the Supervisor of Internal Revenue is a member of the Treasury Department of Liberia and is subject to the Secretary of the Treasury.

c. From time to time the Government has appointed to the Customs and Internal Revenue Service officials and employees without

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<sup>70</sup> See telegram No. 33, March 12, 1930, noon, from the Chargé in Liberia, p. 461.

the previous advice of the Financial Adviser as contemplated in Article IX; and without previous consultation with or the information to the Financial Adviser.

*d.* The Attorney General has continually opposed and repeatedly failed to comply with Executive Order No. 3, insofar as it relates to the control of purchases of food for prisoners, though officially his attention has been called to his omission to comply with the said Executive Order.

*e.* The salary of one of the foreign Consuls has been increased without notice to, consultation with or approval of the Liberian Legislature or the Financial Adviser.

*f.* The Secretary of the Interior while also Acting Secretary of the Treasury, after a payroll had been audited by the Auditor and Warrant for such payroll had been signed, mutilated and altered such payroll by crossing out thereon the name of a Department of Interior employee named Labor, and substituted therefore the name of another individual.

*g.* Following protest by the Financial Adviser to the Government against such unlawful act, the Government subsequently appointed such Acting Secretary of the Treasury to the position of Secretary of the Treasury which he now continues to hold.

*h.* The Secretary of the Treasury stated to a claimant against the Government, prior to a hearing on such claim before the Claims Commission of which the Secretary of the Treasury was a member, that he was in favor of and would vote for such claim but that he was unable to state what action the Financial Adviser and the American Auditor, the other members of the Claims Commission, would take upon such claim.

*i.* Despite proof of repeated acts of obstruction to the service of the Loan made by Financial Adviser to the Government against the Secretary of the Treasury in the presence of such Secretary of the Treasury, of the American Auditor and of the American Supervisor of Customs, and request for relief therefrom, the conduct of interference and obstruction by the Secretary of the Treasury in such regard continues.

*j.* Government officials have failed for more than a year to accept or act upon suggestions of the Financial Adviser that income of the Government was diminishing to the point that it would be insufficient to meet the budget and that steps to reduce expenses should be immediately taken and measures to provide additional revenues should be adopted, which omission to promptly act upon such suggestions has threatened impairment of the security of the Loan.

These instances have compelled us to reach the conclusion hereinbefore stated.

We acknowledge receipt of your letter of May 16, 1930 transmitting to us a copy of the request of the Financial Adviser to be advised if funds will be available from delivery of Liberian bonds as requested. A copy of this communication will suffice we feel sure as an answer to the inquiry of the Financial Adviser.

We likewise acknowledge receipt of your letter of May 22, 1930 enclosing a copy of a communication to you from the Secretary of the

Treasury of Liberia, dated May 3, 1930 (with memorandum attached dated April 23, 1930) soliciting your good offices to assist the Government of Liberia in consummating with the Bank of British West Africa a loan of funds for the purpose of meeting the deficit which the Secretary advises exists between revenues available and expenditures necessary to meet the Budget for the calendar year 1930, and claiming authority on the part of the Government to conclude such an arrangement under Article XV of the Loan Agreement.

There is no anticipated revenue available to the Government of Liberia for the remainder of this fiscal year sufficient to meet the present Budget and liquidate this suggested loan, and therefore Article XV contains no sanction for making such a loan without the approval of the Financial Adviser which is withheld, in our opinion for good cause because it seems to us that in the best interest of all parties to the Loan Agreement no expedient should be adopted which would hypothecate the revenues of the Government already pledged to the security of the Loan.

In response to the request of the Secretary of the Treasury that we suggest some other way of bringing about relief of the present situation, we respectfully submit the following recommendation:

The 1925 budget of the Liberian Government provided \$263,229.20 to cover the cost of those functions of the Government which the 1930 budget provides shall be paid from unassigned revenues. We believe if on July 1, 1930 the Government would reduce its budget to a basis of \$325,000 for annual expenditures out of unassigned revenues, instead of approximately \$450,000 as the 1930 budget now provides, and, in addition would defer approximately \$100,000 of current accounts payable from unassigned revenues for payment out of the next annual budget, that this would be an effective way for the Liberian Government to accomplish its purpose.

Finance Corporation is certain, now that the above facts have been brought to the attention of the Liberian Government, that the Government will promptly remedy the conditions set out above with respect to the administration of the Loan Agreement and in this belief Finance Corporation is quite willing, in order to avoid embarrassment to the Liberian Government meanwhile, and without prejudice to its rights and its position as outlined above, to take up \$18,000 face value of bonds immediately for the following specific purposes provided in the 1930 budget as follows:

\$11,000 being the difference between the \$18,000 for special sanitation work appropriated in the budget and \$7,000 furnished from other sources for this purpose.

5,000 for the grant of aid to the Booker T. Washington Agricultural & Industrial Institute.



We request that a copy of this communication be transmitted by you to the Liberian Government and to the Financial Adviser and we are filing a copy thereof with the Department of State of the United States.

Respectfully submitted,      FINANCE CORPORATION OF AMERICA  
By [No signature indicated]  
Vice President

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882.516/49: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, August 20, 1930—2 p. m.  
[Received 6:03 p. m.]

104. The Acting Financial Adviser informs me that he has learned from Loomis<sup>71</sup> in London that the British bank has definitely refused to reconsider its decision to withdraw. He then explained that a government treasury under the control of the American fiscal officers will probably be formed in Monrovia. A bill establishing the treasury will be prepared by the Financial Adviser and submitted to the Legislature, which convenes the second week of October. McCaskey tells me the President has assured him that fiscal officers' authority over and supervision of the treasury will be complete.

An arrangement with the Dutch "Oostafrikaansche Company" has been proposed whereby its branches throughout the country will act as agents in receiving and distributing government funds.

REBER

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882.516/49: Telegram

*The Acting Secretary of State to the Chargé in Liberia (Reber)*

[Paraphrase]

WASHINGTON, August 22, 1930—6 p. m.

71. Your 104, August 20, 2 p. m. On August 25 or 26 a representative of the Firestone interests is to confer with the Department. If he should not previously receive from the Acting Financial Adviser in Liberia details of the proposed legislation your 104 described, you are requested to summarize it by cable to the Department. In any event you should confidentially comment by cable as to probability of enactment and as to whether finances and disbursements thereupon would be subject to the Financial Adviser's adequate and effective control.

The Department also wishes a cable report by you on these points:

(a) The current political situation, referring especially to the Government's stability in the face of its financial difficulties and of

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<sup>71</sup> John Loomis, Financial Adviser to Liberia, on leave of absence.

the forthcoming report by the International Commission on forced labor.

(b) The means at the Government's disposal to maintain its position. To what degree is the Government dependent upon the frontier force, of which the Department understands that one-third is still concentrated at Monrovia? To what degree, similarly, upon police and/or army (if any)? How exactly has the position of Colonel Lewis<sup>72</sup> developed, and to what extent is he able to exercise control?

(c) Existing American interests are dependent to what extent upon the present Government for protection?

It is desired that you answer the foregoing by August 25.

HACKWORTH

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882.516/51:Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

[Paraphrase]

MONROVIA, August 24, 1930—6 p. m.

[Received August 25—1:12 p. m.<sup>73</sup>]

108. Department's 71, August 22, 6 p. m. The Acting Financial Adviser, McCaskey, has prepared an act to create a Liberian Treasury, without consulting President King but in line with a suggestion of the President who is considering the alternatives of a national bank or a government treasury. King assured McCaskey that in either case a foreign officer would be placed absolutely in control.

The proposed bill would provide for a Treasurer General who (1) shall be an American citizen to be nominated by the Financial Adviser and to be responsible to the latter; (2) shall be custodian of all Government funds; (3) may receive incoming funds from private sources and may make payments against these accounts; (4) shall control appointments and dismissals of all Treasury employees.

The Financial Adviser is to be charged with preparing regulations relating to the receipt, custody, and payment of public funds and also to the Treasury's administration. No reference to the currency to be used is made in the bill.

If enacted in its present form, the bill would seem to give the Treasurer General complete authority and would require no extension of the 1926 loan agreement. It is doubtful whether the bill will be approved without some change intended to diminish the authority of the American fiscal officers. The Fiscal Agent might in this event refuse recognition to the Government Treasury as official depository for such assigned revenues not under terms of the loan agreement and insist upon putting into effect its major provisions. I believe

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<sup>72</sup> George W. Lewis, commissioned major in the Liberian frontier force on July 1, 1929.

<sup>73</sup> Telegram in two sections.

this clause of the loan agreement should be used fully to insure the Treasurer General's adequate control, since undoubtedly the proposal will meet with the present administration's full opposition.

Regarding your queries:

(a) For the moment the anxiety of the Government over the financial situation appears to be allayed by the presence of funds. Due to receipt of the hut taxes, this relief is temporary and forecasts no lasting financial improvement. The Government's chief attention, therefore, is directed to the next elections and to the results from the International Commission's report. Regarding the latter, the natives, among whom there is unrest, feel that reform must come, even if induced by outside sources, yet lack any leader and probably will not be able to accomplish much even at the elections. Doubtless the Government will try to minimize the findings of the Commission and to shelve the report by promising reform, while suppressing with severe measures any native disturbance. On the other hand, many who are classed as Liberians appear to think that the Commission's activities will result in bringing about a demand by other nations for some sort of foreign supervision to be exercised and consider that the only means to avoid this is to punish the principal offenders and to change the administration generally. However, this feeling marks merely the rivalries and disputes within the dominant political party, since it seems well established that, without a fundamental change in Liberia's political structure, the true Whig Party's nominee again will succeed at the election in the spring.

(b) The present Government's strength lies in the true Whig Party's control of all public offices, in the absence of an effective opposition, and in the seeming inability of the native tribes to cooperate with each other. The district commissioners in the interior, with frontier force support, are able to impose themselves on the natives and remain supreme. The frontier force is made up of natives with little political interest, and their chief virtue is in their obedience to the officers selected from party adherents. In the event of any serious disorder, however, the effectiveness of the frontier force distinctly is open to question. On such an occasion the militia and police would play a negligible role. The position of Colonel Lewis has been limited to that merely of an adviser who has no control over the armed forces of Liberia.

(c) Should any change occur in the Government other than a transfer of authority inside the dominant party, the position of American interests would probably be strengthened, since the People's Party appears more friendly to the United States, while the natives, from all reports, seem themselves to have more confidence in the authority of whites than of Liberian politicians. Any successful true Whig Party candidate, on the other hand, undoubtedly would continue the present policy of anti-Americanism and opposition.

REBER

882.516/53 : Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

[Paraphrase]

MONROVIA, September 15, 1930—2 p. m.

[Received September 16—7:40 a. m.]

120. President King today is requesting the National City Bank of New York to use its good offices in securing or establishing a bank at Monrovia in order to provide commercial facilities and a means also for the transfer of interest and amortization funds. King has requested that the Department of State be consulted in this regard.

Financial Adviser Loomis reports he has failed to interest any foreign bank in the establishment of a national institution. King has said also that he will discuss on September 17 with Loomis an answer to the latest letter from the Fiscal Agents.

REBER

882.00/855

*President King of Liberia to the National City Bank of New York*<sup>74</sup>

MONROVIA, October 1, 1930.

SIRS: In reply to Finance Corporation's communication dated June 14, 1930,<sup>75</sup> addressed to the Fiscal Agents of the Loan Agreement of September 1, 1926, please be informed that this letter has been given careful consideration.

The Liberian Government consider it unnecessary to submit the alleged breaches of the Loan Agreement to arbitration. It is thought that the divergent views of the Liberian Government and Finance Corporation may be reconciled otherwise. I take occasion therefore to express frankly the views of the Liberian Government in the hope that the breaches complained of may be corrected.

1. The Liberian Government assures Finance Corporation that it will not question the disbursement of assigned revenues in the order stated in Article 13, page 20 and 21 of the Loan Agreement; neither will the Secretary of the Treasury withhold the application of assigned revenues to the liquidation of accounts legally approved by the Financial Adviser as due and payable from such funds.

2. The Liberian Government disavows intention of denying the Financial Adviser the authority given him to make rules and regulations governing the operation of fiscal matters in accordance with Article 12 of the Loan Agreement. The Government is of the opinion, however, that Executive Order No. 9, upon which charge of breach is

<sup>74</sup> Copy transmitted to the Department by the Chargé in Liberia in despatch Diplomatic No. 20, October 9, 1930; received November 1; *ante*, p. 358.

<sup>75</sup> *Ante*, p. 400.

based, should be rewritten to provide that prior to the issuance of Transfer Order from Government general accounts to the disbursement account, an Executive Warrant shall be approved. This is in accord with a Constitutional provision. The Financial Adviser has been directed to draft, for Executive approval, a new Order observing the constitutional provision, as well as providing for the insertion of serial check numbers on the Transfer Order.

3. The Liberian Government has not yet designated an official depository because of difference in opinion growing out of an attempt to execute a depository contract with the Bank of British West Africa. This subject will again be taken up when banking facilities are available in Monrovia.

4. The allegation that the Secretary of State and the Secretary of the Treasury have failed to compel certain consular officers to submit accounting of pay and salary fees into the Treasury is having the immediate consideration of the Government. The Government is anxious that public revenues from every source shall be deposited into the Treasury in accordance with the laws and lawful regulations of the Republic. Finance Corporation is assured that the Government will take steps to bring to account the revenues arising from consular receipts. Toward this end the Financial Adviser has been requested to prepare appropriate regulations.

5. The charge contained in paragraph 5 of Finance Corporation's letter has been a matter of serious concern to the Head of the Government of Liberia.

It should be borne in mind that the President of Liberia is without authority to control findings of juries. The action of one juror may defeat the ends of justice. The cases which the Finance Corporation must have in mind were not handled to the satisfaction of the President of Liberia. Measures for effecting the forfeiture of bonds of public officials who fail to account for public revenues received by them will be worked out. Directions have been given to the Financial Adviser to study existing laws with a view to drafting such legislation as will authorize the setting up of a Bond Commission or Administrative Court which will be charged with the duty of determining, without the aid of a jury, when the bond of a defaulting official and/or his sureties shall be escheated. The finding of this court shall be final and conclusive of the matter, saving, however, the right of the defendant to appeal to the Supreme Court.

6. The complaint touching the failure of the Secretary of the Treasury to submit to the Financial Adviser the Budget at the time and in the manner specifically required by the Loan Agreement, may

again arise because the time within which corrective measures could be adopted this year has passed. Finance Corporation is assured that steps will be taken to readjust the administration of the Treasury.

7. The Liberian Government hold a different view of the matter complained of in paragraph 7, namely, the nomination of the Acting Financial Adviser. The view of the Liberian Government is that the Financial Adviser does not lose his status while absent on leave. The Liberian Government has held to the opinion that notwithstanding the absence of the Financial Adviser from his post of duty he cannot divest himself of the responsibility for the proper performance and carrying on of the business of the office. To make it possible for the Financial Adviser to control his office in his absence, and to hold him responsible, he himself should select the official who acts in his stead. This is a procedure calculated to secure continuity of policy in an important office.

8. The statement made by the Secretary of the Treasury to the effect that under the organic law of Liberia the President has the right to set aside or annul any existing acts of the Legislature, is unauthorized and not warranted under either the organic or Statutory laws of the Republic.

9. The basis of the authority of the Financial Adviser is fixed in the Loan Agreement and the Government will support his authority expressly granted or that which may be lawfully implied.

Under Article 9 of Loan Agreement the status of Fiscal Officers is specifically fixed and these officers, in the performance of their duties, are responsible to the Financial Adviser.

(i) The matter complained of in Paragraph 8 of Finance Corporation's letter will be remedied by administrative action.

(j) The Liberian Government is agreeable to the Financial Adviser making suggestions and offering plans to rehabilitate the finances of the Government and to his preparing regulations for financial administration. Finance Corporation may be certain that the Liberian Government will give appropriate attention to suggestions of the Financial Adviser which are not contrary to the constitution and laws of Liberia. It is believed that the corrective measures set out in this letter together with the assurances of cooperation will satisfy all concerned as to the Liberian Government's intention to adjust apparent differences of opinion and settle questions which have arisen concerning procedure.

Yours very truly,

C. D. B. KING

882.51/2126

*The Chargé in Liberia (Reber) to the Secretary of State*

Diplomatic No. 26

MONROVIA, October 17, 1930.

[Received November 10.]

SIR: I have the honor to enclose herewith the annual report of the Financial Adviser, R. L.,<sup>76</sup> as submitted to the President of Liberia for the twelve-month period from October 1, 1929 to September 30, 1930. This report has not been made public and was prepared for the President's use in connection with his annual message to the legislature.

The Financial Adviser has reviewed at considerable length the principal financial developments for this period and has stressed the necessity for fiscal reform in order that a larger deficit may not appear during the next budget year. The estimate of revenues for 1931—approximately \$772,500—shows a reduction of \$238,000 from the budget estimate of \$1,010,000 for the current year as submitted by the Financial Adviser in his last report. In addition there is reported to be a deficit of nearly \$240,000 which will have to be carried over to the next budget period. This situation is further aggravated by the reduction in native labor personnel employed on the Firestone plantations of nearly 8,000 men, which means a reduction of wages earned equal to approximately 8,000 shillings a day and an equivalent reduction in purchasing power. This labor cut while not permanent is to tide over the period of economic depression, and it is difficult to estimate when an increase may again be counted upon. It is understood that this smaller number of laborers is adequate for the immediate needs of the plantations until the trees are ready for tapping and production begins on a large scale, as no further extension of the development is at present expected.

The Financial Adviser reports that no conclusions have yet been reached in regard to the budget appropriations to be assigned for next year. Under the former Secretary of the Treasury, who was transferred to another Cabinet post on the first of October, a tentative budget was prepared which provided for a general reduction in operating expenses of nearly 66% but without detailing how economies could be effected. Such an arrangement was of course impractical of operation and it is expected that the present Secretary of the Treasury will revise this proposal in consultation with the Financial Adviser. The latter has drawn up a tentative program which provides for the elimination of many office holders and extends the recommendations of the minority report of the special commission—see enclosure to the Legation's despatch No. 15 of September 18, 1930.<sup>76</sup>

<sup>76</sup> Not printed.

Subject to the release of the additional \$225,000 of loan funds, provision is also included therein for the establishment of a sanitation service at an estimated cost of \$24,000, public works described in the Financial Adviser's report, and an increased allowance for the reorganization of the hinterland administration.

The Financial Adviser has stated that there appear to be at present sufficient funds on deposit in the Treasury to meet the loan interest and amortization payments which are due on November first and to make payments from assigned revenues for the remainder of the present fiscal year. He also reports an improvement in the method of collection of Internal Revenue Hut Taxes in the hinterland, which in March of this year were placed under the supervision of the Supervisor of Internal Revenue. A similar transfer of such collections from the County District Commissioners to officials of the Internal Revenue Department has just been approved by the President. It is estimated that under this improved method an increase in these revenues should follow. For the first year this increase has been calculated at a minimum of \$35,000, which it is hoped may later be augmented.

Respectfully yours,

SAMUEL REBER, JR.

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882.516/59

*The Chargé in Liberia (Reber) to the Secretary of State*

Diplomatic No. 35

MONROVIA, November 13, 1930.

[Received December 10.]

SIR: I have the honor to refer to the Legation's telegram No. 151 of October 29, 5 p. m.<sup>77</sup> reporting that arrangements had been concluded for the establishment of a bank by the United States Trading Company, a subsidiary of the Firestone Plantations Company. In compliance with the President's request that the good offices of the Fiscal Agents be used in securing or establishing a bank at Monrovia to replace the Bank of British West Africa, which had announced that it would cease all operations in Liberia on October 31, 1930, a representative of the National City Bank of New York, Mr. Robert B. Gwynn, arrived in Monrovia in early October to make a survey and report on the banking situation here. Full details of his report, which was submitted by cable on October 20th and the negotiations leading up to the establishment of the new bank have not been cabled to the Department, as it was understood that information in regard thereto was being supplied by the National City Bank and the Firestone Company in the United States.

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<sup>77</sup> Not printed.



Prior to the conclusion of Mr. Gwynn's report he informed the President that unless certain currency and legal reforms could be enacted it was doubtful whether any responsible American institution could be interested in establishing a branch in Monrovia; the most important of these suggested improvements are:

1. Establishment of U. S. currency as legal tender in substitution for the present West African silver money, which is unsatisfactory because it is unwieldy and expensive to handle, because it does not agree with the unit of currency locally recognized as it is based on the pound sterling, and because it is being gradually withdrawn from circulation.

2. Removal of restrictions on the movement of currency, the exportation of which has been prohibited by the Government.

3. Reform of banking laws and the establishment of a sound commercial code, the absence of which greatly hampers the development of legitimate trade and business through the failure of the courts to take proper corrective actions and through the constant petty annoyances suffered by foreign traders and merchants.

In these suggestions it is reported that the President concurred.

A summary of the general situation with regard to the establishment of a bank brought the conclusion

"that banking profits would be negligible for the first year of a new bank operating here now, but that the average profits would compare favorably over a five year period with the past eight-year average of the Bank of British West Africa Limited",

based on the following observations:

- "1. Foreign trade prospects as good and perhaps somewhat better than the average for the past eight years with revenues from this source in proportion".

- "2. Deposits outlook more or less the same—". (It is estimated that deposits in the British Bank have averaged £100,000)

- "3. Proposed increase of roughly 50% in Government commission."

- "4. Probable increase in operating expenses".

It was also felt, however, that over a period of time the general economic prospects of the country offer no great hope for future development as long as present restrictions on trade (such as the policy of the "closed door" in the Hinterland and the exploitation of the natives) continue, as long as the natives have no incentive for increased production, and as long as present price levels now not sufficiently attractive to encourage further production remain unchanged. Moreover it was reported that the policy of Government obstruction, which was the basic reason for the withdrawal of the British Bank, and the absence of an improvement in governmental practices, "which must necessarily precede economic progress", constitute a further bar to economic betterment and an increase in the purchasing power of the nation.

Partly on the basis of this report, which seemed to promise a small profit but no great opportunity for future expansion under present conditions, it is understood that the National City Bank declined to establish a branch in Liberia. It is believed that this report was not the sole determining factor in this decision of the National City Bank but merely confirmed its disinclination to take this step.

Negotiations were then inaugurated on behalf of the Firestone interests which felt the need for the establishment of an institution, which could satisfactorily handle Government moneys and provide for a means of transferring interest and amortization funds under the Loan Agreement as well as certain commercial facilities. Their action in this matter would also appear to have been influenced by the fear that an irresponsible Government organization or national bank might be established. These negotiations culminated in a depositary agreement, concluded between the Government of Liberia and the United States Trading Company, a subsidiary of the Firestone Plantations Company of Liberia, in accord with Article XVIII of the Loan Agreement of 1926.

It has been thought that in addition to providing adequate protection to Government revenues and to holders of bonds issued under the Loan Agreement by establishing an adequate means for transmission of interest and amortization payment, the agreement further insures a more satisfactory income and an augmented profit to the task in handling of government funds by an increase from one to one and a half percent. commission. No branches will be established to take the place of the former suboffice of the British Bank at Harper and its agents at Robertsport, Buchanan, River Cess, and Greenville, although arrangements have already been concluded with the Oost Africanische Company, a Dutch Trading Company to receive and forward Government revenues from these ports of entry.

In consideration for the services offered by the United States Trading Company—Banking Department, and in the hope that its operations will be extended in the future the President has agreed that U. S. Currency will be created legal currency for the Republic of Liberia and that the depositary of Government funds shall have the right to import and export currency according to its needs. Bills embodying these changes will, it is understood, be submitted to the present session of the Legislature. The President in his annual message this year further stressed the necessity for securing the services of an expert on banking procedure to make a study of existing laws looking toward the preparation of a commercial code, adequate for modern business requirements.

Two experienced men from the National City Bank of New York have been loaned to the United States Trading Company for its banking department, and the bank as constituted opened its doors on

November 7, 1930 for the receipt of Government deposits and certain commercial transactions.

The policy with regard to the acceptance of private accounts has not yet been determined, although I have been confidentially informed by the representative of the Firestone interests here that it is at present proposed to limit operations purely to Government, institutional and commercial accounts, as the Company feels that it has entered upon a limited banking business and does not desire to extend the functions of its bank beyond the minimum required, until assurances of the Government's cooperation in the shape of the adoption of the reforms promised and their proper execution are forthcoming. In view of the present political situation and the impression that has heretofore prevailed that the bank will act as a successor to the British institution in all respects, it is felt that this policy of not accepting private accounts—without a definite announcement thereof—may unnecessarily create local ill-will and react against a profitable expansion of the bank's activities at a later date should this be so desired, and without which it is felt that no bank will be able to make a profit from its operations. It is believed that an arrangement which provides for minimum balance or deposit requirements will insure adequate protection and eliminate nearly all unsatisfactory accounts. It would seem important that this policy be shortly determined before the currency act is definitely presented to the Legislature as recommended by the American interests, for unless eventual expansion is anticipated this arrangement can only be a temporary measure and it would seem unfortunate that such an act was sponsored by a financial group which later withdrew.

There is already manifest a certain amount of local opposition to the bank, which may be increased by the adoption of this limited policy, on the part of some factions who feel that its entry has prevented the establishment of a national bank or the introduction of other American banking interests, which were understood to have been promised by a group of negro capitalists in the United States.

Respectfully yours,

SAMUEL REBER, JR

882.01/13: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, December 19, 1930—8 a. m.

[Received 3:05 p. m.]

178. The Finance Corporation has sent a telegram to be delivered to the Secretary of the Treasury requesting *inter alia* "an immediate reply regarding what steps have been taken by Government to have officials who are delinquent in their accounts effectively prosecuted and loss sustained thereby recovered".

[Paraphrase.] Barclay<sup>79</sup> is included in this, and if prosecution is insisted upon this may lead either to refusal to answer the charges or to a local demand for Barclay's resignation, which would mean difficulty in forming a new or stable government.

While it is recognized that it is important to effect a settlement of these matters, it is believed that these other factors should be given due consideration. The Financial Adviser will hold up the cablegram until December 22 in the supposition that the Department of State has not been consulted in this regard and would wish to comment. [End paraphrase.]

REBER

882.01/13: Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

[Paraphrase]

WASHINGTON, December 20, 1930—2 p. m.

118. Your 178, December 19, 8 a. m. It is felt that the Department should not be called upon officially to pass upon communications between the Liberian Government and the Finance Corporation.

STIMSON

**INTEREST OF THE DEPARTMENT OF STATE IN SANITARY REFORMS  
FOR LIBERIA <sup>80</sup>**

882.124a/71: Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

MONROVIA, May 25, 1930—noon.

[Received May 26—12:15 p.m.]

68. My telegram No. 62, May 7, 3 p.m.<sup>81</sup> Have just seen draft of Dr. Smith's<sup>82</sup> health survey report which will be presented to King<sup>83</sup> on June 4th. Copy will go direct to Surgeon General of the United States in following pouch.

In substance report finds that at the time of inspection in Monrovia proper 93 percent of buildings and premises were breeding mosquitoes whereas in Krutown only 3 percent were breeding; of the types of mosquitoes examined in all parts of city 94 percent were stegomyia (yellow fever carrying). Report states that general housing, water

<sup>79</sup> Edwin Barclay, Secretary of State, who assumed the Presidency upon resignation of President King, December 3, 1930.

<sup>80</sup> For previous correspondence, see *Foreign Relations*, 1929, vol. III, pp. 316 ff.

<sup>81</sup> Not printed.

<sup>82</sup> Dr. Howard F. Smith, Chief Medical Adviser to Liberia.

<sup>83</sup> President C. D. B. King of Liberia.

supply, sewage, and sanitary conditions are highly conducive to outbreaks of yellow fever and other communicable diseases. Report emphasizes the necessity of strict sanitary measures enforced by prompt and effective police and court action and supported by strong governmental cooperation.

[Paraphrase.] This cooperation has been lacking, and especially the attitude of a majority of the higher officials has been a thinly veiled opposition to the program of Dr. Smith. There have, in fact, been numerous instances on the part of Liberian officials of definite acts obviously designed to embarrass the work of Dr. Smith. Notably this has been by the unduly and unnecessarily holding up of the appropriations already provided for it. Now Dr. Smith has been advised informally that, in the absence of funds from the 1926 loan,<sup>84</sup> no money will be available after June 1 for him (general approval 66).

So far Dr. Smith has built up an efficiently working health organization, cleaned up the accumulated refuse in Monrovia, and brought under control the general health situation at the moment. All this, however, will be lost should he be obliged to suspend his operations for any appreciable period of time.

Regarding the contribution by the Advisory Committee on Education in Liberia, Bishop Robert E. Campbell,<sup>85</sup> Robert L. Embree,<sup>86</sup> Dr. Smith, and I all strongly feel that in the circumstances the sum should not be turned over to the Liberian Government, but, if it is sent, it should be administered by Bishop Campbell's office as a private fund upon the informed recommendations of Dr. Smith.

The availability of this sum in Monrovia would operate usefully as an emergency fund and, if sent, should be accepted "for the control of yellow fever and other communicable diseases." If the money is sent, it should be cabled directly to Bishop Campbell. [End paraphrase.]

CARTER

882.124a/29

*The Secretary of State to the Chargé in Liberia (Carter)*

No. 509

WASHINGTON, May 27, 1930.

SIR: There is attached herewith a copy of a memorandum of conversation between Dr. Pierce of the Public Health Service and Mr. Moffitt of this office<sup>87</sup> from which you may see that it is the intention

<sup>84</sup> For text of 1926 loan agreement, see *Foreign Relations*, 1926, vol. II, p. 574.

<sup>85</sup> Head of the Episcopal Mission.

<sup>86</sup> Principal representative of the Methodist Episcopal Mission.

<sup>87</sup> Memorandum of conversation between Dr. C. C. Pierce, Assistant Surgeon General of the United States, and James P. Moffitt, of the Division of Western European Affairs, is not printed.

of the Public Health to withdraw Dr. Smith when he has completed one year's stay in Liberia and not to replace him by another Public Health officer.

As it will probably seem fitting to the Liberian Government to continue the work of sanitation in Liberia so happily inaugurated by Dr. Smith after the serious epidemic of yellow fever last year, the Government of Liberia may find it desirable to replace Dr. Smith with a private professional sanitary engineer and in such event the Department will be glad to use its unofficial good offices in furnishing, without responsibility, names of sanitary engineers who would be willing to accept the post. It is believed that it will not be possible to obtain the services of a competent sanitary engineer for a salary less than \$6,000 with the perquisites as to rent allowance, travel and leave customarily accorded to foreign fiscal officers.

You will please address a communication in the sense of the foregoing to the Liberian Government and express the hope that if the Liberian Government decides to appoint a sanitary engineer to replace Dr. Smith, arrangement will be made for the new appointee to arrive in Liberia several weeks before the contemplated departure of Dr. Smith.

I am [etc.]

For the Secretary of State:  
FRANCIS WHITE

882.124a/97: Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

MONROVIA, June 3, 1930—3 p. m.  
[Received June 3—2:15 p. m.]

74. Dr. Smith informed that a clear case of yellow fever has been reported next to Legation premises. This is first case of the year and while under no apprehensions personally am reporting the case to the diplomatic and consular body in Monrovia.

CARTER

882.124a/75

*The Assistant Surgeon General (Pierce) to Mr. James P. Moffitt of the Division of Western European Affairs*

WASHINGTON, June 6, 1930.

DEAR SIR: This is to confirm our telephone conversation of today when I read to you the following cablegram received from Surgeon H. F. Smith, Monrovia, Liberia, under date of June 5th:

"Monrovia mortality for May reduced seventy five percent compared previous years. Total expenditures less than five thousand.

Have been officially notified no funds to liquidate May salaries or other expenditures. Courts have refused to prosecute violations [of] duly enacted legislation governing mosquito control. Necessary discontinue all operations June first due lack funds. Have disclaimed all responsibility for control yellow fever unless funds provided and court action assured. At present have neither funds nor authority but still striving for both. Full report and results sanitary survey in mails."

In view of the statements made by Dr. Smith in the above-quoted cablegram, it is requested that arrangements be made to relieve Dr. Smith from further duty at Liberia, and that he be returned to the United States at the expense of the Liberian Government as early as practicable. The demand upon the Public Health Service for commissioned officers is so great that it cannot be met. This Service does not therefore feel justified in permitting Dr. Smith to remain longer in Liberia unless he can receive the full cooperation of the Liberian Government in the work of sanitary improvement for which he was sent to that country.

By direction of the Surgeon General:

Respectfully,

C. C. PIERCE

882.124a/75

*Mr. James P. Moffitt of the Division of Western European Affairs to the Chief of the Division (Marriner)*

[WASHINGTON,] June 7, 1930.

MR. MARRINER:

SANITARY CONDITIONS IN MONROVIA

(See attached letter from the Public Health Service.<sup>88</sup>)

Dr. Pierce of the Public Health Service was given the gist of Mr. Moffitt's conversation with Mr. Roy,<sup>89</sup> Assistant Secretary of the Advisory Committee on Education in Liberia, which was to the effect that \$2,000 was being sent today by that organization to their representative in Liberia, Bishop Campbell, for the use of Dr. Smith in carrying out the sanitary program.

Dr. Pierce expressed satisfaction and said it would not be necessary to act upon his letter of June 6, 1930, until the Department had found a solution for the situation in Liberia.

In connection with this situation, it would seem advisable to urge unofficially on Mr. Firestone<sup>90</sup> when he calls here next Tuesday that the \$18,000 allotted from the Loan Funds, which were due on April 1,

<sup>88</sup> *Supra.*

<sup>89</sup> L. A. Roy, office secretary of the Phelps-Stokes Fund, of New York.

<sup>90</sup> Harvey S. Firestone, Jr., of Akron, Ohio.

1930, be advanced at once irrespective of the program of the Finance Committee which envisages no further advances of loan funds until a reform program be adopted by the Liberian Government.<sup>91</sup>

J[AMES] P. M[OFFITT]

882.124a/71: Telegram

*The Secretary of State to the Chargé in Liberia (Carter)*

WASHINGTON, June 7, 1930—4 p. m.

55. Reference your No. 68, May 25, noon, last paragraph. Advisory Committee reports that it is sending \$2,000 to Campbell today for sanitary relief.

STIMSON

882.124a/39½

*The Liberian Secretary of State (Barclay) to the American Chargé in Liberia (Hall)*<sup>92</sup>

363/D

MONROVIA, July 15, 1930.

MR. CHARGÉ D'AFFAIRES: I have the honour to acknowledge the receipt of your Legation's note of the 14th of July 1930,<sup>93</sup> advising the Government of Liberia through this Department that Dr. Smith, upon information received from the Surgeon General of the United States, will not remain in Liberia after he has completed one year's stay. In the circumstance, your Department of State thinking that my Government may care to continue the sanitary work inaugurated by Dr. Smith, will be glad to use its good offices unofficially in securing without responsibility the names of Sanitary Engineers, who will be willing to accept the post for a salary of not less than \$6,000.00.

In reply to the foregoing, I have the further honour to express the regrets of the Government of Liberia that Dr. Smith, whose work is highly appreciated, cannot continue his services in Liberia beyond the period mentioned in your note. This Government intends continuing the progressive development of the Sanitary System which Dr. Smith is in course of installing but in view of their limited resources find themselves unable to take advantage of the friendly offer of your Department of State to recommend competent men for the post if

<sup>91</sup> For letter of June 14, 1930, from the Finance Corporation of America, see p. 400.

<sup>92</sup> Copy transmitted to the Department by the Chargé in despatch Diplomatic No. 79, July 22, 1930; received August 16.

<sup>93</sup> Based on instruction No. 509, May 27, 1930, to the Chargé in Liberia, p. 416.



the salary required be fixed in the sum of \$6,000.00. They have decided therefore to secure the services of a competent man elsewhere.

I have [etc.]

EDWIN BARCLAY

862.124a/85

*The Acting Secretary of the Treasury (Lowman) to the Secretary of State*<sup>94</sup>

WASHINGTON, August 4, 1930.

DEAR MR. SECRETARY: I desire to invite your attention to the assignment by the Public Health Service of Surgeon Howard F. Smith to Monrovia for the purpose of acting as the Chief Medical Adviser to the Liberian Government in connection with the control of yellow fever in that country. The detail of Dr. Smith to this duty was approved by the President on December 5, 1929, and Dr. Smith arrived in Monrovia, Liberia, on January 20, 1930. He was presented to His Excellency, the President of Liberia, on January 24th and took up the duties of Chief Medical Adviser on the following day.

Prior to Dr. Smith's assignment to Liberia, an agreement was negotiated with that country by the State Department<sup>95</sup> in which Dr. Smith was promised financial and legal support for the work he was to do in Liberia. Reports have been received by the Public Health Service from Dr. Smith which clearly indicate that the Liberian Government has failed to keep its agreement and is not furnishing the necessary financial support to continue the work in a satisfactory manner. Furthermore, it is obvious from the reports submitted by Dr. Smith that the work he is doing is not receiving the sympathetic support of the Liberian Government; nor is that Government giving any legal authority to Dr. Smith to enforce the necessary sanitary regulations in Monrovia.

The character of work done by Dr. Smith in Monrovia since his arrival there last January clearly indicates the feasibility of the control of yellow fever in Monrovia, and also shows the possibility of reducing the death rate and greatly improving the sanitary conditions in Monrovia. It seems to this Department that Dr. Smith has fulfilled his mission to Liberia in demonstrating the practicability of sanitary control, but in view of the fact that the Liberian Government apparently does not care to continue the work on a satisfactory basis, it is requested that arrangements be made by the State Department with the Liberian Government for the immediate release of Dr. Smith. The Public Health Service urgently needs every one of its experienced officers to carry on the many functions of the Public Health Service.

<sup>94</sup> Delivered by the Assistant Surgeon General on August 13, 1930.

<sup>95</sup> For memorandum agreement of 1929, see *Foreign Relations*, 1929, vol. III, p. 324.

There does not seem to be sufficient justification for continuing Dr. Smith on duty in Monrovia in view of the attitude of the Government of that country.

Respectfully,

S. LOWMAN

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882.124a/92 : Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, August 20, 1930—11 a. m.

[Received 1:36 p. m.]

103. Dr. Smith is today cabling the Surgeon General that, in view of consistent failure of the Government to cooperate in any way, he feels further time spent here is wasted. The Government has failed to acknowledge any recommendations and has failed to make the balance of appropriations available, although the Acting Financial Adviser has presented a plan showing funds could be obtained for the purpose. (See Legation's telegram No. 101, August 8, 11 a. m.<sup>96</sup>)

I am in complete accord with Dr. Smith in this respect and feel that this is the only possible way in which the Government might be compelled to comply with the terms of the memorandum agreement.

REBER

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882.124a/92 : Telegram

*The Acting Secretary of State to the Chargé in Liberia (Reber)*

[Paraphrase]

WASHINGTON, August 21, 1930—1 p.m.

69. Your telegrams 101, August 8, 11 a.m.,<sup>96</sup> and 103, August 20, 11 a.m. Your comments and recommendations are desired concerning any steps this Government properly might take in order to bring about the Liberian Government's compliance with the terms of the memorandum agreement of last year. It is understood, from the reports of Dr. Smith to the Public Health Service and from the Legation's communications, such as despatch No. 79, July 22,<sup>96</sup> that in general the Liberian people are indifferent to the sanitary campaign, while their Government is hostile. It is not understood, therefore, why the Liberian administration might be induced by a threatened withdrawal of Dr. Smith to modify its attitude. Your comment is also desired in regard to the last paragraph of the note dated July 15 from the Liberian Secretary of State to the Chargé. Has the Liberian Government, in your opinion, any other "competent man" in view?

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<sup>96</sup> Not printed.

In the opinion of the Department, it is of the utmost importance that the sanitary campaign be renewed; also the Department does not wish Liberia to be left, if this can be avoided, without a Sanitary Adviser.

CASTLE

882.124a/87 : Telegram

*The Acting Secretary of State to the Chargé in Liberia (Reber)*

[Paraphrase]

WASHINGTON, August 21, 1930—4 p.m.

70. From Surgeon General Cumming to Surgeon H. F. Smith:

In answer to your telegram dated August 20, in which your recall was suggested, it is advisable for you to continue on the present detail until the financial reorganization has been completed in October. You are, meanwhile, authorized in your discretion to visit at expense of the service neighboring West African countries to observe the local activities for the control of quarantinable diseases and to return not later than the latter part of September to Monrovia.

CASTLE

882.124a/93 : Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, August 23, 1930—3 p.m.

[Received 3:30 p.m.]

106. Department's telegram No. 69. I propose with the Department's sanction to discuss with the President on Monday<sup>98</sup> or Tuesday what measures [ought?] to be taken to insure support for Dr. Smith's work, explaining that he considers the two essential requirements are sufficient funds and authority to enforce his sanitary regulations—both of which have been promised but have not been forthcoming. An informal memorandum may then later be submitted showing how the terms of the memorandum agreement have not been complied with.

I shall also take the occasion to refer to the plan devised by the Acting Financial Adviser showing how funds may be made available for the purpose.

Further comment on the Department's telegram follows later.

REBER

<sup>98</sup> August 25.

882.124a/93:Telegram

*The Acting Secretary of State to the Chargé in Liberia (Reber)*

WASHINGTON, August 25, 1930—5 p.m.

72. Your 106, August 23, 3 p.m. You are authorized to interview the President regarding the sanitary campaign. Stress the importance which this Government attaches thereto, and inform the President that it would regard the failure of Dr. Smith's mission with the deepest concern. Please telegraph summary of interview.

CASTLE

882.124a/96:Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, August 26, 1930—4 p.m.

[Received August 26—3:20 p.m.]

109. I saw President King today who promised to discuss the question of funds for the continuance sanitary campaign with the Secretary of the Treasury and give me his reply within two days. He has verbally given me his assurance that Dr. Smith will be granted the authority necessary to carry on his work when money is available. The President seemed anxious to gain time to formulate an answer, pending a Cabinet meeting this afternoon.

It is understood this meeting was called to discuss an answer to the last letter from the Fiscal Agents.

REBER

882.124a/81:Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, August 28, 1930—3 p.m.

[Received 3:50 p.m.]

111. Legation's telegram No. 109. The President today informed me that he had instructed the Secretary of Treasury to accept the offer of the Fiscal Agents<sup>99</sup> in regard to the \$11,000 to be devoted to sanitation. In our earlier conversation he had implied that, should the pending difficulties with the Fiscal Agents be settled, the money would be forthcoming. To this I answered that I understood these questions were quite distinct from the situation in regard to sanitation funds.

<sup>99</sup> See letter of June 14, 1930, from the Finance Corporation of America at Cleveland to the National City Bank of New York, p. 400.

On both occasions I assured the President of the Department's great interest not only in Doctor Smith's mission but in the continued work of sanitation in Monrovia and he expressed his desire to carry on the sanitary campaign.

He said that the Cabinet had decided to await Mr. Loomis'<sup>1</sup> return on September 6th before replying to the other questions raised in the Fiscal Agent's letter.

REBER

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882.124a/90: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, September 8, 1930—noon.

[Received September 9—7:36 a.m.]

113. Department's telegram No. 74<sup>2</sup> and Legation's No. 109. No advice of a reply to the Secretary of the Treasury's request for the \$11,000 from the Fiscal Agent has been received. Dr. Smith is waiting for these funds before reinaugurating his sanitary campaign.

Until the work is begun again it cannot be told whether the President's assurances of support will be effective and the program successfully concluded. In the meantime Dr. Smith is working on a bill to establish a Public Health Service which, if accepted by the Legislature, would permit the appointment of a foreign medical adviser as its director since no one qualified by its provisions to fill this place is available locally.

REBER

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882.124a/106

*The Chargé in Liberia (Reber) to the Secretary of State*

Diplomatic No. 10

MONROVIA, September 10, 1930.

[Received October 4.]

SIR: Supplementing the Legation's telegrams Nos. 106, 109, 111, and 113, I have the honor to transmit herewith a report covering the latest developments of the sanitation campaign in Liberia.

As explained in the Legation's despatch No. 79 of July 22, 1930,<sup>2</sup> since May 31st the sanitation campaign has been suspended for the Chief Medical Adviser has felt that without the two essential requirements of sufficient funds and ample authority with which to enforce his regulations he was unable to carry on the work provided by the terms of the Memorandum Agreement. Early in August Dr. Smith

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<sup>1</sup> John Loomis, Financial Adviser to Liberia, absent on leave.

<sup>2</sup> Not printed.

addressed a letter to the President requesting information as to what steps had been taken to enable these operations to be continued. No reply having been received either to that letter or to the plan presented to the Secretary of the Treasury by the Acting Financial Adviser showing how funds could be released for this purpose, Dr. Smith consulted the Legation in regard to a telegram he proposed to send to the Surgeon General, stating that in view of the absolute lack of cooperation shown him by the Government of Liberia and its officials, he felt further time here would be wasted. It was concluded that should it be brought to the attention of the Liberian Government that, owing to its failure to comply with the terms of the Memorandum Agreement and to provide the funds and ample police assistance specified therein, the Chief Medical Adviser was unable to carry out the duties assigned him, the Liberian Government would then be placed in the position either of proposing a definite program for the continuance of the work or of appearing to nullify the terms of its Agreement with the United States. It was felt that the President, who had on several occasions assured both the Chief Medical Adviser and the Legation of his desire that the work continue, would not permit the latter contingency to arise.

Upon the receipt of the Department's telegram of August 25th I then called upon President King to explain that I had been instructed to discuss certain aspects of the sanitary campaign with particular reference to its suspension and to inform the President that the Department would regard the failure of Dr. Smith's mission with the deepest concern.

The President stated in regard to the plan proposed by the Acting Financial Adviser that he would not consent to further transfers of this nature and implied should the Department lend its good offices in the settlement of the pending difficulties with the Fiscal Agents the money for sanitation would immediately be forthcoming. His Government, he said, had understood that funds for this purpose were to be obtained from loan monies. I replied that it was my understanding that these differences were considered quite distinct from the situation in regard to sanitation and mentioned in support of this belief the offer made by the Fiscal Agents of \$11,000 to be devoted to sanitation as separate and distinct from the conditions attached to the issue of bonds for the remaining \$100,000 of loan funds.

The President promised to discuss with the Secretary of Treasury ways and means of obtaining money for this purpose and on August 28th informed me that the Secretary had been instructed to accept the offer of the Fiscal Agents with the understanding that it not prejudice the Liberian position in regard to the other questions raised. The request for the \$11,000 was cabled to the United States on August 29th and it is expected that within a few days the money will be

available. Dr. Smith feels, however, that until funds are actually on hand he will not be justified in recommencing operations.

In regard to the lack of authority for the enforcement of sanitary regulations the President gave me his verbal assurance that should the campaign be re-inaugurated sufficient authority and ample police assistance would be provided Dr. Smith. The President stated that the principal difficulty in connection with work of this nature had been the feeling among many Liberians that they were being taxed to provide foreign residents with protection from yellow fever a disease which, he said, was not considered a great menace by his own people. He himself believed, however, that there was real need for general sanitation in Liberia and hoped that the work of yellow fever control could be made the starting point for a widespread sanitary improvement. It was the hope of my Government, I said, that the survey contemplated by the terms of the Memorandum Agreement would serve as a basis for a general improvement in health conditions and that the work begun in connection with yellow fever would be expanded and carried on after the termination of Dr. Smith's mission. The President assured me it was his intention to do so.

As no competent man can admittedly be found locally for the administration of such work and as the President does not appear to have made any attempts to secure the services of one elsewhere, it is believed that an opportunity may later present itself when with some degree of success the offer to assist in obtaining the services of a man to fill the more or less permanent position of a Medical Adviser may be renewed.

At the time when the offer was made in July, there was a feeling of strong opposition to any further financial commitments or extension of American influence in view of the Fiscal Agent's letter setting forth their complaints in regard to the loan administration and in view of the increasing uncertainty surrounding the investigations of the International Commission<sup>4</sup> and the results of their activities. It is thought that in the event that the former difficulties be settled and money released for public improvements the Government might be induced to reconsider its decision. Dr. Smith has prepared at the President's request the draft of a bill establishing Public Health Service for Liberia. This bill to be submitted to the Legislature at the October session provides that the Director of Public Health and Sanitation be a competent physician qualified to practice medicine according to the laws of Liberia and with experience in the work of sanitary control. No man with these attributes can be found locally with the exception of the two European doctors in Monrovia, neither of whom it is believed would accept such a position to the detriment of their private practices.

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<sup>4</sup> See pp. 336 ff.

The bill is so worded as to permit the appointment of a foreign Medical Adviser as acting Director of Public Health. Dr. Smith is sending by the same mail a complete report concerning the establishment of this Service together with his recommendations for putting it into effect. He considers that a properly qualified physician would be preferable for this post in place of a Sanitary Engineer as the former would be able more effectively to devote himself to measures of general health improvement. Without detriment to the work of yellow fever control this might lessen local opposition which would again arise if it were thought that the men appointed from abroad were working principally with this disease.

Respectfully yours,

SAMUEL REBER, JR.

882.124a/90 : Telegram

*The Acting Secretary of State to the Chargé in Liberia (Reber)*

[Paraphrase]

WASHINGTON, September 12, 1930—6 p. m.

77. Your 113, September 8, noon. In spite of the fact that the parties to the 1926 loan agreement have not reached an understanding relative to the alleged breaches of the agreement, the Department understands that, for humanitarian reasons, the Finance Corporation is considering acceptance of the Secretary of the Treasury's order for \$11,000, on the understanding that ample authority will be given the Sanitary Adviser to carry on his work under conditions that would be best designed to insure its success through the elimination of handicaps, such as those Dr. Smith has hitherto experienced. It is the Department's understanding that, in accepting this order, the Finance Corporation is to make it clear that, by so doing, they are not prejudicing their position as regards the alleged breaches of the agreement mentioned, but are treating this order as an exceptional request to which for purely humanitarian reasons they wish to accede.

If you deem it advisable, you should discuss this matter fully with the Financial Adviser, the Chief Medical Adviser, and Firestone's representative, Hines, and then promptly telegraph the full recommendations and comment you may have in mind on this or any other line, so that consideration may be given them with a view to their incorporation in the Finance Corporation's statement accompanying the \$11,000.

The Department is of the view that it would be well for you to consider, judging by conditions best known to yourself, the issuance by the President shortly of an Executive Order (later to be submitted, if necessary, to the Legislature for approval) to establish a special sanitary police corps (together, possibly, with a sanitary court)



with authority to enforce the sanitary regulations laid down by the Sanitary Adviser under the full legal authority as granted him by the Liberian Government. The Sanitary Adviser's control over the public health service, which would include both sanitary police and sanitary court, probably would be best assured by the grant to him of independent control over all sanitary finances, which would include disbursing the salaries of either the sanitary police or a sanitary police magistrate.

COTTON

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882.124a/91 : Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, September 15, 1930—9 p. m.  
[Received September 16—8:34 a. m.]

119. Department's telegram No. 77. I have consulted with Loomis and Dr. Smith in this matter but all contact with Hines is suspended owing to floods. Until the road can be reopened it will likewise be difficult for Loomis to forward his suggestions direct to the Finance Corporation.

[Paraphrase.] Loomis has, meanwhile, suggested inclusion in the statement which accepts the \$11,000 order a reference to the Liberian Government's failure either to introduce corrective measures respecting the alleged breaches of the 1926 loan agreement or to reply to the last letter, dated July 12, from the Fiscal Agents. Loomis believes the Finance Corporation should, if they think it can be done legally, insist upon the Liberian Government authorizing—with the assent of all the parties signatory to the agreement—a direct advance of the money to Dr. Smith, who shall disburse and account for it directly.

It is hoped by Dr. Smith that it will be possible (1) for a sanitary court to be established to end all violations of the sanitary regulations; and (2) for his sanitary inspectors to be vested with police authority. Under these circumstances, he feels, his program can be carried out effectively.

In view of the Liberian Government's hostility and of the political situation existing here, I feel that President King will find it difficult to accept these conditions unless outside influences bring pressure to bear. However, all of us deem it important for the money not to be delivered prior to the grant to Dr. Smith of similar authority and control of funds. [End paraphrase.]

REBER

882.124a/95 : Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, September 17, 1930—2 p. m.

[Received 5:40 p. m.]

122. Department's telegram No. 70, August 21, 4 p. m. Dr. Smith sails tomorrow to visit neighboring countries as instructed. He expects to be absent about 23 days.

The President said to him yesterday that when arrangements providing for a more permanent medical adviser were concluded, he hoped that Dr. Smith would remain for another period.

REBER

882.124a/91 : Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

WASHINGTON, September 19, 1930—1 p. m.

79. Your 119, September 15, 9 p. m. Radio received by Firestone from Hines indicates that Loomis advises and Hines agrees that Finance Corporation's reply about sanitation funds should be delayed until after September 20th conference with the President. We feel that it is essential that the sanitary issues should not become confused with question of the alleged breaches of the Loan Agreement or any other questions pending between Finance Corporation and the Government. We also feel that nothing should be allowed to delay the progress of sanitary improvement in Liberia after the 20th. The Department would like to have you cable report and your recommendations on this subject immediately in order that it may be in a position to discuss the matter further with a view to pressing action on the sanitary situation with Firestone.

STIMSON

882.124a/91 : Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

WASHINGTON, September 19, 1930—2 p. m.

80. Your 119, September 15, 9 p. m. The Department has received copy of Hines' radio received September 17 in Akron, quoting the text of proposed letter from Finance Corporation in answer to Liberian Government request for sanitation funds. Robinson<sup>5</sup> comments "I am a little surprised that he does not suggest the immediate giving to the Sanitary Adviser of governmental authority, sanitary police corps and Sanitary Court by Executive Order to be subsequently

<sup>5</sup> B. N. Robinson, assistant secretary of the Firestone Tire & Rubber Co. and Attorney of the Firestone Plantations Co., Akron, Ohio.

confirmed by legislature if that action required to be legally effective there”.

The Department also notes that Dr. Smith holds similar view as expressed in third paragraph of your September 15, 9 p. m. and it believes that without this authority in addition to direct disbursement of the funds by Dr. Smith the campaign could not be effectively carried on. Please discuss with Loomis and report.

STIMSON

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882.121a/99: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, September 22, 1930—9 a. m.

[Received 7:35 p. m.]

126. Department's telegram Nos. 79 and 80.

1. I had discussed with Loomis and Hines the advisability of withholding the Finance Corporation's reply to the Liberian Government's request for \$11,000 sanitation funds until after the question of an answer to the Finance Corporation's letter had been discussed with the President. It was felt that should the matter be settled no reference need be made to the failure of the Liberian Government either to correct the measures in dispute or to reply to the letters in regard thereto. The three of us are in accord as to the urgent necessity of immediate establishment of a sanitary program and that sanitation should be kept separate from the alleged loan agreement breaches, but consider that it might be unwise to insist upon this before the President's attitude toward suggested reforms could be determined. See my telegram No. 125, September 21, 9 p. m.<sup>6</sup>

2. In regard to the sanitary police and authority to be granted the medical adviser, Hines was temporarily unable to consult with us prior to the despatch of my telegram No. 119. He did, however, reach Monrovia later and in discussing his suggestions to be forwarded to the Finance Corporation little stress was laid on the question of authority as it was felt that this aspect of the question had been covered in my report. All of us believe, however, that it is essential to provide the medical adviser with ample authority. This may be accomplished by an Executive order later to be confirmed by Legislature.

REBER

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<sup>6</sup> *Ante*, p. 351.

882.124a/101

*The British Ambassador (Lindsay) to the Secretary of State*

No. 357

WASHINGTON, September 23, 1930.

SIR: With reference to your note of July 12th, 1929<sup>7</sup> and previous correspondence regarding health conditions in Monrovia, I have the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to inform you that he has received reports from His Majesty's Chargé d'Affaires in Monrovia from which it appears that the American medical adviser is meeting with great difficulty in his work owing to the unwillingness of the Liberian Government to enforce their own sanitary regulations and to provide the funds necessary if Dr. Smith is to carry out his task. It appears, for example, that when a test prosecution was instituted by Dr. Smith for the violation of an essential Public Health Order the Public Prosecutor entered a plea of "nolle prosequi" and the case was dismissed; and that Dr. Smith was subsequently informed by the Liberian authorities that no prosecutions would be instituted against persons infringing the sanitary regulations.

As the United States Government are aware, His Majesty's Government are most anxious that a real improvement should be effected in health conditions in Monrovia. Since the receipt of the above-mentioned reports from Mr. Ford they have ascertained that steps have been taken by the American financial adviser to arrange for the provision of further funds in order that the campaign against disease may be pursued. They feel, however, that concerted pressure by other interested foreign governments, in addition to the Government of the United States and themselves, is desirable in order to ensure that the Liberian Government will continue to afford the necessary financial support and to show in the future more readiness than they have in the past to cooperate in making Dr. Smith's recommendations and regulations effective.

Mr. Henderson<sup>8</sup> has therefore requested His Majesty's Representatives in Paris and Berlin to enquire whether the French and German Governments would be willing to instruct their Representatives in Monrovia to concert with His Majesty's Chargé d'Affaires in urging the Liberian Government, whenever it may become necessary, to assist Dr. Smith by stringently enforcing the sanitary regulations, by punishing violations thereof and by every other means within their power.

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<sup>7</sup> *Foreign Relations*, 1929, vol. III, p. 319.

<sup>8</sup> Arthur Henderson, British Secretary of State for Foreign Affairs.

I am to express the earnest hope that instructions may be sent to the United States Chargé d'Affaires to cooperate with his colleagues in taking this action.

I have [etc.]

R. C. LINDSAY

882.00/855

*The Financial Adviser of the Republic of Liberia (Loomis) to President King of Liberia*<sup>9</sup>

No. 5 PCE

[MONROVIA,] September 24, 1930.

MY DEAR MR. PRESIDENT: I confirm my understanding of your conversation regarding sanitation program for Liberia, which will have to be considered in the budget arrangement for succeeding years:

That the terms of the Memorandum Agreement of Liberia with the Government of the United States, made in 1929, shall be extended for an additional period of five years. That the terms of this Memorandum Agreement shall be modified by the addition of the provision that the head of the Medical and Sanitary work shall be entitled to allowances in accordance with Executive Order No. 6F and suitable salary.

And, that the enforcement of all sanitary laws and regulations in Monrovia, or other points where the Sanitation Department's activities may be extended, shall be enforced by the Liberian Government and carried into full effect. To carry out this purpose, Your Excellency will appoint in Monrovia as the Judge of the Police Court, charged with the duty of hearing cases brought by the Sanitary Department for the violation of sanitary laws, such person as shall be recommended by the Head of the Medical and Sanitation Department and two other disinterested Liberian citizens from private life.

That appropriate legislation will be urged upon the next Legislature for the creation of a service of Public Health and Sanitation, in accordance with the proposed act submitted by the Chief Medical Adviser, Dr. Smith, and that Sanitary Inspectors will be given police powers adequate to enforce the sanitation regulations and that these Sanitary Inspectors shall be employed and work under the direction and authority of the Chief Medical Adviser.

Moreover, that subject to the assent of the three parties signatory to the loan agreement, funds set aside from loan money for Sanitation work, shall be advanced directly to the Chief Medical Adviser by the Fiscal Agents and disbursed and accounted for by the Medical Adviser to the Auditor of the Republic of Liberia.

<sup>9</sup> Copy transmitted to the Department by the American Chargé in Liberia in his despatch Diplomatic No. 20, October 9, 1930; received November 1; *ante*, p. 358.

Funds set aside from loan money for Sanitation work shall be from time to time drawn upon in amounts not exceeding \$2,000 as an advance directly to the Medical Adviser from the Fiscal Agents on order of the Financial Adviser and Secretary of Treasury to be accounted for as provided above.

I would thank Your Excellency, if my understanding of your agreement on this subject of sanitation is correct, if you will so advise at once for guidance of officials concerned.

I am [etc.]

JOHN LOOMIS

Correct and approved

C. D. B. KING

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882.124a/101: Telegram

*The Acting Secretary of State to the Chargé in Liberia (Reber)*

WASHINGTON, September 27, 1930—noon.

82. Your 126, September 22, 9 a. m. Department has received a note from the British Embassy, dated September 23, stating that the difficulties encountered by Dr. Smith in carrying out his task have been brought to the attention of His Majesty's Government. [Here follows the substance of the note from the British Ambassador printed on page 431.]

The Department perceives no objection to your making representations similar to those outlined in the British note unless such action should interfere with the plans which you have worked out with Hines and Loomis. Please inform Department.

COTTON

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882.124a/104: Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, October 2, 1930—9 p. m.

[Received October 2—3:48 p. m.]

136. Department's telegram No. 82, September 27, noon. It was thought that joint representation on the subject of sanitation might delay the President's decision in regard to his request for American aid. Consequently I did not consult with the British Chargé d'Affaires until after the despatch of my telegram number 133<sup>10</sup> and then told him of the President's proposed sanitation program described in my telegram number 130, September 26, 9 p. m.<sup>11</sup> We agreed that we might informally discuss with the President the interest which other

<sup>10</sup> *Ante*, p. 353.

<sup>11</sup> Not printed.

nations had in the successful outcome of the program, reserving a possible protest until it became evident that the Liberian Government did not intend to carry it out.

REBER

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882.124a/107b : Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

WASHINGTON, November 5, 1930—4 p. m.

98. Department's telegram No. 96, October 30, 1 p. m.<sup>12</sup> Harvey Firestone Junior called at the Department today and informed the Department that the Finance Corporation has decided to make the advance of \$11,000 requested by the Liberian Government for sanitation purposes. Three thousand dollars will be made immediately available to the Fiscal Agent.

STIMSON

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882.124a/108 : Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, November 17, 1930—2 p. m.

[Received 5:30 p. m.]

159. The Legation has received from Dr. Smith a communication setting forth the present status of the sanitary campaign: (1) No funds available since May; (2) no execution of reforms as recommended in the sanitary report; (3) no access to the death records permitted by local authorities and [appealed] to the President to correct this without result. In view of the foregoing he adds that it has become necessary to forward to the Surgeon General the following telegram which I have requested be sent through the Legation in order that its contents not become public here at this time. The message for the Surgeon General reads as follows:

“Municipal government refused permission access to the monthly mortality records. Appeal to President without results. No funds available operating expenses since May 30. Recommend Liberian Government be requested employ their own sanitary officer. My time here wasted at expense United States Government. Smith.”

As yet no funds have been made available nor have any of the suggested reforms been put into effect. The President has stated to me that the bill establishing the Department of Public Health is now before the Legislature and that upon its approval he will issue the necessary orders to carry out the program as agreed upon. It does not appear, however, that the provision for the investment of sanitary

<sup>12</sup> Not printed.

inspectors with police authority, or the appointment of a sanitary judge, should be dependent upon the acceptance of this bill which merely creates a national health service.

The present memorandum of agreement expires on December 21. No provision has been made for its renewal, although the President in his note of September 30<sup>13</sup> proposed the establishment of a permanent and effective sanitary program and stated to me that he desired to extend the agreement. Reference in this connection is made to the earlier rejection of the offer of the services of a competent sanitary engineer. In view of the foregoing does the Department desire that I suggest its extension on the following terms: sanitary engineer to be paid a salary by the Liberian Government, to be clothed with ample authority and provided with sufficient funds to carry out the program of sanitary reform.

In order that this authority may be admitted it may be well to insist upon the inclusion of the provisions similar to those outlined in the Department's telegram No. 77, September 12, 6 p. m.

Without the conclusion of some such arrangement it will be difficult to insist upon the furtherance of a comprehensive program of sanitary reform agreed to by the Liberian Government but which it does not appear desirous of bringing about.

REBER

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882.124a/109 : Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, November 29, 1930—2 p. m.

[Received 4:39 p. m.]

166. Upon receiving information that the first installment of the \$11,000 sanitation fund had been made available, the President sent for Dr. Smith to discuss the continuance of the program. In view of the local political agitation he stated that he was unable without legislative approval to proclaim the remainder of his program as outlined in the letter of the Financial Adviser and accepted by the Finance Corporation, although the [sanitation] act of 1927 would appear to grant him such power.

Dr. Smith feels therefore he cannot reopen his sanitation work without the authority promised him and upon the promise of which the Finance Corporation advanced these funds. He is so informing the Surgeon General. It will be remembered that the President assured me that Dr. Smith would be granted the necessary authority when the

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<sup>13</sup> See telegram No. 133, September 30, 11 p. m., from the Chargé in Liberia, p. 353.



money was available. (See my telegram No. 109, August 26, 4 p. m.) I am in complete accord with Dr. Smith's decision, considering that the Liberian Government has no further interest in sanitation and that if so reopened sanitary work could not be successful.

REBER

882.124a/118

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*The Chargé in Liberia (Reber) to the Secretary of State*

Diplomatic No. 47

MONROVIA, December 8, 1930.

[Received January 5, 1931.]

SIR: With reference to the Legation's despatch No. 10 of September 10, 1930, and subsequent telegrams I have the honor to supplement the information contained therein concerning the sanitation program and the work of the Chief Medical Adviser in Liberia.

It will be recalled that on August 29th the Liberian Secretary of the Treasury sent a cable to the Fiscal Agents accepting the offer of the Finance Corporation of America to advance funds for sanitation. At that time verbal assurances were given to the American Chargé d'Affaires by the President that when funds were available ample authority would be provided the Chief Medical Adviser for the continuance of his campaign. In view of the difficulties which had been experienced by Dr. Smith in carrying out his earlier program it was then felt that certain provisions which would insure more effective measures of control and the enforcement of the sanitary regulations should first be accepted by the Liberian Government prior to the release of these funds. Discussions looking toward this end were inaugurated between the President and the Financial Adviser, and on September 26th the former approved a program submitted to him and expressed his desire to have the sanitation work continued in accord with its stipulations. In this connection reference is made to the Legation's despatch No. 20 of October 9, 1930,<sup>14</sup> and its enclosures.<sup>15</sup> The main features of the sanitation program to be adopted were:

- a) extension of the terms of the Memorandum Agreement with the Government of the United States;
- b) appointment of a Judge to hear all cases of violation of the sanitary regulations;
- c) investment of sanitary inspectors with police authority pertaining to matters relating to sanitation;
- d) appropriate legislation to be urged upon the next Legislature for the creation of a service of Public Health and Sanitation;
- e) arrangements to be concluded whereby from time to time allotments from this sanitation fund were to be made direct to the Chief Medical Adviser and accounted for by him to the Liberian Treasury.

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<sup>14</sup> *Ante*, p. 358.

<sup>15</sup> For enclosure printed in this section, see p. 432.

Inasmuch as no funds had been made available by September 18th, the Chief Medical Adviser in accordance with instructions from the Surgeon General sailed on a trip of inspection of quarantine control in other ports of West Africa and was absent from Monrovia until November first. Although during this period the Legation on several occasions requested information from the President regarding the fulfillment of this program and the extension of the Memorandum Agreement, none was forthcoming as the President stated it would be necessary to wait until the details of this and other reforms had been submitted to the Legislature. It was considered, however, that, as assurances had been given to the Legation that ample authority would be provided the Chief Medical Adviser for the furtherance of his work as soon as funds were on hand, it would be advisable to refrain from exerting further pressure until it could be definitely ascertained that the first advance of funds had been made.

This same decision was reached in conference with the British Chargé d'Affaires with regard to the proposal of the British Government that joint representations should be made on the subject of Liberian sanitation. It was felt in both cases as the question of funds and authority had been so intimately associated that it would be difficult to insist upon one without the other and that it would be well to withhold joint action for the moment in case it might later be more urgently required. In this decision the German Consul General and the French Gérant concurred.

On November 15th two weeks after the return of Dr. Smith to Monrovia he informed the Legation that as no money had been yet made available and as no evidence of a change in the Liberian Government's apparent lack of interest and unwillingness to cooperate in the sanitation work had been manifested to him in spite of the recent promises, he felt constrained to cable the Surgeon General that further time here on his part was wasted at the expense of the American Government. At that time it was believed in view of the forthcoming termination of the Memorandum Agreement on December 21st it might also be well then to attempt to reach a more conclusive arrangement for the purpose of insuring the continuance of the sanitation work than that provided merely by the President's acceptance of the Financial Adviser's suggestions regarding proper sanitary measures. The Legation's telegram No. 159 was therefore despatched.<sup>15a</sup>

On November 25th when the Legation had been informed that the Liberian Government had accepted the terms of the Finance Corporation's offer subject to the conditions agreed upon by the President and that the sum of \$2,000 representing the first allotment had been placed at the disposal of the Chief Medical Adviser, I took advantage of an interview with the President to remind him of his assurances that Dr. Smith would be given the desired authority and once more

<sup>15a</sup> *Ante*, p. 434.

referred to the program of September 26th, stating that without the execution of such some [some such?] measures it might again be necessary to call to his attention the fact that the terms of an agreement with the Government of the United States had not been complied with. Although he replied that he considered that the Executive Government did not have the power without legislative sanction to proclaim such measures, he promised to consult with Dr. Smith in regard to them when I said it was my understanding that the Sanitation Act of 1927 granted the President power to proclaim such regulations as shall be considered necessary for proper sanitary control in Monrovia. Under the provisions of this act Dr. Smith had previously been operating.

Three days later Dr. Smith reported that the President told him he did not feel he could issue the necessary Executive Orders to put the new program into effect although he had agreed with the Finance Corporation to do so. Dr. Smith has added in a report to the Legation that:

"In view of this additional failure of the Local Government to comply with its agreements, and in view of the fact that the funds were to be advanced with the specific understanding that this additional authority would be granted to the Sanitary Department I do not feel that I am justified in undertaking further sanitary activities or expending on sanitation activities the funds now available until the Local Government sees fit to comply with its part of the agreement.

"To begin anew the sanitary operations without the support of the Local Government and their fulfillment of the agreement as promised by the President would, I feel, be unjust to the parties advancing the funds. In addition to this, experience here in the past has shown that to attempt any sanitary program without the authority necessary to enforce the sanitary regulations is futile."

The Legation then informed Dr. Smith that it was in complete accord with and approved of this decision which it is considered is justified by the past attitude of the Liberian Government and people and is now further strengthened by recent political developments. Within a week of making this declaration the President was forced to submit his resignation owing to pressure from his political adversaries and manifest opposition to his reform program.

The complete lack of interest and in many cases open hostility to the work of sanitary and yellow fever control has been repeatedly demonstrated by officials of this Government and private citizens. It has also been established that this hostility has been in part due to the feeling that it was a measure primarily adopted for the safety and security of foreigners here resident, as the average Liberian both in Government office and in private life has never seen the advantages of proper health control nor been educated as to its necessity. He merely perceives the inconvenience and personal discomfort caused by what he considers the bother and expense of it all. It would thus

appear very doubtful whether any successor to the former President will be desirous of adopting and furthering an unpopular measure of this nature when his predecessor was forced from office by the opposition to reforms, among which sanitary control was numbered, and when anti-foreign and anti-white sentiment seems daily to be growing stronger. This feeling is not confined to a single political group but seems to be shared by all Liberians but not the natives.

Although Dr. Smith was able prior to the first of June to complete a preliminary campaign of yellow fever control and of cleaning up the most unsanitary features of Monrovia, the long interval which has lapsed since its termination has effectively destroyed the value of his work and conditions now may unquestionably be said to be returning to a state similar to that existing before activities undertaken last spring were begun.

A summary of the results of the Memorandum Agreement shows that while Dr. Smith was able to complete his survey of health conditions, effectively to reduce the death rate during the months when he was actually engaged in operations, and to prepare the recommendations called for by the terms of the agreement, he met with constant opposition and none of his recommendations have yet been put into effect. Moreover on May 26th Dr. Smith was informed that there were no further funds available for salaries or operating expenses, although expenditures up to that time had amounted to less than \$5,000 of the sum of \$18,000 originally appropriated. In addition the Liberian Government has apparently failed to comply with its promise to the Finance Corporation on the strength of which additional funds were advanced, and to carry out the suggestion for "the establishment of a permanent sanitation program with sufficient authority and means for making this program effective," which was made by the President of Liberia in his note of September 30, 1930 to the Secretary of State.

Within a relatively short period the danger of another yellow fever epidemic will again menace the lives not only of the citizens and subjects of foreign nations, who reside in Liberia, but of its own peoples, for it has been conclusively proved that the Liberian although possessing a greater degree of immunity from this disease is not altogether free from its perils. The question now arises as to how long will the continued existence of these unsanitary conditions be permitted by other countries, whose possessions border on Liberia, whose vessels call at its ports and whose nationals are subjected to the risk of their lives by Liberia's failure to comply with its promises to other governments or to accept offers of assistance from abroad.

The British Government has already on two occasions indicated its desire to insist upon improvement along these lines and to work in cooperation with the United States to this end. The Chief Medical

Adviser has reported to the Legation that on his recent tour of inspection of West African ports he was informed by the Governor of the British Colony of Sierra Leone that while the colonial government of Sierra Leone was not in the least interested in the internal politics of Liberia, it was however deeply concerned by the lack of sanitary conditions existing in this Republic. Over 12% of the Sierra Leone budget is annually being spent for the control of yellow fever and other communicable diseases, and this official added that the colony could never feel secure as long as the present absence of sanitary control in Liberia was permitted to exist. Similar views were expressed to Dr. Smith by the Governor of the British Gold Coast Colony. The German representative in Monrovia has recently informed me that his Government desires him to take any steps which may here jointly be determined upon to insure more effective control, and the French consular agent has received similar instructions.

It would therefore seem that the four Governments interested should again concert either directly or through the League of Nations to insist upon immediate and definite steps being taken to set up a proper sanitary organization under the direction of a competent foreign medical officer who shall be given full and adequate authority, such as in part envisaged by the program of September twenty-sixth, as well as control over the expenditure of funds for this purpose. Such officer should be appointed by these nations or by the powers signatory to the International Sanitary Convention of Paris,<sup>16</sup> to which Liberia has already adhered, should be responsible jointly to the President of Liberia and to powers naming him, and should have complete supervision over all sanitation work for a period of not less than five years.

It is felt that without some such international cooperation for the effective solution of this problem or the extension of foreign control over activities in Liberia, no assistance or anything save unenforceable promises, never carried out, can be had from the local government.

Respectfully yours,

SAMUEL REBER, JR.

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882.124a/111:Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

WASHINGTON, December 11, 1930—6 p. m.

115. Your telegram No. 166, November 29, 2 p. m., and previous messages regarding Dr. Smith. The Secretary of the Treasury on behalf of the Public Health Service has informed me that "the Treasury Department is unwilling to continue to furnish an officer to the Liberian Government when that Government finds it impossible

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<sup>16</sup> Signed at Paris, June 21, 1926; *Foreign Relations*, 1926, vol. I, p. 177.

to carry out the terms of its agreement", and requests that Dr. Smith be released from further duty in Liberia.

Under present conditions I agree that Dr. Smith's further presence cannot be justified, and you are accordingly instructed to send the following communication to the official acting as Liberian Secretary of State, whom you should address without title:

"Sir: I have been instructed to inform you that in view of the failure of the Liberian Government to support measures in favor of sanitation and public health recommended by Surgeon Howard F. Smith of the United States Public Health Service, who was loaned to Liberia to act as Chief Medical Adviser to that country, the American Government is obliged to conclude that no useful purpose can be served by Dr. Smith's further presence in Liberia at this time, and that he has accordingly been directed to return to the United States.

Dr. Smith is a competent officer of wide practical experience and he has made every effort to bring to the Liberian Government a realization of the desirability of adopting and enforcing measures of sanitation for the protection of the lives of the Liberian people. Every support has been given to these efforts by the American Chargé d'Affaires ad interim acting upon repeated specific instructions from the American Government. Because of the lack of cooperation on the part of the Liberian Government and officials this work has been unproductive.

I am therefore instructed to make it clear to you that the responsibility for the dangers to which the Liberian people are being exposed must rest upon Liberia alone.

My Government desires me to state that the Governments of Great Britain and of France have been informed of the action which the American Government has been impelled to take with regard to Dr. Smith, and of the reasons therefor."

You should sign this communication without title.

Dr. Smith is authorized to sail at once. He should prepare a succinct report of his service in Liberia for delivery to the Department through the Public Health Service on his arrival.

STIMSON

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882.124a/111

*The Department of State to the British Embassy*<sup>17</sup>

MEMORANDUM

In view of the failure of the Liberian Government to support measures in favor of sanitation and public health, recommended by Surgeon Howard F. Smith, of the United States Public Health Service, who was loaned to Liberia in 1929, to act as Chief Medical Adviser to that country, under the terms of a memorandum agreement negotiated between the American and Liberian Governments a year ago, the

<sup>17</sup> The same on the same date to the French and German Embassies.

American Government has been obliged to conclude that Doctor Smith's further presence in Liberia cannot be justified. Doctor Smith has accordingly been directed to return to the United States.

WASHINGTON, December 12, 1930.

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882.124a/113

*Memorandum by the Chief of the Division of Western European Affairs  
(Marriner)*

[WASHINGTON,] December 12, 1930.

Sir Ronald Lindsay, the British Ambassador, called to inquire about the action of our Government in withdrawing Dr. Smith, who has been serving as Medical Adviser in Liberia. I handed him the original of the attached memorandum<sup>18</sup> and told him that I had given similar memoranda to the French and German Counselors.

He said that his Government was most anxious to act in exact accord with us in the whole Liberian matter and that the Chargé there would evade the question of recognition of the new President<sup>19</sup> until we should give the lead. I read him portions of some of the recent telegrams from there, indicating that the cooperation was close between Reber and Ford, and he said he felt that united public opinion would eventually bring the Liberians to demanding some form of foreign control which, since Liberia was a member of the League, might be exercised through that body. I told him that, of course, the American sphere of government could never be extended to Africa and that while we could cooperate in international endeavor, as we had done in the Slavery Commission, we could not assume the full responsibility so far away. He said he perfectly understood this and that no doubt the League would, in the first place, denounce Liberia severely, and if this had no effect, might feel impelled to recommend stronger action.

J. T[HEODORE] M[ARRINER]

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882.124a/112:Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, December 16, 1930—11 a. m.

[Received 3:45 p. m.]

176. Department's telegram No. 115, December 11, 6 p. m. In response to my communication concerning the withdrawal of the Chief Medical Adviser, the Acting Secretary of State expresses the regret of

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<sup>18</sup> *Supra.*

<sup>19</sup> See telegram No. 169, December 3, 2 p. m., from the Chargé in Liberia, p. 378.

his Government at the necessity for this and desires to be informed whether the decision is irrevocable, adding that the law recommended by Doctor Smith is now pending before the Legislature with every prospect of its enactment. His note concludes with the statement that:

“It will thus be seen that the Liberian Government is taking a serious view of the question and does not share the opinion that no useful purpose can be served by the continued presence of the medical adviser.”

Although the law in question does not include the necessary provisions for authority to be granted the medical adviser, it is thought that on a later occasion, when the course of relations between the two Governments has been determined, this note might be used as the basis for entering into an arrangement along the lines suggested in my telegram No. 159, November 17, 2 p. m. Such an arrangement might jointly be proposed by the American, British and German Governments.

REBER

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882.124a/112:Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

[Paraphrase]

WASHINGTON, December 17, 1930—11 a. m.

117. Your 176, December 16, 11 a. m. I do not deem it necessary that this Government reply to the question raised in the Liberian note which you report.

The substance of the Department's note, quoted in its 115, December 11, 6 p. m., was communicated to the British, French, and German Governments.

When is Dr. Smith sailing?

STIMSON

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882.124a/115:Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

MONROVIA, December 27, 1930—9 a. m.

[Received 12:15 p. m.]

182. My telegram No. 176, December 16, 11 a. m. The Liberian Government requests that, in view of the withdrawal of Dr. Smith, the United States Government nominate an individual to serve as Director of Public Health and Sanitation under the provisions of the



new law, stating that it "shall be infinitely obliged if the matter is brought immediately to the attention of your Department of State and the urgency of its importance stressed."

Dr. Smith has left Monrovia and hopes to make connections in Freetown which will land him in England about the 8th of January.

REBER

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882.124a/115:Telegram

*The Secretary of State to the Chargé in Liberia (Reber)*

WASHINGTON, December 29, 1930—noon.

121. Your telegram No. 182, December 27, 9 a. m. You may state informally to the Acting Secretary of State in reply to his message that the American Government feels that during the eleven months of Dr. Smith's stay in Liberia, the Liberian Government had every opportunity to support practicable and highly desirable measures in favor of sanitation and public health, and that during this period Liberia gave abundantly conclusive evidence of its indifference to their importance. This failure to cooperate was responsible for Dr. Smith's withdrawal only a few days ago and while the American Government is gratified if the message under acknowledgment should indicate a change in the attitude of Liberia in the above respect, I am naturally unable to enter into any discussion of the Liberian request pending the return of Dr. Smith to Washington and the submission of his report.

Should you wish to comment on this message you are requested to do so prior to its delivery. In your discretion you are authorized to convey it orally to Barclay rather than to the Acting Secretary of State.

STIMSON

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882.124a/116:Telegram

*The Chargé in Liberia (Reber) to the Secretary of State*

[Paraphrase]

MONROVIA, December 31, 1930—2 p. m.

[Received 4:38 p. m.]

183. Your 121, December 29, noon. Prior to the delivery of the message, I learned that Dr. R. G. Fuzek had been approached regarding his designation by the Liberian Government as the Director of Public Health, should the Department not reply favorably. If he is to be appointed, it would appear important that some kind of external supervision should be exercised over his activities—perhaps

through the control of the sanitation funds—since otherwise he may not devote enough time to a satisfactory program.

When I submit the message orally, I shall stress, with the approval of the Department, the importance of further discussions being withheld pending receipt at Washington of Dr. Smith's report and study of the situation. Meanwhile, I am trying to ascertain the attitude of Dr. Fuszek regarding such an appointment.<sup>20</sup>

REBER

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**APPOINTMENT OF GEORGE W. LEWIS AS MAJOR IN THE LIBERIAN FRONTIER FORCE UNDER THE 1926 LOAN AGREEMENT**

882.20/258

*The Secretary of State to the National City Bank of New York*

WASHINGTON, February 25, 1929.

SIRS: The receipt is acknowledged of Mr. Hoffman's letter of January 16,<sup>21</sup> regarding the appointment of American officers for the Liberian Frontier Force under the provisions of Article 12, Paragraph 3 of the Loan Agreement of September 1, 1926.<sup>22</sup>

It will be recalled that the question of securing suitable men for these positions is one which has long occupied the close attention of the Department both under the 1912 Loan Agreement<sup>23</sup> and under the present agreement.

The matter was discussed informally with Mr. Edwin Barclay, Secretary of State of Liberia, during his visit to the United States in 1925, and as a result of these conversations certain qualifications for the positions were formulated. It was felt that a nominee should be thirty to thirty-five years of age, be of sound health and should have a physician's certificate regarding his ability to withstand the rigors of service in a tropical climate; that he should be capable of commanding and training troops, and should have a good knowledge of administrative work; and that he should have the ability to adapt himself to the unusual conditions of service under a foreign government and in an unfamiliar environment.

Early in the autumn of 1925 a vacancy in the frontier force occurred which the Department proceeded to fill, upon the request of the Liberian Government, by the method adopted in previous cases of nominating a non-commissioned officer from one of the colored regiments in the

<sup>20</sup> This course was approved by the Department's telegram No. 1, January 2, 1931, 1 p. m.

<sup>21</sup> Not printed; W. W. Hoffman was vice president and trust officer of the National City Bank of New York.

<sup>22</sup> *Foreign Relations*, 1926, vol. II, pp. 574, 583.

<sup>23</sup> Refunding loan agreement signed March 7, 1912; see *ibid.*, 1912, pp. 671, 693.

United States Army. The candidate selected was Hansen Outley, formerly of the United States Cavalry, who was found to meet the requirements mentioned above and who was given a discharge from the United States Army upon the request of the Department for the convenience of the service. Following his nomination to the position by the President he was appointed thereto by the Government of Liberia as Captain, and he is still serving in that capacity, his contract with the Liberian Government having been renewed.

Some doubt has been expressed by the Legation at Monrovia whether he should be regarded as occupying one of the positions specified in Article 12, Paragraph 3 of the present Loan Agreement owing to his having been nominated prior to the adoption of that agreement. However, it appears that he is being paid out of the assigned revenues and accordingly, in the view of the Department, he should be considered as occupying one of those positions. Nevertheless, if it should be felt that his position requires further regularizing it would be a simple matter for this Government to nominate him formally to the position which he now occupies in fact.

Early in the spring of 1927 the Department was informally approached by the Financial Adviser to the Republic of Liberia, acting under instructions from the President of Liberia. He represented that the Liberian Government felt that the type of Americans recently nominated as officers in the frontier force (i. e. non-commissioned officers from American negro regiments) was unsuitable; that it asked whether West Point officers could be sent, that it would prefer that they be negroes but that it would accept white officers if negroes were not available. The Department discussed this suggestion with the War Department, but was informed that the assignment of officers on the active list of the regular army for service with the Liberian frontier force would require specific Congressional sanction. This information was duly communicated to the Liberian Government and there the matter rested for the time being.

On July 1, 1927, the new Loan Agreement went into effect and the question of the appointment of officers under Article 12, Paragraph 3, arose.<sup>24</sup> In view of the fact that the contracts between the Liberian Government and Major Staten,<sup>25</sup> an earlier appointee, and Captain Outley (both of whom had been appointed under the 1912 Loan Agreement) still had some time to run, the Department determined to take no action in the matter during the life of those contracts. However, in July, 1927, Major Staten resigned, and accordingly one of the positions provided by Article 12 became definitely open.

<sup>24</sup> See letter of July 14, 1927, to Messrs. Shearman & Sterling, *Foreign Relations*, 1927, vol. III, p. 151.

<sup>25</sup> Moody Staten.

As a result of the Department's survey of the various candidates proposed to fill this vacancy it became clear that officers of the regular army were not available by reason of the legal bar referred to above, that retired colored officers of the United States Army were unsuitable, either by reason of health, age, or long separation from the military service, and that the choice accordingly lay between continuing to select colored non-commissioned officers on active duty with United States Army or seeking qualified white men who had had recent experience as officers either in the regular army or national guard or in constabulary organizations in the Philippines, Porto Rico, or elsewhere.

To the course of selecting colored non-commissioned officers from the regular army the Liberian Government had expressed, and continued to express, objections and accordingly the Department turned to the other field of selection, confident that in so doing it would best meet the wishes and needs of the Liberian Government and that it would be able to find men both technically equipped and temperamentally adapted for commissions as officers in the Liberian frontier force. It quickly found a number of eminently suitable candidates, but after conversation with them it was forced to conclude that the salary limit of \$8,000 for the two positions provided in the Loan Agreement was not sufficient to secure their services. After discussion with various United States Army authorities it appeared that a salary limit of \$12,000 (representing approximately the base pay of a Major and a Captain in the United States Army, plus seniority allowances, plus \$1,000 per annum each for tropical service) would be sufficient to attract men of the type desired and would afford a fair and reasonable standard of pay for such men. A statement of the situation as to West Point officers and colored commissioned officers was communicated to the Liberian Government, and inquiry was made whether the Liberian Government would be willing to accept white officers of the type referred to and if so whether it would be willing to increase the salary limit to \$12,000 in view of the considerations described above.

On September 8, 1927, a reply was received from the Liberian Government stating that for the present it could not approve the appointment of white officers to the frontier force, that it preferred that the employment of negro officers be continued, and that the sum of \$12,000 was at present beyond the financial capacity of the Liberian Government. The reply further referred to the powers to be exercised by the frontier force and concluded by suggesting that the matter of appointments be held in abeyance for the time being.

The Department then instructed Minister Francis, who was about to start on his mission to Liberia, to discuss the matter informally with the Liberian Government at the first opportunity after his arrival. As

a result of his conversations with the Liberian Government he cabled the Department in September, 1928, that the Liberian Government was still unwilling to accept white officers or to raise the salary limit, that it was willing to retain Captain Outley in his then capacity and that it requested the nomination of a negro Major.

However, when it came to acting upon the Liberian request for the nomination of a negro Major, the Department felt that the result of the negotiations described above was such as to make it impossible for it to fulfill its functions under Article 12 of the Loan Agreement since: one, West Point or other officers of the regular army could not regularly be assigned to service with the Liberian frontier force; two, there were no suitable qualified colored officers available; three, the Liberian Government had expressed its objections to the nomination of colored non-commissioned officers from the United States Army for commissions in the Liberian frontier force; four, the Liberian Government was not willing to accept qualified white officers from outside the regular army, nor was it willing to pay the salary necessary to attract such men. Accordingly, the Department took no action upon the Liberian request and the matter has been held in abeyance since that date.

So long as the situation described above continues the Department will be unable to assume the responsibility of advising the President of the United States to nominate officers for the frontier force as provided in the Loan Agreement. The Department would be glad to select colored commissioned officers if such could be found and in the absence of these it believes it could continue to secure colored nominees from the enlisted personnel of the United States Army. It also believes that it can obtain the services of qualified white nominees from outside the regular army provided the indicated salary increase is made. However, it is not prepared to nominate candidates whom it does not consider suitable and it feels that it should be left free to make its selection on the basis of technical ability and temperamental fitness, regardless of color, as is done in the case of the Financial Adviser.

The Department is not a party to the Loan Agreement and accordingly it does not feel that it can proceed further in the matter on its own initiative. It would, however, observe that the circumstances appear to suggest the advisability of direct discussions between the Liberian Government and the Finance Corporation of America and the National City Bank, Fiscal Agents, with a view to arriving at an understanding that will satisfactorily cover the questions of color and salary as well as the powers to be exercised by the American officers serving with the frontier force and which will enable the President of the United States to resume the function assigned to him by Article 12, Paragraph 3 of the Loan Agreement. Should

such negotiations be undertaken, the Department will be glad to be advised as to their progress and outcome in order that its relation to the Loan Agreement may be clearly defined.

I am [etc.]

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

882.20/287: Telegram

*The Secretary of State to the Chargé in Liberia (Wharton)*

WASHINGTON, November 23, 1929—2 p. m.

49. Your 54, October 9, 8 p. m.<sup>26</sup> Please hand following note to Secretary Barclay:

"I am instructed to inform Your Excellency that the President of the United States has nominated George W. Lewis for appointment by the President of Liberia as Major in the Liberian Frontier Force under Article 12, paragraph 3, of the 1926 Loan Agreement. Mr. Lewis who is at present Chief of the Internal Police of Porto Rico with the rank of Colonel has had a long and varied experience in constabulary work and is regarded as exceptionally well fitted by temperament and training for this important position. He is about 45 years of age.

I am further instructed to inform you that in order to obtain the services of a man suitably qualified for this position the Government of the United States has found it necessary to offer a salary of \$7500 per annum. Consequently, it will be obliged to defer the nomination of the second officer contemplated in the Loan Agreement until such time as the Liberian Government finds that its finances permit of an increase in the sum now provided for two officers under Article 12, paragraph 3, of the Loan Agreement.

As you will recall the inclusion in the Loan Agreement of a provision such as that contained in Article 12, paragraph 3, for the nomination of American officers to the Frontier Force was considered as one of the essential elements of the security advanced by the Liberian Government for the loan of 1926, and it follows that the Government of the United States in exercising its functions under that Article expects that the Liberian Government will give Major Lewis authority and assistance that will enable him so to organize the activities of the Frontier Force as to maintain the Force on the level of efficiency and morale envisaged in the Loan Agreement."

The Department has made every effort to meet the views of the Liberian Government in making this nomination and feels that the nomination of Colonel Lewis although a white man is thoroughly consistent with the spirit and the letter of the Loan Agreement. In the future when similar nominations are to be made it will earnestly endeavor as it has done in this instance to meet the wishes of the Liberian Government as to the nomination of colored officers provided

<sup>26</sup> Not printed.

that suitably qualified colored officers can be found but it is not prepared to nominate candidates whom it does not consider suitable and it feels that it should be free to make its selection on the basis of technical ability and temperamental fitness regardless of color. You are authorized to convey the foregoing informally to the Liberian Government.

[Paraphrase.] According to the understanding of the Department, the salary and allowances for Colonel Lewis are to be met out of Liberian receivership funds and in no way depend upon a Liberian Government contract.

You will report the action taken and the Liberian Government's attitude. [End paraphrase.]

STIMSON

882.20/295:Telegram

*The Chargé in Liberia (Wharton) to the Secretary of State*

MONROVIA, December 3, 1929—11 p. m.

[Received December 3—11 p. m.]

69. I have complied with Department's 49, November 23, 2 p. m. Barclay reticent to comment on nomination but expresses salary high. Will report to the Department by cable any reaction. Barclay asks may Legation's note be construed as offer of Fiscal Agents toward making any [new?] agreement on salary between the Fiscal Agents and Liberia under article 12, paragraph 3, loan agreement.

Legation's understanding salary and allowances fall within article 13, paragraph 1.

WHARTON

882.20/298:Telegram

*The Secretary of State to the Chargé in Liberia (Wharton)*

WASHINGTON, December 13, 1929—5 p. m.

54. In reply to your 69, December 3, 11 p. m. and 71, December 10, 2 p. m.<sup>27</sup> Please inform Liberian Government that fiscal agents do not consider it necessary to make any change in the terms of loan agreement as long as the sum of \$8000 for the payment of an officer or officers to the frontier service is not exceeded and that the appointment of Lewis would be in substantial compliance with loan agreement. When another officer to the frontier service is named making the amount of salary exceed \$8000 per annum, the fiscal agents will take up the question of revising Article 12, Paragraph 3 of the loan agreement.

<sup>27</sup> Latter not printed.

Please urge upon the Liberian Government the importance of agreeing to the appointment of Mr. Lewis at a salary of \$7500 at an early date.

STIMSON

882.20/300 : Telegram

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*The Chargé in Liberia (Wharton) to the Secretary of State*

MONROVIA, December 26, 1929—8 a. m.

[Received 11:11 p. m.]

77. Referring to Department's telegram No. 54, December 13, 5 p. m., the Liberian Government's reply received stating that Government have no objection to the nomination Colonel Lewis

"but as regards the matter of pay and allowance they must insist that his salary be fixed in a sum as shall be such a proportion of the amount specifically mentioned in the loan agreement for the payment and allowance of the two American officers, which will leave a fair margin for the salary of the other American officer."

WHARTON

882.20/300 : Telegram

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*The Acting Secretary of State to the Chargé in Liberia (Carter)*

WASHINGTON, January 13, 1930—11 a. m.

3. Your 77, December 26, 1929. Please inform Secretary Barclay that the Department is pleased to note that the Liberian Government accepts Colonel Lewis, the nominee of the President of the United States, for appointment as Senior Officer to the Liberian Frontier Service under the terms of the Loan Agreement of 1926. The condition that his salary will be fixed in a sum proportionate to the amount specifically mentioned in said Agreement for the payment and allowance of the two American officers which will leave a fair margin for the salary of the other American Officer has been met, as hereinafter stated and arrangements are being made by the Department with Colonel Lewis for him to sail about March 1st.

The substance of your 77 was referred to Finance Corporation <sup>28</sup> as interested party to Loan Agreement and you will inform Secretary Barclay that the Finance Corporation feels that further protracted discussion of the application of the provisions of Article XII (3) of Loan Agreement should no longer delay the commencement of its practical operation by the appointment of the Senior Officer and in consequence has agreed to reimburse to the Liberian Government the difference between any amount paid as salary to Colonel Lewis at the

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<sup>28</sup> Finance Corporation of America, Cleveland, Ohio.



rate of \$5,000 per annum which will be allowed to him by the Liberian Government pending the final determination of the question and the sum of \$7500 a year which Colonel Lewis has agreed to accept.

Please cable your reply before end of week.

COTTON

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882.20/306 : Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

MONROVIA, January 15, 1930—8 p. m.

[Received January 17—12:20 a. m.]

8. I am withholding action upon Department's telegram No. 3, January 13, 11 a. m., as I have every reason to believe that the proposal therein contained will be turned down unequivocally and possibly indignantly by Liberian Government on the ground that the arrangement would in effect make Lewis an employee of the National City Bank rather than a nominee of the United States Government and appointee of the Liberian Government. In so doing they would be on strong ground and in my estimation the proposal would expose the United States Government to severe criticism both here and elsewhere as it might well be cited as concrete proof that American policy in Liberia is dictated by the National City Bank and aside from undermining Liberian confidence in the fairness and impartiality of the Department might be very awkward to explain in the event of some future Senatorial investigation. I fully appreciate the desirability of having Lewis here as promptly as possible but I am convinced that the action proposed will not accomplish that result and that the proposal will definitely militate against the success of further negotiations on this matter as after a Liberian refusal we might be on less firm ground than we are at present.

My suggestion would be that we advise Barclay that the stipulation made in his note, reported in the Legation's 77, December 26, 8 a. m., in effect ignores the considerations which we have previously advanced; that the appointment of qualified frontier force officers is regarded as an integral part of the security of the loan; that the falling off of Liberian revenues and the impossibility of securing two qualified officers within the figure of \$8,000 has created a situation which was not contemplated at the time the loan was made; that the proposal that we appoint one officer at \$7,500 now and a second as soon as the revenues permit was designed to meet this situation within the terms and the spirit of the loan agreement; that if the Liberian Government feels unable to commit itself at this time to the appointment of a second officer as soon as the revenues permit, we propose that Lewis be accepted as senior military adviser at \$7,500 now and that all questions

re to the appointment of a second officer or a possible increase in the amount provided for American officers for frontier force be left for negotiation and determination in the light of future circumstances.

I am convinced, in view of condition of the revenues which are still falling, Liberian Government will not commit itself at this time to any possible future financial expenditures on this or anything else no matter how carefully such commitment might be guarded by reservations. I have some reason to believe that a proposal such as I have suggested would provide basis for acceptable arrangement, and even if it were refused we could then reasonably charge the Liberian Government with quibbling. Its acceptance would substantially accomplish the result we are seeking and would still reserve our right to raise the question of a second officer at some future date.

I have felt that the questions of principle and policy involved were sufficiently important to warrant the submission of my views and shall await Department's further instructions.

CARTER

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882.20/306 : Telegram

*The Acting Secretary of State to the Chargé in Liberia (Carter)*

WASHINGTON, January 23, 1930—5 p. m.

8. Your 8, January 15. Department's telegram No. 3, January 13, was in the nature of a proposal of a business character on the part of one party to a contract, the Finance Corporation (not the National City Bank), to the other party to the contract, the Liberian Government. The Department does not agree that the transmittal of such proposals would carry the implications described in your telegram No. 8.

As you are aware, the method of approach to the Liberian Government in this matter which is outlined in Paragraph 2 of your telegram under reference is virtually the same as that which has been attempted in the past. Since, however, you are of the opinion that such a proposal now promises a measure of success, you are authorized to communicate with the Liberian Government along the lines which you suggest. In view of the fact that this matter has been long delayed, you are instructed to take early action and to report promptly.

Pending receipt of a report of the results secured by your representations, you may consider the instructions contained in the Department's 3, January 13, as held in abeyance.

In this general connection, you may bring to the attention of the Liberian Government that Colonel Lewis has been formally nominated to the position by the President of the United States and that it is earnestly hoped that he will be able to sail not later than March 1 in accordance with tentative plans.

COTTON

882.20/312: Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

MONROVIA, February 13, 1930—6 p. m.

[Received 9:10 p. m.]

22. My No. 20.<sup>29</sup> I have received written confirmation from Barclay in following terms:

“In the event Captain Outley should be relieved of service with the Liberian frontier force as a result of the withdrawal of his nomination by the Government of the United States the Liberian Government would then be disposed forthwith to accept the nomination of Mr. Lewis as Major in the Liberian frontier at a salary, [for the time being,] of \$7,500 per annum, on the understanding that the salary shall remain in that sum so long as the appointment of the second officer contemplated under the loan agreement article 12, paragraph 3, is not insisted upon by the Fiscal Agent. In the event the Fiscal Agent should insist upon the appointment of the second officer specified in the agreement then the aggregate salaries to be paid these officers shall not exceed the sum provided under article 12, paragraph 3, of the loan agreement until the parties to that agreement shall have arrived at an understanding as to any increase or diminution of that sum in the manner provided in article 12, paragraph 3, of the loan agreement.

It was my understanding that any increase in the amount of \$8,000 specified in article 12, paragraph 3, of the loan agreement would require Legislative approval but that such Legislative approval, in the opinion of the Executive, would not be necessary to the appointment of Major Lewis upon the terms and in the circumstances stated above.”

Outley was nominated under the 1912 loan agreement and his nomination has never been confirmed under the 1926 loan agreement. Outley is at present at Cape Palmas and I do not feel that his continuation out here will serve any useful purpose. Request that I be authorized to inform Liberian Government that the Government of the United States has “for the convenience of the Government” withdrawn Outley’s nomination as preliminary to appointment of Lewis. Believe that some provision should be made for Outley, such as reinstatement in the American Regular Army with full seniority for the time he has spent here and that he be appropriately thanked for his services:

CARTER

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<sup>29</sup> Not printed.

882.20/312 : Telegram

*The Acting Secretary of State to the Chargé in Liberia (Carter)*

[Paraphrase]

WASHINGTON, February 19, 1930—3 p. m.

20. Your No. 22, February 13, 6 p. m. Records in the Department indicate that the United States Government has never formally nominated Outley under the loan agreement of 1926 and that, since the expiration of the loan agreement of 1912, he has been employed, at least in a legal sense, directly by the Liberian Government with no reference to any loan agreement, in spite of the fact, as is understood to be the case, of his compensation being paid out of assigned revenues. Therefore, the question of this Government withdrawing his nomination does not arise.

You may inform the Liberian Secretary of State that, if his Government wishes to dispense with Outley's services in conformity with the terms of the contract it has with him, this Government has no objection. You may, within the limitation of the foregoing, phrase your communication to the Liberian Secretary of State in any way you feel will satisfy his Government and will attain the desired results.

Regarding the Department's 19, February 17, 1 p. m.,<sup>30</sup> it is deemed important for Colonel Lewis to be advised as soon as possible of his appointment. Therefore, the Department will welcome the receipt through you from the Liberian Government of definite word that Colonel Lewis has been appointed. Advices at the same time are also desired as to what arrangements for paying his expenses will be made by the Liberian Government.

Since it was you chiefly who conducted the conversations with Lewis at the time his services were sought, will you inform the Department what understanding, if any, was reached with him concerning the matter of a contract. Is it the plan of the Liberian Government to engage Lewis under a contract? If it is, has there already arisen the question of the terms and do these present any difficulties from the standpoint of either party? Please telegraph fully regarding these matters. Pending receipt of your advices, the Department will naturally not communicate with Lewis.

All questions relating to the appointment of a "second officer" should if possible, it is felt, be held in abeyance until after installation of Lewis. However, if the Liberian Secretary of State should request an answer to that part of his communication which deals with a second officer, you may inform him that there would appear to be no objection to his statement.

The question of possible reinstatement of Outley, if he desires reinstatement, is being urgently taken up by the Department with the

<sup>30</sup> Not printed.

War Department. You will be notified of any decision by the War Department as soon as it is received.

The Fiscal Agents and the Finance Corporation are in accord with the above.

COTTON

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82.20/316 : Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

MONROVIA, February 22, 1930—3 p. m.

[Received February 24—2 p. m.]

28. Repeats of Department's 20 now received and the message decoded. Have fully appreciated Department's view regarding Outley's status and this question was thoroughly discussed in my conversation with Barclay prior to the understanding reported in my telegram 22, February 13. Barclay took the position that, while there might be something to be said for our point of view in a technical sense, the fact remained that Outley had been nominated by the President of the United States for a position which was wholly analogous to that provided for in the 1926 loan agreement and that in the absence of any communication from the American Government on the subject Outley had continued to occupy the position specified in the 1926 [agreement?] *de facto* for over two years and a half. While Barclay did not raise the point, further color is lent to the Liberian view by reason of acquiescence of the Financial Adviser, Fiscal Agents and Finance Corporation in permitting Outley's salary to be met from the assigned revenues. I was careful not to compromise the Department's attitude on the question and in fact left with [him?] a memorandum on the subject in terms identical with those set forth in Department's 20.

Barclay stated that the Liberian Government had no funds available to pay Outley's salary other than the assigned revenues and indicated very plainly that the Liberian Government was not prepared at this time to spend over \$8,000 per annum for salaries of American military advisers. He then made the proposition which was reported in Legation's 22, which I accepted subject to the Department's approval, as the most practical means of settling the question.

A further consideration in my mind in this matter is the fact that the Liberian Government has no particular desire to dispense with Outley's services unless his nomination is withdrawn by the United States as his retention here affords them a convenient pretext for refusing to accept Lewis except on terms which he probably would not consider, namely, [\$]5,200 per annum.

I am convinced that the Liberian Government will not alter their position and therefore repeat my recommendation that Outley's nomination be withdrawn by the Government of the United States as the most effective and practical means of obtaining the desired result. Both Financial Adviser and Hines<sup>21</sup> are in agreement with this recommendation and, as reported in my 22, I have definite written assurance that if this is done Lewis will be appointed at \$7,500.

I do not recall any mention of a contract with Lewis but I suggest that the Department verify this and other terms from correspondence on file in the Department. This correspondence of course should be read with reference to loan agreement. Personally I believe he requires no contract other than the loan agreement and that he should hold his position here in the same way as the fiscal officers who have no contract but are commissioned by President of Liberia. In this Financial Adviser strongly concurs.

Terms of service loan officials are governed by an Executive order of June 26, 1929, which makes due provision for transportation and travel allowance, travel time, leave of absence, accumulative leave, allowance for rent, medical expenses, et cetera. I am informed by Financial Adviser that advances for transportation to Monrovia for officers appointed under the loan agreement are made by National City Bank upon proper instruction from the Secretary of the Treasury of Liberia. In connection with foregoing I may state that no mention was made of a contract in my conversation with the Liberian Government and unless otherwise instructed will take the line that Lewis's status will be governed in the same manner as that of the fiscal officers without any mention of a contract other than that indicated in the terms of loan agreement and the Executive order referred to above.

CARTER

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882.20/316 : Telegram

*The Acting Secretary of State to the Chargé in Liberia (Carter)*

WASHINGTON, February 26, 1930—noon.

22. Your 28, February 22, 3 p. m. You may inform the Liberian Government that the United States Government withdraws the nomination of Captain Outley as made under the 1912 Loan Agreement.

COTTON

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<sup>21</sup> W. D. Hines, representative of the Firestone Plantations Company.

882.20/319:Telegram

*The Acting Secretary of State to the Chargé in Liberia (Carter)*

WASHINGTON, February 28, 1930—6 p. m.

23. Your 22, February 13, last sentence. War Department will authorize Outley's reinstatement in former grade on re-enlistment. Law does not permit time he has spent in Liberia to count for seniority.

CARR

882.20/323:Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

MONROVIA, March 17, 1930—1 p. m.

[Received 2:30 p. m.]

35. My 34, March 13, 4 p. m.<sup>32</sup> Note from Barclay received today states that in consequence of the withdrawal by the Government of the United States of Outley's nomination the Liberian Government approves Lewis' nomination as major at \$7,500, subject to understanding reported in my 22, February 13.

Note adds that all obligations to Outley will be duly discharged and appropriate instructions will be given regarding Lewis' transportation expenses.

Trust that this will enable Lewis to sail at an early date as his presence here during the investigation<sup>33</sup> will be most helpful.

CARTER

882.20/349:Telegram

*The Chargé in Liberia (Hall) to the Secretary of State*

[Paraphrase]

MONROVIA, July 2, 1930—11 a. m.

[Received 2:50 p. m.]

92. George W. Lewis was commissioned yesterday afternoon<sup>34</sup> as major in the Liberian frontier force. The President of Liberia is of the opinion that Lewis is a mere military adviser who is outranked by two Liberian majors and the Secretary of War here and gave instructions accordingly.

While the Liberian Government will be interested in the views of Lewis, it is believed that he will have little actual authority.

HALL

<sup>32</sup> Not printed.<sup>33</sup> See pp. 336 ff.<sup>34</sup> He had arrived in Monrovia on June 14, 1930.

APPOINTMENT OF CHARLES I. McCASKEY AS ACTING FINANCIAL ADVISER TO THE REPUBLIC OF LIBERIA IN THE ABSENCE OF JOHN LOOMIS <sup>35</sup>

882.51a/86

*The Acting Secretary of State to Mr. Nelson Stuart, Assistant Trust Officer of the National City Bank of New York*

WASHINGTON, January 30, 1930.

SIR: I acknowledge receipt of your letter of January 27,<sup>36</sup> addressed to Mr. J. P. Moffitt<sup>37</sup> of the State Department, quoting a cable from the Financial Adviser<sup>38</sup> that he is recommending Mr. McCaskey<sup>39</sup> as Acting Financial Adviser. It is understood that Mr. McCaskey, who was formerly Supervisor of Internal Revenue, is at present Supervisor of Customs in Liberia.

Article 8 of the Loan Agreement<sup>40</sup> provides for the nomination of the Financial Adviser by the President of the United States but there is no provision as to the appointment of an Acting Financial Adviser during the former's absence on leave. The Department would be pleased therefore to learn whether you consider it necessary to have the Acting Financial Adviser nominated by the President. In the case of Mr. Bussell<sup>41</sup> who was commissioned in 1928 Acting Financial Adviser by the President of Liberia<sup>42</sup> during the absence of Mr. De la Rue,<sup>43</sup> the Financial Adviser at that time, the formality of a nomination by the President of the United States was not followed.

Should it be deemed necessary formally to nominate Mr. McCaskey, I would be pleased to receive biographic data to submit as is customary to the President should he be recommended.

Very truly yours,

For the Acting Secretary of State:  
PRENTISS GILBERT

882.51a/90

*Mr. Nelson Stuart, Assistant Trust Officer of the National City Bank of New York, to the Secretary of State*

NEW YORK, February 6, 1930.

SIR: Receipt is acknowledged of your letter of January 30 with reference to our letter of January 27<sup>36</sup> in which we quoted a cable

<sup>35</sup> For previous correspondence, see *Foreign Relations*, 1928, vol. III, pp. 240 ff.

<sup>36</sup> Not printed.

<sup>37</sup> James P. Moffitt of the Division of Western European Affairs.

<sup>38</sup> John Loomis.

<sup>39</sup> Charles I. McCaskey.

<sup>40</sup> See *Foreign Relations*, 1926, vol. II, pp. 574, 579.

<sup>41</sup> Conrad T. Bussell.

<sup>42</sup> See *Foreign Relations*, 1928, vol. III, p. 246.

<sup>43</sup> Sidney de la Rue.



received from Mr. John Loomis, Financial Adviser to the Republic of Liberia under the Loan Agreement dated September 1, 1928 [1926].

There does not appear to be any provision in the Agreement as to the appointment of an Acting Financial Adviser during the absence of the Financial Adviser. The importance of a proper appointment in such a case from our position as Fiscal Agent is found in the last paragraph of Article XI, providing that funds in the hands of the Fiscal Agent shall only be expended upon the request of the Secretary of the Treasury of the Republic of Liberia, certified and approved in manner and form satisfactory to the Fiscal Agent by the Financial Adviser. In the present instance the appointment of Mr. McCaskey would be satisfactory to us but we feel that a confirmation to Mr. Loomis on the part of the State Department would tend to strengthen his official status as the Acting Financial Adviser and would establish a precedent to be followed in future cases.

We have no knowledge as to the recommendation of Mr. McCaskey for the position of Acting Financial Adviser, other than that contained in the cable from the Financial Adviser quoted in our letter of January 27.

As requested in your letter, we are pleased to enclose herewith such biographic data concerning Mr. McCaskey <sup>46</sup> as we find in our files.

Very truly yours,

NELSON STUART

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832.51a/91 : Telegram

*The Acting Secretary of State to the Chargé in Liberia (Carter)*

WASHINGTON, February 13, 1930—4 p. m.

16. Your 9, January 16, 3 p. m.<sup>46</sup> Department has received letter from the National City Bank stating that Loomis will recommend McCaskey as Acting Financial Adviser. Upon receipt of formal letter of recommendation from Financial Adviser and if you believe McCaskey is satisfactory to the President of Liberia notify the Liberian Government that his appointment is approved by this Government. The Liberian Government will doubtlessly issue a commission as in the case of Bussell. Refer to your diplomatic despatch No. 33 of February 15, 1928.<sup>47</sup>

COTTON

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<sup>46</sup> Not printed.

<sup>47</sup> Despatch not printed; for its enclosure, see *Foreign Relations*, 1928, vol. III, p. 246.

882.51a/112 : Telegram

*The Chargé in Liberia (Carter) to the Secretary of State*

MONROVIA, March 12, 1930—noon.

[Received 8:25 p. m.]

33. Department's 16, February 13, 4 p. m. McCaskey commissioned Acting Financial Adviser yesterday by President of Liberia. Loomis left March 8 via Spain and Cuba for his home at Strasburg, Virginia, where he will spend his leave of absence.<sup>48</sup>

In correspondence with the Liberian Government relating to McCaskey's nomination, Barclay<sup>49</sup> took exception to our position that Acting Financial Adviser should be nominated by the President of the United States but stated that in the view of the Liberian Government the next in command (in this case McCaskey) should, in the absence of the Financial Adviser, become Acting Financial Adviser. As the issue appeared to be somewhat academic, I did not insist upon acceptance at this time of our view but merely informed Barclay that I was mailing copies of the correspondence to the Department.<sup>50</sup>

CARTER

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<sup>48</sup> John Loomis returned to Monrovia on September 6, 1930.

<sup>49</sup> Edwin Barclay, Liberian Secretary of State.

<sup>50</sup> Not printed.

## MEXICO

### PROPOSED AGREEMENT BETWEEN MEXICO AND THE INTERNATIONAL COMMITTEE OF BANKERS ON MEXICO

812.51/1606

*The Ambassador in Mexico (Morrow) to the Secretary of State*

No. 2632

MEXICO, July 17, 1930.

[Received July 23.]

SIR: I have the honor to refer to the reported conversations which have been proceeding in New York during the last two weeks between Mr. Montes de Oca, the Mexican Minister of Finance, and representatives of the International Committee of Bankers on Mexico, in regard to a reorganization of the National Railways of Mexico and to the future course of the Mexican Government towards payments on that part of their bonded debt the holders of which have been represented by the International Committee since its formation in 1919.<sup>1</sup>

As I was absent from Mexico for more than six months preceding Mr. Montes de Oca's departure for New York, I was unable to discuss with him his proposed procedure at this conference.

On Friday, June 27th, I endeavored to arrange to make a courtesy call upon Mr. Montes de Oca at his hotel in New York, but did not succeed. On the afternoon of Saturday, June 28th, he called on me in Englewood. He was accompanied by Mr. Sanchez Mejorada<sup>2</sup> and several other members of his party. Our conversation was necessarily brief, and dealt more with general conditions in Mexico than the matter of the mission of the Mexican group to New York. As I parted with Mr. Montes de Oca, I remarked to him that he was, of course, keeping in mind that the Government of Mexico had other obligations than those that were represented by the Bondholders Committee. He stated that he was keeping this in mind.

During my absence, Captain McBride<sup>3</sup> continued his study of the Mexican financial situation. As previously reported by the Embassy, Mr. Joseph E. Sterrett, of Price, Waterhouse & Company, visited Mexico City in the early part of June, in order to obtain the most recent information with reference to Mexican finances. During Mr. Sterrett's visit, Captain McBride discussed informally with Mr.

<sup>1</sup> See *Foreign Relations*, 1919, vol. II, pp. 644 ff.

<sup>2</sup> Director General of the National Railways of Mexico.

<sup>3</sup> Capt. Lewis B. McBride, American Naval Attaché.

Sterrett the problem of Mexican finances as he saw it. After Mr. Sterrett's return to New York, Captain McBride prepared a memorandum incorporating his personal views as expressed to Mr. Sterrett. He then sent a copy of this memorandum to Mr. Sterrett. He also informs me that he discussed the points covered in the memorandum with Mr. Montes de Oca shortly before his departure for New York. I enclose, for the Department's information and files, a copy of Captain McBride's letter to Mr. Sterrett and a copy of his memorandum.<sup>4</sup>

Last Thursday, July 10th, Mr. T. W. Lamont, the Chairman of the International Committee, called me on the telephone. I enclose a copy of my memorandum of this conversation. Later the same day, Captain McBride, pursuant to a request of mine, called Mr. Sterrett on the telephone. A memorandum covering this conversation is also enclosed.<sup>5</sup>

Referring to Captain McBride's memorandum of June 21st, he informs me that in his conversation with both Mr. Montes de Oca and Mr. Sterrett in relation to the points covered in the memorandum, he has made it clear that he was expressing his personal opinion and not in any way representing either the views of the Embassy or those of the State Department. It is not at this time possible to comment in detail on the points covered in Captain McBride's memorandum without entering into an exhaustive discussion of the entire Mexican financial situation. He tells me, however, that the main points which he has had in mind and has stressed in his various personal and unofficial conversations, have been:

(a) A frank recognition that it would be impossible for Mexico to pay all her creditors in full in accordance with the terms of her obligations;

(b) That an agreement with any single creditor, or class of creditors, can be practically effective only if considered as a part of a general program covering all creditors;

(c) That the Embassy has at all times avoided expressing any opinion as to the priorities of the various groups of claimants against Mexico;

(d) That in determining priorities, however, it should always be kept in mind that the debt of the Government of Mexico to other Governments, on account of settlement of claims espoused by those Governments on behalf of their citizens, should be ranked as debts of one sovereign government to another sovereign government. In this connection it will be noted that Belgium has already been paid and the memorandum contemplates that the German awards recently completed should be paid in full without delay as provided in the Mexican German Convention;

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<sup>4</sup> Neither printed.

<sup>5</sup> Not printed; this memorandum was undated, but it was transmitted by Captain McBride to Mr. Joseph E. Sterrett in a covering letter dated June 21, 1930.

(e) That in the memorandum of June 21st which contemplates payments amounting to approximately fifty cents on the dollar to creditors as a whole, it is contemplated that payments to the other governments on account of claims espoused by them shall in effect be at the rate of one hundred cents on the dollar on the real value of these claims as estimated in the memorandum. The investigation made by this Embassy into previous claims settlements indicates that they averaged 10.65% of the gross nominal amount of such claims. The awards actually made by the German-Mexican Mixed Claims Commission, as previously reported, were only 7.95% of the gross amount of the claims originally advanced by German citizens. In the memorandum provision is proposed for payment by Mexico to the United States and other governments on the basis of 12½% of the gross nominal amount of the claims filed for submission to the Mixed Claims Commissions. This is of course a matter of adjustment with the Mexican Government which may decline to settle on any such basis, in which case the Department might not wish to make any adjustment but would allow the matter to proceed before the Commission with the result that no cash payments will be due from Mexico until all the cases are tried before the Mixed Claims Commission and the awards handed down, at which time the full amount of the awards is immediately due and payable in gold, minus the set off stipulated in the General Claims Convention.

I am setting out the foregoing facts in some detail because the Embassy has tried to keep in mind at all times the State Department's instruction No. 578 of March 27, 1929,<sup>6</sup> and the conversations between the Embassy and the State Department, held both before and after that instruction.

The Department will recall that under the Agreements of 1922<sup>7</sup> and 1925 between the Mexican Government and the International Committee the amounts payable to the bondholders during 1928, 1929, 1930 and 1931, would have been approximately 240,000,000 pesos; under the proposals as discussed in New York in December 1927 and January 1928, between Messrs. de la Fuente and Díaz Barroso, representing the Mexican Treasury, and representatives of the International Committee (see Embassy's despatch No. 232, of January 7, 1928<sup>8</sup>), the amount payable would have been at the rate of 37,500,000 pesos in 1928, 1929, 1930 and 1931, or a total of 150,000,000 pesos; in the memorandum of an agreement which was initialed in October 1928 by Mr. Montes de Oca for Mexico and Mr. Arthur Anderson for the International Committee (see Embassy's despatch No. 1635, of May 20, 1929<sup>8</sup>), the amount payable would have been 11,200,000 pesos in 1929, 26,900,000 pesos in 1930, and 32,800,000 pesos in 1931, or a total of 70,900,000 pesos. Captain McBride's memorandum of June 21, proposes a total payment of 20,000,000 pesos

<sup>6</sup> *Foreign Relations*, 1929, vol. III, p. 461.

<sup>7</sup> See *ibid.*, 1922, vol. II, pp. 685 ff.

<sup>8</sup> Not printed.

in 1930 and 1931. The memorandum of my telephone conversation with Mr. Lamont shows that Mr. Montes de Oca has offered to pay 25,000,000 pesos in the same two years. Nothing was paid on the bonded debt in 1928 and 1929.

I have [etc.]

DWIGHT W. MORROW

[Enclosure]

*Memorandum by the Ambassador in Mexico (Morrow) of a Telephone Conversation With the Chairman of the International Committee of Bankers on Mexico (Lamont)*

MEXICO, July 10, 1930.

Mr. Lamont called me up this morning at about 9:30 Mexican time, and told me that they had been carrying on conversations with Mr. Montes de Oca on the basis of Captain McBride's memorandum of June 21, 1930. Mr. Montes de Oca had stated that he could pay 25,000,000 pesos to the International Committee between now and January 1, 1932, so much of this sum of money as necessary to be used in retiring the overdue interest; that, so far as the Mexican Government was concerned, the overdue interest was to be cancelled; that in 1932 Mexico would pay to the International Bondholders Committee 25,000,000 pesos; that this would be increased by 1,000,000 pesos each year, reaching 30,000,000 pesos in 1937. Mr. Lamont stated that while they thought this was too low, the Committee was disposed not to press for a larger amount.

Mr. Lamont further stated that they had not got very far in the Railroad negotiations; that at the outset of the conference Mr. Montes de Oca had shown a disposition to deal with the Railroad situation first, but that later he had been rather pressing for an adjustment first of the Government debt; that Mr. Lamont was not personally carrying on the Railroad conversations, and was, therefore, not so familiar with the details of the Railroad discussions as he was with the Government debt conversations, but that he understood that they were getting somewhere in these Railroad conversations. I asked Mr. Lamont if the Railroad conversations involved any definite sum to be paid to the Railroads between now and January 1, 1932. He said as to this he did not know.

I said to Mr. Lamont that I had not yet read Captain McBride's memorandum but that he had told me of its general tenor. I then said that I thought the amounts suggested by Mr. Montes de Oca to be paid on Government debt were within the capacity of the Government; but that I doubted the effectiveness of any agreement unless Mr. Montes de Oca would cut down his other debt along some such line as had been suggested in Captain McBride's memorandum; and that if the International Committee simply made an agreement with

Mr. Montes de Oca by which the Committee cut down their debt, without some definite commitment as to cutting down the other debt, the probability would be that Mexico would default on the new agreement, as it had on the old. I said that the announcement of a settlement of the debt with the International Committee would, in my opinion, stiffen up all the other creditors, who would probably assume that they were now going to be paid in full. I mentioned specifically the agrarian bonds, and asked if Mr. Montes de Oca was making any commitment with reference to these.

I told Mr. Lamont that I would talk at once with Captain McBride and Captain McBride might call up Mr. Munroe or Mr. Sterrett a little later in the day. Mr. Lamont said that Mr. Sterrett had been sitting in on all the conversations.

D[WIGHT] W. M[MORROW]

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812.51/1607 : Telegram

*The Ambassador in Mexico (Morrow) to the Secretary of State*

MEXICO, July 23, 1930—7 p. m.  
[Received July 24—12:30 a. m.]

157. I was advised by telephone this morning by Mr. Lamont of the present state of the negotiations in New York between the International Committee and the Mexican Minister of Finance. I will send by the pouch full memorandum of this conversation.<sup>9</sup> From this information it appears that no agreement has yet been reached but that there is an even chance that one may be signed. It further appears that the contemplated agreement would be an independent one between the Committee and the Mexican Government and not made conditional upon the adoption of a general program making provision for all creditors.

Having in mind the Department's instruction No. 1737 [578?] of March 27, 1929,<sup>9a</sup> and Secretary Stimson's oral statement to Mr. Lamont on October 2, 1929, as covered in the Department's memo for file of the same date,<sup>9b</sup> I advised Mr. Lamont that the State Department and the Embassy must look at any agreement that may be made from the point of view of whether or not it contributed to the stability of the Mexican Government and also from the point of view of its effects upon the claims of Americans other than those represented by the Committee.

MORROW

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<sup>9</sup> See despatch No. 2647, July 25, 1930, from the Ambassador in Mexico, p. 467.

<sup>9a</sup> *Foreign Relations*, 1929, vol. III, p. 461.

<sup>9b</sup> Not printed.

812.51/1607:Telegram

*The Acting Secretary of State to the Ambassador in Mexico (Morrow)*

WASHINGTON, July 25, 1930—7 p. m.

195. Your 157, July 23, 7 p. m. With reference to the possibility of an agreement being reached between the Mexican Government and the International Committee of Bankers as a result of negotiations now under way in New York, you are authorized, when you deem it advisable, to indicate informally to appropriate Mexican officials that this Government would have to consider any agreement which may be reached from the point of view of its bearing upon general Mexican financial stability and upon the consequent capacity of the Mexican Government to give just and due consideration to all other classes of debt owed to Americans not represented by the International Committee of Bankers.

CARR

812.51/1611

*The Ambassador in Mexico (Morrow) to the Secretary of State*

No. 2647

MEXICO, July 25, 1930.

[Received July 31.]

SIR: I have the honor to refer to my despatch No. 2632 of July 17, 1930, and my telegraphic despatch No. 157 of July 23, 1930, in regard to the negotiations now being carried on in New York between Mr. Montes de Oca, the Mexican Minister of Finance, and the International Committee of Bankers on Mexico.

On the morning of July 23, 1930, Mr. Lamont, Chairman of the International Committee, called me on the telephone to inform me of the status of the negotiations. I also talked to Mr. Anderson who has been assisting Mr. Lamont in the negotiations. Captain McBride subsequently talked to Mr. Anderson and Mr. Munroe, the Secretary of the International Committee. I enclose memoranda of these conversations.

Respectfully yours,

DWIGHT W. MORROW

[Enclosure 1]

*Memorandum by the Ambassador in Mexico (Morrow)*

[MEXICO,] July 23, 1930.

Mr. Lamont, Chairman of the International Committee of Bankers on Mexico, telephoned me about 9 a. m. (Mexico City time). I talked to both Mr. Lamont and Mr. Anderson. The former gave me a general outline of the recent discussions in New York with Mr. Montes de Oca in regard to the direct government bonded debt. Mr. Anderson similarly outlined the negotiations in regard to a reor-



ganization of the National Railway of Mexico (for the railway negotiation, see Captain McBride's memorandum of even date of his talk with Mr. Anderson <sup>10</sup>).

Mr. Lamont said that no agreement on the Government debt had yet been reached but that there was an even chance that one might be reached providing for the following payments:

\$12,500,000 in 1931 (including \$5,000,000 to be paid within 30 days of signing the agreement);  
 \$13,000,000 in 1932;  
 \$13,500,000 in 1933;  
 \$14,000,000 in 1934;  
 \$14,500,000 in 1935;  
 \$15,000,000 in 1936; and annually thereafter for the life of the agreement.

Out of these payments the Committee, on behalf of the bondholders, would provide a current service including both interest and amortization on the principal of the bonds and also for retirement of all interest in arrears. Mr. Lamont indicated that this agreement if made would be a firm one as between the Committee and the Mexican Government and would not be conditional on any general program including agreements with other classes of creditors. He stated that he understood that Mr. Montes de Oca's view is that if he made an agreement of this nature with the Committee to cover the bonded debt, it would be possible for him to make suitable provision for other classes of creditors.

I reminded Mr. Lamont that this was the natural position for an inexperienced insolvent debtor to take,—he preferred to ask each creditor separately to make such arbitrary concessions as the circumstances of the moment determined, and to make new promises without provision for performing them. That was the easy course. The result was that the debtor generally remained insolvent instead of dealing with his situation as a whole. Shortly after Mr. Montes de Oca had come into office, he had made a new contract with the Mexican Land and Colonization Company cutting down the amount payable under a previous contract made by Pani; he very shortly had to break that contract. The new contract made with the Committee would be exactly like their old contract, except that it would be for a smaller amount,—it would still be a contract with an insolvent nation unless and until it became part of a coordinated program. I further pointed out that we had been endeavoring for almost three years now to get the Mexican Government to recognize the importance of its promises. Her old promises could not be kept in accordance with their terms, but she could at least improve her credit by not making any new promises

<sup>10</sup> See enclosure 2, *infra*.

without provision to perform them. If once a firm contract with the Committee were made and announced, many of the other creditors of Mexico might think Mexico was out of her financial difficulties and stiffen up their terms, with the possible result that Mr. Montes de Oca would either arbitrarily break the contracts with the other creditors or the new contract with the Committee, or the contracts with both. Any promise that Mr. Montes de Oca made to the Committee was necessarily conditioned by the facts, even if not made expressly conditional. It therefore seemed to me wise to make it expressly conditional.

I advised Mr. Lamont that the State Department and the Embassy must necessarily look at any separate agreements made by creditors with the Mexican Government at this time from the point of view of whether or not they contributed to a general program of getting Mexico back on her feet. The State Department and the Embassy must also look at any agreement from the point of view of its effect upon other claims of Americans who were not represented by the International Committee, including the claims of those Americans which the United States Government directly represented. Of course the Committee could proceed along the line that it thought best, but, if any new agreement was made as an isolated transaction and without making any provision for other creditors, I might have to advise the Mexican Government that I considered such an agreement was not a constructive step towards financial stability.

I told Mr. Lamont that I did not wish to appear in any way as obstructing his difficult negotiations; that without knowing what the outcome of the negotiations would be, I had prepared this morning a rough draft of a statement which might serve as an announcement at the end of the present negotiations. I then read the statement to him over the telephone, advising him that this statement was prepared, of course, only as a suggestion. Mr. Lamont told me that he thought Mr. Montes de Oca wanted to make a definite agreement and would not make any such statement. (For text of statement see Captain McBride's memorandum of even date attached hereto, giving his conversation with Mr. Munroe, the Secretary of the Committee.<sup>11</sup>)

In the talk with Mr. Anderson I asked him whether Mr. Legorreta was negotiating with Mr. Montes de Oca for the Banco Nacional. Mr. Anderson responded that he was, and stated that he thought the Banco Nacional was extending the time for the payment of its claim against the Mexican Government. I asked him if the bank was making any reduction in the size of its claim, and Mr. Anderson said he thought not. I expressed doubts as to whether the new contract with the Committee could be performed if all the other creditors insisted upon terms similar to those of the Banco Nacional.

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<sup>11</sup> See enclosure 3, *infra*.

[Enclosure 2]

*Memorandum by the Naval Attaché in Mexico (McBride)*

[MEXICO,] July 23, 1930.

About 9 a. m. (Mexico City time) Mr. Lamont called the Ambassador on the telephone. After the conversation between the Ambassador and Mr. Lamont (see the Ambassador's memorandum of even date in regard to this conversation<sup>12</sup>) I took the telephone and Mr. Arthur Anderson gave me some of the details in regard to the discussions which have been going on in New York covering a proposed reorganization of the National Railway. I understand the following to be the principal points on which tentative agreement has been reached:

(a) If a plan of reorganization is agreed upon it will be embodied in a draft memorandum which will set forth the procedure to be followed in a reorganization of the Company under the Mexican Commercial Code.

(b) A new company will be formed.

(c) Of the capital stock of the new Company, 65% (including all common stock) will be issued to the Mexican Government, in return for which they will issue a new concession to the new Company which will replace the numerous old concessions under which the National Railways now operate. This new concession will be for a term of 45 years.

(d) The remaining 45% of the stock of the new Company will be issued to the present holders of the bonds of the National Railway and its subsidiaries.

(e) A new issue of consolidated junior mortgage bonds will be exchanged for the present outstanding bonds of the National Railways and its subsidiaries.

(f) These new junior mortgage bonds will, for the first few years pay interest at only 2½% per annum. As the net revenue of the Railway increases, the increase will be divided in some proportion, which Mr. Anderson did not specify, between raising the current rate of interest on the new bonds to 5% and retiring the interest now in arrears on the old bond issues of the National Railways and its subsidiaries.

(g) A new issue of senior mortgage bonds will be authorized for the purpose of raising new capital as necessary, but none of these bonds will be issued at this time.

(h) All existing outstanding obligations between the Mexican Government and the National Railways on account of money owed

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<sup>12</sup> See enclosure 1, *supra*.

by one to the other will be washed out on the assumption that the respective claims are practically a stand-off.

(i) No understanding has been reached in regard to any foreign participation in the active management of the railways, nor has any specific provision been made for representation of the minority stock or of the bondholders on the Board of Directors.

L. B. MCB[RIDE]

[Enclosure 3]

*Memorandum by the Naval Attaché in Mexico (McBride)*

Subsequent to my telephone conversation with Mr. Anderson (see my memorandum of even date), I read over the telephone to a stenographer a rough pencil draft of a statement drawn up by the Ambassador to illustrate what he considered might be a proper outcome of the discussions in New York in regard to the Mexican Government's direct bonded debt represented by the International Committee.

About 10:30 a. m. (Mexico City time) Mr. Vernon Munroe, Secretary of the International Committee, called me on the telephone and read me back the text of this statement as they had taken it down during my previous telephone conversation with Mr. Anderson. I made some minor corrections and modifications of the text. Copy of the statement is attached.<sup>13</sup>

I then said to Mr. Munroe that I was not sure that the Ambassador had made clear to Mr. Lamont in his previous conversation his feeling in regard to an immediate cash payment to the Committee. I said that of course Mr. Munroe knows the reasons for our objection to any new agreement on the bonds which was not made conditional on the successful completion of a program for dealing with other creditors as well as with the bondholders. On the other hand, however, we see no objection to an immediate cash payment of a reasonable amount, such, for instance, as that proposed in my suggestions of June 21 (twenty million pesos), to be used for buying up old interest in arrears obligations pending the making of a firm agreement as part of a general program. This procedure would be equivalent to retiring the interest in arrears at a rate of 5 or 10 cents on the dollar. I pointed out that such a procedure would make it easier for the Mexican Government to pursue in the immediate future a similar course of buying at a discount claims of other creditors. Mr. Munroe replied that he thought he understood my point.

L. B. MCB[RIDE]

MEXICO, July 23, 1930.

<sup>13</sup> See enclosure 4, *infra*.

[Enclosure 4]

*Copy of Statement Prepared by the Ambassador in Mexico (Morrow)*

The Committee and Mr. Montes de Oca have together reviewed the current income and expenditures of Mexico for a series of years, the various obligations of Mexico, and her estimated budgetary requirements for expenditure other than debt. Mr. Montes de Oca points out that since January 1, 1928, the Mexican Government has been meeting all of its current requirements with cash, including a substantial program for constructing roads and schools, but not including its obligations arising from the agrarian program, cash provision for which is now under consideration. The Mexican Government has had a cash balance at the end of each year applicable for debt payment, which balance has been, however, insufficient to meet interest charges on all of the debt. The difficulty of the Treasury has been how to apportion this balance among the various classes of creditors.

The Committee has expressed a willingness to recommend to the bondholders represented by them a reduction in their debt provided substantial reductions are also made in the debt not represented by the Committee and provided also that certain reforms, which Mr. Montes de Oca has himself suggested, are made in the budgetary practice of Mexico, particularly with reference to the payments on debt.

Mr. Montes de Oca contemplates meeting with various other groups of creditors, both foreign and domestic, not represented by the Committee. These meetings will be held in Mexico City in the near future. Mr. Montes de Oca believes that if the other creditors of Mexico are prepared to deal with the financial situation in the same spirit of generous cooperation as has been shown by the International Committee, Mexico is at last in a position to constitute a budgetary program for debt payment that can be performed. If this can be accomplished, it will be of great advantage not only to all the creditors of Mexico but also to the Mexican people.

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812.51/1609 : Telegram

*The Ambassador in Mexico (Morrow) to the Secretary of State*

MEXICO, July 28, 1930—9 p. m.

[Received July 29—1:55 a. m.]

160. Your 195, July 25, 7 p. m. Minister Estrada spent Sunday with me at Cuernavaca and I discussed with him the agreement signed between the Mexican Minister of Finance and the International

Committee.<sup>14</sup> Pursuant to appointment I also met President Ortiz Rubio this afternoon at 4 o'clock and had a conference of an hour and a half with him. President Ortiz Rubio told me that he would not submit the agreement to Congress except with a project which would comprise the debt as a whole. I asked him if I might advise the Department that this was his intention and he told me he would be glad if I would do so.

Please consider this message confidential. Some confusion may possibly arise through a different point of view between the publicity given out in New York and such publicity as may come out here. We therefore want to make certain that pending developments no publicity comes out from either Department or Embassy.

MORROW

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812.51/1685A

*The Under Secretary of State (Cotton) to the Ambassador in Mexico (Morrow)*

[WESTCHESTER,] August 4, 1930.

DEAR DWIGHT: The enclosure speaks for itself. I had some idea of coming to Mexico, starting in say a week or so, but I don't want to. Wire what you think of that. Would it help? Stimson is off for the summer. I am in Westchester but do not mean to go back to Washington until Labor Day. Send your wires to Washington. They will relay them to wherever I am.

Yours,

J. P. COTTON

[Enclosure]

*Memorandum on the Mexican Debt by the Under Secretary of State (Cotton)*

[WESTCHESTER,] August 3, 1930.

I have examined the Montes de Oca-Lamont financial agreement and the Loan Agreement under which the proposed new bonds are to be issued, McBride's letter to Sterrett, Lamont's letter to Morrow, and Morrow's report of July 17, 1930, and I have, at Lamont's request, talked to Munroe and also to Rublee.

The attitude of the Department towards the proposed agreement will be determined by the Department—not by the Ambassador—but

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<sup>14</sup> Agreement between the United Mexican States and International Committee of Bankers on Mexico, dated July 25, 1930. Copies were sent to the Department on September 17, 1930 (812.51/1630). In despatch No. 57, December 18, 1930 (not printed), the Ambassador in Mexico reported that: "Yesterday the Minister of Hacienda gave out to the press a copy of the Spanish text of the agreement. This publication has been started in serial form in today's issues of *Excelsior* and *El Universal*." (812.51/1680)

I should like the Ambassador's full comments on my view of the facts and the deductions I draw from them in this memorandum.

Lamont views this as a private arrangement and he has not asked our consent—either as to the negotiation or the agreement. If he had I should have stated that such a separate agreement is not much value to him and foolish for Mexico. From my examination of his settlement which leaves the whole question of the National Railway reorganization in the air with a simple promise by Mexico to take it up, I am led to the belief that Lamont gets nowhere. I note that Montes de Oca states that he has in mind the adjustment of other debts also—but I am unable to believe that is as yet anything more than a wish.

From the point of view of the American claims under the Conventions and claims of our nationals not so filed (e. g. for land takings subsequent to the Conventions) I have objections to the new Lamont arrangement:

I. It assumes a right to assert an exclusive charge against certain very important revenues which form a large part of Mexico's income. (I should like to know about what percentage). Some of the old bonds (not all) may have asserted similar liens. Without going into the question of the legalities of those old liens, I am not willing to stand mute while in the first partial settlement of Mexico's external debt any group of creditors receive exclusive rights to so important a source of revenue. And I contemplate notice to Mexico that the Department will assert that position and even if the Lamont arrangement be ratified by Mexico will not regard it as binding.

II. I do not know whether all classes of subsidiary or State bonds given rights by the Lamont agreement are debts of Mexico.

III. I do not know what the estimated results of Mexico's income for 1930 now are. If there be the falling off I suspect I am inclined to object to the initial payment under the Lamont agreement.

IV. Speaking generally, the scale of payments under the Lamont agreement seems generally in line with McBride's memorandum. But we may desire to assert priorities.

V. I think the provision of the loan agreement for future financing issues is unwise and that the conditions stated are unwise. I am not sure that wiser conditions are now possible.

But in spite of these objections the course of the Department is bound to be much affected by the fact whether active negotiations for settlement of other external Mexican claims is a probability in any reasonably clear [*near*] future. I am clear that Mexico could wisely start such general negotiations now—but I doubt the wisdom or effectiveness of any official suggestion to that effect—then we should hope to see Mexico take its own lead—we would give it all help and cooperation, but unless it is a Mexican suggestion it can hardly succeed

and it is not our job. If the Nationalities were reversed we would feel that keenly. What is the Ambassador's view? I am prepared to state that we are ready for such a negotiation, will recommend it to our nationals and other foreign offices. My own view is that the Claims Conventions will never settle the matter—they are badly planned and they do not operate well and I do not think they ever will.

Mexico also has internal problems—the expropriation claims and the bank claims which ought to be settled now. But those are so clearly domestic matters that we probably could not be remotely helpful in that regard.

So what I want information on is whether—in spite of the fact that we may not be able to count on active and intelligent cooperation from Lamont's committee, any general financial plan is now feasible and probable. And what—in practice—is the best way to get it started.

I should think a conference in Mexico would be the start at which the Government could come forward with a general plan.

I should hope to receive advice from the Ambassador so that the Department could take any definite steps in the matter that seem wise before he leaves Mexico.

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812.51/1616 : Telegram

*The Ambassador in Mexico (Morrow) to the Secretary of State*

MEXICO, August 21, 1930—4 p. m.

[Received August 22—1:12 a. m.]

187. Referring to Mr. Cotton's letter of July 29th<sup>15</sup> and his letter of August 4th enclosing memorandum of August 3rd, I submit following answers to points I to V, page 2, of memorandum:

1. Custom revenues in 1929 were 29 percent of total revenues but due to changes in laws affecting administration and collection of revenue the estimates of revenue for 1930 shows custom revenues as 41 percent of total revenues. Of bonds outstanding about \$129,000,000 are classed as customs bonds and about \$147,000,000 are not so classed. New agreement purports to grant a prior lien on the customs revenues in favor of the entire issue of new refunding bonds of a principal amount of about \$267,000,000.

2. Although I lack specific information on three small state issues I understand that all the subsidiary and state issues included in the agreement were either guaranteed by the Mexican Federal Government or were assumed by it prior to recent agreement.

3. For the first four months of 1930 actual revenues were slightly in excess of estimates. Returns for May, June and July are not yet available to me.

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<sup>15</sup> Not found in Department files.



4. This goes to the heart of the subject. Whether or not the scale of payments under the new agreement is fair not only to other creditors but to the bondholders themselves depends on the budgetary provision which is to be made for all forms of debt, particularly during the next few years. The assertion of priority for the potential debt to the United States Government is, as you say, a question for the State Department to decide.

5. I agree; but I am not inclined to believe that the provisions for future financing are of much practical importance to us except on the supposition that the Mexican Government might desire to issue such additional customs bonds to the United States and other foreign governments in payment of the awards of Mixed Claims Commissions which may not be completed prior to 1934.

In reply to the last paragraph of the memorandum of August 3 I think the following points should be considered in regard to the new agreement:

First, is it a wise agreement for Mexico and for its creditors in general?

Second, if not, does any obligation rest upon the State Department to do anything about the matter?

Third, what possible action might the State Department take?

First, if ratified independently of a general project with budgetary provision therefor I consider the agreement unwise both for Mexico and for its creditors including the bondholders represented by the International Committee.

Second, even though the agreement be unwise I think the State Department should take no steps with reference thereto except so far as necessary to protect American interests for which the State Department is under a responsibility. In personal talks with the President and Mr. Estrada I have suggested that the Government should formulate their general project before ratifying the agreement.

Third, as reported in my telegram 160 of July 28th President Ortiz Rubio [said?] to me that he would not submit the new agreement to Congress except as part of a project which would comprise the debt as a whole. We should frankly recognize however that any plan may have to be made hastily at the last moment. Meanwhile the International Committee in New York and other interested parties, also Mr. Montes de Oca, may try to get the agreement carried out or ratified without reference to other obligations of the Government. I comment on this contingency as follows:

(a) The preliminary ten million pesos payment is to be made without delaying for ratification. I should be inclined to lodge no objection to this payment for the reason among others that I apprehend it would not prevent the payment and would only irritate. Furthermore we have heretofore done nothing to prevent Mexico paying money to her creditors even though in many instances it seemed to us

to be illogically or inequitably paid. We have felt that it was too great a responsibility to advise them not to pay creditors because if the money were not paid to any given creditor it might well be spent on something that all of the creditors would later assert was a waste. What we have used our influence against is new promises rather than actual payments. I express the foregoing opinion in spite of the fact that we have been told by a representative of an oil company that in order to facilitate the first payment to the committee on account of the new agreement, the Government has asked the principal oil companies to pay the next five months' taxes in advance by means of deposit of \$3,000,000 with the Mexican Consul General in New York. The companies have agreed to do so. The reason given by the Government for this request is that it will avoid the pressure on the foreign exchange rate which might be caused by the transfer of Government funds now on hand here.

(b) There will be two classes of objectors:

First, the various holders of liquidated claims will do their best to get their existing contracts performed, some of them claim priority to the International Committee, some claim equality. The gross amount of these claims actually overdue and due in 1932 is of course greatly in excess of any sum that can be put into the budget.

Second, the governments whose claims are as yet only in part liquidated will have to determine what their position is to be. As their debts are not yet due Mexico may claim that it is not a matter about which she should concern herself at the present. [Paraphrase.] The best attitude perhaps for the Department to take would be to give notice to the Mexican Government, at a time which may be proper, that our Government reserves its right to take the stand that the new agreement with the International Committee is not good against our Government claims, in particular that stipulation of the agreement which increases the number of bonds for the service of which customs revenues are allocated.

I do not think it is necessary for the Department to take any action until the matter has proceeded further. [End paraphrase.]

MORROW

812.51/1619

*The Ambassador in Mexico (Morrow) to the Secretary of State*

No. 2710

MEXICO, August 22, 1930.

[Received August 27.]

SIR: With reference to my telegram No. 187 of August 21, 1930, 4 p. m., and to the memorandum of the Undersecretary of State dated August 3, 1930,<sup>16</sup> in regard to the agreement recently signed in New

<sup>16</sup> *Ante*, p. 473.

York by Mr. Montes de Oca, on behalf of the Mexican Government, and Mr. T. W. Lamont, on behalf of the International Committee of Bankers, I have the honor to enclose herewith, for the information and records of the Department, a copy of my answer of August 18th to Mr. Lamont's letter of July 24th, which Mr. Cotton, in his memorandum of August 3rd, states he has read. I enclose a copy of Mr. Lamont's letter to me, as a matter of official record.

Respectfully yours,

DWIGHT W. MORROW

[Enclosure 1]

*The Chairman of the International Committee of Bankers on Mexico (Lamont) to the Ambassador in Mexico (Morrow)*

NEW YORK, July 24, 1930.

DEAR DWIGHT: Referring to the talk that you and I had over the telephone yesterday: I am a good deal upset that you and I should have to differ so radically on this Mexican financial and debt problem. You must realize from your side, my dear Dwight, just as I surely do from my side that the difference is philosophical and in no sense personal. You will continue to be guided by your own judgment and conscience as to how best to represent the interests entrusted to you, and I must follow the same course from my end of the line. I have a feeling that you are a bit disgusted with our mental processes up here and are genuinely upset that we are unable to adopt *in toto* your point of view. But I may recall to you that the view I have often presented to you is in no sense personal to me, but is shared and upheld more rigidly perhaps than I uphold it, by all the members of the International Committee; by eminent counsel to the Committee on both sides of the water; and by such sage members of our own firm as Charles Steele and R. C. Leffingwell, both of whom have had competent legal training as well as much practical experience.

In one way the difference between you and us is based on purely practical grounds. You deem a certain course to be workable: we deem it to be unworkable. You state in effect that the Mexican Government should pay nothing on account of any of its acknowledged debts, and until it has succeeded in adjudicating practically all the claims against it and is able to make what you would term a fair composition as among all its categories of debts and claims. Now, of course, it goes without saying that if it were workable to get all of Mexico's debtors and claimants in one room at the same moment and effect among all of them a fair composition, that might be an ideal way of settling the whole situation. But how can anyone for a moment deem such a solution practicable? The Mexican Minister points out to me that one class of claims alone consists of many thousand items, of which up to date only a few hundred have been adjudicated. He

says that it will take several years to adjudicate and settle the balance. Now you may retort that there can be found a quick method for settling all these claims. There may be one, but that does not seem to be the Minister's point of view.

I have discussed with the Minister the suggestion of indefinite delay that you have made, and I showed him yesterday the draft of statement which you proposed for him and for me to make, postponing the whole bond settlement. I asked him whether he wished me to join him in any such statement. He replied emphatically in the negative. He then went on to explain that while in theory it would be very fine to get all of Mexico's debtors and claimants to settle up at noon on the same day, he, as Minister of Finance, could not work any such idea through. He added that he felt he had to make a start somewhere, and it was his plan to make it with respect to his external debt which he considered the most important single item in the whole category, not only in amount but in character. By that he did not mean to intimate that he had anything but profound regard for all valid claims against the State, but he felt that these were not of such a pressing character as the debts that were secured against the solemn pledge of public revenue, now being collected in substantial excess of the required debt service.

Now reviewing for a moment the present discussions which began here almost four weeks ago, let me remind you that at the very outset the Minister presented to us a memorandum which he entitled *Aide Memoire* No. 4, copy of which Munroe has, I think, forwarded to McBride. In this memorandum he took cognizance of the very point that you have been insistent upon,—namely, the necessity for considering all the categories of debts and claims against it. In fact, in this *memoire* he classified these claims in United States currency under four headings, namely,

- (1) Internal floating debt,
- (2) Claims against national commissions,
- (3) Claims before mixed commissions and before the general American commission,
- (4) The present public agrarian debt.

And the total of these he put in United States currency at the sum of \$1,571,000,000. This, you see, was information that he furnished to show to us the necessity which he was under in connection with his treatment of the external debt, which fell outside the particular categories just listed.

At the outset then of these discussions, bearing in mind the very point that you have so often urged, and that has been so much on our own minds, the Minister (as Sterrett of Price, Waterhouse & Co. has written McBride) asserted full responsibility for all of the debts of Mexico, and at the first meeting stated that he could not consider

entering into an agreement in respect to the foreign debt which would impair his ability to make a reasonably satisfactory settlement of the internal debt, including the agrarian and the foreign claims. Unless he were to be left in a position where he would have sufficient revenues to deal with these debts, any agreement in respect to the external debt would, he said, break down, and he must adhere to a very conservative position. This statement, you will observe, from which he has never departed and which he has reiterated over and over again, left the International Committee no ground at all for insisting that he should do what he had so categorically insisted that he must and would do.

In other words, when in the first telephone conversation that you and I had a fortnight or so ago you urged me to compel the Minister to state precisely how in his budget he intended to handle these various items; when you urged me to get the Minister to declare that he would default completely on his agrarian debt; and when in turn, anxious to fulfill your views to the utmost, I urged these points upon the Minister, he retorted by telling me politely that it was really none of my business; that what he was attempting to do was to scale down his foreign debt to a point where he could satisfy himself that any settlement that he might make was well within his capacity, always having due consideration for these other categories of claims or debts which he had pointed out to us. Now, my dear Dwight, you may have some means of compelling the Finance Minister to give you precise information as to his budget plans for several years ahead, but I must confess that in any such effort I, myself, am powerless. The Minister said to me very politely that in a personal sense he would not have the slightest objection to giving me such information if he possessed it himself, but that there were a good many bridges which he would have to cross. For instance, as to the agrarian debt; he said he knew he had to handle it as conservatively and perhaps even drastically as possible, but that he was in no position today to tell me just how he would handle it.

When I showed him your proposed statement for postponing the whole matter, he explained more fully than he has heretofore his attitude in regard to the direct Government external debt. He said he would have preferred, just as you would prefer, to postpone this settlement for another year, but that evidence was coming to him from many quarters that unless he came to a settlement soon he would find himself in a good many awkward situations with respect to the foreign debt. Pressure was being brought to bear on him from all sides,—not by the International Committee, of whose good offices in endeavoring to protect his position he spoke with high esteem; but from various groups of foreign bondholders who apparently felt that the Committee have not adequately represented their interests, (I, T. W. L., have frequently been accused of being too lenient towards

Mexico) and who were no longer disposed to follow the International Committee. He felt that he could gain a settlement by dealing with the International Committee much more satisfactorily to his Government than he could possibly gain from independent settlements with various groups. And, therefore, he felt it expedient to negotiate with the International Committee and gain this settlement now before the Committee lost its clientele.

It was evident, too, in the Minister's mind that the foreign debt has attracted a great deal of public attention and that a sincere attempt made to settle the debt would reflect credit upon his Government. He has undoubtedly also felt uncomfortable because of the position of the secured debt. Here he has a debt secured by pledge of 100% of the customs, calling for an actual debt service of well under \$10,000,000, as against actual customs revenues of above \$50,000,000 per annum. You, yourself, may have a satisfactory answer that you can make for the Minister on this point, but it would be hard to make it satisfactory to the bondholders who now see peace in Mexico and customs revenues that are annually increasing.

What the Minister feels about outside pressure on him on account of the foreign debt is no doubt perfectly true. It has been rolling up steadily for the last two years. The British and French sections of the International Committee have during that time frequently demanded that I, as Chairman of the Committee, make some public statement as to the situation and as to the reason for further delay in approaches to the Government. I have declined to make any such statement, because I could make no satisfactory one. But I have in consequence felt my position as head of the Committee steadily declining in influence. When I was in London in May several groups of people called on me on this matter. One of them was a prominent member of Parliament, who said that he was in a very awkward position with reference to many of his important constituents who held Mexican Government bonds and who were constantly demanding that he ask public questions of his Government as to their failure to make any representations to the Mexican Government. He said that there were many members of the House who had prepared questions on this point, but had refrained from putting the questions in the House of Commons in their belief that up to this time I had been endeavoring to effect a settlement; but that they could not hold their horses much longer.

People in the Foreign Offices said much the same thing. As you perhaps know, they are constantly in receipt of communications from private citizens, demanding information and action. The Foreign Office forwards such communications to the British section of the Committee, which, in turn, sends them to us, and we give the best

answer we can, but never satisfactory to the recipient of it. The same sort of thing is going on in France, and to a lesser degree in Germany, Holland, Belgium and Switzerland. They also say in effect: "It is all very well to follow this Lamont fellow for a while, but he has become too easy on Mexico, and we must get some action." All these people know, just as you point out in the statement that you prepared for the Minister yesterday, that for the last two and a half years the Mexican Government has been meeting all its current requirements with cash. They see the Government spending money for road construction and schools. They see that the Government has had a considerable balance, as you say, applicable to the debt payment, and they want to know why they don't get some of it.

I apologize for reciting all the foregoing, but I have an idea that you may not be altogether familiar with all that has been going on and may be rather inclined to think that because for several years past the International Committee has been inclined to follow me, I could get the bondholders to do about anything that I want or that you want done. It may be that I still have some influence with the members of the Committee, but the point is that the Committee no longer technically represents the bondholders who, as the Minister points out, are showing signs of disintegration and independent action.

Now over the telephone yesterday, you told me that in your judgment I had no moral right to sign any fresh agreement in behalf of the Committee, because it would simply mean that in effect I should be urging the bondholders to take a further cut-down in the obligations due them, and in return would be receiving no proper consideration,—that is to say, should be getting another promise-to-pay from the Mexican Government in place of the one that the bondholders now have; should be merely getting promise and not fulfillment. Now as to the latter point you may be correct, but the Mexican Minister of Finance has expressed himself strongly to me in the opposite sense. He states that the 1922 and 1925 Agreements broke down from *force majeure*, that is to say, revolution. He said that of course if revolution occurs again, the pending Agreement, if executed, may break down, but that barring such an unhappy contingency, he is confident that the adjustment is now so well within Mexico's capacity to pay, with every regard for these other claims, etc., that it should be fulfilled.

For instance, take one item,—the arrears of interest which have just as much validity and law as the original obligation. These arrears now amount to approximately \$200,000,000. We are proposing to try to get them cancelled for about \$11,000,000 thus relieving the Mexican Government in one swoop of a fixed obligation of \$189,000,000, not counting compound interest which, if we figured that in, would be tantamount to perhaps half as much more again. Now you tell me that the Committee has no moral right to advocate such serious

reductions for the bondholders, without having absolute certainty as to the Government's future budget plans. But that is not the view of the Committee. It has not urged the Minister to make this settlement, but after the representations which the Minister has made to it, it cannot conscientiously refrain from signing and advocating such a settlement to the bondholders.

You expressed to me over the telephone yesterday the view that in case we signed the pending settlement with Mexico, the State Department would be likely to make a protest to the Mexican Government and try to prevent the settlement's going through. I should be much surprised to find that upon further consideration either you or the officials in the Department of State would consider such action expedient. If the settlement with the Minister is signed, the situation will be as follows:

After having for years failed to pay the service on its direct debt, secured by its more than adequate customs receipts, the Mexican Government comes forward and offers to resume, on an amended basis, and with further sacrifices by the bondholders, the resumption of its service. The Government does so upon the very presentation which you, yourself, have outlined in the statement which you prepared for the Minister and me to make,<sup>17</sup>—namely, that for two and a half years the Government has been able to meet all its current requirements in cash; that it has expended considerable sums for highway improvement and education, and that it has a cash surplus in the Treasury earmarked for debt purposes but not disbursed; on the Government's further representations that with all due regard for other categories of claims, it believes itself amply able to meet the proposed schedule of interest payments. Now confronted with that situation I can hardly imagine the Department of State making a protest or attempting to prevent the fulfillment of the agreement; being obliged in connection with such protest to notify all the Foreign Offices in the countries that I have mentioned that in effect they must tell the widow who has for years been a holder of the Mexican Government secured bonds that although the Government desires to pay her some interest, the American Government has held up its payment because of some American claims that have not yet been adjudicated. That would not prove helpful to anybody.

I haven't touched on the railway debt, but you are even more familiar with that situation than I am. You are aware that it is difficult for the National Railways of Mexico and for the majority owners of their common stock,—namely, the Mexican Government, to refrain further from adjustment of the debt, because the earnings of the railways have so improved as to show on their face that they are

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<sup>17</sup> „*Ante*, p. 472.



able to meet the full service on the outstanding railway debt. Now you and I know that the railways merely require such further funds for their betterments as to make it impossible for them to pay the full service on their bonds. Knowing that, we advocate, as in the case of the direct debt, that the bondholders should make a drastic composition so as to enable the Government and the railways to effect thorough-going reorganization of the properties.

But if you were to suggest that we proceed with the railway agreement but postpone the direct debt agreement (and my only excuse for such action on the latter debt would be my anxiety to comply with your wishes), I would have to answer that such a suggestion was unworkable, because the Committee has always represented both categories of debt, and we should have no excuse for concluding a railway agreement, and with the figures which the Government presents to us omit to conclude a direct debt agreement.

You told me over the telephone yesterday once more that you based your views as to breaking off negotiations upon the theory that Mexico was a bankrupt or insolvent Government. That is the theory that was advanced in Secretary Kellogg's famous letter of March twenty-seventh, 1929,<sup>17a</sup> which also advanced the view that in the present case the Mexican Government's direct secured indebtedness had no more standing than an ordinary tort claim. This is the theory that I am not obliged to argue, because it has been fully covered by the counsel for the Committee. The only reason that I bring it up at this time is to explain that while Ovey, the former British Minister in Mexico, and also the French Minister, complied with your request and advanced this theory of yours to their respective Foreign Offices, I am informed that those Foreign Offices took no more stock in the theory than counsel in New York and London have been able to take.

Now as to your own attitude in this matter of a proposed direct debt settlement: of course, I realize perfectly well, because you have so often told us all, that you were opposed to the bondholders' making at this time any arrangement to receive some of the money that was owed to them. And I know that you have strongly advised the Mexican Government officials to this end and have given to them what you consider sound reasons for your views. But now it would appear that they have not seen fit to accept counsel on this particular matter, and they have voluntarily come forward, asked for and executed a debt settlement, without urging on the part of the bondholders. That being the case, I hope you can see your way clear to letting the matter rest where it is rather than feeling called upon to attempt to defeat this plan. The Mexican Minister upon his arrival here declared that within certain limits he was fully authorized by President Ortiz Rubio to sign an agreement. He has now been able to bring about such an agreement apparently well within the limits of the authority which he

<sup>17a</sup> Instruction No. 578, *Foreign Relations*, 1929, vol. III, p. 461.

bore. Therefore, failure of ratification by the Mexican Congress would simply mean a black eye for Mexican prestige. This does not mean that Congress is bound to ratify the agreement, but it means that such an agreement having been negotiated and executed by the President and the Minister of Finance, any effort now to defeat it might prove to be a grave disservice to Mexico.

Again apologizing for burdening you with such a long and perhaps involved letter, and begging you earnestly to forgive me for not being able to adopt your view point, I am [etc.]

T. W. LAMONT

[Enclosure 2]

*The Ambassador in Mexico (Morrow) to the Chairman of the International Committee of Bankers on Mexico (Lamont)*

MEXICO, August 18, 1930.

DEAR TOM: My delay in answering your letter of July 24th has been due to my absence from the office during the past two weeks on account of a slight illness.

Of course we must not let the difference between us be in any sense personal. I have taken it for granted that it was your duty to protect, in the way that seemed to you wisest, that portion of the Mexican debt which has heretofore been represented by the International Committee. I am sure that you have recognized that my duty is to protect American interests as a whole.

Captain McBride and I have read your letter with care. We have reviewed carefully all our correspondence and memoranda in connection with the financial question. I have done my best to understand the difference between us. You have undoubtedly done the same. And yet, at the end of two and a half years, the difference remains. It may be that you are right that the difference is in some respects a "philosophical" difference, and in some respects a difference as to the "practical" steps to be taken. I cannot feel, however, that we could "radically differ" on such points for such a long period. It seems to me that the fundamental difference is a difference in our understanding of the facts.

I believe that the Mexican Government is now, and has been for several years, insolvent. By insolvency I mean that Mexico cannot pay all of its obligations according to their terms. This to me is not a theory but a fact. It seems to me a vital fact. My feeling in this respect is much the same as that expressed in the Egyptian report of 1879, which was drafted by Evelyn Baring (afterwards Lord Cromer):

"It will hardly be possible to begin laying the foundations for a better condition of things until it is acknowledged that the Government is now in a state of insolvency.

“However painful it may be to make this statement, we believe it our duty to do so; for it is unavoidable at some time or other, in some shape or other. Whatever the immediate effect of acknowledging it may be, the ultimate result cannot but be of advantage to the true interests of all persons who have a real and permanent interest in the financial affairs of Egypt.”

You seem to believe, on the contrary, either that the Mexican Government is not insolvent, or, even if it be insolvent, that each creditor or group of creditors may with propriety and safety make a separate agreement for composition of claims against the insolvent without stipulation or knowledge as to what provision is to be made for other creditors.

It seems to us that if Mexico is in fact insolvent, certain important relationships flow therefrom; certain important duties rest upon the Mexican Government with reference to all of its creditors, and certain important duties rest upon the creditors with reference to each other.

There are some expressions in the new agreement and in the joint statement issued by you and Mr. Montes de Oca in New York at the time of the signing of the agreement which indicate that both your committee and Mr. Montes de Oca understand that he contemplates making provision for the creditors of Mexico other than those represented by the Committee. President Ortiz Rubio has told me that this is his understanding, and that he does not intend to submit the agreement with your Committee to the Mexican Congress except as a part of a contemplated project of Mr. Montes de Oca dealing with the whole debt.

Captain McBride is hopeful that Mr. Montes de Oca may be able to submit such a general project. I hope this may prove to be so, and we are prepared to lend assistance and advice to this end so far as it may be asked for by the Mexican officials.

If, however, the preparation of such a project remains but an aspiration, without any more definiteness than resulted from the similar expressions used in the agreement of 1922, and if it should be proposed to ratify your agreement without any provision for the other creditors of Mexico, foreign and domestic, it will be the State Department, not the Embassy, that will determine what steps it should take for the security of the interests which it represents.

There are some statements or conclusions in your letter, especially in regard to my attitude on this question, which are not in accord with my understand[ing]. It does not appear necessary, however, to go into such questions at this time.

With warmest personal regards [etc.]

DWIGHT W. MORROW

812.51/1640

*The Chairman of the International Committee of Bankers on Mexico  
(Lamont) to the Under Secretary of State (Cotton)*

NEW YORK, September 25, 1930.

DEAR JOE: Vernon Munroe showed you that long letter of mine to Dwight,<sup>18</sup> expressing my great regret at not seeing eye to eye with him with regard to the Mexican Debt Agreement. Here is a copy of his reply to me dated August 18th,<sup>19</sup> to which I attach a memorandum touching upon his allusion to Lord Cromer which you may find of possible interest.<sup>20</sup> This memorandum points out that analogy between the two cases of Egypt and Mexico does not hold. If Dwight were planning to administer Mexican Government finance for the next ten years, I imagine both the foreign and American members of the International Committee would ask him to write his own book.

Finally, I attach memorandum on that point of security for the new refunding debt of Mexico as arranged in the Agreement, the point which you brought up to me last Wednesday in the talk which I had with you.

Sincerely yours,

T. W. LAMONT

[Enclosure]

*Memorandum With Respect to Such Bonds of the Mexican Government as Originally Were Unsecured but Under the Agreement of 1922 Were Accorded Security and Are Accordingly To Be Refunded Under the Agreement of July 25, 1930*

The reason for refunding the Mexican Government obligations (originally issued as unsecured) with Refunding Bonds which have security is to be found in the record of the negotiations with the Mexican Government, looking to a dealing with its unpaid obligations, beginning in 1922 and extending down to date. In 1922 the Finance Minister offered, in return for the excessive sacrifices which he was demanding from the bondholders, certain provisions for security to be applicable to all bondholders who became parties to the Agreement.

The essential information with respect to this record was promptly furnished to and is to be found with the State Department. The Mexican Government in the July 25, 1930, Agreement proposes to refund its obligations dealt with in the 1922 Agreement (modified in 1925) by the issue in two series of a Refunding Bond which will have as security its entire import and export custom revenues. The new

<sup>18</sup> Dated July 24, 1930, p. 478.

<sup>19</sup> *Supra*.

<sup>20</sup> Not printed.

Refunding Bonds will be issued to refund obligations which fall in two classes—those which at the time of issue were given security, such as the Customs Secured Bonds; and those which, although at the time of their issue were not given security, yet following the lines of the 1922 Agreement as modified, have obtained the benefit of the new obligations secured by the revenues specified in such Agreement. It therefore appears that the present secured Refunding Bonds are being offered to the holders of obligations which either originally, or as a result of the 1922 Agreement as modified, have obtained security in the form of an obligation given by the Mexican Government in consideration of the agreement of the holder of the bonds to reduce his debt and to accept a lesser amount; on condition that the obligation to pay such lesser amount should be secured as stated in the 1922 Agreement by “the entire oil export taxes as provided in the Decree of June 7, 1921, and any increases thereof and the specified sum of \$5,000,000 U. S. Gold annually payable in equal monthly instalments of \$416,667 each out of the oil production taxes . . .” (Paragraph (c) of 1922 Agreement as modified by the Agreement of October 23, 1925).

It will be recalled that the 1922 Agreement obligation was secured not alone by the oil export taxes, but by a 10% gross railway revenue tax, and that upon the modification of the 1922 Agreement in 1925, resulting in a separation of the Government Direct Debt and the Railway Debt, the security of the railway taxes was limited to railway obligations. It will also be recalled that the 1925 amendment extended the five year period so that payments of the amounts due in respect of the settlement of the Direct Debt should not be finally completed until December, 1935, such payments being secured in the manner above stated. In 1921 many millions of dollars were due in respect of the Government's secured and unsecured debts. It was recognized that a mere promise to pay a reduced amount gave little to the holders of such debt. In recognition of the necessity of offering to its secured as well as its unsecured debt something which would be acceptable to them, the Mexican Government provided the maximum sum that it could make available for its debt with due recognition of its other obligations, and secured such amount with the revenues stated in the law passed by Congress on September 29, 1922, and promulgated by the Executive Decree of September 30, 1922, and published in the *Official Gazette* in Vol. 22, Number 24. Thus was accorded to the Government debt which was unsecured when issued the security specified in the 1922 Agreement.

It will be remembered that as a result of internal disturbances, the Government was unable to make the payments which it had agreed to make in the 1922 Agreement, and consequently in 1925 it proposed a modification of this Agreement, which was accepted by the bondholders

with the result that when the Government was again unable to perform its undertakings expressed in the 1925 modified Agreement, it undertook through a Commission created in 1927 and the negotiations in 1928, and later in the negotiations resulting in the 1930 Agreement to make such a proposal to the holders of its obligations (which had already been accorded security) as would be sufficiently attractive to them to obtain their co-operation. Obviously, such co-operation could not be obtained unless the Government was willing to give security in exchange for an obligation which had in effect already obtained security. In dealing with its debt, the Government and the International Committee of Bankers on Mexico, composed of representatives of banking houses which had been instrumental in past years in raising capital for the Government by placing obligations with investors, acted, according to its own statement, with due regard to the Mexican Government's other obligations. As stated in the 1922 Agreement such Committee

“also recognize that the Mexican Government has other obligations which it is important for it to meet, such as the restitution to the banks of the specie fund, the agrarian debt and arrears of pay, which may have to be cared for by the issue of internal bonds or in some other manner later to be considered;”

The very material reduction in the amount of the debt which resulted in the Agreement of 1930 was also due to the recognition by the Government and by the Committee of the Government's other obligations.

The 1922 Agreement was made in the expectation that at the expiration on January 1, 1928 of the five year period, the original contracts affecting the obligations of the Mexican Government would be reinstated. Due to internal disturbances these contracts have not only not been reinstated, but a considerable part of the interest which was deferred under the 1922 and 1925 Agreements and which received security in consideration of the reduction in the amount payable, is still outstanding and unpaid.

As between the debt accorded security at the time of original issue and that not accorded security at the time of issue, the former has of course at all times received a preference. Such secured debt under the 1922 Agreement as modified was not asked to consent to any reduction in interest during the five year period, and the overdue interest upon such debt was given a preference over that on the debt which was unsecured at the time of issue.

Following the failure of the Government to provide the sums required by the modification of 1925, there waited upon the Committee in 1927 a Finance Commission of the Government which proposed a refunding of its debt on the basis of a secured issue of substantially less in principal amount than the issue proposed by the July 25, 1930, Agreement. Again in 1928 when the Government renewed its proposal

to refund its outstanding debt, it proposed a secured issue to be distributed among the holders of the obligations dealt with in the 1922 and 1925 Agreements.

It thus appears that since 1922 the Government has repeatedly asked for concessions from the holders of its debt and that those concessions principally have been asked from the holders of its debt which was originally issued without security. In order that such concessions might with some reason be accepted by the holders of its debt, the Government has proposed and its creditors have accepted obligations secured in the manner above stated. The debt which was afforded security at the time of its issue has consequently received secured obligations having a lien prior to the secured obligations issued to refund the balance of the Government debt, and the percentage of allocation of new bonds to the secured debt will recognize the superiority of that debt over the debt originally issued without security.

It may be well to note the provisions of the 1930 Agreement whereby the Government may use the customs revenues as security for future borrowing of additional funds, if it should choose to do so. This is a facility not contemplated by the Government's own memorandum submitted to the Committee in 1927 and not incorporated in the provisions of the understanding reached in the latter part of 1928. While the unsecured debt, therefore, receives a pledge of revenue under the new Agreement as partial compensation for the reductions in the amount of such debt, the lien which the unsecured bondholders receive may be used to secure further bonds issued on a parity therewith.

To summarize: In all the negotiations following the failure of performance of the 1922 Agreement as modified, there was uppermost in the minds of the Minister as voiced by him or his Commission that having bargained with the holder of the unsecured debt on the basis of a very material reduction in principal of that debt and the substitution of an obligation secured by oil and other revenues, and such bargain having been accepted by over 98% of the holders of such debt, it was incumbent upon the Mexican Government to protect that settlement sponsored not only by the Committee but not questioned by our State Department nor by the other Governments concerned.

SEPTEMBER 25, 1930.

812.51/1640

*The Secretary of State to the Chairman of the International Committee of Bankers on Mexico (Lamont)* <sup>21</sup>

WASHINGTON, October 6, 1930.

DEAR SIR: Following a recent talk with you in Washington the Department has received from you a memorandum dated September

<sup>21</sup> A notation at the top of this letter reads: "Copy sent to Mexican Ambassador November 14, 1930. H[erschel] V. J[ohnson]".

25, 1930,<sup>22</sup> in regard to the terms of an agreement dated July 25, 1930, known as the Lamont-Montes de Oca agreement which provides for the readjustment of certain Mexican bonds held by foreigners now represented by your Committee. The agreement has been reported to the Mexican Government. It was not submitted to the Department.

In your conversation with the Department, the Department pointed out the fact that according to this new agreement all the bonds represented by your Committee (save railroad bonds) will lay claim to a lien or charge on certain Mexican customs revenues, although at the time these several bond issues were put out, all of them did not have such a claim of security and some of them had no claim of security. Because of this change of status which the new agreement provides for, it would appear that at least some of the bonds covered thereby have bettered their position (so far as security is concerned), to the consequent detriment of other creditors of Mexico and particularly of the claimants under our Claims Conventions with Mexico, in which the Department of State is particularly interested.

The summary of the memorandum submitted by you on this point reads as follows:

“In all the negotiations following the failure of performance of the 1922 Agreement as modified, there was uppermost in the minds of the Minister as voiced by him or his Commission that having bargained with the holder of the unsecured debt on the basis of a very material reduction in principal of that debt and the substitution of an obligation secured by oil and other revenues, and such bargain having been accepted by over 98% of the holders of such debt, it was incumbent upon the Mexican Government to protect that settlement sponsored not only by the Committee but not questioned by our State Department nor by the other Governments concerned.”

It appears, however, from this summary and from the memorandum that the new agreement of 1930, although decreasing the aggregate face amount of the debt treated by it, does increase the aggregate claim of lien or security of the bonds which your Committee represents, in some degree beyond the Committee's agreement of 1922, and in large degree beyond the terms of the original bond issues.

Your memorandum states that the 1922 agreement was not questioned by this Department. The 1922 agreement proved ineffective and the fact that the Department did not question it seems now not important. But I would not desire that in the future a similar situation should arise as to the Lamont-Montes de Oca agreement, and that you should feel that silence by the Department on the subject at this time meant that the Department acquiesced in it or does not question it.

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<sup>22</sup> *Supra.*



The Department does not assert that it should have been consulted in regard to the Montes de Oca-Lamont agreement. But since the question raised in your memorandum has now arisen you will understand the Department is not by silence acquiescing in that agreement nor recognizing a duty to support it, nor expressing agreement with your memorandum. It may eventuate that the agreement will impair the resources available for meeting the balance of Mexican foreign debt, (including the claims in which the Department is particularly interested), either by reason of its claims of lien on revenues of the Mexican Government, or because it may turn out that as a whole it would require for its service an unfair share of that portion of the Mexican national resources devoted to foreign debt payment. If such should be the case, the Department will feel free, vis-à-vis Mexico, to disregard the terms of the Lamont-Montes de Oca agreement. Further than this it does not now seem necessary to go.

Very truly yours,

HENRY L. STIMSON

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812.51/1646: Telegram

*The Chargé in Mexico (Lane) to the Secretary of State*

MEXICO, October 21, 1930—7 a. m.

[Received 4:20 p. m.]

269. In an interview given to press representatives yesterday evening President Ortiz Rubio stated that he could not say exactly when the Lamont-Montes de Oca agreement would be discussed in Congress but that he believed it would be soon. He added that he had asked that the Senators and Deputies study the question painstakingly since there may have been error on the part of the Executive and that therefore Congress should carefully analyze the legal, political and economic aspects of the agreement.

According to the best information available to us the agreement has not as yet been formally submitted to Congress by the Executive.

LANE

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812.51/1655

*Memorandum by the Chief of the Division of Mexican Affairs (Johnson) of a Conversation Between the Under Secretary of State and the Mexican Ambassador (Téllez), November 5, 1930*

Ambassador Téllez accompanied by the new Counsellor of the Embassy, Mr. Herrera de Huerta, called to see Mr. Cotton and brought with him the letter Mr. Cotton had sent him under date of October 31, 1930,<sup>23</sup> transmitting for the Ambassador's information a copy of the Secretary's letter of October 6, 1930, to Mr. T. W. Lamont,

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<sup>23</sup> Not printed.

Chairman of the International Committee of Bankers on Mexico. This letter had been sent to the Ambassador by Mr. Cotton following the conversation between the two which took place at the Department on October 29. Mr. Téllez in returning the letter begged that Mr. Cotton would consider it had not been written and said that he did not feel that he could receive it because of the implication which would thereby arise that the United States Government was attempting to interfere in a matter of purely domestic concern to Mexico. He did not dispute our right to send any communication the Department saw fit to Mr. Lamont, but he could not admit that it was within the right of the Department to raise any question with Mexico as to her action in the agreement with the bankers. Mr. Cotton told the Ambassador that he would take the letter at this time, give the matter consideration, and would determine later what action he would take. He also explained to the Ambassador that his purpose in sending the letter was to make sure that the latter fully understood what he had said during their interview on October 29 apropos of the agreement between the Mexican Government and the Bankers and what the Department had said to Mr. Lamont. The letter to the Ambassador with its enclosure was therefore purely informatory.

The Chief of the Mexican Division was present at the talk.

HERSCHEL V. JOHNSON

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812.51/1665

*The Ambassador in Mexico (Clark) to the Secretary of State*

No. 13

MEXICO, December 2, 1930.

[Received December 8.]

SIR: I have the honor to refer to Mr. Lane's dispatch No. 3001 of November 25, 1930,<sup>24</sup> reporting such information as was available at that date in regard to ratification of the agreement of July 25, 1930 between the Mexican Government and the International Committee of Bankers.

It has since been learned that the Minister of Finance has sent a representative to New York to discuss with representatives of the International Committee the difficulties which have arisen in regard to the ratification of the agreement. Furthermore, Mr. Joseph E. Sterrett, representing the International Committee, arrived in Mexico City a few days ago. It is understood that Mr. Sterrett's trip was undertaken at the suggestion of the Minister of Finance.

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<sup>24</sup> Not printed.

In conversation recently with a member of the Embassy staff, Mr. Montes de Oca stated that there are now two problems affecting the ratification of the agreement:

(a) The first difficulty is a political one due to a considerable amount of popular opposition to the ratification of the agreement on the ground that large sums of money should not be sent out of the country under existing conditions. This opposition has of course been strengthened by the prevailing economic depression. Mr. Montes de Oca says further that a part of the opposition is to any agreement with the International Committee of Bankers which is referred to as a representative of "Wall Street" and that he himself is attacked as "the tool of Wall Street." (Note: this indicates a popular belief that the foreign bonded debt is predominantly held in the United States). Several proposals for dealing with the bonded debt by methods other than by means of an agreement with the International Committee have been made but the Government considers these as entirely impracticable. Mr. Montes de Oca stated that it is the Government's view that it is desirable to deal with a committee representing all the bondholders, and that, in their opinion, the present International Committee of Bankers is a more responsible and representative committee than any other that could be formed. He also stated that the Mexican Government very much appreciated the sympathetic and helpful attitude of Mr. Lamont; that the Government on their part understood Mr. Lamont's difficulties in dealing with the bondholders; and that it is convinced that the best results for Mexico are to be obtained by continuing to deal with Mr. Lamont on a basis of mutual understanding and of mutual concessions.

(b) The second difficulty arises from the continued drop in exchange and in the continued increasing discount on silver currency against gold. Mr. Montes de Oca stated that on the basis of the exchange and the silver discount as it existed last July, the 1931 payment of \$12,500,000.00 called for by the agreement would have caused the Government a loss by exchange of only \$600,000.00 or \$700,000.00, but that with the present exchange and discount rates the loss to the Government would be about \$2,500,000.00. (Note: all Mexican revenues are collected in silver currency so that in making dollar payments the Government suffers loss due both to low exchange and to discount on silver currency.)

Mr. Montes de Oca has proposed to Mr. Lamont two alternative methods for dealing with the ratification of the agreement:

(a) That the balance of \$7,500,000.00 still due on account of 1931 payments under the agreement (\$5,000,000.00 on account of 1931 payments was paid in August) should be made in the form of silver deposits at current rates of exchange to the credit of the Committee in any bank in Mexico City which might be elected by the Committee. Although these deposits would be made at current rates of exchange and would not therefore save the Government the loss due to these rates, it would obviate any further effect on exchange by the actual purchase of dollars on the open market (Note: Mr. Montes de Oca does not consider the gold reserves sufficient at the present time to make this payment by means of gold shipments). This alternative would have the added advantage of immobilizing, temporarily at least,

a large quantity of silver currency. It is the Government's belief that if sufficient silver currency is immobilized, thereby creating a temporary shortage of silver coin, the value of the silver currency as compared to gold can be improved.

(b) The second alternative proposal is that the agreement should be ratified, but with the proviso that it should not go into effect until January 1, 1932 instead of January 1, 1931.

Respectfully yours,

J. REUBEN CLARK, JR.

812.51/1677 : Telegram

*The Ambassador in Mexico (Clark) to the Secretary of State*

[Paraphrase]

MEXICO, December 27, 1930—noon.

[Received 5:12 p. m.]

357. During the course of a personal conversation which I had last night with Señor Montes de Oca the Minister told me that he had reached an agreement with Mr. Thomas W. Lamont for some modification of the agreement of July 25, last, prior to its ratification. He did not reveal the nature of the agreement but stated that it was now awaiting approval by the foreign sections of the International Committee of Bankers on Mexico. He further informed me that the agreement would not be presented to Congress prior to adjournment on December 31st but that the Government had decided to call a special session of Congress in February at which time the modified agreement may be submitted for ratification.<sup>24a</sup>

Final arrangements for credit by the National City Bank to the Government of Mexico for support of exchange have not yet been completed, but the local manager of the bank says that details only remain and that he expects final completion before the end of the year.

CLARK

**CONSIDERATION OF EN BLOC SETTLEMENT OF CLAIMS BETWEEN THE UNITED STATES AND MEXICO AND ARRANGEMENT REGARDING MEETINGS OF THE CLAIMS COMMISSIONS<sup>25</sup>**

711.12/1198 : Telegram

*The Ambassador in Mexico (Morrow) to the Secretary of State*

MEXICO, July 16, 1930—4 p. m.

[Received 9:11 p. m.]

148. The President informed me during our interview of July 12 that Mr. Montes de Oca is expected in Mexico City about July 22.

<sup>24a</sup> On December 22, 1931, the International Committee of Bankers on Mexico and the Mexican Government agreed to postpone for 3 years the authorization of the refunding plan in the agreement of July 25, 1930. (812.51/1843)

<sup>25</sup> For previous correspondence, see *Foreign Relations*, 1929, vol. III, pp. 461 ff.

Boundary Commissioner Lawson informs us that the joint report of the engineers on the river rectification project should be submitted to the Commission tomorrow and the Commission's final report embodying the report of the engineers should be ready for submission to the two Governments by the end of this week, thereby bringing the matter to a point where it may be discussed directly by the two Governments.<sup>26</sup>

[Paraphrase.] After due consideration, and having in mind the views of the Under Secretary as set forth in his telegram 139, May 26, 1 p. m.,<sup>27</sup> it is my feeling that, unless something unforeseen should come up, it would be wise for the Embassy during the next few months, at least, to concentrate on two points, namely, (1) an en bloc settlement of claims, and (2) river rectification including if possible the disposition of the Cordova and Chamizal tracts; the negotiations on these two subjects to proceed concurrently.

I should appreciate instructions from the Department as to whether it desires me to initiate concurrent yet independent negotiations on the foregoing questions as soon as the proper moment arrives. [End paraphrase.]

MORROW

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711.12/1198 : Telegram

*The Secretary of State to the Ambassador in Mexico (Morrow)*

[Paraphrase]

WASHINGTON, July 17, 1930—2 p. m.

182. Department's 176, July 11, 1 p. m.,<sup>28</sup> and your 148, July 16, 4 p. m. You are authorized to initiate concurrent yet independent negotiations when you consider it expedient to do so for (1) an en bloc settlement of claims and (2) Rio Grande rectification with related questions.

STIMSON

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411.12/1063

*The Ambassador in Mexico (Morrow) to the Secretary of State*

No. 2678

MEXICO, August 7, 1930.

[Received, August 14.]

SIR: I have the honor to transmit herewith a memorandum prepared by Mr. Lane of this Embassy with respect to remarks made in my presence by the Minister for Foreign Affairs, Señor Genaro Estrada,

<sup>26</sup> See pp. 535 ff.

<sup>27</sup> Not printed.

<sup>28</sup> *Post*, p. 543.

giving his views in regard to the non-functioning of the Special Claims Commission, United States and Mexico.

In view of Mr. Estrada's statements, the importance of an en bloc settlement being reached prior to the expiration of the life of the existing General and Special Claims Conventions<sup>28a</sup> should be emphasized.

Respectfully yours,

DWIGHT W. MORROW

[Enclosure]

*Memorandum by the Counselor of Embassy (Lane)*

At a dinner at the Ambassador's residence in Cuernavaca on July 27th, Señor Genaro Estrada, Minister for Foreign Affairs, inquired of the Ambassador: "Why does the Government of the United States object to the Special Claims Commission's meeting?"

The Ambassador having requested me to answer the question, I said frankly that if the Special Claims Commission should meet in Mexico and if the American Agent made no attempt to re-open the Santa Isabel case,<sup>29</sup> it would be very difficult for the United States Government to answer to the claimants and their representatives. These claimants considered that their claim was one of the most valid of those presented by the United States. What excuse could the United States give to them for not endeavoring to re-open the case? On the other hand, I said, if the Commission should meet and attempt to re-open the Santa Isabel case, at a time when other negotiations with Mexico are pending, Mr. Estrada knew as well, if not better, than we what the result would be.

Mr. Estrada then said that in August, 1931, when the life of the existing Special Claims Commission would expire, at which time the United States Government would probably propose that the Convention be re-extended, what excuse could he make to Congress in requesting an appropriation to carry the personnel and officers of the Commission, when the Commission had virtually not been functioning since the early part of 1926? Mr. Estrada said that, of course, if the United States wished the Special Claims Commission to function, that would be another matter, but he did not see how he could justify asking for additional appropriations, or even an extension of the Convention, when such an extension was merely a meaningless formality.

It was then suggested that this situation would be taken care of if an en bloc settlement of claims were arrived at.

ARTHUR BLISS LANE

MEXICO, August 7, 1930.

<sup>28a</sup> Between the United States and Mexico, signed September 8, 1923, *Foreign Relations*, 1923, vol. II, pp. 555 and 560.

<sup>29</sup> See *ibid.*, 1916, pp. 650ff.

411.12/1077

*The Ambassador in Mexico (Morrow) to the Secretary of State*

No. 2741

MEXICO, September 4, 1930.

[Received September 10.]

SIR: I have the honor to refer to the Department's telegram No. 182 of July 17, 1930, 2 PM, authorizing me, *inter alia*, to initiate the negotiations for an en bloc settlement of claims between the United States and Mexico.

On September 2nd, I called on the Minister for Foreign Affairs and informed him that while I would be in Mexico City only two more weeks, I was willing to do whatever I could in the initiation of en bloc settlement negotiations. I suggested that perhaps it would be best for the Mexican Government to initiate the conversations rather than for us to do so. Mr. Estrada did not answer this suggestion directly.

I then asked Mr. Estrada's opinion as to the steps he thought could best be taken to bring about an en bloc settlement. He replied that informal conversations could begin at any time between the Ministers of Foreign Affairs and Finance and, say, two experts, one on claims and the other on finance, on behalf of the Mexican Government, and, on behalf of the United States, such persons as might be indicated to deal with the Mexican representatives by the Embassy or the Department.

I explained to Mr. Estrada that both the Minister of Finance, Mr. Montes de Oca, and I had, during the past three years, been in accord that an en bloc settlement would be advantageous, but that we had not proceeded to a particular discussion of such a settlement heretofore because of other pending financial problems of the Mexican Government, notably the clearing up of current debt obligations.

I informed Mr. Estrada that I would discuss the matter with Mr. Lane, the Counselor of the Embassy, who would be Chargé d'Affaires after my departure and who would, consequently, have to carry out any informal conversations which might be initiated, and suggested that Mr. Lane might discuss the matter with Mr. Estrada.

Respectfully yours,

DWIGHT W. MORROW

411.12/1138

*The Ambassador in Mexico (Clark) to the Secretary of State*

No. 2

MEXICO, November 29, 1930.

[Received December 8.]

SIR: I have the honor to refer to Ambassador Morrow's dispatch No. 2741, of September 4, 1930, in regard to an en bloc settlement of claims between the United States and Mexico.

Yesterday Captain McBride, of the Embassy staff, lunched with Mr. Montes de Oca, the Minister of Finance. In the course of the conversation Mr. Montes de Oca referred to various informal conversations which he had had from time to time with Ambassador Morrow in regard to a possible en bloc settlement of claims. He stated that he understood from Ambassador Morrow that the State Department might consider such a proposal favorably. He then asked whether the next move in this matter should be taken by the United States Government or by the Mexican Government. Captain McBride replied that he was without official information on this subject, but that he understood that the United States Government had never made any formal proposals to this end and that, on the other hand, such a settlement is the announced policy of the Mexican Government as set forth in their law of January 25, 1929 (see dispatch No. 1316 of January 4, 1929<sup>30</sup>). He also stated it as his understanding that, in the last conversation between Ambassador Morrow and Minister of Foreign Affairs Estrada (as reported in the above referred to dispatch), it was left for Mr. Estrada to make definite suggestions in regard to the manner in which the subject might be usefully discussed between representatives of the two governments. Mr. Montes de Oca then indicated that he is still in favor of an en bloc settlement and stated that he would discuss the subject with Mr. Estrada at an early date.

In this connection Mr. Montes de Oca stated that he expected to receive at an early date the German Government's agreement to a proposal that the amount awarded by the Mexican-German Mixed Claims Commission (508,912.31 pesos. See dispatch No. 2786 of September 22, 1930<sup>30</sup>) should be paid in five annual installments without interest.

Respectfully yours,

J. REUBEN CLARK, JR.

411.12/1145

*The Ambassador in Mexico (Clark) to the Secretary of State*

No. 26

MEXICO, December 5, 1930.

[Received December 11.]

SIR: Referring to my telegram number 335 of December 1, 5 p. m.,<sup>30</sup> regarding my interview of that date with the Minister for Foreign Affairs, with respect to the meetings of the General and Special Claims Commissions, I have the honor to transmit herewith a memorandum giving a detailed account of the interview in question.

Respectfully yours,

J. REUBEN CLARK, JR.

<sup>30</sup> Not printed



[Enclosure—Extract]

*Memorandum of a Conversation Between the American Ambassador (Clark) and the Mexican Minister for Foreign Affairs (Estrada), December 1, 1930*

I went to see Mr. Estrada this morning at eleven AM, by appointment. After discussing the matter with Mr. Lane, I determined to take no interpreter, but to use one at the Foreign Office. Mr. Casanova acted as interpreter.

III. *Mr. Estrada's statement*:—In the course of his discussion, he brought up the matter of an en bloc settlement, and indicated that he thought this was a proper way to settle the whole question. He spoke of a "global" settlement, by which I understood him to mean a settlement with all of the countries, because he said that if a settlement were made with the United States, he could make a settlement with the other powers. In this connection, he seemed to assume that the settlements would be paid in the order in which they were made, since he observed that Belgium had already been paid a considerable sum because they had reached an agreement as to the amount due; that Germany would next be paid the amount of all awards because that sum had been determined and that the payment was extending over a period of five years; that if the French were to make a settlement, they would come next, and so on. The point that he evidently wished to make was that if the United States did not make its settlement now, it would be postponed as to the time or order of payment until all of the others who had made settlements were paid.

*Reply to Mr. Estrada*:—During the making of these statements by Mr. Estrada and thereafter, I brought up the following matters:

I said that I had suggested the desirability of an en bloc settlement of these claims to Mr. Morrow and to the Department before Mr. Morrow came to Mexico City in 1927; that an en bloc settlement had always seemed to me desirable; but that neither Mr. Morrow nor the Department felt quite sure that there was any real advantage in it.

I asked Mr. Estrada as to when he had in mind taking up the discussion. He said immediately. I then, somewhat jokingly, called attention to the rumor that he was to be married on December 10th;—he said the rumor was correct;—that he was to leave for New York on his wedding trip on the 10th;—he said that was correct;—that he would not return to Mexico until sometime in the first half of January;—he said that was correct. I then said that it seemed to me that it would scarcely advance the matter to begin before he went away, since we would have to let the matter rest in abeyance until he returned. He said he thought that was right, but that at least we could be thinking about it. I told him that that certainly could be done. He

seemed to manifest a real and rather anxious desire to make an en bloc settlement.

His observations regarding the time and order of payment obviously raised the question of priorities. I did not deem it wise to enter into any discussion of this matter, so when he spoke of our coming in ahead of the British and French claims if we made an immediate en bloc settlement, I said that probably the other governments would object to such a preference for us and would insist that whatever Mexico had to pay should be divided among the governments rateably. Mr. Estrada made no comment to this.

J. REUBEN CLARK, JR.

411.12/1148

*The Ambassador in Mexico (Clark) to the Secretary of State*

No. 38

MEXICO, December 10, 1930.

[Received December 17.]

SIR: With reference to my telegram number 345 of December 9, 1930, 6 p. m.,<sup>32</sup> summarizing my interview with the Minister for Foreign Affairs yesterday with respect to the meetings of the General and Special Claims Commissions, United States and Mexico, I have the honor to transmit herewith a memorandum describing the interview in detail.

Respectfully yours,

J. REUBEN CLARK, JR.

[Enclosure]

*Memorandum by the American Ambassador (Clark) of a Conversation With the Mexican Minister for Foreign Affairs (Estrada), December 9, 1930*

I requested yesterday another interview with Mr. Estrada. The appointment was made for ten o'clock this morning. I went to the Foreign Office at the appointed hour and met Mr. Estrada, together with Subsecretary Schiaffino, who was present throughout the entire interview. Mr. Covarrubias acted as interpreter.

I told Mr. Estrada I had come to see if he had reached any conclusions on my suggestion as to the meeting of the Claims Commissions. He said that he thought the best thing to do with the two Commissions was to abolish them and make an en bloc settlement. I told him I understood that he desired to discuss that upon his return from the United States, to which he acquiesced.

<sup>32</sup> Not printed.

He then stated that he had taken up the Commission meetings with their legal officers, and launched into another long dissertation covering points in the history of these Commissions. He said that whenever there had been a renewal of the Conventions, the American Government had taken the position that time was most essential to the renewal; that not even a minute was to be lost, and that so eager had we been for renewals that we had wished the Commissions to go on immediately without any break whatever at the time of renewal. He illustrated his meaning by likening the situation to a smoker lighting one cigarette from another. He then stated that at the time of the last renewal, the Mexican Government had proposed the discussion of certain matters; that we had said we were willing to discuss after the renewal; that they had renewed but that the matters had never been discussed.

After talking about the general situation at considerable length, he stated that he was in agreement that there should be a meeting of the Special Claims Commission, more or less preliminary, which should take place about next February, and that we could then discuss the time and place of the next meeting of the General Commission. He also stated that at this Special Claims Commission meeting, he proposed that no cases involving the same principles as the Santa Isabel cases, and no cases involving the acts of Victoriano Huerta, should be discussed.

I refrained from entering into any discussion about any collateral matters, but when he had finished, I stated my understanding of his proposition to be this: there shall be no meeting of the Commissions until February, when the Special Claims Commission shall meet, but under arrangement that there will not be discussed at that session any cases involving the principles of the Santa Isabel cases or the acts of Victoriano Huerta.

Mr. Estrada stated that he was willing that the General Commission should continue its sessions until that time, though Mr. McGregor had indicated that he did not wish to go to Washington on account of moving his children back and forth, and he assumed that while they would want the Commission to meet in Mexico, we would want it to meet in Washington.

He stated that the discussions as to whether the Commission should meet need not wait until February but could be carried on immediately, as Mr. Schiaffino had full powers.

I then stated that there were certain preliminary questions which needed to be taken up, involving among them the question of evidence and the question of filing briefs; that these would have to be determined before the Commission could make any considerable progress. Mr. Estrada asked whether this had to be done by the Commission or whether it could be done otherwise. I said I thought they would have

to be settled by the Commission, though probably the Agents could settle them if the Agents could reach an agreement. I then asked Mr. Schiaffino when we could begin our discussions, and suggested tomorrow. Mr. Schiaffino asked whether forenoon or afternoon, and I told him it made no difference to me. He then stated that he was one of the witnesses to the marriage of Mr. Estrada and would be busy in the morning, and intimated that the whole day would be taken up. I then suggested that we meet the following morning, the eleventh. He assented to this, but at this point, Mr. Estrada suggested that we make it Friday morning, to which I assented and the hour was fixed at eleven AM.

Mr. Estrada referred to the paragraph of my speech in which I spoke of the adjusting of international difficulties if both parties remained reasonable, etc. He said he would remember that. I told him I would always remember it, too.

He then again brought up the question of the United States being a large country and Mexico being a small country. I told him I would repeat to him what I had once before said to him: that we could get along a great deal better if he would forget that the United States was a big country and Mexico a small country; that as far as I was concerned, the fact that we had one hundred and twenty millions and that they had thirteen millions never crossed my mind when I was discussing matters with him; that I took for my guide the famous dictum of Mr. Chief Justice Marshall, delivered a hundred years ago, that "Russia and Genève are equal".

Mr. Estrada then stated that while it was easy for Americans, Frenchmen, Mexicans, and Paraguayans to associate with one another personally on good terms and as equals, it was not possible for governments so to conduct themselves; that the mass of American people were different from individual Americans, and that the dealings between two governments had to be conducted on a different basis than did differences between individuals. He intimated very clearly, I thought, that his idea was to deal at arms' length.

I told him that when two American business men had a difficult business negotiation, they never took their lawyers with them, but left them on the outside, because if they took the lawyers with them, the two lawyers would get into a fight and they never would make their agreement. I said that I was of the impression that if Mr. Estrada and Mr. Clark, or Mr. Schiaffino and Mr. Clark could get into a room and discuss matters and leave the Minister, the Sub-secretary, and the Ambassador on the outside, it might be possible to accomplish much.

The interview left me with one distinct impression,—namely, that Mr. Estrada does not wish to accelerate this Claims Commission question. I am not sure whether he intends to try to avoid any further

decisions by the Commission, pending discussions of an en bloc settlement, or whether he is intending to try to delay any further decisions or hearings by either Commission, pending the time when, an en bloc settlement failing, it becomes necessary to ask for a renewal, or whether he has both situations in mind.

He told me that at our interviews Mr. Schiaffino would have with him Mr. González Roa as his advisor, and that of course I might bring anybody that I desired to have.

J. REUBEN CLARK, JR.

MEXICO, December 9, 1930.

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411.12/1146:Telegram

*The Ambassador in Mexico (Clark) to the Secretary of State*

MEXICO, December 15, 1930—5 p. m.

[Received December 16—2 a. m.]

351. At 11 a. m. today Mr. Lane<sup>33</sup> and myself had a conference with Acting Minister of Foreign Affairs Vázquez Schiaffino and González Roa regarding future sessions of the two Commissions. Mr. Roa did practically all of the talking on the Mexican side and I understand he was making his suggestions for the Mexican Government. The suggestions he made are these:

1. Immediately to prepare for a session of the Special Claims Commission to convene here in February and to continue through March and April. To this session there shall be submitted a selected list of cases which for domestic reasons here shall not include Villa cases where Villa's official status is doubtful nor cases involving acts of Victoriano Huerta, it being expressly understood that the omission to hear such cases at this time is purely a matter of expediency and that it in no way is a relinquishment of our rights in such cases nor an indication that we abandon them. In justification of this request Mr. Roa urged the touchy state of the Mexican public mind on account of the present economic crisis as also the popular opinion in the United States which was easily inflamed over the Villa cases.

2. That the General Commission shall resume its sessions in Washington in early May and continue through June into July, when the Commission shall take a vacation for the remainder of July and August. Mr. Roa first suggested a vacation for three months beginning May 1st with the Commission reconvening in August. I pointed out that this would take the beginning of the session too near the period of convention renewals and furthermore it would require the Commission to sit in Washington during the

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<sup>33</sup> Arthur Bliss Lane, Counselor of the Embassy.

hottest weather, something to which Commissioner McGregor had before objected. Mr. Roa expressed himself as not much impressed with the hot weather argument and I suggested the earlier session and the later vacation and he accepted.

3. The Mexican Government also suggests and for domestic reasons of like expediency, that no agrarian cases be heard at the May-July meeting of the General Commission with a like understanding that such omission to hear such cases at that time shall in no way constitute a relinquishment of our rights in such cases nor an indication that we abandon them, and Mr. Roa advanced as his reason for this request the state of the popular Mexican mind on the agrarian question.

4. More than once during the interview Mr. Roa stressed the desirability of an en bloc settlement upon which my only comment was that the Department was not fully convinced of the desirability of such a settlement.

5. It is agreed that the Foreign Office consulting McAuliff Elorduy and the Embassy consulting Mr. Bouve we shall try now to work out in the next few days an agreement on some of the preference matters pending before the Special Claims Commission such as the procedure to be followed in filing evidence so that the Mexican agent can go forward immediately completing the preparation of cases for hearing.

6. The suggestions of the Mexican Government seem essentially to meet the suggestions I originally made under your direction, namely, an immediate short session of the Special Claims Commission, then a longer session of the General Commission in Washington, then a longer session of the Special in Mexico City, except

(a) That arrangement between the agents is substituted for a present short session of the Special Commission here and the long Special Commission here precedes instead of follows the long General Claims Commission session in Washington, and except

(b) That by agreement claims of certain categories are not to be pressed to hearing at the sessions of either Commission at their forthcoming proposed sessions.

The interview was entirely cordial throughout and Mr. Roa seemed to manifest a real desire to reach a just and amicable arrangement.

7. I have another appointment for Wednesday at 5 p. m. to discuss matters covered in paragraph numbered 4 above.

It would be helpful if the Department could give me its instructions on all the foregoing plans before that time.

CLARK

411.12/1146:Telegram

*The Secretary of State to the Ambassador in Mexico (Clark)*

WASHINGTON, December 16, 1930—4 p. m.

344. Your 351, December 15, 5 p. m. Go ahead and make arrangement along the lines you discussed or as near it as you can accomplish. Make it clear that the postponement of certain cases is only for a limited time and because Mexico asks it, and that the failure to press these cases at this time is not in any way a waiver of our position with regard to them, making clear that otherwise we should have gone forward with these very claims which they ask us to postpone at this time. We think the arrangement you outline is in general all right and we think the yielding to the Mexican desire for postponement of the particular cases will make Mexico's position more difficult when they come to try to put conditions on any extensions of the conventions.

When you have got the matter tied up, ask Mr. Roa for his ideas about an en bloc settlement and how to pay it.

STIMSON

411.12/1152:Telegram

*The Ambassador in Mexico (Clark) to the Secretary of State*

MEXICO, December 22, 1930—5 p. m.

[Received 9:13 p. m.]

354. My 351, December 15, 6 [5] p. m. We received from the Foreign Office this morning original copies in English and Spanish of a memorandum dated December 17th, substantially in accordance with the memorandum drafted by me and submitted to the Foreign Office on that date, as summarized in my 351. The only important difference is that Vázquez Schiaffino's memorandum refers to "acts of Villa or his followers." In drafting our memorandum I had in mind that "acts of Villa" would include "or his followers."

Note received from Foreign Office today states that the offices of the Foreign Office will be closed from December 22nd until January 2nd for winter vacation. The Embassy understands that with certain minor exceptions all Mexican Government Departments are adhering to this rule.

CLARK

411.12/1158

*The Ambassador in Mexico (Clark) to the Secretary of State*

No. 69

MEXICO, December 23, 1930.  
[Received December 29.]

SIR: Referring to my telegram number 354 of December 22, 5 p. m., regarding the memorandum dated December 17th but received yesterday from the Foreign Office, relative to the time and place of meeting of the General and Special Claims Commissions, United States and Mexico, I have the honor to transmit herewith copies of the Spanish and English original texts as received by me. I received two copies each of the English and Spanish texts, and I have returned two identical original copies (one English, one Spanish) to the Foreign Office after having initialed them.

I also transmit herewith a copy of a memorandum which I submitted to the Foreign Office on December 17th,<sup>34</sup> on which Mr. Vázquez Schiaffino's memorandum is presumably based. In returning Mr. Vázquez Schiaffino's memorandum to the Foreign Office with my initials, Mr. Lane pointed out that there was one apparently unimportant discrepancy between the English and Spanish texts of his memorandum, namely, in the English text the word "periods" appears on line 12 of Enclosure No. 2 to this despatch, while in the Spanish text, on line 14 of Enclosure No. 3, the words "etapas ó períodos" (stages or periods) are used.

Respectfully yours,

J. REUBEN CLARK, JR.

[Enclosure]

*Copy of English Text of a Memorandum Presented by the Mexican Foreign Office, and Initialed by Mr. Vázquez Schiaffino and Ambassador Clark*

## MEMORANDUM

It is agreed that the General and Special Claims Commissions between the United States and Mexico shall hold their forthcoming sessions as hereinafter provided.

1. The Special Claims Commission shall meet in Mexico City on or about February first, 1931, and shall continue in session there until on or about May first, 1931.

At the request of the Mexican Government, the Government of the United States agrees that it will not present to the Commission during the session provided for, any case involving acts of Villa or his followers committed during such periods when his official relationship to the Mexican Government was of doubtful character, nor any acts of Victoriano Huerta during the period from February 19, 1913, to July

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<sup>34</sup> Not printed.



19, 1914. It is understood and agreed that by withholding these cases from the consideration of the Commission during the sessions provided for above, the Governments of the United States and Mexico do not waive any of their rights with reference to such cases, which are to be in no way prejudiced by such postponement.

2. The General Claims Commission shall meet in Washington on or about May 5, 1931, and shall continue in session until on or about July 15, 1931.

At the request of the Mexican Government, the Government of the United States agrees that it will not present to the Commission during the session above provided for, any case based upon the taking of land for agrarian purposes under the agrarian laws. It is understood and agreed that by withholding these cases from the consideration of the Commission during the session above provided for, the Governments of the United States and Mexico do not waive any of their rights with reference to such cases, which are to be in no way prejudiced by such postponement.

MEXICO, December 17, 1930.

VAZFFINO

JRC

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**TEMPORARY CLOSING OF THE MEXICAN CONSULATE AT LAREDO TEXAS, IN REPRISAL FOR THREATENED ARREST OF GENERAL CALLES, FORMER PRESIDENT OF MEXICO**

812.001C13/37: Telegram

*The Acting Secretary of State to the Governor of Texas (Moody)*

WASHINGTON, July 20, 1929.

Department has been advised by Mexican Ambassador that General Plutarco Elias Calles, former President of Mexico, arrives in Laredo Monday morning en route to Europe via New York. The Mexican Ambassador, in inviting the Department's attention to statements reported to have been made by John A. Valls, former District Attorney for Webb County, to the effect that General Calles would be arrested upon arrival in that county for complicity in the death of two Mexican citizens in Laredo on June 7, 1922, points out that on that date General Calles was within territorial confines of the Republic of Mexico and consequently was outside of the jurisdiction of the State of Texas. In view of the foregoing, the Department would be deeply grateful if you would cause such steps to be taken so as to obviate any actions or disturbances which might be prejudicial to the friendly relations between this Government and the Government of Mexico.

WILBUR J. CARR

812.001C13/38: Telegram

*The Governor of Texas (Moody) to the Acting Secretary of State*

AUSTIN, July 22, 1929.

[Received July 23—12:47 a. m.]

Am advised by R. L. Bobbitt, District Attorney, Laredo, Texas, that there are no charges pending there and none have ever been filed there against General Calles. He further states that he has no information concerning any charges and that no charges have been suggested or filed with him which would form the basis of any action. He states that he is sure nothing will take place to disturb the friendly relations between the two Governments.

DAN MOODY

3 12.001C13/41

*The Consul at Nuevo Laredo (Boyce) to the Secretary of State*

No. 140

NUEVO LAREDO, MEXICO, July 23, 1929.

[Received July 27.]

SIR: I have the honor to report as follows the arrival of General Plutarco Elias Calles, ex-President of Mexico at Laredo, Texas, July 22, 1929.

On July 19, 1929, I received from Ambassador Dwight W. Morrow at Mexico City a code telegram advising me of the arrival of General Calles at Laredo on July 22, 1929, and stating that General Calles wished no demonstration.

On the same evening the *Laredo Times* published a story, a copy of which is enclosed,<sup>35</sup> with large headlines, "Calles Visit Might Be Stormy" followed by an interview with County Judge John A. Valls, formerly Prosecuting Attorney of Webb County, who stated that if he were Prosecuting Attorney he would arrest General Calles, refuse bond, and send him to the penitentiary. The article then quoted Mr. Valls statement of last August that "The prosecution against Calles and his fellow conspirators will remain pending with the fervid hope that some day they will be called upon to answer for their enormous crimes at the bar of public justice in Webb County".

The following morning July 20, I called on Mr. R. L. Bobbitt, ex-speaker of the Texas House of Representatives and now Prosecuting Attorney for Webb County. He was very much upset over Mr. Valls statement and the newspaper publicity given to it. He had already made an appointment with the Mexican Consul in Laredo, Texas, to assure him there would be no difficulties in General Calles passing thru Laredo. At that time none of the American officials in Laredo knew if General Calles would come this way.

<sup>35</sup> Not printed.

I did not tell Mr. Bobbitt that General Calles was coming thru Laredo but I told him that I was very anxious to know what his attitude was in case General Calles did come and that if any disturbance was expected I would report it at once to the American Embassy at Mexico. I then explained to him that if necessary General Calles could easily be clothed with diplomatic immunity and that no local official would have any authority to approach him. Mr. Bobbitt apparently was not familiar with that feature of the case but he said the citizens of Laredo would certainly not want to stir up trouble but would on the contrary do everything possible to assure General Calles of a cordial welcome. Having satisfied myself that there would be no difficulties of any kind I did not report the incident.

The *Laredo Times* printed Sunday morning under large headlines "Calles Expected Here" that Prosecuting Attorney Bobbitt stated "A careful examination of the files and records in my office fails to show that there are now pending or that there had ever been filed, any charges of any character against the former President Plutarco Elias Calles of Mexico in Webb County".

On the afternoon of July 20 I called on the Mexican Consul and we agreed that the news of General Calles' arrival should be kept secret.

On Sunday, July 21, Mr. H. Brennan, Chairman of the Reception Committee of the Laredo Chamber of Commerce called up to say that General Calles would arrive the morning of July 22 and to invite me to be on the committee of welcome. I found that the Mexican Consul had told Mr. Brennan that General Calles was coming. I explained to Mr. Brennan that I had received a wire from Ambassador Morrow informing me of General Calles' arrival and that he desired no demonstration. Mr. Brennan stated that they were not planning anything but a small committee of welcome, with possibly an invitation to breakfast at Fort McIntosh, but that if General Calles did not feel able to leave his car they would be satisfied with presenting their respects and welcoming him to Laredo. They were especially anxious to dispel the bad feeling and misunderstanding aroused by Mr. Valls.

When General Calles arrived at the American end of the railroad bridge at 8:30 A. M. the committee of welcome were introduced.

Capt. Wood, Commandant of Fort McIntosh, had arranged a mounted guard of honor at the railway station. General Calles, who apparently was feeling much better than the day before, seemed to be very pleased with the welcome he received. He inspected the guard of honor at the station while a salute was fired at Fort McIntosh, and shook hands with many Mexicans who crowded around the rear of the train platform.

I wish to explain that since the news of General Calles arrival became public it was impossible to prevent some kind of a reception on

the part of Laredo officials. Except for the guard of honor it could not have been more simple.

I believe in view of the unfortunate statements of Mr. Valls that the reception by the city officials was very proper. I feel sure General Calles and his party were relieved to find a cordial welcome awaiting them.

I have [etc.]

RICHARD F. BOYCE

812.001C13/52: Telegram

*The Consul at Nuevo Laredo (Boyce) to the Secretary of State*

LAREDO, TEXAS, November 28, 1929—7 p. m.

[Received 9: 52 p. m.]

John A. Valls, formerly Prosecuting Attorney, Webb County, Texas, who is a bitter enemy of General Calles, is again Prosecuting Attorney. He stated positively to me that General Calles would be arrested if he passes through Texas en route from New York to Mexico. Am unable to find out if Valls is bluffing. Other local authorities know of no warrant against Calles but fear Valls may carry out threat. Valls states only diplomatic immunities recognized by the President can prevent his action. Local authorities trying to dissuade Valls. I will telegraph result.

Embassy informed.

BOYCE

812.001C13/57: Telegram

*The Secretary of State to the Consul at Nuevo Laredo (Boyce)*

WASHINGTON, December 3, 1929—5 p. m.

Your November 28, 7 p. m. Mexican Ambassador here has informed Department that Valls threatens to arrest General Calles in connection with the murder of General Blanco on June 7, 1922, at or near Laredo, Texas. When similar threats were made in July last Mexican Ambassador pointed out that on the date of the alleged crime General Calles was within territorial confines of the Republic of Mexico and consequently outside of the jurisdiction of the State of Texas. Department's information shows definitely that General Calles is carrying a diplomatic passport issued by his Government on July 12 last, which bears a diplomatic visa issued by an appropriate authority of this Government. In view of all the circumstances it can readily be seen that any interference with his liberty and safety while traveling in this country would seriously embarrass this Government.

Please telegraph what developments if any have taken place since the filing of your telegram.

STIMSON

812.001C13/58 : Telegram

*The Consul at Nuevo Laredo (Boyce) to the Secretary of State*

LAREDO, TEXAS, December 4, 1929—6 p. m.  
 [Received 9:42 p. m.]

Your December 3, 5 p. m. I am reliably informed Valls has sufficient evidence to arrest Calles as material witness in Blanco murder case. He would probably be released upon \$10,000 bond. Valls stated this morning he would personally accompany deputies to Calles' train and break in door of pullman if Calles passes through Laredo. He will wire warrant for arrest to other parts of Texas if Calles passes through elsewhere. Valls does not care how much embarrassment he causes the Government of the United States. Will not recognize diplomatic passport and visa as giving Calles immunity. Only if Calles has special diplomatic mission to the United States which the President of the United States recognizes, will Valls desist. Valls states he will recognize Calles' diplomatic status if I show him communication from State Department that President of the United States has recognized such status. Local citizens cannot deter Valls. I will telegraph any further information. Embassy informed.

BOYCE

812.001C13/60 : Telegram

*The Ambassador in Mexico (Morrow) to the Secretary of State*

MEXICO, December 5, 1929—5 p. m.  
 [Received 11:11 p. m.]

372. Reference telegram from Consul Boyce, Nuevo Laredo, December 4, 6 p. m., relative to threat Attorney Valls against General Calles. It would be difficult, if not impossible, for the Embassy to take any action to prevent Valls from carrying out his threat in the United States. I would appreciate it however if the Embassy might be kept fully informed of any action which the Department may see fit to take in the premises.

MORROW

812.001C13/62 : Telegram

*The Secretary of State to the Governor of Texas (Moody)*

WASHINGTON, December 5, 1929.

Referring to the Department's telegram of July 20 last and your reply of July 22 I desire to inform you that on the third instant the Mexican Ambassador here informed me that John A. Valls, Prose-

cuting Attorney of Webb County, Texas, again threatens to arrest General Calles, former President of Mexico, in connection with the murder of General Blanco on June 7, 1922 at or near Laredo, Texas, and apparently this time on alleged ground that Calles is a material witness in the case. General Calles, who will arrive at New York December 10 from France, is expected shortly to return to Mexico.

When a similar threat was made in July last the Mexican Ambassador pointed out that on the date of the alleged crime General Calles was within territorial confines of the Republic of Mexico and consequently outside of the jurisdiction of the State of Texas. Department's present information shows definitely that General Calles is carrying a diplomatic passport issued by his Government on July 12 last, which bears a diplomatic visa issued by an appropriate authority of this Government.

The Department has today been reliably informed that Mr. Valls has recently stated that he will personally accompany deputies to General Calles' train and break in the door of the Pullman if General Calles passes through Laredo; also that he will telegraph warrant for arrest to other parts of Texas if Calles passes through elsewhere. Department is further informed that Valls will not recognize General Calles' diplomatic passport and the visa appearing thereon as affording him immunity.

Since any interference with General Calles' liberty and safety while traveling through the State of Texas would seriously embarrass this Government, I shall greatly appreciate it if you will cause suitable steps to be taken to obviate any action in the State of Texas which might be prejudicial to the present friendly relations between this Government and the Mexican Government.

H. L. STIMSON

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812.001C13/61:Telegram

*The Governor of Texas (Moody) to the Secretary of State*

AUSTIN, December 6, 1929.

[Received 1:50 p. m.]

Your wire December 5th. At the time your telegram of July 20th was received John A. Valls was District Judge of Webb County. Since that time he has resigned as District Judge and I have appointed him to his old position of District Attorney. At the time your former wire was received I took this matter up with Judge Valls through the then District Attorney R. L. Bobbitt who is now Attorney General of Texas. I was advised that Mr. Valls had said that he would make no effort to arrest or otherwise embarrass General Calles on his trip through Texas. There were no charges pending against Calles then

and I feel certain there are none pending now. I believe the State Department can place confidence in the statements made by Judge Valls last July.

DAN MOODY

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2.001C13/65:Telegram

*The Secretary of State to the Consul at Nuevo Laredo (Boyce)*

WASHINGTON, December 6, 1929—9 p. m.

Your December 4, 6 p. m. Last night Department sent an appropriate telegram to the Governor of Texas with the view of having him take suitable steps to prevent any interference with General Calles' liberty and safety while traveling through Texas. Governor has just replied that he feels certain that there are no charges pending against General Calles and that no action will be taken by Valls to arrest Calles or otherwise embarrass him.

Please telegraph such comment as you may wish to make on Governor's statements.

STIMSON

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812.001C13/66:Telegram

*The Consul at Nuevo Laredo (Boyce) to the Secretary of State*

LAREDO, TEXAS, December 7, 1929—6 p. m.

[Received 10:30 p. m.]

Your December 6, 9 p. m. Governor Moody apparently not informed on case. I telephoned Attorney General Bobbitt at Austin and was informed that in his opinion Governor cannot control Valls in this matter. While no charge is pending against Calles, Valls has sufficient evidence to arrest. I am informed that Valls has not yet sworn out warrant but will do so as soon as he has information as to when and where Calles will pass through Texas. Valls gave substance of my interview with him to the San Antonio paper *La Prensa* which published it on front page today.

Embassy informed.

BOYCE

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812.001C13/77

*The Secretary of State to the Consul at Nuevo Laredo (Boyce)*

WASHINGTON, December 9, 1929.

SIR: Referring to your telegram of December 4, 6 p. m. concerning reported threats by Mr. John A. Valls, Prosecuting Attorney of Webb County, Texas, to arrest General Plutarco Elias Calles, former Presi-

dent of Mexico, in connection with the murder of General Lucio Blanco, which is alleged to have occurred on June 7, 1922, at or near Laredo, Texas, you are informed that General Calles carries a diplomatic passport issued by The Government of Mexico on July 12 of this year which bears a diplomatic visa issued by an appropriate authority of this Government; and that the President of the United States recognizes the diplomatic status of General Calles. You are authorized so to advise Mr. Valls or any other person having a legitimate interest in the matter. Furthermore, you are authorized in your discretion to show this instruction to Mr. Valls in the event that he presents a request to you to that effect.

I am [etc.]

For the Secretary of State:  
J. P. COTTON

812.001C13/80:Telegram

*The Consul at Nuevo Laredo (Boyce) to the Secretary of State*

LAREDO, TEXAS, December 13, 1929—5 p. m.

[Received December 14—12:17 a. m.]

Your instructions of December 9th. Valls was informed by my letter December 12th that General Calles had diplomatic passport and visa and that President of the United States had recognized his diplomatic status. He stated he did not care to see Department's instruction and replied in writing that no amount of evidence will convince him that the United States Government would invest Calles with immunity to enable him to escape arrest and that if Calles produces a certificate under seal from the Secretary of State he will not molest him. He stated verbally he would be prepared to meet Calles even if the United States Government took necessary steps to avoid interference. Valls has issued warrant and so announced to the press which quotes my letter of December 12th and his reply. The Government of the United States should be prepared to handle the situation if Calles comes through Texas. Valls will make the most of newspaper publicity caused by the incident. He will insult the Government of the United States and pose as defender of justice. Full report by mail.

Embassy informed.

BOYCE

812.001C13/82:Telegram

*The Secretary of State to the Chargé in Mexico (Johnson)*

WASHINGTON, December 14, 1929—2 p. m.

541. Department informed by Chief of Staff that he has arranged for armed guard to escort General Calles' party across Mexican border.



Ambassador Téllez is a member of party. General Calles plans to leave New York 6:50 this evening arriving St. Louis 5:10 Sunday evening, leaving immediately from there by special train for Laredo.

In view of urgency of matter Department has proceeded with arrangements without obtaining permission from Mexican Government for armed troops to enter Mexico. Please explain matter to Acting Minister of Foreign Affairs and telegraph his acquiescence.

STIMSON

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812.001C13/84 : Telegram

*The Secretary of State to the Consul at Nuevo Laredo (Boyce)*

WASHINGTON, December 14, 1929—2 p. m.

Associated Press dispatch from Laredo dated December 13 states in part as follows: "Richard Boyce, American Consul at Nuevo Laredo across the Rio Grande in Mexico, called at the office of the District Attorney and notified him officially that the American Government would protect with armed force the diplomatic immunity which it granted General Calles when it visaed his diplomatic passport."

Department's instructions to you made no mention of armed force.

Your December 13, 5 p. m. Department informed by Mexican Chargé d'Affaires that General Calles will travel on private car of Mexican Ambassador and will be accompanied by Mexican Ambassador to the United States whose immunity from arrest and molestation in the United States is of course recognized under international law. This Government must not fail to fulfill its obligations under international law. You may so advise interested parties. Make no statement to press.

STIMSON

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812.001C13/88 : Telegram

*The Secretary of State to the Governor of Texas (Moody)*

WASHINGTON, December 14, 1929.

Referring to your telegram of December 6th, stating in effect that you felt certain there are no charges pending against General Calles and that no action will be taken by Prosecuting Attorney Valls to arrest or otherwise embarrass him, I desire to inform you that I have been advised by American Consul at Nuevo Laredo that Valls has already issued warrant. According to press reports warrant is in the hands of the sheriff. Furthermore, Valls has written American Consul mentioned that no amount of evidence will convince him that the United States Government would invest Calles with immunity to enable him to escape arrest and that if Calles produces a certificate under seal from the Secretary of State he will not molest him. On

December 9th I advised the Consul that Calles carries a diplomatic passport issued by the Government of Mexico on July 12 of this year which bears a diplomatic visa issued by an appropriate authority of this Government and that the President of the United States recognizes the diplomatic status of General Calles. This information was conveyed to Valls in a letter from the Consul dated December 12.

In view of the foregoing I desire to invite your attention to the request contained in my telegram of the 5th instant with regard to this matter.

HENRY L. STIMSON

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812.001C13/85 : Telegram

*The District Attorney of Webb County, Texas (Valls), to the Secretary of State*

LAREDO, TEXAS, December 14, 1929.

[Received December 15—6:52 a. m.]

For my correct guidance kindly advise me whether Calles enjoys such diplomatic immunity as exempts him from arrest and prosecution for crimes committed in Texas and will my Government protect that immunity with armed force. If so his person will not be molested, otherwise I will attempt to arrest him on entering the confines of Texas.

Invoking and appreciating full information, I am your obedient servant,

JOHN A. VALLS

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812.001C13/86 : Telegram

*The Secretary of State to the District Attorney of Webb County, Texas (Valls)*

WASHINGTON, December 15, 1929.

Replying to your telegram of December 14th. General Calles who is traveling through the United States in company with the Ambassador of Mexico has been engaged in diplomatic conversations on International matters with representatives of the Government of the United States.

His diplomatic quality is recognized by the Government of the United States. He is therefore entitled to protection from arrest or molestation while within confines of the United States.

The United States is prepared to take such steps as may be necessary to insure to General Calles the protection which is due him.

I find it difficult to believe that an officer of the law whether federal or state would be willing to take an action which would militate against his diplomatic status.

HENRY L. STIMSON

812.001C13/83 : Telegram

*The Chargé in Mexico (Johnson) to the Secretary of State*

MEXICO, December 15, 1929—11 a. m.

[Received 2:50 p. m.]

378. Your 541 of Dec. 14. The Minister for Foreign Affairs informs me that his Government is most grateful for the courtesy of the armed escort extended to General Calles but that under Mexican laws the approval of the Senate is necessary for permission to be granted armed forces to enter Mexican territory. He says that there is not sufficient time for the Government to request this of the Senate and that such a request in any event would create an unfavorable impression on the public and would cause much embarrassment to the Government.

He, therefore, begs the Department to arrange for the armed escort to stop on the International Bridge at Laredo.

JOHNSON

812.001C13/81 : Telegram

*The District Attorney of Webb County, Texas (Valls) to the Secretary of State*

LAREDO, TEXAS, December 15, 1929.

[Received December 16—1:05 a. m.]

I thank you for your telegram of today excepting that part of it expressing astonishment at my contemplated action to arrest Calles.

A government that has given diplomatic immunity to a fugitive from justice and thrown its protecting arms around the greatest exponent of Bolshevism in the Western Hemisphere should express no surprise at the honest efforts of patriotic officials to fearlessly enforce the laws of Texas. My Government's conduct in this particular only postpones the day of reckoning when Calles will be brought to the bar of public justice to face a courageous judge and an incorruptible jury in Webb County.

JOHN A. VALLS

702.1211 Laredo/1 : Telegram

*The Chargé in Mexico (Johnson) to the Secretary of State*

MEXICO, December 16, 1929—7 p. m.

[Received 10:32 p. m.]

380. The Acting Minister for Foreign Affairs informed me orally this afternoon that the Mexican Consulate at Laredo, Texas, would be

closed tomorrow morning as a protest against the actions and threats of Attorney Valls who "by his daily insults" to Mexico and Mexicans has aroused the resentment of Mexicans on the border. The communication was made in an entirely friendly and courteous manner and Mr. Estrada told me he wished to emphasize that the contemplated action was in no way a protest against the Government of the United States or any official thereof.

JOHNSON

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812.001 C13/87 : Telegram

*The Governor of Texas (Moody) to the Secretary of State*

AUSTIN, December 16, 1929.

[Received 12:40 p. m.]

Your wire 14th. I feel confident that Mr. Valls will make no attempt to have a warrant of arrest served on General Calles when he passes through Texas en route to Mexico.

DAN MOODY

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702.1211 Laredo/2 : Telegram

*The Secretary of State to the Chargé in Mexico (Johnson)*

WASHINGTON, December 17, 1929—1 p. m.

544. Your 380, December 16, 7 p. m. While the closing in the United States of Mexican Consulate is a matter entirely within the internal jurisdiction of the Mexican Government, we wonder whether definitive action might not be deferred until after Mr. Estrada has had an opportunity to discuss the matter with General Calles. We understand that the citizens of Laredo, Texas, are generally friendly to the Mexican Government and to General Calles and that they had planned a reception for the General on his journey through Laredo last evening. Apparently the reception did not take place due to the fact that orders had been issued with General Calles' consent that the train be run directly through the station to the Mexican side. It would appear therefore that Valls' proposed action against General Calles and his statements derogatory to the Mexican Government are not approved by the people of Laredo. We fully appreciate the delicacy of making any suggestions with respect to a matter of Mexican administrative concern and leave to your discretion the advisability of intimating our views to the Mexican Government and the manner of so doing.

Please telegraph action taken, if any.

STIMSON

812.001C13/92: Telegram

*The Consul at Nuevo Laredo (Boyce) to the Secretary of State*

LAREDO, TEXAS, December 17, 1929—5 p. m.

[Received 9:45 p. m.]

General Calles passed through Laredo without attempt of molestation by Valls. Laredo Chamber of Commerce sent committee of welcome to Nuevo Laredo to greet Calles. Mexican Consulate Laredo is closed upon orders from Mexico City, and other reprisals are rumored. Laredo businessmen thoroughly aroused and endeavoring to find way to get Valls out of office. Mass meeting of protest to be held tonight.

Embassy informed.

BOYCE

702.1211 Laredo/8: Telegram

*The Secretary of State to the Chargé in Mexico (Johnson)*

WASHINGTON, December 18, 1929—7 p. m.

545. Department's 544, December 17, 1 p. m. Following telegram dated December 17 received from Governor of Texas:

"Am advised that the Mexican Government has today closed the consulate at Laredo. Am further advised that the port of Laredo has been closed to the extent that merchandise has not been allowed to pass from Laredo through the port and that the entry of tourists has been restricted. I assume that this is a result of the threatened arrest of former President Calles. You are aware that the attitude of the people of Texas toward the people of Mexico is a most friendly one. The citizenship of Laredo in particular is sympathetic with the problem of Mexico and friendly to the people of Mexico as is evidenced in part by the fact that citizens of Laredo had planned a public reception for President Calles upon his arrival in the city yesterday. The fact that his train did not stop in Laredo I understand prevented the reception. Perhaps sixty percent of the citizenship of Laredo is of Mexican extraction and many of the inhabitants of the city of Laredo, I am advised, are citizens of Mexico. Laredo is an important port city of the southern border of the United States and I believe that Nuevo Laredo is an important port city on the northern border of the republic of Mexico. The people of Texas and the people of Laredo would like to continue the commerce and pleasant relations which have heretofore existed between the citizenship of this state and the citizenship of the republic of Mexico. I appeal to you as the public officer in charge of foreign relations that you take up with the Mexican Government the matter of reopening the Consulate and the port and the continuation of past relations."

Department has sent following reply today.

"Your telegram of December 17. Please refer to my telegram of December 14 on this subject and your answer.

I appreciate the unfortunate effect which the closing of the Mexican Consulate at Laredo will surely have on the economic situation of the communities at the border at that point. The question involved is one of Mexican administrative concern and it seems, so far as I can now develop it, that the Mexican reason for the action as stated to me is not in any sense an attempt at retaliation for a single incident but because they feel that from several incidents lasting over a considerable period of time Laredo is not a safe point for their public citizens to pass in traveling. Apparently they also feel that traffic can be diverted without too great difficulty to other border points. The Mexicans find it difficult to understand that you have not found it possible in the past either by your authority or your advice to ameliorate the conduct of the legal officers of the county. I am not sure what can be effectively done but perhaps it would help if we were in a position to make clear that the idea which the Mexicans seem to entertain about Laredo not being a safe place for its public citizens to travel is erroneous. If any effort can be taken along that line I wish you would advise me. In the meantime I am taking steps to see what if anything may be wisely done but you will from this telegram appreciate the difficulty that seems to stand in the way."

You may show this telegram to Mr. Estrada when you see him. We hope that news emanating shortly from Laredo may be of such a nature as to bring about reopening of Mexican Consulate there.

STIMSON

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702.1211 Laredo/17

*The Chargé in Mexico (Johnson) to the Secretary of State*

No. 2071

MEXICO, December 20, 1929.

[Received December 27.]

SIR: I have the honor to refer to the Department's telegrams No. 544 of December 17, 1 p. m., and No. 545 of December 18, 7 p. m., relative to the closing of the Mexican Consulate at Laredo by the Mexican Government on account of the situation arising from the attitude of Attorney Valls.

Following a telephone conversation with Mr. Lane, Chief of the Mexican Division, I have taken no action pursuant to the instructions contained in the Department's telegram No. 544. Telegram No. 545 was read by Mr. Estrada yesterday. Neither he nor I made any comment.

The morning papers carry the full texts, in press dispatches from Texas, of Governor Moody's telegram to the Department and of the Department's reply. A press dispatch appearing this morning from Laredo quotes the Mexican Consul General at San Antonio, Mr. Santibañez, as saying that unless Valls resigns or the charges against General Calles are dropped the closing of the Consulate at Laredo will stand.

There is enclosed, as of possible interest to the Department, a translation of an editorial which appeared in *El Universal* of December 19th, entitled *The Lenity of the American Government and Attorney Valls*.<sup>36</sup> This is the only editorial comment regarding the situation which has come to my notice.

I have [etc.]

HERSCHEL V. JOHNSON

702.1211 Laredo/19A : Telegram

*The Secretary of State to the Chargé in Mexico (Johnson)*

WASHINGTON, December 20, 1929—8 p. m.

550. Department's 545, December 18, 7 p. m. Associated Press despatch from Austin of December 19 states in part as follows:

"Enrique Santibañez, Mexican Consul General at San Antonio, said today that unless District Attorney Valls resigns or the charges of conspiracy to murder against Calles are dropped the embargo against the port of Laredo will stand."

The Mexican Ambassador who called this morning to thank Department for steps taken to safeguard person of General Calles was orally informed that Department felt American and Mexican Consular officers should be advised to make no further statements with respect to the incident under reference.

The following telegram received from Governor of Texas this morning:

"Have just received telegram from President of Laredo Chamber of Commerce advising that at a meeting of directors held today a resolution was passed from which the following is taken:

'Be it resolved that whereas the Laredo Chamber of Commerce and citizens of this city have at all times fostered friendly relations with the people and officials of Mexico it is their desire that cordial relations both business and social be continued. Be it further resolved that the commercial interests of Laredo deeply regret the unfortunate incidents that have prompted the Mexican Government to remove its consular office at Laredo and to adopt other retaliatory measures and respectfully urge that former relations be restored as the people of Laredo should not be held responsible for actions over which they have no control under the laws of Texas. Be it further resolved that it is our wish that proper respect and courtesy be shown at all times by our public officials to the representative of the government of Mexico.'

The closing of the port at Laredo involves infinitely more than one of Mexican administrative concern. Laredo is one of the most important ports on the border between the United States and Mexico and if you will consult the railroad maps you will see what the closing of this port means to transportation and to commerce. Your examination of the railroad maps will convince you that it is purely [apparent omission] to contend that the traffic which normally passes through Laredo can be diverted to other border points without great

<sup>36</sup> Not reprinted.

difficulty. It is a long way from El Paso to Eagle Pass and from Eagle Pass to Laredo and from Laredo to Brownsville. Many millions of dollars have been invested upon the faith of Laredo as an uninterrupted port on the Mexican border. It is evident that this action on the part of Mexico is retaliatory in its nature and I am surprised that its officials would undertake to tell you that any other purpose moved them. Literally thousands of citizens of both nations have passed through Laredo unmolested and this should continue. There are several hundred thousand Mexican citizens living in peace and happiness in Texas today. Several thousand live in Laredo and Webb County. The attitude of the people of Texas is entirely friendly toward Mexico and we would like for this friendly relation to continue. It is hoped that the general government at Washington has a policy with reference to foreign relations that will not permit the Mexican Government to profess friendliness toward the United States and at the same time offer the affront of closing the door at one of the principal ports between the two nations."

The following is text of Department's reply:

"I note the papers as quoting certain statements by a Mexican Consul in regard to Laredo and have asked the Mexican Ambassador as far as may be [possible] to stop his consuls and subordinate officers from making any statements whatever as I fear these men are going farther than their governments desire in making a bad situation worse, and I think any publicity which is not aimed at healing the difficulty and curing the sources of complaint would be unfortunate. What can I say to the Mexican Government with authority as to your own relations with Valls and your own lack of sympathy with the position which he has assumed in the past in these cases?

It seems to me the chief difficulty in persuading Mexico is that there is nothing that justifies me in telling them that the same sort of thing that has happened will not happen again."

STIMSON

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702.1211 Laredo/10 : Telegram

*The Secretary of State to the Chargé in Mexico (Johnson)*

WASHINGTON, December 21, 1929—5 p. m

551. Department's 550, December 20, 8 p. m. Following telegram has been received from Governor of Texas dated December 20th:

"Valls was District Attorney for many years at Laredo. Upon the creation of a new district court I appointed him district judge and R. L. Bobbitt to succeed him as district attorney. I later appointed R. L. Bobbitt Attorney General of Texas, which office he now holds and Valls asked to be appointed to his old position of District Attorney, which he formerly held. I have had considerable correspondence with him but I never saw him but once. He has enjoyed the reputation of being honest and fearless in the performance of his official duties. I am not advised as to whether he was proceeding in the recent matter with or without a grand jury indictment. If he had a case against



the party in question I cannot criticise him for undertaking to perform his duty but I do believe that when it was made known to him that the United States Government had extended immunity from arrest to the party in question that he should have recognized the attitude of the Government without attempting to create any scene or disturbance. Under the constitution and laws of this State the district attorney acts as an independent public official and he is not subject to the orders of the Governor of the State.

Last summer when the threat was made to arrest Calles I took the matter up with Mr. Bobbitt who was at that time district attorney and he took it up with Mr. Valls who was then district judge. You will recall the disposition of the matter. I am not informed of any differences that may have existed between Mr. Valls and any other public citizen of Mexico. I feel confident that you can say to representatives of the Mexican Government that the attitude of the people of Laredo toward the people of Mexico is such that they need not anticipate any unpleasantness upon the reestablishment of the relations which have heretofore existed."

The Department does not intend to answer Governor Moody's telegram for the time being.

STIMSON

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702.1211 Laredo/33a : Telegram

*The Acting Secretary of State to the Chargé in Mexico (Johnson)*

[Paraphrase]

WASHINGTON, January 4, 1930—1 p. m.

2. For J. Reuben Clark, Jr. In confirmation of my telephone conversation, I now request that you take up and actively press with the Government of Mexico for the reopening of the Mexican Consulate at Laredo, Texas. It is doing untold damage to innocent people and is not hurting the people for whom it is intended. I am now in a position to give an assurance to the Government of Mexico that in the future holders of diplomatic passports will be fully respected at Laredo.

For your information I base this promise on oral and written statements made to me by the Honorable Dan Moody, Governor of Texas, and made, through the Governor of Texas, by District Attorney Valls. I do not think it advisable, even if it were in our power, to force the resignation of Attorney Valls . . .

The entire matter has become very important, involving the existence of the town of Laredo. The action of Mexico is, of course, hurting Mexican interests as much as it is hurting American interests, and if you cannot succeed in getting the Government of Mexico to change its position, I fear reprisals along that border.

See Calles and use every reasonable effort to bring about results.

COTTON

702.1211 Laredo/32 : Telegram

*The Governor of Texas (Moody) to the Secretary of State*

AUSTIN, TEXAS, January 4, 1930.

[Received 2:55 p. m.]

Understand from your wire December 18th<sup>37</sup> that Mexico contends reason for closing port at Laredo is because from several incidents lasting over considerable period of time it is felt that Laredo isn't a safe point for their public citizens to pass in traveling. Have telegram from John A. Valls, District Attorney, from which the following is taken:

"I assure you that I will recognize with pleasure and as a faithful officer, anywhere in my district, any legal immunity from arrest granted by my Government legally to any diplomatic representative of a foreign country traveling under diplomatic visa and I will transact in my office with courtesy any official business which any legal representative of any foreign country may have with me as District Attorney."

Have received letter from said Valls from which following is taken:

"Mexican citizens do receive and will receive the full protection of our laws and the courtesy that the Mexican Consul demands will be given not only to Mexican citizens but to all others."

It does not seem to me that Mexico has any right to contend for or ask for more. Some representative of the Mexican Government made the statement that Valls' resignation should be demanded or that he should be removed. Such a statement on the part of an accredited representative of Mexico, is, to say the least, unusual and in view of an attitude expressed in Valls' telegram and letter, the suggestion of the Mexican authorities that I ask his resignation or remove him is an unreasonable one. Let me assure you that the situation brought about by the closing of the port is a serious one. Approximately three-fourths of the commerce crossing the Rio Grande passes through Laredo. Am advised by reputable businessmen of that city that there are more than [a?] hundred carloads of freight now waiting to go through the port. In your telegram of December 18th you state that question involved is one of Mexican administrative concern. If my understanding of Mexican tariff law is correct the embargo levied at this place and the closing of consulate injuriously affects citizens of this country and investments made in this country and is broader than one of Mexican administrative concern. The State of Texas and the territory surrounding Corpus Christi in conjunction with United States Government have built a port on the gulf coast at Corpus

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<sup>37</sup> See telegram No. 545, December 18, 1929, 7 p. m., to the Chargé in Mexico, p. 520.

Christi. A through line of railroad, The Texas-Mexican Railroad, runs from Corpus Christi to Laredo, the Missouri-Pacific System extends from San Antonio to Laredo. The closing of this port seriously reduces the commerce passing over these lines of railroads and in my judgment will have a serious effect upon the port recently constructed and developed at Corpus Christi. It is my understanding of the new Mexican tariff act which went into effect within the week that unless the manifest is signed by a consular officer in the city at which the port is located that the articles of commerce must pay double duty; therefore the closing of the Consulate at Laredo imposes an added burden upon commerce of the United States passing through that port. The impression is gathered from your wires that you regard this as a state problem. If it were only a state problem I would have long since opened this port with the Texas National Guard but you realize that I could not do this without infringing upon Federal laws which demonstrates that it is not a state problem. It is an international problem involving comity between nations and is exclusively for the State Department. I hope that your Department can, through diplomatic negotiations, succeed in opening the port and bringing about the reestablishment of the consulate but if this will not avail the port should be opened.

DAN MOODY

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702.1211 Laredo/32 : Telegram

*The Acting Secretary of State to the Governor of Texas (Moody)*

WASHINGTON, January 6, 1930.

Your wire January 4th is clear and to the point and greatly strengthens our position with Mexico.

J. P. COTTON

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702.1211 Laredo/37: Telegram

*The Chargé in Mexico (Johnson) to the Acting Secretary of State*

MEXICO, January 8, 1930—11 a. m.

[Received 6:39 p. m.]

5. Personal for Cotton, from Clark. Saw Estrada by appointment 5 p. m. Tuesday evening, spent more than an hour with him covering case including my talk with Calles on Monday and setting out Department's proposal given in your No. 2, January 4, 1 p. m. I pointed out during interview that situation at Laredo and elsewhere along the border was due in great measure to the presence there of large numbers of Mexican political *émigrés* who lent support to situations such as existed at Laredo. Estrada replied that Calles was in no way con-

nected with the Mexican Government's move save that his last experience was the drop of water that made the cup overflow down the sides, the culmination of a long series of indignities suffered by Mexican citizens at Laredo; that he, Estrada, had on four occasions called Ambassador Morrow's attention to the fact that little matters sometimes led to unfortunate complications referring, as I understand him, to the situation existing at Laredo; that the Mexican Government's action in closing the Laredo Consulate was in part calculated to avoid the happening of some incident there which might prove serious to the two Governments; that Valls personally was no issue in the case; that while the United States had pleaded inability to control local officers he would not take word of Valls or Governor Moody or any one other than American Government as to the future conditions of Laredo; that the action of the Mexican Government had been carefully considered for considerable time past and had been taken with a full view of the possible eventualities; that the course taken by Mexico was the mildest action it could take for avoiding a continuance of the indignities suffered by Mexican citizens and that it conformed to international custom and finally that the press publicity currently emanating from Texan sources increased the difficulties of the present situation.

To my observation that the continued interference with normal trade relations between the two Laredos would probably result in ruining both towns, he replied that they had taken that into consideration before closing the Consulate and they were prepared to ruin their own town, upon which I commented that such a course was magnificent but hardly wisdom. I stated this was **not** the first time that the two Governments had been involved in the questions arising here and instanced the Cutting case<sup>38</sup> where the shoe was on the other foot. He said he remembered the Cutting case.

He stated further that the proposed security of persons traveling with diplomatic passports was not a sufficient guarantee; that they were entitled to that under international law. (I did not then challenge his statement as to passports given with reference to persons accredited to other countries but will do so unless otherwise instructed should it seem wise so to do in the course of further negotiations.)

He then said Mexico had three possible courses open:

First, abolish permanently the Consulate at Laredo.

Second, close the Consulate for an indefinite time, that is, maintain the *status quo*.

Third, open the Consulate upon an assurance from the American Government that all Mexicans would be permitted to pass through Laredo unmolested.

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<sup>38</sup> See John Bassett Moore, *A Digest of International Law*, vol. II, p. 228.

I suggested that we ought to face the problem in a practical manner and therefore try for something along his third course. I pointed out that his suggestion three went too far, as it would cover and protect all law breakers. He admitted this and said he meant unmolested subject to the enforcement of the laws. I pointed out that the phrasing of such a clause would be difficult since Valls was insisting that all he was doing was enforcing the law; that it would take a decision of our Supreme Court to tell whether he was right or wrong in his contention, and that neither of us wished to take General Calles to the Supreme Court.

I then suggested that he frame a statement such as he had in mind and then that we discuss it together. He agreed but said he must show it to the President first. I then suggested that since we were dealing entirely informally and unofficially, I having no official status, we discuss the matter before he submitted his draft to the President since a Presidential approval would more or less stereotype the form. He agreed to this and promised to make a draft and take it up with me today.

It is possible that in attempting to draft what he wants he will become aware of the unpracticability of his idea as he first stated it, and that we may come near to the suggestion you have made, though I think you must be prepared to consider some such phrase as "unmolested save for prosecutions for actual violations of the laws of the United States committed within the jurisdiction of the United States," though this is a mere guess on my part. I shall suggest the inclusion of a clause covering diplomatic passports as I believe this would be the only really effective and concrete part of such a statement. I will also suggest that the clause be made mutual which may be an aid to tractability in view of their practice under article 33 of the Constitution.

Obviously it will be for you to determine how far you will wish to go in giving a Federal guarantee based upon statements by short-tenured State officials against the enforcement of criminal law particularly under the conditions existing at Laredo. Conceivably the Laredo community may be faced with the alternative—no Valls or no Laredo, this on the assumption that we shall not adopt in this situation the usually ruinous policy of retaliation or possibly reprisal. I will of course do the best I can but it should not be overlooked that not always does the practical side of a problem determine its solution here in Mexico and that the present complaint relates to matters particularly obnoxious to them. [Clark.]

JOHNSON

702.1211 Laredo/37 : Telegram

*The Acting Secretary of State to the Chargé in Mexico (Johnson)*

WASHINGTON, January 9, 1930—2 p. m.

7. For Clark. Your January 8 Laredo matter.<sup>39</sup> Do the best you can as soon as you can. In regard to suggested phrase the words "committed within the jurisdiction of the United States" do not particularly appeal to me and I would prefer the words "subject to the jurisdiction of the United States." I agree as to use of diplomatic passports.

I am not worried about basing action upon statements by short tenured state officials as I do not see how anybody could be more provocative than Valls. There is no chance of our adopting a policy of retaliation or reprisal but such a policy is quite in the hands of Texas. Remember the Tex-Mex-Railroad is open to reprisal.

COTTON

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702.1211 Laredo/42b : Telegram

*The Acting Secretary of State to the Chargé in Mexico (Johnson)*

WASHINGTON, January 10, 1930—11 a. m.

8. For Clark. Situation at Laredo worse. Several of the banks seem affected. The last thing we want to do is to bother you while you are working but I do want you to know there is a really bad economic situation there.

COTTON

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702.1211 Laredo/43 : Telegram

*The Chargé in Mexico (Johnson) to the Acting Secretary of State*

MEXICO, January 10, 1930—noon.

[Received 6:16 p. m.]

7. For Cotton from Clark. Your January 10, 11 a. m. Whatever you want me to do is my job and no bother. Estrada did not call me Wednesday as he promised nor Thursday whereupon having received your telegram of January 9, 2 p. m., No. 7, I asked Herschel Johnson to request an interview for me today, January 10. This was done and I am awaiting the designation of the hour. I have prepared for informal discussion draft of letter Department might send. I will carefully explain it has not been submitted to you and in no way commits our Government. In conversation with Herschel Johnson

<sup>39</sup> *Supra.*

on regular diplomatic day, Thursday, Estrada admitted situation is serious and is causing him anxiety, primarily it seems lest Mexico be made ridiculous. My draft is designed to suggest a way out without any greater commitments on our part than you already know about. I will do the best I can as fast as I can. [Clark.]

JOHNSON

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702.1211 Laredo/44 : Telegram

*The Chargé in Mexico (Johnson) to the Acting Secretary of State*

MEXICO, January 10, 1930—8 p. m.

[Received January 11—2:57 a. m.]

9. For Cotton from Clark. Saw Estrada at 5 this afternoon, when, conformably to his promise of Tuesday, he handed me as a basis for discussion statements embodying his idea of what the two Governments might say in connection with reopening the Mexican Consulate at Laredo. These statements read in translation as follows:

Proposed American statement.

"The American Government very sincerely deplores the appearance at any spot in its territory of a situation contrary to its will and to the intentions of that Government which would cause offense to the Government of Mexico to the point that, as a protest against a local official, it was decided to close its Consulate at Laredo.

The American Government regrets that at any time Mexican citizens have met unjustified obstacles to their transit through Laredo; and desiring that a normal and satisfactory situation be reestablished in the said place, declares that it is, for its part, prepared to grant guarantees to those Mexican persons who, in conformity with the migration regulations of both countries, travel through Laredo."

Proposed Mexican statement.

"The Government of Mexico which had ordered the temporary closing of its Consulate at Laredo as a protest against a local official until satisfactory guarantees for the normal transit of its nationals through that place were obtained, receives and accepts the statement of the Government of the United States of America which clearly and definitely corrects the previous situation, and, based on the satisfaction what [*which?*] is due it, has ordered the opening of the said Consulate."

After his statements had been translated to me I handed him the following as my draft of a possible American statement to be presented here by Johnson. I repeat it because of Estrada's comments thereon.

"I am authorized by cable to deliver to Your Excellency the following message:

'The temporary closing of the Mexican Consulate at Laredo, Texas, and the resulting interference with normal trade relations between the United States and Mexico have led to such losses by innocent persons on both sides of the border as I am sure must excite in the Mexican Government the same regret with which they are viewed by the Government of the United States. Deploring the series of incidents which the Mexican Government has declared were its reasons for temporarily closing its Consulate and desiring to do everything which it properly might do to put an end to a situation which threatens the prosperity, if not indeed the existence of the towns of Laredo and Nuevo Laredo, the Department of State has taken up with the Governor of the State of Texas the adjusting of law enforcement in that State in such way as to forestall in the future a recurrence of the incidents which gave dissatisfaction to the Mexican Government.

Governor Moody of Texas, who has been in communication with the responsible local authorities at Laredo, now assures the Department of State that hereafter persons bearing Mexican diplomatic passports will not be molested in Texas by Texas officials, nor will Mexican citizens generally, except for violation of laws of the State of Texas, or of other States of the Union, or of the United States. These assurances from the Governor of Texas enable the Department of State upon behalf of the Government of the United States to extend to the Mexican Government the same assurances.

The Department of State trusts that under these assurances the Mexican Government will find it possible to direct the opening of the Mexican Consulate at Laredo, Texas, and the restoration of normal economic relations between Nuevo Laredo, Tamaulipas, and Laredo, Texas, at an early date. Joseph P. Cotton, Acting Secretary of State.'

I have the honor to be, sir."

He said that this statement was all right but in the discussion which followed he made some adverse comments on mentioning Texas and Texas officials, seemingly on the ground that it would be unwise for us to teach other American governors their powers vis-à-vis the Federal Government. I observed that my experience taught me that our governors thoroughly understood their powers and that while under Mexican constitutional method they might control their governors we could not control ours under our system. I pointed out there might be some advantage hereafter in now making public the fact that local Laredo officials have found it necessary to recede from their former position. Estrada also prefers that no mention be made of diplomatic passports though he agreed with me that no obligation exists to grant diplomatic privileges to persons carrying diplomatic passports to a third country until after the passport receives a visa when diplomatic immunity attaches to the holder.

Estrada says he feels there is no need for haste. I told him you felt otherwise and explained you were probably under considerable pressure. Local newspapers are beginning editorially to insist that the matter be adjusted because Mexicans are suffering as well as Americans.

If you will submit draft of satisfactory statement I will immediately try for an early appointment to present it to Estrada. [Clark.]

JOHNSON



702.1211 Laredo/46b : Telegram

*The Acting Secretary of State to the Chargé in Mexico (Johnson)*

WASHINGTON, January 11, 1930—5 p. m.

12. For Clark. Estrada's proposal entirely unsatisfactory. Your proposal satisfactory except I would like to make the following changes:

Delete the word "deploring" in the second paragraph, second sentence, and substitute "disapproving unreservedly".

Delete the word "hereafter" in paragraph 3.

In paragraph 4 delete the words "The Department of State trusts that under these assurances the Mexican Government will find it possible to direct" and substitute "The Department of State feels confident that in view of these assurances the Mexican Government will direct."

With these changes the statement is authorized. Johnson may sign and deliver.

I will be available for a telephone conference if you want me late tomorrow afternoon. My telephone number is Potomac 17.

It is a fair argument to make to Estrada that we want diplomatic passports mentioned because we already have a pledge from Texas in that regard and desire to hold Texas to it and can hold them better with a public pledge which they could not thereafter have the fact [*face?*] to go back on.

Freight embargo goes on today and each day's delay increases excitement in Laredo and demand for reprisal. The form of reprisal which is threatening is to decline to permit Mexican immigration. Of course, we will not initiate reprisals and are trying to keep them down. Use your own judgment about using these arguments to Estrada.

COTTON

702.1211 Laredo/49 : Telegram

*The Chargé in Mexico (Johnson) to the Secretary of State*

MEXICO, January 13, 1930—8 p. m.

[Received January 14—1:17 a. m.]

11. For Cotton from Clark. I secured an interview with Estrada at 4:30 today and handed him the following draft:

"Unreservedly disapproving the happening of the events leading to the closing by the Mexican Government of its Consulate at Laredo and anxious to terminate the resulting situation which is so injurious to the communities affected on both sides of the border, the Department of State has conferred with the appropriate State authorities involved and is gratified now to assure the Mexican Government that Mexican citizens bearing Mexican diplomatic passports, duly visaed

by the appropriate American officials, will not be molested in the communities heretofore involved, nor will Mexican citizens generally, if in such areas, except for violation of laws, State or Federal, of the United States.

The Department of State feels confident that in view of these assurances the Mexican Government will not consider it necessary longer to maintain the existing situation at Nuevo Laredo but will find it convenient now to reopen the Mexican Consulate at Laredo and to restore normal economic relations across the border at that point."

He is very anxious, for some reason I am not sure I understand, to eliminate reference to diplomatic passports. He suggested that the final clauses of first paragraph of draft I gave him be amended to read:

"To assure the Mexican Government that Mexican citizens who go to the United States complying with immigration regulations and other laws of both countries will not be molested in the communities heretofore involved, nor will Mexican citizens generally, transient in such areas."

Unless you feel it imperative to include an express diplomatic passport provision I think his suggested amendment would be acceptable if "complying with" were changed to read "subjecting themselves to". It seems to me this alteration could leave us without any real commitment beyond the present actual custom and the obligations of international law and comity. Estrada stated that if we insisted on a provision covering diplomatic passports he must contest it but he made no understandable statement concerning the grounds for his proposed contest. He manifested for the first time to me a disposition, if not anxiety, to adjust the matter soon.

If you will telephone your decision on this matter tomorrow morning Johnson will immediately deliver note. [Clark.]

JOHNSON

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702.1211 Laredo/52: Telegram

*The Chargé in Mexico (Johnson) to the Secretary of State*

MEXICO, January 14, 1930—6 p. m.

[Received January 15—1:45 a. m.]

13. Referring to your telephone conversations with Mr. Clark, to the Embassy's telegram number 11, January 13, 8 p. m., and to your telegram number 12, January 11, 5 p. m., of authorization.

Following note was delivered today at 12:30 to Acting Minister for Foreign Affairs:

"Excellency: I am authorized by cable to deliver to Your Excellency the following message from Mr. Joseph P. Cotton, the Acting Secretary of State:

'Unreservedly disapproving the happening of the events leading to the closing by the Mexican Government of its Consulate at Laredo and anxious to terminate

the resulting situation which is so injurious to the communities affected on both sides of the border, the Department of State has conferred with the appropriate State authorities involved and is gratified now to assure the Mexican Government that Mexican citizens who go to the United States subjecting themselves to immigration regulations and other laws of both countries will not be molested in the communities heretofore involved, nor will Mexican citizens generally, transient in such areas.

The Department of State feels confident that in view of these assurances the Mexican Government will not consider it necessary longer to maintain the existing situation at Nuevo Laredo but will find it convenient now to reopen the Mexican Consulate at Laredo and to restore normal economic relations across the border at that point.

Joseph P. Cotton, Acting Secretary of State.'

Accept Excellency, the renewed assurance of my highest and most distinguished consideration. Herschel V. Johnson, Chargé d'Affaires ad interim."

Following is translation of note in reply received from Acting Minister for Foreign Affairs this afternoon at 5:20:

"Mr. Chargé d'Affaires: I acknowledge your courteous note Number 1407 of today in which you are good enough to inform me that you are authorized by cable to deliver to me a message from His Excellency Mr. Cotton, Acting Secretary of State of the United States of America, the text of which you are good enough to transmit to me and in which are unreservedly disapproved the events leading to the closing of the Mexican Consulate at Laredo, and the necessary assurances are given to the Mexican Government that Mexican citizens who go to the United States and subject themselves to the immigration regulations and other laws of both countries, will not be molested in the communities involved in this case, nor will Mexican citizens generally, transient in such areas.

In reply I beg you courteously to inform the Government of the United States of America that the Government of Mexico which had ordered the temporary closing of its Consulate at Laredo, as a protest against a local official, until satisfactory guarantees for the normal transit of its nationals through that place were obtained, receives and accepts the statement of the Government of the United States of America, which clearly and definitely corrects the previous situation, and based on the satisfaction what [*that*] is due it, has ordered the opening of the said Consulate.

Please accept the assurance of my distinguished consideration. Genaro Estrada."

JOHNSON

702.1211 Laredo/52 : Telegram

*The Acting Secretary of State to the Governor of Texas (Moody)*

WASHINGTON, January 15, 1930.

The Embassy at Mexico City telegraphs that it received a note from Mexican Foreign Office yesterday afternoon stating that Mexican Government has ordered the opening of the Consulate at Laredo.

COTTON

702.1211 Laredo/54: Telegram

*The Governor of Texas (Moody) to the Acting Secretary of State*

AUSTIN, January 16, 1930.

[Received 1:55 p. m.]

Your wire. Consul General at San Antonio has issued statement that Consulate at Laredo will be opened Friday. I want to express appreciation which I feel and which the citizens of Laredo feel for your efficient assistance in this matter.

DAN MOODY

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**RENEWED NEGOTIATIONS FOR A SETTLEMENT OF THE DISPUTE  
OVER THE RIO GRANDE BOUNDARY <sup>40</sup>**

711.12151A/182

*The Acting Secretary of State to the Mexican Ambassador (Télez)*

WASHINGTON, January 20, 1930.

EXCELLENCY: Referring to the Department's note of October 23, 1929,<sup>41</sup> concerning pending banco cases in the El Paso and Juarez valleys, and the subject of river rectification, I desire to inform your Excellency that the American Commissioner on the International Boundary Commission, United States and Mexico, was informed by telegraph on the 18th instant that the Department desires that the elimination of pending banco cases be commenced at once. The American Commissioner was further informed that the Department has agreed to this move on the understanding that the Government of Mexico will instruct the Mexican Commissioner to prepare a final plan for river rectification as soon as possible. The American Embassy at Mexico City has been requested to advise your Government of the foregoing in order that, if there be no objection, corresponding instructions may be issued to the Mexican Boundary Commissioner.

Accept [etc.]

J. P. COTTON

711.12151A/191

*The Mexican Chargé (Campos-Ortiz) to the Acting Secretary of State*

[Translation]

No. 00684

WASHINGTON, February 22, 1930.

MR. SECRETARY: I have the honor to acknowledge the receipt of your Excellency's note of January 20 last, advising me that the American Commissioner of the International Boundary Commission

<sup>40</sup> Continued from *Foreign Relations*, 1929, vol. III, pp. 473-479.

<sup>41</sup> *Ibid.*, p. 478.

has already received instructions to the effect that the elimination of bancos in pending cases be proceeded with immediately. Your Excellency advises that the Department has issued such instructions to the American Commissioner with the understanding that the Government of Mexico would instruct the Mexican Commissioner to the end that as soon as possible a plan for the rectification of the course of the river be prepared.

In reply permit me to inform your Excellency in reiteration of that which this Embassy has stated on various occasions that the Government of Mexico has no objections to the continuance of study of the question of the rectification of the course of the river, but considers that the elimination of bancos in pending cases, that is, the application of the Convention of 1905,<sup>42</sup> should not be retarded for that or any other reason. Furthermore, I have the honor to inform your Excellency that the Mexican Commissioner holds instructions to proceed in cooperation with the North American Commissioner as soon as the pending banco cases have been eliminated in the matter of the preparation of a definite plan for the rectification of the course of the river.

Availing myself [etc.]

CAMPOS-ORTIZ

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711.12151A/200A : Telegram

*The Acting Secretary of State to the Chargé in Mexico (Johnson)*

WASHINGTON, March 20, 1930—5 p. m.

78. If you see no objection please deliver note to Foreign Office making following points:

1. International Boundary Commission United States and Mexico at present engaged in eliminating from the effects of Article II Treaty of November 12, 1884,<sup>43</sup> the remaining bancos in the El Paso-Juarez valley. It is Department's understanding that elimination of eight remaining bancos will be effected shortly. (Commissioner Lawson has telegraphed that on March 19 the Weber tract was designated a banco by Commission and eliminated from effects of Article II of Treaty of 1884 and that Commission had resolved that jurisdiction of this banco shall pass to the United States in accordance with the provisions of the Treaty of 1905.)

2. On completion of elimination it is expected that American and Mexican Commissioners will forward to their respective governments final plan for river rectification along the general lines set forth in

<sup>42</sup> Signed at Washington, March 20, 1905; *Foreign Relations*, 1907, pt. 2, p. 837.

<sup>43</sup> Malloy, *Treaties*, 1776-1909, vol. 1, p. 1159.

Minute 111.<sup>44</sup> As this plan is virtually completed the Department does not contemplate that receipt by both governments of final plan will be delayed, as soon as banco elimination is effected.

3. As soon as final plans are received by both governments, Department proposes that the negotiation of a treaty should be initiated covering the points comprised in Minute 111 and such other matters as the two governments consider may well be included in the proposed convention.

In view of Mr. Clark's<sup>45</sup> familiarity with matter please consult him. Also telegraph when note is delivered and send copy to Department by mail. We would send Lawson to Mexico City during period of negotiations and will so inform him if you consider his presence advisable.

COTTON

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711.12151A/203 : Telegram

*The Chargé in Mexico (Johnson) to the Acting Secretary of State*

[Paraphrase]

MEXICO, March 24, 1930—11 a. m.

[Received 4:30 p. m.]

62. Your 78, March 20, 5 p. m. The following is from Mr. Clark for Mr. Cotton:

"Captain McBride<sup>46</sup> informs me, and his information corresponds with my impression, that Mr. Morrow's disposition, when he left Mexico City, was to concentrate his efforts upon his return here after the termination of the London Naval Conference<sup>47</sup> upon financial questions and an en bloc claims settlement.<sup>48</sup> We do not know here if Mr. Morrow is still of the same mind. If he is, I suggest for your consideration the question whether it would be wise at the present time to inject into the situation another negotiation, particularly in view of the probability that it cannot be completed before Mr. Morrow will under present plans relinquish his post as Ambassador in Mexico thus making it necessary for negotiations to be carried to completion by his successor with such inconvenience and delay, if any, as might result.

Moreover, I am apprehensive lest we get too many irons in the fire for the Ambassador. Yet, he may wish to get as much started as possible before he leaves. I must confess that I am in somewhat of a

<sup>44</sup> Minute No. 111 of the International Boundary Commission, United States and Mexico, December 21, 1928: action recommending engineering feasibility of preliminary plan for stabilization of boundary and rectification Rio Grande, El Paso and Juarez Valleys. A copy of Minute No. 111 is filed under 711.121-55/334.

<sup>45</sup> On February 19, 1930, Mr. J. Reuben Clark, Jr., was notified that he had been appointed "Special Representative of the Department of State to make a study of the proposed rectification of the Rio Grande and stabilization of the boundary line in the region of El Paso, Texas, and such other matters as may be covered by a convention with Mexico to be negotiated later." (711.12155/410d)

<sup>46</sup> Presumably Capt. Lewis B. McBride, Naval Attaché.

<sup>47</sup> See vol. 1, pp. 1 ff.

<sup>48</sup> See pp. 495 ff.

quandary. In view of all of this, might it not be well to frame point 3 of your 78, March 20, 5 p. m., to the effect that as soon as the two Governments have received and studied the final plans negotiations should be undertaken for the purpose you state. That will give opportunity to consult the Ambassador as to his views. I strongly believe that it would be unwise to undertake negotiations without the presence here of Lawrence M. Lawson, the American Commissioner, International Boundary Commission, United States and Mexico, for the following reasons: (1) Because he understands the river situations and the El Paso sentiment better than any one at the Embassy, and (2) because of his close and friendly relations with Mexican Boundary Commission officials."

JOHNSON

711.12151A/203 : Telegram

*The Acting Secretary of State to the Chargé in Mexico (Johnson)*

[Paraphrase]

WASHINGTON, March 25, 1930—6 p. m.

83. Your 62, March 24, 11 a. m. You are authorized to change point 3 as you suggest. I do not think we can expect help from Ambassador Morrow on the El Paso matter. I agree with you that no negotiations should be undertaken until Mr. Lawson is there. Ambassador Morrow will have very little time in Mexico anyway, and it would be foolish to try to use him at all on El Paso. I do not think you will have gotten anywhere in El Paso before Ambassador Morrow has to come away.

COTTON

711.12151A/207 : Telegram

*The Chargé in Mexico (Johnson) to the Acting Secretary of State*

MEXICO, March 26, 1930—5 p. m.

[Received 7:11 p. m.]

65. Your telegrams number 78, March 20, 5 p. m., and number 83, March 25, 6 p. m. Note was delivered to Mexican Foreign Office today. Copy will be forwarded by next pouch.

JOHNSON

711.12151A/253

*The Chargé in Mexico (Johnson) to the Secretary of State*

No. 2459

MEXICO, May 16, 1930.

[Received May 20.]

SIR: I have the honor to refer to my despatch No. 2366 of March 28, 1930,<sup>49</sup> transmitting the text of a note dated March 26th delivered

<sup>49</sup> Not printed.

by me to the Minister for Foreign Affairs under instructions from the Department, relative to the question of the elimination of pending banco cases in the El Paso-Juárez Valley and to the subject of river rectification.

I now have the honor to forward herewith enclosed a copy and translation of a note dated May 7, 1930, which I have received from the Minister for Foreign Affairs in reply to my note under reference. This note, although dated May 7th, was not received at the Embassy until May 14th.

I have [etc.]

HERSCHEL V. JOHNSON

[Enclosure—Translation]

*The Mexican Minister for Foreign Affairs (Estrada) to the American Chargé (Johnson)*

No. 7067

MEXICO, May 7, 1930.

MR. CHARGÉ D'AFFAIRES: This ministry received your Embassy's courteous note no. 1583 of March 26th last, in which, with reference to your previous note no. 1419 of January 20th of the present year and to this Ministry's reply thereto, in regard to the question of the elimination of Bancos, you are good enough to explain the point of view of your Government in the premises, and in which, under instructions from your Government, you propose that as soon as the final plan now being studied by the Boundary Commissioners has been received, negotiations be begun for a treaty which shall include the points contained in Minute 111 of the International Boundary Commission, and those (points) which both Governments may deem it expedient to include.

In reply I have to inform you that, as suggested in the note to which I have the honor to make answer: Once all the pending banco cases in the El Paso Valley have been settled and the decision approved by both Governments, upon the receipt of the final plan formulated by the Boundary Commissioners, my Government will be prepared to examine the means for putting into practice the points contained in Minute 111 of the International Boundary Commission; without, however, retracting the exceptions taken when said Minute was approved, which exceptions were communicated to the Government of the United States in note no. 766 of the Mexican Embassy at Washington, dated February 26th [6th] 1929.<sup>50</sup>

I avail myself [etc.]

G. ESTRADA

<sup>50</sup> *Foreign Relations*, 1929, vol. III, p. 473.



711.12155/421: Telegram

*The Secretary of State to the Chargé in Mexico (Johnson)*

WASHINGTON, May 20, 1930—6 p. m.

134. Your 93, May 17, noon.<sup>51</sup> In order that we may make the necessary arrangements it is essential that we be informed earliest moment possible whether Mexican Government is agreeable to the initiation of negotiations in Mexico City some time early in July. As stated in the Department's 127<sup>52</sup> Department proposes to instruct Lawson to be in Mexico City for that purpose. We also hope that Mexican Boundary Commissioner will likewise be present for the discussion of technical questions.

Please take this matter up with Foreign Office immediately and telegraph.

STIMSON

711.12155/430

*The Chargé in Mexico (Lowry) to the Secretary of State*

No. 2495

MEXICO, May 29, 1930.

[Received June 3.]

SIR: I have the honor to refer to the Department's telegram No. 134 dated May 21 [20], 1930, 9 a. m. [6 p. m.] and to my reply thereto No. 104, dated May 28, 1930, 4 p. m.<sup>53</sup> and to enclose a copy and translation of Foreign Office note No. 7890, dated May 27, 1930, in reply to my note, a copy of which was included with my despatch No. 2478 of May 23, 1930.<sup>54</sup>

I have [etc.]

EDWARD P. LOWRY

[Enclosure—Translation]

*The Mexican Minister for Foreign Affairs (Estrada) to the American Chargé (Lowry)*

No. 7890

MEXICO, May 27, 1930.

MR. CHARGÉ D'AFFAIRES: I reply to that Embassy's courteous note number 1684 urgent, dated the 23rd instant, in which, with

<sup>51</sup> Not printed; it transmitted a portion of note No. 7067, May 7, 1930, from the Mexican Minister for Foreign Affairs, *supra*.

<sup>52</sup> Dated May 16, 5 p. m.; not printed.

<sup>53</sup> Telegram No. 104 not printed; it transmitted a portion of note No. 7890, May 27, 1930, from the Mexican Minister for Foreign Affairs, *infra*.

<sup>54</sup> Despatch No. 2478 and its enclosure not printed.

reference to the antecedents of the case, you were good enough to inform me that your Government proposes to instruct the American Boundary Commissioner to be in Mexico City early in the month of July for the purpose of initiating negotiations for a treaty which shall contain the points indicated in Minute 111 and such other matters as the two Governments consider may well be included in the proposed Convention, inquiring, at the same time, whether my Government is agreeable to the initiation of such negotiations in the early part of July, in order that the necessary arrangements may be made, with the presence of the Mexican Boundary Commissioner.

In reply, I have the honor to inform you that, although no agreement has been reached specifically to negotiate a treaty, but only to come to a satisfactory arrangement, contained, if necessary, in an official instrument the exact nature of which could later be determined, this Ministry is agreeable to having both Boundary Commissioners meet in the City of Mexico, for the purpose of examining (*revisar*) the recommendations contained in Minute 111, guided by (*dentro de*) the observations made in regard to said Minute by the Government of Mexico; and therefore I beg to suggest to you that said meetings be initiated beginning July 10th next.

I avail myself [etc.]

G. ESTRADA

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711.12155/427: Telegram

*The Secretary of State to the Chargé in Mexico (Lowry)*

WASHINGTON, May 29, 1930—1 p. m.

144. Your 104, May 28, 4 p. m.<sup>55</sup> Department is informing Lawson of Mexican Government's decision and is also instructing him to arrive in Mexico City shortly before July 10. Department is authorizing Lawson to inform W. E. Robertson, Chairman of El Paso Committee on River Rectification. Texas and New Mexico Senators and Representatives Hudspeth and Simms are also being informed.

With reference to Mexican Government's observation that "no agreement has been reached specifically to negotiate [a] treaty", this Government would be glad to reach such agreement and would be glad to effect an exchange of notes to that effect if agreeable to Mexican Government. There may be reasons which, in your opinion, would render it inadvisable to press matter at this juncture hence Department leaves to your discretion advisability of urging Mexican Government at this time to agree to negotiate a treaty. Department suggests that you consult Mr. Clark and telegraph action which you have taken.

STIMSON

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<sup>55</sup> Not printed.

711.12155/428:Telegram

*The Chargé in Mexico (Lowry) to the Secretary of State*

MEXICO, May 31, 1930—noon.

[Received 5:19 p. m.]

109. Reference Department's telegram 144, dated May 29, 1 p. m. Having in mind the existing uncertainties as to Cabinet personnel already reported to the Department and that the suggested exchange of notes would at best be merely an agreement to make an agreement, we suggest that probably the wiser course would be to go forward under the Mexican Government's proposal contained in its note of May 28 [27], 1930, transmitted with despatch 2495 of May 29.

LOWRY

711.12151A/180

*The Secretary of State to the Mexican Ambassador (Télez)*

WASHINGTON, June 6, 1930.

EXCELLENCY: With reference to the Department's note of January 14, 1930,<sup>56</sup> I have the honor now to inform you that while the question as to the date on which transfer of sovereignty over a banco takes place, that is, whether on the date the International Boundary Commission gives its decision, or one month thereafter, is not free from doubt, it is the view of the Department that, under a strict interpretation of the treaty, transfer of sovereignty takes place on the date the Commission renders its decision, subject to its being defeated by disapproval of the decision by either Government within one month reckoned from the day on which the decision shall have been pronounced. Since such disapproval would have the effect of ousting the jurisdiction assumed by the Government to which the banco is eliminated, it is felt that, for the purpose of avoiding possible complications, the two Governments might now agree upon an interpretation of the treaty to the effect that transfer of sovereignty takes place one month from the date the Commission gives its decision, unless such decision has meanwhile been disapproved by either or both Governments.

If the Mexican Government is unwilling to adopt such an interpretation, this Government would be willing to regard the transfer of sovereignty as taking place on the date of the Commission's decision, subject to the right of either Government to object within the period of one month.

Accept [etc.]

For the Secretary of State:  
J. P. COTTON

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<sup>56</sup> Not printed.

711.12155/436 : Telegram

*The Ambassador in Mexico (Morrow) to the Secretary of State*

MEXICO, July 9, 1930—noon.

[Received 6:20 p. m.]

140. Boundary Commissioner Lawson accompanied by Ainsworth and Moore arrived here July 7.

Lawson and Mexican Commissioner are preparing to complete final definitive report of the rectification project. On completion the matter will be in the situation where it can be incorporated into a treaty. I assume that Department desires me to initiate negotiations as soon as the moment is propitious. I propose to mention the matter to the President on Saturday when he receives me.

MORROW

711.12155/436 : Telegram

*The Secretary of State to the Ambassador in Mexico (Morrow)*

WASHINGTON, July 11, 1930—1 p. m.

176. Your 140, July 9 noon. You are authorized to initiate negotiations with Mexican Government relative to Rio Grande River rectification project when you consider the moment propitious. Department is hopeful that an agreement may be reached which will include a final settlement of Chamizal and other territorial differences existing between the two countries in the region covered by the rectification project.

STIMSON

711.12155/443

*The Ambassador in Mexico (Morrow) to the Secretary of State*

No. 2670

MEXICO, August 5, 1930.

[Received August 11.]

SIR: With reference to my telegram number 166, 11 a. m. [12 noon], of today,<sup>57</sup> I have the honor to transmit herewith at the request of Mr. L. M. Lawson, American Commissioner, International Boundary Commission, United States and Mexico, an envelope which he states contains minutes numbers 128 and 129, dated July 29 [28] and July 31, 1930, respectively, regarding the project for the rectification of the Rio Grande between El Paso and Fort Quitman. The engineers' report on which the report of the Commission is based is also transmitted herewith.<sup>58</sup>

Respectfully yours,

For the Ambassador:  
ARTHUR BLISS LANE<sup>57</sup> Not printed.<sup>58</sup> Printed with the convention between the United States of America and Mexico, for the rectification of the Rio Grande, signed at Mexico City, February 1, 1933, in Department of State Treaty Series No. 364.

[Enclosure 1]

*Minute No. 128 of the International Boundary Commission,  
United States and Mexico*

MEXICO, July 28, 1930.

Subject: Rectification of the Rio Grande.

The International Boundary Commission convened in Mexico City, Mexico, acting upon instructions of both Governments, to proceed with the development of final plans for Rio Grande rectification as provided for by Minute No. 111.

The Honorable Genaro Estrada, Secretary of Foreign Relations of Mexico, at the first session welcomed the members of the American Section. The personnel of the Commission present at these meetings which began on July 10, 1930, consisted of: Engineer Commissioner L. M. Lawson, Consulting Engineer C. M. Ainsworth, and Acting Secretary M. B. Moore—of the American Section; Engineer Commissioner Gustavo P. Serrano, Consulting Engineer Armando Santacruz, Jr., and Secretary José Hernández Ojeda—of the Mexican Section. Also present—in the capacity of technical advisers—were Engineer W. E. Robertson, Chairman of the El Paso Chamber of Commerce Flood Control Committee, and Engineer Salvador Arroyo, Chief of the Juarez Flood Control Works.

The Commissioners discussed at the first meetings the division of the work and proper procedure in studying and developing the river rectification plan and report. Daily meetings of the Commissioners, consulting engineers and technical advisers were continued from July 10 to July 28, 1930, during which time data and engineering details were reviewed, and the report to the two Governments was cooperatively developed and considered. On July 28, 1930 the Commission completed the report and recommendations on the subject, and set July 31, 1930 at ten a. m. as the time for the next meeting. Then the session adjourned.

L. M. LAWSON

*Commissioner for the United States*

GUSTAVO P. SERRANO

*Commissioner for Mexico*

MERVIN B. MOORE

*Acting Secretary of the United States Section*

JOSÉ HERNÁNDEZ OJEDA

*Secretary of the Mexican Section*

[Enclosure 2]

*Minute No. 129 of the International Boundary Commission, United States and Mexico*

MEXICO CITY, July 31, 1930.

Subject: Report on Rio Grande Rectification.

The Commission met in the conference room at the Department of Foreign Relations, Mexico City, at ten o'clock a. m. July 31, 1930, in accordance with Minute No. 128, to complete its action in reporting and recommending a plan for Rio Grande rectification.

(1) Each section of the International Boundary Commission has been requested by the Foreign Relations Department of its Government to study and develop an international plan for the removal of the flood menace of the Rio Grande from the El Paso-Juarez Valley. Studies and investigations have now reached the point where it is possible to report to the two Governments a definite plan with estimates of cost; and the following is the report of the International Boundary Commissioners, together with a joint report prepared by the consulting engineers and technical advisers. Minute No. 111 of the Joint Commission, dated December 21, 1928, outlined in a general way the necessities for international action and gave a general description of the areas involved, a preliminary summary of the proposed plan and recommended proceeding with the development of the final details of the plans and estimates. During the past few months a most important step taken by the Commission consisted in rendering decisions determining the national jurisdiction and dominion of a number of *banco* cases in the area under consideration.

(2) The plan prepared and developed by the Joint Commission is attached hereto as an exhibit to this minute. In transmitting it to the two Governments the Commissioners offer it as being both practical and feasible as an engineering and economic project. In general the plan consists of straightening the present river channel, effecting decrease in length from one hundred fifty-five (155) miles to eighty-eight (88) miles, and confining this channel between two parallel levees. In addition to this channel the plan includes the construction of a flood retention dam at the only available site, twenty-two (22) miles below Elephant Butte on the Rio Grande, creating reservoir storage of one hundred thousand (100,000) acre feet. Careful studies based on actual past flood performance show the advantage of reducing the flood flow reaching El Paso-Juarez by storage in the proposed reservoir. The reduction in flood flow thru the El Paso-Juarez Valley accomplished by such storage of flood waters effects a saving of a quarter of a million dollars in the works required thru the

valley by decreasing the size of the channel and reducing the area required for right-of-way, and amount of yardage in levees.

(3) The meandering and uncontrolled Rio Grande below El Paso-Juarez has in recent years become a very serious menace to adjacent lands on both sides. Authorities of both countries have unsuccessfully attempted the protection of the improvements in the El Paso-Juarez Valley and the two cities. Considering the futility of providing adequate and proper protection on the present meandering river location, the two affected communities have expended the limit of a reasonable and justifiable amount in local flood protection works. A proper and sound plan for accomplishing desired results lies in a coordinated international project.

(4) Existing treaties provide for the center of the Rio Grande, except in isolated cases, being the International Boundary line. The present river channel, with excessive length, was produced by natural conditions which no longer exist. Increase in settlement, cultivation and values justify both Governments in considering means of removing the flood menace and providing an adequate flood channel.

(5) Actual field surveys were continued in the location on the ground of a rectified channel subject, of course, to some later slight modification, but generally sufficiently definite to permit estimates of right-of-way and construction costs. With office and field location of this channel line which generally follows and straightens the present meandering river, it has been possible to estimate acreages and values of the relatively small areas that would be detached from one country and attached to the other—so balanced in area that neither country would gain nor lose national territory.

(6) At the present time the bed of the Rio Grande between El Paso and Juarez is at a higher elevation than some of the streets and other properties of the two cities. Accumulations of sediment are continuing to aggravate this situation, and until proper grades and hydraulic conditions are introduced by artificial works, there are no means for carrying off these deposits which are encroaching upon the carrying capacity of the channel. The consensus of opinion of engineers who have studied the situation is that the correction lies in the plan proposed of straightening and confining the channel. One of the principal requirements to permit such artificial rectification is the equitable adjustment of the areas which would be necessarily detached from one side of the river and attached to the other in the straightening process. The plan evolved, of having each Government acquire the private titles to these equal areas for later exchange, provides a feasible solution. These areas to be acquired are generally seeped and waterlogged, and so shaped and situated as to be unsusceptible of proper irrigation and drainage.

(7) The benefits to be derived from the straightened and rectified channel plans are mutual to the two Governments in affording flood protection and in permitting cultivation, improvement and settlement of even larger areas adjoining the Rio Grande than are now possible under the meandering river conditions. It is of utmost importance that the Governments own and control the flood channel in order that private encroachments be definitely prevented and eliminated. Such ownership and control will also be of great assistance in the enforcement of national immigration and customs laws of both countries.

(8) In giving consideration to the determination of proper and justifiable proration of costs between the two countries, conditions other than gross and irrigated areas are necessarily included. Economic features and values in the two countries are distinct and different. While the use of areas may be entirely proper in a distribution of costs for irrigation development, this unit of proration for an international flood control plan is unsuitable and produces serious irregularities. The Commission has taken into consideration the benefits that each country would receive according to the areas and their values to be protected rather than the benefits each would receive on the sole acreage basis.

On the American side of the valley there are about fifty-three thousand (53,000) acres of land under the Rio Grande Federal Irrigation Project with water rights assured; the greater part of which is in full cultivation, and about seventeen thousand (17,000) acres in the lower portion of the valley below the project limits which are irrigated with project surplus water. The total irrigated area is seventy thousand (70,000) acres. This area is served with irrigation and drainage works, and first class roads. Finance companies facilitate the financing of the production and distribution of agricultural products.

(9) On the Mexican side of the valley there are about thirty-five thousand (35,000) acres of land in cultivation, of which twenty thousand (20,000) acres have assured water rights under the Rio Grande Federal Irrigation Project, provided for by the Water Treaty of 1906.<sup>60</sup> Practically no drainage works have been constructed and the irrigation works are largely insufficient. The productiveness of the lands on the Mexican side is under these circumstances much less than the corresponding lands on the north side of the river, and there are large areas with insignificant or no production. No major road improvements exist, and the finance companies organized to serve Mexican farmers are very limited in number and resources. The industrial plants and means for handling agricultural products are in very small proportion when compared with those in the valley in the United States.

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<sup>60</sup> *Foreign Relations*, 1906, pt. 2, p. 1128.



(10) The estimated value of agricultural investments in the American part of the valley, according to figures assembled by the Bureau of Reclamation, including purchase of land and its preparation, farm improvements, equipment and livestock, is seventeen million dollars (\$17,000,000) or thirty-four million gold pesos. The value of agricultural improvements on the Mexican side as estimated by Engineer Salvador Arroyo, Chief of the Flood Protection work, is five million four hundred thousand (\$5,400,000) gold pesos. Comparing these agricultural values in one part of the valley with those in the other it is seen that the Mexican side represents thirteen per cent of the total and the American eighty-seven per cent. Valley lands on either side of the river without water rights and assured irrigation service have very nominal value as compared with the lands obtaining water service from project sources; a comparison of such areas on this basis results in twenty-seven per cent for Mexico and seventy-three per cent for the United States.

(11) As the cities and suburbs of El Paso and Juarez not only are included in the flood protection plan, but either directly or indirectly would receive a large part of the benefits of the rectification of the channel, the Commission has considered the proration of values which each city bears to the other and giving proper weights to various percentages, believes the justifiable proration to be twelve (12) per cent for Mexico and eighty-eight (88) per cent for the United States.

(12) With reference to the estimates (exhibit number five of the engineers' report) the grand total of six million one hundred six thousand five hundred dollars (\$6,106,500) includes certain items in which the Commissioners concur as being non-proratable and properly and practically chargeable to each Government separately. These are: rights-of-way four hundred twelve thousand five hundred dollars (\$412,500), for purchase of private channel rights above Cordova seventy-five thousand dollars (\$75,000), segregated tracts two hundred sixty-six thousand dollars (\$266,000), changes in irrigation works two hundred twenty-five thousand dollars (\$225,000). The total of these items, with twenty per cent overhead and contingencies is one million one hundred seventy-four thousand two hundred dollars (\$1,174,200). This amount subtracted from the grand total leaves a proratable total of four million nine hundred thirty-two thousand three hundred dollars (\$4,932,300). Using twelve per cent (12%) and eighty eight per cent (88%) as the basis of proration Mexico's share of the cost of the project would be five hundred ninety-one thousand eight hundred seventy-six dollars (\$591,876) and that of the United States four million three hundred forty thousand four hundred twenty-four dollars (\$4,340,424).

(13) On the basis that this report and the engineers' statement have been prepared and submitted with the view of generally straightening the present river location between the International Dam above El Paso-Juarez and the Box Canyon below Fort Quitman, the question of using the present river at Fabens or following the boundary route on the south of the San Elizario area is left for later determination. From the data at hand, apparently there is argument in favor of both routes. Following either the present river or the boundary line route requires adjustment of detached areas, and the proposed channel below this section can be so located as to compensate for any inequalities of such areas.

(14) The following are the recommendations of the Commission:

a) The Commissioners recommend that the two Governments approve the plan for river rectification as outlined in the attached engineering report, including the feature of the flood retention dam, the general straightening of the present river location, and the establishment of a flood channel which generally will follow and straighten the present river from International Dam to the Box Canyon below Fort Quitman.

b) That both countries in view of the serious situation proceed to an agreement, without delay, which will carry into effect the engineering and construction features as outlined in the attached report.

c) That the International Boundary Commission be authorized to prepare detail plans, and to direct and supervise the construction and all other engineering operations, utilizing such established governmental agencies as each government may deem proper.

d) That each section of the International Boundary Commission be authorized to acquire for its country the necessary rights-of-way and detached areas located within its territorial limits, thru the proper governmental agencies.

e) That agreement between the two Governments provide for the exchange of one-half of the area required for right-of-way and the total area of detached tracts of each country.

f) That the total proratable cost of four million nine hundred thirty two thousand three hundred dollars (\$4,932,300) be divided between Mexico and the United States on the basis of twelve per cent (12%) and eighty-eight per cent (88%) respectively, and that each Government provide annually such required appropriations as will complete the work in four or five years.

g) That the agreement between the two countries provide for the jurisdiction of the International Boundary Commission over all matters concerning the rectified channel.

h) That this Commission be authorized to adopt such rules and regulations as it may deem necessary to the end that the preservation of the rectified channel may be perpetuated.

i) That each country hold the other immune from all private or national claims arising from the construction and maintenance of the rectified channel or any other cause whatsoever in connection with this project.

Respectfully submitted.

The Commission adjourned to meet again at the call of either of the Commissioners.

L. M. LAWSON

*Commissioner for the United States*

GUSTAVO P. SERRANO

*Commissioner for Mexico*

MERVIN B. MOORE

*Acting Secretary of the United States Section*

JOSÉ HERNÁNDEZ OJEDA

*Secretary of the Mexican Section*

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711.12151A/261

*The Mexican Ambassador (Télléz) to the Secretary of State*

[Translation]

WASHINGTON, August 7, 1930.

MR. SECRETARY: I have the honor to refer to Your Excellency's kind note dated the sixth ultimo [*June*], relative to the date which is to be considered by the Government of Mexico and the United States of America as that on which the transfer of the sovereignty of a banco takes effect.

In due answer, I have the honor to inform Your Excellency that my Government accepts the interpretation proposed by your Department; that is to say, that the transfer of sovereignty occurs one month after the day on which the International Boundary Commission hands down its award, unless the decision has been disapproved in the meanwhile by either one of the Governments or by both.

I avail myself [etc.]

MANUEL C. TÉLLEZ

711.12155/443 : Telegram

*The Acting Secretary of State to the Ambassador in Mexico (Morrow)*

WASHINGTON, August 21, 1930—7 p. m.

219. Reference your despatch number 2670 of August 5, 1930 transmitting minutes numbers 128 and 129 of July 29 [28] and July 31, 1930, respectively, of the International Boundary Commission United States and Mexico, regarding an engineering plan for the rectification of the Rio Grande between El Paso and the Box Canyon below Fort Quitman, Texas, together with the Engineers' report on which the recommendation of the Commission was based. Copies of all these documents are stated by the American Boundary Commissioner to be in the files of your Embassy.

The President has approved the plan for river rectification as outlined in the engineering report including the construction of a flood retention dam at Caballo, the general straightening of the present river location and the establishment of a flood channel which generally will follow and straighten the present river from International Dam to the Box Canyon. You are instructed to initiate negotiations with the Mexican Government at the earliest practicable moment with a view to arriving at an agreement which should take the form of a Treaty between the two countries that will carry into effect the engineering and construction features as outlined in the report referred to.

1. It is desired that the Agreement with the Mexican Government provide that the two Governments shall authorize their respective Sections of the International Boundary Commission to prepare detailed plans and to direct and supervise the construction and all other engineering operations in connection with the proposed undertaking, utilizing therefor such established Governmental agencies as each Government may deem proper.

2. It is further desired the Agreement shall provide that each Section of the International Boundary Commission be authorized to acquire for its country title to the necessary rights of way and detached areas located within its territorial limits through the proper Governmental agencies and that provision be made for the two Governments to effect mutual exchange of jurisdiction and title of one-half of the area required for such rights of way in the rectified channel and the total area of detached tracts of each country.

3. It should be further provided that the total proratable cost of \$4,932,300 be divided between the United States and Mexico on the basis of eighty-eight percent and twelve percent, respectively; and that each Government should provide annually such required appropriations as will complete the work within five years from the effective date of the Treaty.

4. Provision should be made in the Agreement for the jurisdiction of the International Boundary Commission, under instructions from the respective Governments, over all matters concerning the rectified channel; and that the Commission be authorized to adopt such rules and regulations as it may deem necessary for the preservation and perpetuation of the rectified channel.

5. The Agreement should provide that the thalweg of the rectified channel shall be the Boundary between the two countries.<sup>62</sup>

[Paraphrase.] Refer to Department's 176, July 11, 1 p. m. It is strongly desired that if possible the agreement may include a final settlement of El Chamizal and other territorial differences existing between the United States and Mexico in the region covered by the rectification project but which are not included therein. [End paraphrase.]

CASTLE

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711.12155/452 : Telegram

*The Ambassador in Mexico (Morrow) to the Secretary of State*

MEXICO, August 22, 1930—5 p. m.

[Received 8:20 p. m.]

189. Department's 219, August 21, 7 p. m. During course of interview with the President this afternoon I referred to the receipt of the Department's telegraphic instruction and said that the river rectification report had been approved by President Hoover. I said that as soon as the Mexican Government indicated its assent I should be ready to initiate the negotiation of an agreement or convention. The President said he was in complete accord with the project and would give instructions to commence negotiations at once. Embassy is orally advising Foreign Office.

MORROW

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711.12155/456 : Telegram

*The Ambassador in Mexico (Morrow) to the Secretary of State*

MEXICO, August 28, 1930—5 p. m.

[Received 8 p. m.]

196. Chief of Diplomatic Department of Foreign Office informs me [he] orally advised Embassy this morning that Mexican Government expects shortly to indicate its approval of Boundary Commission's report on river rectification at the same time submitting to the Embassy the bases for an agreement between the two countries. We suggested that it might be preferable to submit the bases orally and

<sup>62</sup> The Department in telegram No. 220, August 22, 3 p. m., instructed the Ambassador to eliminate this paragraph from the message.

informally in order that, should one Government object to a point submitted by the other, an impasse might be avoided. Mr. Sierra expressed agreement and said that even should the Mexican point of view be presented in written form it was to be regarded as informal and not binding but merely to serve as a basis of negotiation.

On August 26 Chief of Diplomatic Department stated that Mexican Government preferred that it, rather than we, should initiate negotiations with respect to an agreement. As the negotiations will presumably take place in Mexico City this appears to us to be a proper and reasonable request.

In view of the foregoing conversations with Mr. Sierra and of our feeling that neither party should commit itself formally at this stage I consider that it would be advisable not to address a formal note to the Foreign Office at the present time and that the Embassy should await the next step from the Foreign Office. We shall of course be guided by the Department's telegraphic instruction number 219<sup>63</sup> in the negotiation of a treaty.

MORROW

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711.12155/452 : Telegram

*The Secretary of State to the Ambassador in Mexico (Morrow)*

WASHINGTON, August 29, 1930—1 p. m.

223. Reference Department's 219, August 21, 7 p. m., and recommendation designated by letter (*i*), page 10, Minute 129, International Boundary Commission.<sup>64</sup> Boundary Commissioner Lawson states to the Department that it was inserted "to prevent claims from one country to another in case of breaks in levees or other causes in establishment of channel."

The Department feels that it would be desirable, if possible, to include in contemplated agreement a provision which would exempt each country from national or private claims of the other on account of any physical damage arising from and incident to breaks in levees but does not desire provision as broad as that suggested by Lawson since it is conceivable that claims might arise under circumstances which would render undesirable such broad immunity. You are requested, therefore, to endeavor to carry out the recommendation of the Boundary Commissioners in this limited form.

STIMSON

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<sup>63</sup> *Ante*, p. 551.

<sup>64</sup> *Ante*, pp. 545, 550.

711.12155/456 : Telegram

*The Secretary of State to the Ambassador in Mexico (Morrow)*

WASHINGTON, August 29, 1930—7 p. m.

225. Department concurs in your views as expressed in final paragraph your 196, August 28, 5 p. m.

STIMSON

711.12155/459 : Telegram

*The Ambassador in Mexico (Morrow) to the Secretary of State*

MEXICO, September 9, 1930—4 p. m.

[Received September 10—12:27 a. m.]

208. Department's 225, August 29, 7 p. m. Foreign Office has orally advised Embassy that Mexican Government approves report of Boundary Commission together with engineers' report of river rectification. Mexican Government proposes that Boundary Commission shall meet at Ciudad Juarez in the near future and approve a minute of which the following is a summary.

[Here follows summary of the draft minute. For full text, see *infra*.]

Foreign Office states that it has sent a copy of draft minute to Mexican Boundary Commissioner at Ciudad Juarez with instructions to consult with American Commissioner and to send his (Serrano's) observations thereon to Foreign Office. Foreign Office suggests that Department send similar instructions to Commissioner Lawson. We are sending copy and translation of full proposed minute to the Department by the pouch today and also to Lawson by air mail for his information only. We are also sending to Lawson by air mail a copy of this telegram.

MORROW

711.12155/461

*The Ambassador in Mexico (Morrow) to the Secretary of State*

No. 2751

MEXICO, September 9, 1930.

[Received September 15.]

SIR: I have the honor to refer to my telegram number 208 of today, 4 p. m., and to transmit herewith a copy and translation of a draft, prepared by the Mexican Foreign Office, of a minute to be approved by the International Boundary Commission, United States and Mexico, in regard to the rectification of the Rio Grande between El Paso and Box Canyon.

I am also sending by air mail a copy and translation of this draft to the American Boundary Commissioner in El Paso, for his information.

Respectfully yours,

For the Ambassador:  
ARTHUR BLISS LANE  
*Counselor of Embassy*

[Enclosure—Translation]

DRAFT

Minute No. . . . .

The Commission met in the offices of the Mexican Section in Ciudad Juárez, Chihuahua, on . . . . ., convoked by the Mexican Commissioner.—

The Mexican Commissioner informed the Commissioner of the United States that the Government of Mexico is in agreement with the recommendations contained in Minute number 129,<sup>65</sup> and that, in order to give definite form to the arrangement which is the basis for the execution of the project for the rectification of the Rio Grande (*Río Bravo*) in the Juárez Valley, it desires that the points contained in the said recommendations be put into the form of a resolution, together with the points which the Commission may consider should be included in a Minute which, approved by both Governments according to the practice of each, shall legalize the execution of the (proposed) labors.

The Commissioner of the United States replied that he had similar instructions from his Government, and consequently the Commission proceeded to draw up the resolution in the following form:

1.—Immediately after both Governments communicate to each other their approval, in accordance with their respective constitutional practices, of the present Minute, they shall proceed to the execution of the labors proposed in the joint report of the Consulting Engineers of the International Boundary Commission, attached to Minute number 129 of July 31, 1930, for the project which said report contains.

2.—For the execution of these labors, the order and procedure followed should be derived from the technical study of the question, the work being begun at the lower end, while labors may be executed in the upper reaches of the Valley for reasons of emergency or immediate necessity, provided the normal work initiated in the lower section is not interrupted.

3.—Both Governments consider that the obligations which they mutually contract upon approving this Minute shall not be fully met until the work is entirely completed, a period of six years counting from the date of its initiation being fixed for this purpose, and each

<sup>65</sup> *Ante*, p. 545.



Government having the right to demand the continuation of the labors when these have been interrupted for reasons other than *force majeure*.

4.—The work should be executed in accordance with the general outlines of the project contained in the joint report of the Consulting Engineers of the International Boundary Commission attached to Minute number 129. Should a more thorough study of the location (*el estudio . . . de la localización*) call for any change in this project which is not fundamental, the respective work may not (*sic*) be carried on without the previous consent of the two Governments. The work shall be suspended at the petition of either Government, if it is proved that it is being executed under conditions not herein stipulated or not provided in the project which was approved.

5.—The cost of the work shall be met by both countries in the proportion of 88%—eighty-eight per cent—for the United States, and 12%—twelve per cent—for Mexico.

6.—In order duly to comply with the foregoing stipulation, Mexico shall make itself responsible for the total execution of the work along a section between Córdoba Cut and the town of Zaragoza, the length of which shall be computed from the data contained in the estimate presented so as to meet exactly 12% of the total stipulated. The United States shall be responsible for the total execution of the rest of the work.

7.—Each Government shall acquire the portions which both the right-of-way of the rectified channel and the lands segregated to one or the other side of this right-of-way may occupy in its own territory.

8.—The direction and inspection of the work shall be entrusted to the International Boundary Commission, each Government to employ for the execution of its share thereof the agency (*dependencia*) which, under its administrative organization, is to carry this work out.

9.—The International Boundary Commission shall prepare maps of the portions of land which the right-of-way of the rectified channel may occupy, as well as of the portions to be segregated on both sides of this channel, and within a period of thirty days from the consummation of each cut, it shall survey these portions of the terrain, preparing the respective maps, and shall declare them eliminated from the effects of Article II of the Convention of November 12, 1884, in a manner similar to that adopted by the Convention of March 20, 1905, for the elimination of Bancos. Thus, the center of the rectified channel shall be the international dividing line, and the sections which, as a result of these cuts, may fall on the Mexican side of the center of the rectified channel shall be considered as under Mexican sovereignty, and those on the opposite side shall be considered under American sovereignty, each Government reciprocally renouncing in favor of the

other rights acquired to its share of said sections situated on the *opposite* side of the center of the rectified channel.

(N. B.—The Spanish text of the last clause is: “. . . renunciando recíprocamente cada Gobierno a favor del otro los derechos adquiridos sobre la parte de dichas porciones situada a cada lado del eje del cauce rectificad<sup>o</sup>”—of which the literal translation is: “. . . each Government reciprocally renouncing in favor of the other the rights acquired over the part of said portions situated on *each* side of the center of the rectified channel.”)

10.—Should there be presented private or national claims arising from the construction or conservation of the rectified channel, or for reasons connected with the labors of rectification, each country grants to the other indemnification in this respect.

11.—The International Boundary Commission is charged with keeping the rectified channel intact (*la conservación de la integridad del cauce rectificad<sup>o</sup>*), submitting to this end for the approval of both Governments the regulations to be issued with a view to making this conservation effective.

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711.12155/459: Telegram

*The Acting Secretary of State to the Consul at Ciudad Juárez (Blocker)*

WASHINGTON, September 10, 1930—2 p. m.

Please deliver following message to Boundary Commissioner Lawson:

“Reference telegram No. 208, September 9, 4 p. m. from American Embassy, Mexico City, to Department copy of which is stated to have been sent to you by airmail. Reference also to draft Minute referred to in telegram.

When you have received draft Minute please consult with Mexican Commissioner Serrano and send your observations thereon to the Department.”

COTTON

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711.12155/463

*The American Commissioner, International Boundary Commission, United States and Mexico (Lawson), to the Secretary of State*

EL PASO, September 20, 1930.

[Received September 24.]

SIR: With reference to code message of September tenth at two p. m. thru American Consul at Juarez, and to the receipt by this office on September twelfth from American Embassy at Mexico City, of a draft of a Boundary Commission minute <sup>66</sup> prepared by the Foreign

<sup>66</sup> *Ante*, p. 555.

Relations Department of Mexico; the American boundary commissioner in conformance with his instructions, conferred a number of times with Mexican Commissioner Serrano on the subject of the draft of minute referred to above.

At these conferences it was a concurrence of opinion of the two commissioners that the question of the form of agreement is one to be developed and finally passed upon by the two Departments. The commissioners also agreed that the actual work would be facilitated and more unhampered by the construction by Mexico of the levee system on the Mexican side beginning at Juarez and extending down stream a distance, the extent of which would be determined by the funds available under the proration.

Relative to the location of the rectified channel and boundary—whether it should be on the international boundary line south of the island or on the present river location north of the island—attention is called to the fact that the consulting engineers' report accompanying Minute No. 129<sup>67</sup> showed as an exhibit alternate locations. The Commissioners' report in Minute No. 129 states that the rectification will follow and straighten the present river location. If the negotiations finally include the exchange of area for the Cordova tract, and the settlement of the Chamizal question, and the practical result is obtained "That all lands to the north of the rectified channel are to [be] American territory and all lands to the south are to be Mexican territory," then it is entirely proper to consider the location of the rectified channel on the boundary line at San Elezario Island. Apparently there is no reason to inject the question of the removal of the river from its present location to the boundary line south of San Elezario unless the questions of the transfer of Cordova and settlement of Chamizal are included.

In discussions with Mexican Commissioner Serrano concerning the development of draft of a final agreement which would receive approval of both countries the American Commissioner agreed with him in the belief that much time and possibly some effort can be saved by arranging a conference at which representatives of the State Department and of the Foreign Relations Department of Mexico can act with the commissioners in reaching some final agreement. The Mexican commissioner suggests that this should be in Mexico City.

Awaiting further instructions, I am [etc.]

L. M. LAWSON

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<sup>67</sup> *Ante*, p. 545.

711.12155/486 : Telegram

*The Ambassador in Mexico (Clark)*<sup>68</sup> to the Secretary of State

[Paraphrase]

MEXICO, January 2, 1931—11 a. m.

[Received 6:44 p. m.]

1. At the diplomatic dinner given by President Rubio last night I asked Acting Minister for Foreign Affairs Schiaffino whether he was now prepared to begin conferences looking to the conclusion of an arrangement covering river rectification in the Rio Grande Valley. He replied that he was ready to begin preliminary discussions, but that the conclusion of any arrangement must await the return of Minister for Foreign Affairs Estrada, probably about January 15.

The El Paso meeting between Señor Estrada and myself terminated with the understanding that the finding of a formula to cover the Chamizal situation was the next step in the negotiation. At our last interview before Señor Estrada left for New York early in December last, he told me that he was in entire accord with the engineers in their report on the rectification plan. At that interview Chamizal was not specifically mentioned.

I think there may be an advantage to us in negotiating if we present the first formula. We could do this either before Señor Estrada's return or after his arrival, according as the preliminary discussions may shape themselves.

As you probably know, the people of El Paso are naturally becoming anxious to commence the work of rectification as soon as possible. I am informed that they wish to try for an appropriation at the present session of Congress. To precipitate a discussion in Congress before an agreement is reached with Mexico seems to me to be unwise.

In view of the foregoing, and if it meets with the wishes of the Department, I should like to have Commissioner Lawson instructed to come to Mexico City immediately to assist in preparing for the discussions with the Mexican Foreign Office and in preparing a suggested formula for submission to the Department for its approval, so that we may begin actual negotiations as soon as possible.

CLARK

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<sup>68</sup> Mr. J. Reuben Clark, Jr., presented his letters of credence on November 28, 1930.

**PROTECTION IN MEXICO OF THE TRADEMARKS OF THE PALMOLIVE COMPANY AND OF CHICKERING AND SONS**

812.543 Palmolive Co./1: Telegram

*The Secretary of State to the Ambassador in Mexico (Morrow)*

WASHINGTON, November 4, 1929—6 p. m.

500. Department informed that in suit for infringement of trademark which was prosecuted by Palmolive Company through Mexican Supreme Court and in which company was represented by Basham and Ringe Supreme Court is about to publish decision in which it is stated company has no legal status in Mexican courts and which ignores provisions of Article 2, Convention for Protection Industrial Property revised at Washington June 2, 1911,<sup>69</sup> although these provisions were called to Court's attention by company's attorney and would apparently be violated by such decision.

Company is desirous that decision be not published until Mexican Government has had opportunity to consider applicability and force of treaty provisions mentioned.

Please bring matter to the attention of Foreign Office informally and express the hope that if the court has failed to give proper consideration to the Convention it may yet do so.

STIMSON

812.543 Palmolive Company/3: Telegram

*The Ambassador in Mexico (Morrow) to the Secretary of State*

MEXICO, November 5, 1929—6 p. m.

[Received 11:35 p. m.]

351. Your No. 500, November 4, 6 p. m. Palmolive Company's case has been taken up informally with the Foreign Office and with Mr. Basham, one of the company's lawyers in Mexico City. The Foreign Office has promised to investigate the point raised of possible violation of article 2 of the Convention for the Protection of Industrial Property, revised at Washington June 2, 1911, and to make informal representations to the court should they appear to be justified. Basham will furnish the Embassy with a memorandum on the case. In the meanwhile it would be helpful if the Embassy might be informed of the interpretation given in the United States to article 2 of the convention cited when it is a question of the legal capacity to sue of a foreign corporation of nations signatory to the convention when such corporation has not been "registered" in the United States.

MORROW

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<sup>69</sup> *Foreign Relations*, 1913, p. 1363.

812.543 Palmolive Co./5: Telegram

*The Secretary of State to the Ambassador in Mexico (Morrow)*

WASHINGTON, November 7, 1929—7 p. m.

505. Your 351, November 5, 6 p. m. Department is clearly of opinion that under provisions article 2, Washington Convention, any corporation organized under laws of a country party to that convention and owning a trade mark registered in the United States would be permitted to sue in United States Courts for infringement of such trade mark. See *The French Republic v. Saratoga Vichy Spring Co.*, 191 U.S. 427; and *Baglin v. Cusenier Company*, 221 U. S. 580.

STIMSON

812.543 Palmolive Co./7

*The Ambassador in Mexico (Morrow) to the Secretary of State*

No. 1994

MEXICO, November 12, 1929.

[Received November 18.]

SIR: I have the honor to refer to my telegram No. 351 of November 5th, 6 p. m., and to the Department's telegram in reply No. 505 of November 7th, 7 p. m., relative to the complaint of the Palmolive Company that the Mexican courts had not taken into consideration the Convention for the Protection of Industrial Property revised at Washington June 2, 1911, to which both the United States and Mexico are signatories, in their decision in a suit which was brought by the Palmolive Company against a Mexican Company for an infringement of their trade-mark rights. As stated in my telegram No. 351 of November 5th, this case was taken up informally with the Foreign Office, which promised to investigate the point which had been raised of possible violation of Article 2 of the Convention above cited. I have the honor to forward herewith enclosed for the Department's information a copy and a translation of a note under date of November 11, 1929, which the Embassy has received from the Foreign Office in reply to its informal representations in this matter. The information contained in this letter will be communicated to Basham & Ringe, counsel in Mexico City of the Palmolive Company.

I have [etc.]

DWIGHT W. MORROW

[Enclosure—Translation]

*The Chief of the Diplomatic Department of the Mexican Ministry for Foreign Affairs (Sierra) to the First Secretary of the American Embassy (Johnson)*

No. 15598

MEXICO, November 11, 1929.

MY DEAR MR. JOHNSON: I refer to the case of the Palmolive Company, of which we recently spoke, you having informed me that

apparently the Supreme Court of Justice had not taken into account, in the respective decision, the Convention on industrial property of June 2, 1911.

I have read the decision rendered by the Third Chamber of the Court in the suit of amparo brought by the Company above mentioned by reason of the falsification of their trademark, and I have noted that the decision expressly examines the Convention on the Protection of Industrial Property signed at Washington on June 2, 1911, and declares that Article 2 is not applicable because it is not a question of domicile nor of establishment of the Company in Mexico, and considers that this Company has no legal personality because it has not inscribed itself in the Commercial Register nor complied with the other requirements which the Mercantile Code demands of foreign companies; and states, lastly, that if the Company has no legal status (Spanish—no tiene personalidad) in the Republic, it cannot bring any legal action so long as it does not meet said requirements.

As you see, in the thesis maintained by the Third Chamber, the Convention was taken into consideration and the Magistrates interpreted it in the manner above indicated.

I remain [etc.]

M. J. SIERRA

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812.543 Palmolive Company/11

*The Chargé in Mexico (Johnson) to the Secretary of State*

No. 2132

MEXICO, January 11, 1930.

[Received January 20.]

SIR: I have the honor to refer to my despatch No. 1994 of November 12, 1929, relative to the case of the Palmolive Company in the Mexican courts, and the Company's complaint that consideration had not been given by the courts to the Convention for the Protection of Industrial Property, revised at Washington June 2, 1911, to which both the United States and Mexico are signatories. For the Department's further information in regard to this matter, I have the honor to forward herewith enclosed a copy of a letter, dated January 10, 1930, which I have received from Basham & Ringe, attorneys in Mexico City for the Palmolive Company, together with a translation of the decision of the Supreme Court in this case, the translation being furnished by Basham & Ringe.

I have [etc.]

HERSCHEL V. JOHNSON

[Enclosure]

*Basham & Ringe to the Chargé in Mexico (Johnson)*

MEXICO, January 10, 1930.

DEAR MR. JOHNSON: As promised you sometime ago, we are enclosing herewith a translated copy of the decision in the Palmolive case.

We are unable to agree that this decision gives due compliance to the Washington Agreement of 1911. Article 2 of this Agreement speaks of "domicile" and "establishment". We have underlined a portion of the decision on page 9<sup>69a</sup> where the Supreme Court says in effect that in order for a Company to become established in Mexico it must register in accordance with the provisions of the Commercial code. We therefore believe it is plain that the Supreme Court considers the registration demanded by the Commercial Code to be synonymous with establishment. It is significant, therefore, that in the final part of the decision and in speaking of the treaty, the Supreme Court only refers to "domicile" and makes no mention of "establishment".

Yours very truly,

BASHAM & RINGE  
By R. R. BILLINGS

[Subenclosure—Translation]

*Decision of the Supreme Court of Mexico in the Case of The Palmolive Company vs Messrs. Campderá & Ayala, October 26, 1929*

Mexico, Federal District. Decision of the Third Chamber on the 26th day of October, 1929. Having reviewed the proceedings in the suit for amparo brought by The Palmolive Company against the Magistrate of the First Circuit for violation of the constitutional guarantees contained in Article 14; and

WHEREAS: First. In the part referring to the law in the complaint for amparo, it is stated: that The Palmolive Company is an American Corporation, organized under the laws of the State of Delaware, United States of America, which is the State in which [it] was constituted and where it has its domicile; and it registered in the Patent and Trade Mark Office of Mexico, industrial trademarks No. 18446 on the 19th of July, 1920, and 25033 on August 3, 1925, which gave it the right to the exclusive use of the word "Palmolive" on perfumery products and to its translation in any language, written in letters of gold on a black band on a green background; that being protected by the industrial registrations above mentioned it has manufactured and placed on the market throughout the world the soap known as "Palmolive"; that Messrs. Campderá and Ayala, with the object of profiting from the goodwill of Palmolive soap and from the advertising in connection therewith, manufactured a soap which is of the same colour, dimensions and form and they placed the same on the market wrapped in green paper with a black band on which was written in letters of gold, identical with those of the word "Palmolive", the legend "Palmayolivo" which is nothing more than a Spanish translation of the said mark and for the purpose of increasing the confusion

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<sup>69a</sup> *Post*, p. 568.



the words were joined together like a single word; that as this infringement damaged the complainant Company and violated its rights, it requested the Third Supernumerary District Judge, in accordance with Articles 18 and 30 of the Law of Industrial Trademarks, to embargo the product of the infringers, and which embargo was effected; that Messrs. Campderá & Ayala asked for amparo against the order of embargo on the ground that The Palmolive Company is a foreign corporation not registered in Mexico, and therefore, does not exist, because the legal existence of foreign companies in the country arises through the registration thereof in the Public Register of Commerce; inasmuch as The Palmolive Company did not exist in Mexico it did not have any juridical capacity to appear before the Mexican Courts and the crime of infringement was not committed because there was no victim, and therefore, the act of imitating the mark referred to was a legitimate one; that the District Judge denied the amparo requested, on the ground that foreign companies need not be registered in Mexico in order to enjoy the rights granted under industrial or commercial trademarks; that within the 15-day period provided in Article 31 of the Trade Mark Law, the plaintiff presented a complaint against Messrs. Campderá & Ayala for the crime of infringement of industrial trade marks and also initiated a summary Federal civil suit for damages sustained by virtue of the infringement; that the defendants in this suit raised the question of the capacity of the plaintiff and of its representative to sue alleging the same fundamental reasons as in the amparo interposed against the order of attachment; that the District Judge in charge of the case passed on the question of capacity to sue and overruled the motion, because the registration required under the Commercial Code is not for the purpose of creating foreign companies, as this depends upon the laws of their country, but for the purpose of carrying on business in Mexico, and the act of registering a trade mark or defending the rights derived therefrom is not a mercantile act; that the Judge also based his decision on the ground that even admitting that registration was necessary, the failure to do this did not give rise to an exception as to capacity to sue, but that this point constituted subject matter for the decision in the main case; that against this decision the defendants appealed, said appeal being admitted without suspending the proceedings of the main case, as is provided in Article 75 of the Law of Industrial and Commercial Trade Marks; that the Magistrate of the First Circuit decided the appeal by reversing the decision appealed from and held that the exception was well taken. In that portion of the complaint referring to the violation of the individual guarantees contained in Article 14 of the Constitution, it is stated that the decision appealed from holds that Articles 15, 24, 26 and 264 of the Commercial Code are applicable to the case because they are the ones which govern the

juridical capacity of foreign companies, that is to say, the legal right to enjoy and exercise their rights; that Article 15 referred to, instead of establishing the requirement as to the existence of foreign companies, presupposes the validity thereof in accordance with the laws of the country in which they are organized, and limits itself to imposing upon foreign companies the obligation of registering in accordance with the provisions of Article 24 of the said Code, not for the purpose of establishing the existence thereof, and to enable them to exercise their rights, but as is clearly stated in Article 15 "to carry on business" so that when the act is not mercantile, and such acts are only the ones mentioned in Article 75, it may be affected without the necessity of protocolization or of registration; and if they are empowered to do things, they are also entitled to enforce the rights derived therefrom and for this purpose may address themselves to the Mexican Courts; that the responsible authorities inexactly applied Articles 15, 24 and 26 of the Commercial Code; that in the Commercial Code there is no chapter which refers especially to foreign Companies, as in Book 2 of said Code there exists a chapter which only contains three Articles, 265, 266 (which contains the penalty for violation of the previous Article), and 267 which refers to foreign companies existing in the Republic at the time of promulgation of the Code; that this chapter in no way speaks of the capacity of foreign companies, inasmuch as Article 275 fixes their obligation to register and to publishing an annual balance sheet, in order to enjoy the privileges conferred by Article 15, and which privileges do not consist in that they be recognized as having a status in Mexico, but as being capacitated to carry on business; that in the case of acts of commerce, the act is not null when it is done by a foreign company which has not complied with the provisions of Article 265, as the only penalty is the one contained in Article 276, therefore the act is valid and the Company does exist as otherwise the same would not be obligated; that inasmuch as our Commercial Law does not contain any provisions governing the existence and capacity of foreign companies, they should be controlled by the general principles contained in the preliminary part of the Civil Code and Articles 14 and 16 thereof preserve the doctrine of *locus regit actum*, it being sufficient then that a Company be legally organized in a foreign country for it to exist in Mexico and it may have rights and contract obligations in the Republic; that if it may acquire rights it should be capacitated to enforce the same before the Courts; that to deny juridical status to a Company because said Company is null or does not exist, is not, properly speaking, denying its juridical capacity but denying the action; that it has been clearly demonstrated that The Palmolive Company is organized in accordance with the laws of the State of Delaware, United States of America, which is the place where the

same was organized, as the relative part of the certified copy of the power of attorney presented in the suit says literally:

“The said Charles S. Pierce presented a certified copy of the Certificate of Incorporation of The Palmolive Company, certified by the Secretary of the State of Delaware as a true and complete copy of said Certificate of Incorporation, from which I certify that The Palmolive Company has been duly and legally organized and now exists under and by virtue of the laws of the State of Delaware.”

That the power of attorney was duly legalized and protocolized and is entitled to full faith and credit in Mexico, in accordance with the provisions of Articles 11, 264, 332 and 336 of the Federal Code of Civil Procedure; that Article 4 of the Law of Industrial and Commercial Trademarks grants every foreign Company the right to register its trademarks without the necessity of complying with any special requirements, as the intention of the legislature was to facilitate registration as may be seen from the fact that a simple power of attorney is sufficient in order to establish capacity to act; that the registration of a trade mark is not a mercantile act and the certificate of said registration constitutes, in accordance with Article 11 of the Law of Industrial and Commercial Trademarks, the title deed which gives the right to the exclusive use of a trade mark, and if such a right exists it must also have the right to exercise the same and for which purpose it may be necessary to appeal to the Courts; that Article 2 of the Convention for the Protection of Industrial Property executed in Washington on June 2, 1911, which amended the Paris agreement of 1883,<sup>70</sup> and to which Mexico became a party by decree of March 13, 1925, published in No. 84 of Vol. 29 of the *Diario Oficial* of April 14, 1925, says:

“The subjects or citizens of each of the contracting countries shall enjoy, in all the other countries of the Union, with regard to patents of invention, models of utility, industrial designs or models, trademarks, trade names, the statements of place of origin, suppression of unfair competition, the advantages which the respective laws now grant or may hereafter grant to the citizens of that country. Consequently, they shall have the same protection as the latter and the same legal remedies against infringements of their rights, provided they comply with the formalities and requirements imposed by the National laws of each State upon its own citizens. Any obligation of domicile or of establishment in the country where the protection is claimed shall not be imposed on the members of the Union.”

That the First Supernumerary Judge of the Federal District correctly applied this Article in deciding the amparo, presented before him by Messrs. Campderá & Ayala against the order of attachment, but the Magistrate of the First Circuit did not give due compliance

<sup>70</sup> Malloy, *Treaties, 1776-1909*, vol. II, p. 1935.

to the Convention referred to and thereby committed a new violation of the guarantees contained in Article 14 of the Constitution.

Second. The authority designated as the responsible one, in its report justifying its action, forwarded a certified copy of the decision appealed from.

Third. The District Judge pronounced his decision denying the amparo and protection of federal justice to the plaintiff who not being satisfied therewith appealed, alleging as errors the reasons which were taken into consideration in the application for amparo. The Agent of the Federal Public Attorney designated by the office of the Attorney General who intervened in this matter, requested that the decision appealed from be reversed.

WHEREFORE: First. The act complained against and which consists in the decision of August 26, 1927, rendered by the Magistrate of the First Circuit in the appeal interposed by Messrs. Campderá & Áyala against the interlocutory decision pronounced by the Third Supernumerary District Judge of the Federal District, in connection with the exception as to the capacity of the plaintiff to sue in the summary federal suit brought by The Palmolive Company against Campderá & Ayala for infringement of industrial trademarks, appears as proven by the report submitted by the responsible authorities and the certified copies contained in the record.

Second. In order for a foreign Company to have juridical existence in the Republic it is necessary for it to comply with all the requirements imposed by the law as it is not sufficient that the same has been constituted in accordance with the laws of the country in which it was organized; without fulfilling these requirements it cannot be properly said that the foreign company is subject to rights and obligations in Mexico. The registration of a mercantile company is not optional, as in accordance with Article 19 of the Commercial Code, it is obligatory because, as stated by the authors of the Spanish Code, cited by Jacinto Pallares, mercantile registration constitutes the only proof of juridical existence and of true civil status. In general, "the purpose of the law in establishing the mercantile register is in order that the juridical situation of a merchant may be made a matter of official and authentic record, i. e., the total obligations and rights which he may have contracted or acquired and which of necessity affect his assets and liabilities, and to disclose to persons desiring to effect operations or to extend credit to the merchant referred to, the extent of the safety they may have in executing these acts, in order that good faith and confidence, and the guarantees of what is known may predominate in all transactions connected with business." In the case of foreign companies the same cannot be established in accordance with Article 24, except by complying with each one of the requirements fixed by said Article. That is to say, in order for the

juridical capacity of foreign companies to be recognized in Mexico and for them to exist in this way, it is necessary previously to comply with various acts which the law requires as the guarantee for the dynamic security referred to by Demogue. The fact that under Article 15 of the Commercial Code companies legally organized in a foreign country and which establish themselves in the Republic or have agencies or branches therein are obligated to subject themselves to the special provisions of the said Code with regard to everything concerning the creation of their establishments within the National territory, their mercantile operations, and the jurisdiction of the Courts of the Nation, does not signify that registration is required for this purpose alone, as Article 24 of the chapter referring to the Registry of Commerce has the characteristics of a general precept with whose provisions a foreign company should comply in order to be recognized in Mexico and to effect any juridical act. The only thing established by Article 15 is to determine the rights and conditions under which a foreign company may carry on business in the country, once its existence has been recognized through registration, in accordance with Article 24 of the Commercial Code. Article 265 of the said Code, which in the opinion of the plaintiff supports his contention, in reality sustains the interpretation set forth in this decision because it establishes a refusal to recognize the juridical capacity of an unregistered company inasmuch as it makes the persons who contract in its name individually responsible. The only way in which third parties may know if a foreign company is constituted and existing in accordance with the laws of its country, and to know its juridical and economical capacity, is through registration in accordance with Article 24 of the Commercial Code and for this purpose the law has provided that in order to become established in Mexico it must comply with the requirements of the said provisions. As The Palmolive Company did not prove in the proceedings that it had complied with the laws of the country by registering the documents referred to in Article 24, it must be concluded that it has no existence in Mexico and could not bring any suit before the Courts, and therefore the decision appealed from in sustaining this point and holding that the exception of the lack of judicial capacity in the plaintiff, was well taken and gave due compliance to the provisions previously referred to without violating the individual guarantees of the plaintiff.

Third. With regard to the argument based on Article 2 of the Convention for the Protection of Industrial Property executed in Washington on June 2, 1911, there is no justification therefor as in order to extend the protection and the remedies which the law concedes to Nationals it is necessary to comply with the conditions and formalities imposed on the latter, and the fact that no obligation of domicile may be imposed upon the individuals of the Union in the

country where the protection is sought, does not mean that the Company need not previously prove its juridical existence by registration as such existence is distinct from a domicile which depends upon other circumstances.

Fourth. The reasons above set forth would lead to a denial of the amparo requested by The Palmolive Company, but as it is also seen that the plaintiff is not absolutely deprived of his rights to initiate the suit in accordance with the terms of the decision appealed after having complied with the legal requirements, it follows that with regard to the question of the propriety of the amparo, Section 3 of Article 107 of the Constitution should be applied, and moreover, as the act complained against is one of procedure not comprised within Article 108 of the Law Regulating Amparo Suits, it is in order to decree dismissal based on the legal articles mentioned, in connection with Section 8 of Article 143 of the Regulatory Law, and Section 3 of Article 44 of said law. In view of the foregoing, and based moreover on Articles 86 to 91 of the Regulatory Law, of Articles 103 and 104 of the Constitution, it should be and is decided:

First: The decision pronounced in the amparo suit by the District Judge in the State of Hidalgo which denied amparo and the protection of federal justice to The Palmolive Company against the resolutions of August 26, 1927, of the Magistrate of the First Circuit in the appeal presented by Messrs. Campderá & Ayala against the interlocutory decision pronounced by the Third Supernumerary District Judge of the Federal District, with regard to the lack of capacity to sue of the plaintiff, in the summary Federal suit brought by this plaintiff against the said persons for the infringement of industrial trade marks, is reversed. (This means that the decision is reversed because of the fact that the Judge should not have decided the case on its merits but should have dismissed the same.)

Second: As this is not a proper case for amparo the same is dismissed.

Third: Let this be notified and published, let a certified copy of this decision together with the original record be returned to the court of origin, and in due course file the same. This draft was drawn up in accordance with the instructions of Magistrate Ruiz and was approved in today's session by five votes unanimously, and was signed by the President and Magistrates who make up the Chamber, together with the Secretary who certifies the same.

<i>President:</i>	F. DÍAZ LOMBARDO
<i>Magistrates:</i>	FRANCO H. RUIZ
	JOAQUÍN ORTEGA
	A. VAZQUEZ DEL MERCADO
	J. J. SÁNCHEZ
<i>Secretary:</i>	H. GUERRA

812.543 Palmolive/56

*The Secretary of State to the Chargé in Mexico (Johnson)*

No. 1101

WASHINGTON, May 9, 1930.

SIR: Reference is made to your despatch No. 2132 of January 11, 1930, and to previous correspondence in regard to the decision of the Supreme Court of Mexico handed down on October 26, 1929, which denied the right of The Palmolive Company, an American corporation, to bring suit for infringement of its trade-mark "Palmolive" which is registered in Mexico, on the ground that the corporation was not registered in Mexico in accordance with the provisions of Article 24 of the Mexican Commercial Code.

Numerous protests against the decision have been received not only from companies and associations interested in trade-mark protection but from others who, while not particularly interested in trade-mark rights, nor engaged in business in Mexico, have important business transactions with citizens and residents of Mexico. The companies interested in trade-mark protection are unanimously of the opinion that the decision contravenes the provisions of Article 2 of the Convention for the Protection of Industrial Property of 1883 as amended on June 2, 1911, to which the United States and Mexico are parties, and they concur in the views expressed by numerous other companies interested in trade with Mexico, that the decision, if adhered to, will deny the assistance of Mexican courts for the enforcement of obligations of citizens or residents of Mexico to American companies not engaged in business in Mexico unless the companies concerned comply with the onerous conditions of registration under the Commercial Code.

In view of the importance of the possible effect of the decision of the Supreme Court of Mexico on the business interests of the United States and Mexico if the views set forth above are correct, the Department has carefully considered the decision and is of the opinion that the decision contravenes Article 2 of the Convention for the Protection of Industrial Property signed at Washington on June 2, 1911, and is contrary to the Mexican Trade-mark Law of 1903 under the provisions of which the Palmolive trade-mark was registered in Mexico and is also contrary to the provisions of the Commercial Code. It would also seem to be clear that the decision, if adhered to, will injuriously affect the interests of citizens and residents of Mexico who have business dealings with American companies not engaged in business in Mexico.

The Department hopes that the Mexican Government will share this Government's views that the interests of the two Governments will be furthered by any action which the Mexican authorities may take effectively to limit the application of the Supreme Court decision

to companies which are actually engaged in business in Mexico on the basis of a domicile or an establishment in that country.

You are, accordingly, requested to discuss the matter informally with the Foreign Office and to urge its cooperation with a view to effecting a mutually satisfactory adjustment of the matter which will insure adequate redress and protection to The Palmolive Company and the definite exemption from the obligation of registration under the Commercial Code of companies which do not maintain a domicile or establishment in Mexico.

The Department desires, if possible, to avoid any discussion of the legal questions involved in the Court's decision and hopes that you may be able to obtain a satisfactory adjustment of the matter without formal legal argument, but there is transmitted herewith for your information and possible use in your discussion with the Foreign Office a memorandum prepared by the Solicitor for this Department, which discusses statutory and treaty provisions involved in the decision under reference.

I am [etc.]

For the Secretary of State:  
J. P. COTTON

[Enclosure]

*Memorandum by the Office of the Solicitor*

Discussion of the Effect on Industrial Property and Other Rights of American Citizens of the Decision of the Supreme Court of Mexico Handed Down on October 26, 1929, Which Denied the Right of the Palmolive Company, an American Corporation, To Bring Suit for Infringement of Its Trade-mark "Palmolive" Which Is Registered in Mexico, on the Ground That the Corporation was not Registered in Mexico in Accordance With the Provisions of Article 24 of the Mexican Commercial Code.

Following the receipt of numerous protests against the decision to which reference is made in the caption, which have been received from American corporations and<sup>31</sup>attorneys, this office has made a careful study of the decision and statutory and treaty provisions which it involves and has concluded that the decision contravenes the provisions of Article 2 of the Convention for the Protection of Industrial Property signed at Washington on June 2, 1911, to which the United States and Mexico are parties, as well as certain provisions of the Mexican Trade-Mark Law of 1903 and the Mexican Commercial Code. This conclusion is based on the following considerations:

Article 2 of the Convention for the Protection of Industrial Property of 1883, as amended on June 2, 1911, reads as follows:

"The subjects or citizens of each of the contracting countries shall enjoy, in all the other countries of the Union, with regard to patents of invention, models of utility, industrial designs or models, trade-



marks, trade names, the statements of place of origin, suppression of unfair competition, the advantages which the respective laws now grant or may hereafter grant to the citizens of that country. Consequently, they shall have the same protection as the latter and the same legal remedies against any infringements of their rights, provided they comply with the formalities and requirements imposed by the National laws of each State upon its own citizens. Any obligation of domicile or of establishment in the country where the protection is claimed shall not be imposed on the members of the Union."

Attention is particularly invited to the fact that the protection provided by the Article above quoted is subject to only one condition, namely, that the applicant "comply with the formalities and requirements imposed by the National laws of each State upon its own citizens". Immediately following the statement of this condition is the definite unequivocal prohibition against the imposition of "any obligation of domicile or of establishment in the country where the protection is claimed".

It would seem that, so far as they relate to Mexico, the "formalities and requirements" referred to in Article 2 of the Treaty of 1911 have relation only to the requirements for the registration of trade-marks prescribed by the laws of Mexico which provide for such registration and that when those requirements have been observed the registrant immediately becomes entitled to the exclusive ownership and use of the mark in Mexico and to all the remedies provided by the laws of Mexico for the enforcement of those rights. This view appears clearly to be established by the provisions of Article 2 of the Mexican Trade-mark Law of 1903, which was the law in force in Mexico when The Palmolive Company registered its trade-mark in that country. That Article reads as follows:

"To obtain the exclusive right to the use of a mark it is necessary to effect its registration in the Patent and Trade-mark Office by fulfilling the formalities that the present law and its regulations establish."

The trade-mark law of 1903 was enacted long after the Commercial Code came into force and if registration under the provisions of the Code had been regarded by the Mexican Legislature as one of the conditions necessary to the enjoyment of the rights conferred by the law of 1903, specific provision to that effect would presumably have been made in the law. However, the law of 1903 not only does not require as a condition for the enjoyment of its benefits that registration be effected under the provisions of the Code, but on the contrary it clearly indicates that the "exclusive right to the use of a mark" shall be granted to the registrant of the mark who fulfills "the formalities of the present law", thus apparently precluding the setting up of any obligation of registration under the Commercial Code. Moreover, the law of 1903 contains additional evidence that trade-

mark registration and use are not in any sense dependent upon registration under the Code. This additional evidence is found in Article 91 of the law of 1903 which provides that trade-marks registered under the provisions of Article 21, paragraph XIII, of the Commercial Code should be presented for registration under the provisions of the trade-mark law of 1903. Article 91 of that law reads as follows:

“Art. 91. From the date on which this law commences to become effective, there shall no longer be applicable as to registration of marks in the Register of Commerce the proviso in paragraph 1 of Art. 26 of the Code of Commerce; and there is fixed a term of nine months which cannot be extended, counting from the same date, so that marks that are registered in accordance with what is provided in No. XIII of Art. 21 of the same Code may be presented for their registration in the Patent Office, with the understanding that, if such shall not be so carried out, the registrations made in said Office will be considered as preferential as respects those effected in the Register of Commerce, even though these latter may be anterior, as respects date, to the former mentioned.”

The decision of the Supreme Court of Mexico under reference appears to be the first decision of that Court which interprets Article 2 of the Industrial Property Convention of 1911. However, since The Palmolive case appears to be the first instance brought to the Department's attention in which the administrative or judicial authorities of any country in which the Convention is in force have construed the Article in the sense of the opinion of the Mexican Supreme Court under reference, it may fairly be inferred that the Article has been generally interpreted in the countries of the Industrial Property Union in the sense that the “formalities” referred to in the Article relate to the formalities incident to trade-mark registration. The Article in question was construed in this sense by the Belgian Court of Cassation in a decision given in 1912 and reported in “*Jurisprudence Belgique Cour de Cassation 1912, page 354.*” In the case mentioned the lower Belgian court held that an action for infringement of a trade-mark instituted by a French company which carried on its business in France and did not maintain a manufacturing or commercial establishment in Belgium was not admissible. The Court of Cassation reversed this judgment and held the action admissible by virtue of Article 2 of the Industrial Property Convention of 1911. The Court stated that the purpose of the Paris Convention as amended in Washington in 1911 was (1) to provide for complete and mutual protection of the industry and commerce of the nationals of the contracting countries, and (2) to extend instead of to limit the internal protection of industrial property. Referring specifically to the term “formalities and requirements” found in Article 2 the Court interpreted that term as referring “only to the procedure applicable to trade-marks prescribed by the

laws of each country and concerns exclusively requirements of registration of trade-marks."

Upon complying with the provisions of the law of 1903, The Palmolive Company was granted registration of its trade-mark in the Patent and Trade-mark Office of Mexico. This grant of registration constitutes a declaration by the Mexican Government that The Palmolive Company was the exclusive owner of the trade-mark "Palmolive" and exclusively entitled to its use in Mexico and to all the remedies provided by the laws of Mexico for infringement of that right. The correctness of this position is established by the provisions of Article 11 of the law of 1903, which reads:

"The certificate of registration of a mark shall be issued by the Patent and Trade-mark Office. This certificate, duly legalized and with the documents thereto annexed, shall constitute a title deed that accredits the right to the exclusive use of the mark".

It is obvious that the "title deed" thus given to The Palmolive Company would be worthless unless the owner of the title were permitted to take adequate measures to protect it. These measures were provided by other provisions of the law of 1903 imposing penalties for infringement of any registered mark. Articles 18, 19 and 27 stipulate the penalties for infringement and Articles 28, 29, 30, 31, 47, 48, 49, 50, 51, 56, 57 and 65 provide in detail for the institution of legal proceedings by the owner of the mark.

It is apparent from the foregoing that The Palmolive Company obtained registration of its mark in conformity with the provisions of the law of 1903; that as a result of that registration it obtained official recognition of its exclusive right of ownership and use of the mark in Mexico and became vested with the right to proceed in the courts of Mexico to suppress any infringement of the registered mark and to obtain indemnity for any damage or injuries suffered by such infringement, and that these rights cannot be destroyed or impaired so long as the registrant complies with the applicable laws of Mexico.

The decision of the Supreme Court under reference does not question the fact that The Palmolive Company is the legal owner of the trade-mark in question, or that the mark was infringed by the company against which the proceedings were instituted. Those facts are so completely established by the record as to be indisputable. The court's decision, therefore, must be construed as a judicial prohibition against the exercise of legal rights expressly granted to this American company by the Trade-mark Law of 1903 and in harmony with the provisions of Article 2 of the Industrial Property Convention of 1911. The result of this judicial prohibition is that The Palmolive Company has a "title deed" from the Government of Mexico certifying that the company is entitled to the exclusive ownership and use of the trade-mark "Palmolive" which "title deed" is rendered worthless by the

act of the Supreme Court in denying to the company the opportunity to avail itself of the only means of protecting its title and punishing infringement thereof.

It is believed that the right of The Palmolive Company to bring suit in the Mexican courts to suppress infringement of its trade-mark and to obtain indemnity for damages caused by infringement is sufficiently established by the provisions of Article 2 of the original Convention of 1883 and the Trade-mark Law of Mexico of 1903 and that by virtue of the treaty and statutory provisions mentioned no requirement of registration under the Commercial Code of Mexico could legally be imposed as a condition for the enjoyment of the rights granted to The Palmolive Company pursuant to the Treaty of 1883 and the Trade-mark Law mentioned. It is not necessary, however, to rely on the text of Article 2 as it read in the original Convention of 1883 before the amendment of that Convention in 1911. By that amendment an additional clause was added as the conclusion of Article 2, reading as follows:

“Any obligation of domicile or of establishment in the country where the protection is claimed shall not be imposed on the members of the Union.”

In order that the clause quoted should not be regarded as a new conception of the obligation of the signatory Powers under Article 2 of the Convention, an additional Article was incorporated in the amendment of 1911 which reads as follows:

“. . . (b) it is understood that the provision in Article 2 which dispenses the members of the Union from the obligation of domicile and of establishment has an interpretable character and must, consequently, be applied to all the rights granted by the Convention of March 20, 1883, before the entrance into force of the present Act.”

The necessary effect of the additional Article quoted is that the original Article 2 of the Convention of 1883 shall be interpreted as though it included the final sentence of the Article as amended in 1911. Accordingly, since Mexico was a party to the Convention of 1883, when The Palmolive Company effected the registration of its trade-mark in Mexico, the Government of Mexico was precluded from setting up any “obligation of domicile or of establishment” in Mexico as one of the conditions for the protection of this trade-mark in Mexico. Moreover, Mexico adhered in 1925 to the amended Convention of 1911 and was, therefore, a party to that amended Convention when the proceedings arose which resulted in the Supreme Court decision under reference, so that Mexico was expressly obligated to avoid imposing any condition of domicile or establishment as a condition for the enjoyment of the rights which it was obligated to confer on American citizens.

The Government of Mexico appears to have given full recognition to this obligation and has refrained from imposing any legislative requirement of domicile or of establishment in Mexico as a condition for the protection of industrial property. It is submitted, however, that the decision of the Supreme Court under discussion is equivalent to an act of judicial legislation imposing a condition repugnant alike to the laws of Mexico and the provisions of Article 2 of the Convention for the Protection of Industrial Property.

The Supreme Court, however, took the position in its decision that the registration required by the provisions of the Commercial Code does not contravene Article 2 of the Convention of 1911 on the ground that the registration requirements of Article 24 of the Commercial Code "is distinct from a domicile which depends on other circumstances."

This office is unable to concur in this opinion of the Supreme Court but before discussing this opinion, it desires to point out that the provisions of the Convention under consideration prohibit not only "any obligation of domicile" but "of establishment" and it appears affirmatively from the language of the court's decision that registration under the Commercial Code necessarily involves the "establishment" in Mexico of the registrant. In the second "Wherefore" paragraph of the court's decision it is stated that "in the case of foreign companies the same *cannot be established* in accordance with Article 24 except by compliance with each one of the requirements fixed by said article." Later on in the same paragraph the court said:

"The only way in which third parties may know if a foreign company is constituted and existing in accordance with the laws of its country, and to know its jurisdiction and economical capacity is through registration in accordance with Article 24 of the Commercial Code *and for this purpose the law has provided that in order to become established in Mexico it must comply with the requirements of the said provision.*"

With respect to the court's opinion that registration under the Code "is distinct from domicile" it is submitted that registration under the Commercial Code is legally impossible unless the registrant has a domicile in Mexico and in support of this view it refers to Article 18 of the Code, which reads:

"A Mercantile Register shall be kept in the principal town of the division or judicial district *of the domicile of the merchant*, by the officers charged with the public registry of property; failing these, through the records of mortgage; and in the absence of both by the judges of the first instance of the ordinary jurisdiction."

It would appear to be clear from the Article just quoted that unless domicile in Mexico was a prerequisite condition to registration under

the Code the provisions of Article 18 just quoted would be entirely meaningless.

The foregoing appears to establish definitely that a corporation could not register under the Commercial Code without having a domicile or establishment or both in Mexico and such a requirement is expressly prohibited by Article 2 of the Convention of 1911.

A careful examination of the Commercial Code discloses no provision which seems to require foreign companies to register under its provisions unless they are "established" or "domiciled" in Mexico and it would seem that such establishment or domicile is not necessary to register a trade-mark or to enjoy the rights incident to such registration under the trade-mark laws of Mexico or to do any other act which is not specifically or by reasonable implication an act of commerce within the definition of Article 75 of the Commercial Code which defines acts of commerce.

Preliminary to the discussion of this question it should be noted that Article 4 of the Trade-mark Law of 1903 provides that "any Mexican or Foreigner" may obtain the benefits of the law and provides that legal persons may comply with the formalities prescribed by the law through *duly authorized attorneys*. Reference to this provision is made as additional evidence of the fact that the law of 1903 grants to foreign companies who have complied with its provisions all the benefits of the law without the necessity of registration under the Commercial Code.

The language of Article 24 of the Commercial Code when read in conjunction with other Articles of the Code appears to establish that the requirement of registration applies to foreign companies only when they are engaged in business in Mexico and cannot by any reasonable interpretation be extended to companies which do not maintain an establishment or domicile in the country. It is submitted that there is a marked and clearly understood distinction between doing business *in Mexico* and doing business *with persons in Mexico*. The foreign companies which conduct their business outside of Mexico but whose products are shipped to Mexico either directly or through an exporting company not established in Mexico or having branches or agencies in that country certainly cannot be regarded as engaging in business in Mexico and unless they have an establishment in Mexico devoted to the conduct of their business the provisions of the Commercial Code do not require them to register. An examination of the language of the pertinent provisions of the Code establishes the correctness of this contention. Article 24 reads:

"Foreign companies *which desire to establish themselves or create branches in the Republic* shall present and enter in the register, etc."

Article 15 provides in part that:

“Companies legally constituted in foreign countries *which establish themselves in the Republic, or have in it any agency or branch, may engage in commerce* subject to the provisions of this Code, etc.”

Article 265 reads:

“Companies legally constituted in a foreign country *that may be established in the Republic, or have within the same an agency or branch must*, in order to enjoy the right granted to them under Article 15, subject themselves to the following prescriptions.”

Article 267 provides that:

“*Foreign companies at present existing within the Republic may* become subject to the provisions of this chapter in so far as the validity of their future acts is concerned.”

Article 19 of the Code, to which the court refers in support of its position that the registration of The Palmolive Company was “obligatory” necessarily refers to companies engaged in business in Mexico and cannot be applied to companies like The Palmolive Company without doing violence to the language of the other articles of the Code above quoted.

Furthermore, the Commercial Code was designed to have application only to “commercial acts” and cannot have application to the registration of a trade-mark or the institution of proceedings necessary to enforce rights expressly granted by law. Such acts are not included either specifically or by necessary implication among the acts enumerated in Article 75 of the Commercial Code which defines commercial acts. Jacinto Pellares in his work “Derecho Mercantil Mejicano”, which the Supreme Court cited in its opinion under discussion, refers to the provisions of Article 21, paragraph XIII, of the Code of Commerce which, prior to the enactment of the Industrial Property Laws of June 7, 1890, and November 28, 1889, required the registration of trade-marks and patents in the Commercial Register. Referring to the effect of these laws on Article 21 of the Commercial Code, he said:

“As these laws are of a date subsequent to the Code and as the execution of a patent or trade-mark *is not a mercantile act* but simply an administrative act that does not involve a civil act . . . he who obtains from the Secretary of Fomento one of the said patents in accordance with the laws aforementioned shall not be obliged to register the same in the Mercantile Register in order to exercise his property rights against third parties.”

The quoted statement would have equal application to trade-marks registered under the provisions of the Trade-mark Law of 1903, which is not specifically mentioned by Señor Pellares. Furthermore, Article 91 of the Trade-mark Law of 1903 removed the penalty which was imposed by Article 26 of the Commercial Code for failure to

register a trade-mark under the provisions of Article 21, paragraph XIII, of the Code and provided that marks which had already been registered in the Mercantile Register pursuant to the provisions of Article 21 of the Code might be presented for registration in the Patent Office and that registration in the Patent Office "will be considered as preferential as respects those effected in the Register of Commerce, even though these latter may be anterior, as respects date, to the former".

This office is of the opinion that the decision of the lower Mexican courts upholding the right of The Palmolive Company to take adequate legal steps to protect the rights expressly granted it under the laws of Mexico, correctly interprets those laws and is in harmony with the provisions of Article 2 of the Convention of 1911. In this connection it should be observed that the right of a national of a foreign country, which is a party to the Industrial Property Convention of 1883, to bring suit in the courts of the United States for the protection of the rights granted by the Convention was expressly recognized by the Supreme Court of the United States in the case of the *French Republic v. Saratoga Vichy Spring Company* (191 U. S. 427).

It is submitted that the decision of the Supreme Court of Mexico under reference not only invalidates rights to which citizens of the United States are entitled by law and treaty and in harmony with the accepted principles of international law, but that the decision, if adhered to, cannot fail injuriously to affect the legitimate interests of citizens and residents of Mexico who have business dealings with companies not engaged in business in Mexico and who therefore are not registered under the provisions of the Commercial Code.

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812.543 Palmolive Co./63

*The Chargé in Mexico (Lowry) to the Secretary of State*

No. 2514

MEXICO, June 6, 1930.

[Received June 11.]

SIR: I have the honor to refer to the Department's instruction No. 1101, dated May 9, 1930, concerning the decision of the Supreme Court of Mexico handed down on October 28 [26], 1929, which decision denied the right of the Palmolive Company, an American corporation, to bring suit for infringement of its trade-mark, the decision being based on the ground that the corporation was not duly registered in Mexico.

The Department's direction that this matter be discussed informally with the Foreign Office has not yet been complied with because a second decision of the Supreme Court has been handed down. This new decision is understood to reverse that of October 28 [26], 1929.



Efforts to obtain a copy of the second decision have thus far proven unsuccessful but I am now informed that an unofficial copy will be available for transmittal to the Department within the next few days.

It is believed that the new decision may prove to be of such a nature as to cause a modification in the Department's instruction under reference and for that reason the Embassy will take no steps in this matter until further directed by the Department.

I have [etc.]

EDWARD P. LOWRY

812.543 Palmolive Co./67

*The Chargé in Mexico (Lowry) to the Secretary of State*

No. 2555

MEXICO, June 17, 1930.

[Received June 23.]

SIR: I have the honor to refer to my despatch No. 2525 of June 9, 1930,<sup>71</sup> with which there was transmitted a translation of the Supreme Court's decision in the case of *Chickering and Sons vs. Munguia*, which decision seems to be a reversal of the opinion of the Supreme Court as laid down in the case of the Palmolive Company, which case was the subject of the Department's instruction No. 1101 of May 9, 1930.

A Spanish copy of the Supreme Court's decision has now been received by the Embassy and is enclosed, together with a copy of a carefully checked translation thereof.

I have [etc.]

EDWARD P. LOWRY

[Enclosure—Translation]

*Decision of the Supreme Court of Mexico in the Case of Chickering and Sons vs. Munguia, May 2, 1930*

Mexico, D. F. Decision of the First Chamber of May 2, 1930.

Having reviewed the proceedings in the amparo suit brought by Chickering and Sons, and

CONSIDERING

First: By means of a complaint presented before the First Supernumerary District Judge of the Federal District (now Third District Judge), on November 21, 1927, Mr. Raymond R. Billings, as attorney for Chickering and Sons, initiated a suit for amparo against acts of the Second Numerary District Judge in the Federal District, consisting in the order of October 27th of the said year rendered in the criminal proceedings initiated on the complaint of Mr. Enrique Munguia against Mr. José F. Velasquez for the crime of infringing the trade

<sup>71</sup> Not printed.

mark "Chickering" and which order was for the attachment of two pianos bearing the Chickering trade mark.

The principal facts as set forth in the complaint are: that the said Company is the manufacturer of pianos known throughout the world by the name of "Chickering Pianos" and the Company places its name on its products with the object of distinguishing the same from similar ones and indicates to the public in this manner the origin thereof; that the said Company had been selling its products in Mexico to Mr. Enrique Munguia to the exclusion of any other merchants and vested all of its confidence in him; that Mr. Munguia registered the trade mark "Chickering" as a commercial registration of his own property on July 8, 1909, and assigned the same to the complainant by means of a document executed before a Notary Public on April 25, 1910; that inasmuch as Munguia failed to pay Chickering and Sons, as well as other Companies, the value of the pianos which he had ordered from them for sale in Mexico, the said Company refused to grant further credit and sold its products to other persons; that, thereupon, Mr. Munguia re-registered the trade mark "Chickering" in his own name, and no obstacle was encountered in doing this in view of the Mexican system of registration which does not require any examination as to novelty; that on the basis of this latter registration the said Munguia initiated various judicial proceedings with the sole object of harassing the companies which had sold him merchandise over a long period of time; among these proceedings is the investigation in connection with the infringement of a trade mark brought against the present seller of Chickering pianos in Mexico, namely Mr. J. F. Velasquez, and in which proceedings the Judge in charge of the case, i. e., the Second Numerary District Judge in the Federal District, handed down the order which is the basis of this complaint, and which order was attempted to be executed.

Mr. Billings sets forth as guarantees which have been violated to the prejudice of his principal, by virtue of the order complained against, those contained in Articles 14 and 16 of the Constitution, because in making such order the law was incorrectly applied and the said order is therefore without basis and without foundation. For the purpose of justifying the basis for this contention, the complainant makes the following three arguments:

I. That in accordance with Section II of Article 30 of the Law of Industrial and Commercial Trademarks, it is an indispensable requisite to the owner of a trade mark asking for the attachment of infringing articles that proof be presented that he is the owner of said mark, which circumstance was not only unproven by Mr. Munguia in the said proceedings, but on the contrary, it was established that Chickering and Sons were the owners of the said trade mark by virtue of an assignment made in their favor.

II. That under Section III of the said Article 30, it is essential for the purpose of ordering the attachment referred to that the corpus delicti of the infringement of industrial and commercial trademarks be proven; and among the integral elements of this crime is one requiring the owner of the trade mark to place on the objects covered thereby the legend referred to in Articles 9 and 14 of the said Trade Mark Law; and inasmuch as it was not proven that the legend referred to in Articles 9 and 14 were so affixed, the said crime cannot exist and therefore an order of attachment against pianos bearing the Chickering trade mark should not have been issued.

III. That in ordering the attachment referred to above, the Court concluded that Munguia has the right to use the trade mark "Chickering" on his products and that Chickering and Sons do not have the right to place their own name on the pianos which they manufacture. The Court therefore failed to recognize the protection which is granted to manufacturers by Article 8 of the decree of March 13, 1925, which reads as follows: "Commercial names shall be protected in all countries of the Union without necessity of registration whether or not they form a part of a commercial or industrial trademark."

Second: Mr. Raymond R. Billings established his representative capacity by a certified copy of the instrument containing the power of attorney conferred upon him by the complainant Company in New York before Notary Gertrude Winters on September 15, 1927, and which power after being duly translated and compared was protocolized before Notary Lic. Juan J. Correa Delgado by order of the Seventh Civil Judge of this City.

There was also attached to the complaint a photostatic copy of the registration of the "Chickering" trade mark effected by Mr. Enrique Munguia on July 8, 1909, as well as a certificate to the effect that the assignment of this registration had been recorded in the name of the complainant Company on February 1, 1926.

Third: The responsible authority in its report of justification, forwarded a certified copy of various proofs which are contained in the criminal proceedings brought against the illegal use of the trade mark complained of by Mr. Munguia, and among which proofs is contained the order forming the basis of the complaint, which reads as follows:

"Mexico, October 27, 1927. Attach to this record the petition of the 25th instant presented by Mr. Enrique Munguia, and in accordance with his request and having fulfilled, in the opinion of this Court, the requirements referred to in Article 30 of the Law of Industrial and Commercial Trade marks, and relying on said Article and also on Article 31 of the said law and Article 49 of the Organic Law of the Judicial Power of the Federation, carry out the attachment of the two pianos bearing the trade mark 'Chickering' referred to by the plaintiff and deposit the same with the person appointed under the

responsibility of Mr. Enrique Munguia, and who shall be informed of the obligations which by virtue of the law correspond to his position; the Clerk in charge of the Penal Section of this Court, Lic. Emilio Hazas, being authorized to effect the attachment in question, on the understanding that the said proceedings shall be carried out in the places specified heretofore in this record.”

Fourth: By decision of December 30, 1927, the present Third District Court in the Federal District, in accordance with the recommendations of the Government Attorney attached to said Court, granted the amparo requested, having previously studied the reasons for dismissal alleged by the third party to the action, that is, with reference to the capacity of the complainant company to ask for the protection of Federal justice, which reasons are considered to be non-existent by said Court. With regard to the basic questions involved, the said Court reached the conclusion that inasmuch as it was established in the record of the proceedings forming the basis of this complaint, that the owners of the commercial trade mark referred to are Chickering and Sons, the said order violated the said guarantees contained in Articles 14 and 16 of the Federal Constitution.

Fifth: Against this decision Mr. Munguia appealed, alleging as errors the ones which will be mentioned in the final part of this decision.

Sixth: The appeal was admitted by the Supreme Court on January 26, 1928, and the file was turned over to the Government Attorney for the period fixed by law and said Attorney requested that the decision be confirmed.

WHEREFORE: I. The points raised by the third party in his bill of exceptions may be reduced to the ones hereinafter set forth:

(a) That the firm of Chickering and Sons has no capacity to initiate the present suit in view of the fact that it did not establish compliance with the requirements of protocolization of its by-laws and other organization documents, and that the Company was duly organized in accordance with the respective law in accordance with the necessary Consular Certificate, and that it was inscribed in the Commercial Registry of the Republic; which requirements are set forth in Articles 14, 15, 24 and 265 of the Commercial Code with regard to foreign companies; therefore the decision appealed from in failing to go into the question of the capacity of the complainant and which lack of capacity raises the question of dismissing the action, violated to the prejudice of the appellant Articles 3, 6 and 43, Section 8, of the Law of Amparo.

(b) That, bearing in mind the provisions of Article 1285 of the Civil Code of the Federal District, it is absurd to require, as is done in the decision appealed from, that the retraction made by Mr. Enrique Munguia, the third party, from the assignment which he executed

with Mr. Roberto D. Zarate with regard to the Chickering trade mark, should be contained in a public document in which should be set forth the acceptance of such retraction by the complainant.

(c) That the conclusion reached in the said decision that the complainant is the only one in a position to request the attachment of the objects covered by the Chickering trade mark is erroneous and implies a failure to recognize the facts proven in the record, in accordance with which the sole owner of this mark is the third party.

II. In order to decide the first one of the questions propounded above, it is necessary to determine whether the provisions which foreign companies must observe, in accordance with Articles 15, 24 and 265 of the said Commercial Code, in order to establish Agencies or Branches in the Republic for the purpose of carrying on business, are likewise to be observed when said companies appeal to the Federal Courts asking for amparo.

Article 6 of the Regulatory Law recognizes the right of civil or mercantile companies without distinction as to nationality, to request the Constitutional protection through the agency of their duly authorized representatives or duly constituted attorneys so that, in accordance with this provision, it is sufficient that the person initiating a suit of this nature establish the legal existence of the Company and the capacity of the representative thereof in order that the right to invoke the said Constitutional protection be considered unquestionable. Consequently, the text of Article 6 relied upon does not substantiate the arguments of the appellant with regard to this point, nor do they find any support in Articles 15, 24 and 265 of the Commercial Code, inasmuch as these provisions refer to the requirements governing the carrying on of business in the Republic by foreign companies, and it cannot be seriously alleged that requesting amparo is a commercial act.

In support of this theory, it is in order to insert what is set forth by Moreno Cora in his work on Amparo Suits, which is as follows:

“Although the foregoing may appear sufficient to decide the question under discussion, it will not be superfluous to note that the daily increase in our commercial relations will bring about the greater application of the theory that extends the benefits of amparo to persons who do not reside in the Republic. It was thus held by certain professors who discussed this matter in the Academy of Jurisprudence and the protection of Federal justice was considered as extending to moral persons who reside abroad, provided they have a legal existence in the country in which they are domiciled.”

In the case under consideration, Mr. Raymond R. Billings established the fulfillment of the requirements of Article 6 of the Law of Amparo, inasmuch as it appears from the certified copy of the protocolization of the document which was attached to the complaint that

the firm of Chickering and Sons was duly organized and existing in accordance with the laws of the State of Massachusetts, United States of America, and that Alfred Wagner, as President of said Company, and with express authorization, conferred on behalf thereof a full, complete and general power of attorney in favour of Mr. Billings, and for this reason the basis for denial alleged by the appellant does not exist.

III. Although there may be errors in the reasoning contained in the third paragraph of the decision challenged by Munguia, which paragraph states that in order to establish the validity of the retraction from the assignment contained in the instrument of April 25, 1910, it was necessary that said retraction be contained in a public document, accepted by the complainant Company, such error is insufficient to bring about the revocation of the said decision and denial of the amparo inasmuch as there would still remain the final question involved, i. e., that the Third District Judge held that the sole owner of the trade mark under dispute is the complainant Company.

In accordance with the report of the Patent and Trade Mark Office of the Department of Industry, Commerce and Labor, a certified copy of which is contained on page 42 of the file in first instance, and which is competent evidence in accordance with Article 258, Section II, and Article 332 of the Federal Code of Civil Procedure, the owner of the trade mark "Chickering" in the year 1927, in which the order of attachment appealed from was rendered, and in accordance with the respective file, was the complainant Company; consequently, in recognizing this ownership the decision appealed from does not commit any error to the prejudice of the third party, the more so if it be borne in mind that in one of the title documents presented by Mr. Munguia before the Court there is contained the registration in the Patent and Trade Mark Office of the assignment of the trade mark above mentioned which was executed between him and Chickering and Sons, and this is not the place to decide regarding the invalidity of the said assignment and of its registration because amparo suits do not decide questions of this nature, and for the further reason that said invalidity is the basis of a summary suit brought by the third party before the present Fifth District Court in the Federal District.

In view of the foregoing, and based moreover, in addition to the legal provisions cited, on Articles 86, 90 and 91 of the Law Regulating Amparo Suits, and Article 24 and Transitory Article 6 of the Organic Law of the Judicial Power of the Federation, it is resolved:

First: The decision of the present Third District Judge in the Federal District of December 30, 1927, should be and is hereby affirmed, and consequently:

Second: The Justice of the Union protects and defends Chickering and Sons, of Boston, Massachusetts, United States of America,

against the act of the Second Numerary District Judge in the Federal District, consisting of the order of October 27th, of the said year, handed down in the proceedings instituted upon the petition of Enrique Munguia, for the illegal use of the trade mark "Chickering" which act was appealed from, the order referred to being for the attachment of merchandise bearing the Chickering trade mark.

Third: Notify the Government Attorney and through the Agency of the respective District Judge, notify the other parties who intervened in said suit, and for this purpose issue a copy which, after the same has been duly dispatched through the usual channels shall be returned to this Supreme Court; issued the decision and this record of amparo, return the same to the Lower Court; publish the same and file this record.

So, by a unanimity of five votes, it was decided by the First Chamber of the Supreme Court of Justice of the Nation. The Magistrates who compose this Chamber and the authorized Secretary, signed, stating that because of the physical incapacity of President Osarno Aguilar, Magistrate Carlos Salcedo signed for him. I certify, Magistrates P. Macharro y Navaez. F. de la Fuente. Carlos Salcedo. F. Barba. Secretary, E. Manrique. Scrolls.

## MOROCCO

### REPRESENTATIONS REGARDING AMERICAN RIGHTS WITH RESPECT TO CONCESSION BY THE TANGIER ADMINISTRATION IN MOROCCO

881.6463/13

*The American Diplomatic Agent and Consul General at Tangier (Blake)  
to the French Resident General in Morocco (Saint)* <sup>1</sup>

TANGIER, May 19, 1930.

MR. RESIDENT-GENERAL:—I have the honor to draw Your Excellency's attention to certain discussions which have recently taken place in the Committees of the Legislative Assembly at Tangier, and from the trend of which it is apprehended that decisions might eventually be taken by that Body, in violation of the treaty rights of the United States in Morocco.

There is now before the aforesaid Assembly, or is shortly to be presented by the appropriate Committees, for its consideration and decision, an application made by the "Compañia Electra Hispano-Marroquí" and the "Société Marocaine de Distribution d'Eau, de Gaz et d'Electricité" for the grant to themselves without public adjudication of a concession for the supply of electric fluid for lighting and power purposes in the city of Tangier and its surroundings.

I have therefore the honor to request Your Excellency to be good enough to recall to the competent Authorities of the Tangier Zone of the Shereefian Empire that, in virtue of the treaty provisions concerning economic equality among the Powers, and notably in view of the specific terms of the Act of Algeciras <sup>2</sup> in the premises, the conditions under which any concession or contract of the nature in question may be granted by the Tangier Administration, must be such as to make it possible for American nationals to participate in the bidding for such enterprise, on terms of perfect equality with concerns of any other nationality.

In view of the circumstances above set forth, I venture to stress the necessity for urgent action on the part of Your Excellency, in this connection.

Please accept [etc.]

MAXWELL BLAKE

<sup>1</sup> Copy transmitted to the Department by the Diplomatic Agent at Tangier in his despatch No. 507, May 28, 1930; received June 17.

<sup>2</sup> *Foreign Relations*, 1906, pt. 2, p. 1495.



881.6463/14

*The American Diplomatic Agent and Consul General at Tangier (Blake) to the French Resident General in Morocco (Saint)*<sup>3</sup>

TANGIER, July 7, 1930.

MR. RESIDENT-GENERAL:—I have the honor to refer to my communication dated May 19th, 1930, in which I signalized to Your Excellency my apprehension that the Committees of the Tangier Legislative Assembly appeared to contemplate the grant, to certain concerns, of a concession for the supply of electric light and power, in derogation of the principle, laid down by the Act of Algeiras, of public awards on proposals without preference of nationality.

I ventured to request Your Excellency to be good enough to recall to the Tangier Authorities the necessity of respecting the rights of the United States under the provisions of the treaties in the premises, and I would be very grateful to have Your Excellency's official notification as to whether or not the subject of my protest has been brought to the attention of the Authorities concerned.

Please accept [etc.]

MAXWELL BLAKE

881.6463/14

*The French Minister in Morocco (Blanc) to the American Diplomatic Agent and Consul General at Tangier (Blake)*<sup>3</sup>

[Translation]

No. 201-D

RABAT, July 15, 1930.

MR. DIPLOMATIC AGENT:—By letter dated May 19th last, to which reference is again made under date of June [*July*] 7th, you have been good enough to request me to call the attention of the Administrator of the Zone of Tangier, to proposals which have been made by two companies, French and Spanish, in regard to the distribution of electricity in Tangier, such proposals being under examination at the present time by the competent commissions of the Legislative Assembly. You express the desire that, in the circumstances, the dispositions of international treaties shall be respected, in virtue of which the right is recognized to concerns of the nationals of all countries to participate in public adjudications in Morocco.

I have the honor to acknowledge the receipt of these two letters and to inform you, in my capacity as Minister for Foreign Affairs of His Shereefian Majesty, that I have communicated to the Administrator

<sup>3</sup> Copy transmitted to the Department by the Diplomatic Agent at Tangier in his despatch No. 525, July 19, 1930; received August 4.

of the Zone of Tangier the anxieties to which you gave expression in your letter of May 19th last.

In replying to me, Mr. Le Fur has given me the assurance that he will not fail to see, at the opportune time, that sufficient delays are provided for the purpose of permitting American nationals to participate on a footing of perfect equality with all other competitors in the adjudications for supplies which shall be called for, in connection with the equipment of the future enterprise for the distribution of electrical power in Tangier.

Please accept [etc.]

URBAIN BLANC

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881.6463/14

*The American Diplomatic Agent and Consul General at Tangier (Blake)  
to the French Resident General in Morocco (Saint)*<sup>4</sup>

TANGIER, July 18, 1930.

MR. RESIDENT-GENERAL:—I have the honor to acknowledge the receipt of the Note No. 201-D dated July 15th, 1930, which Your Excellency has addressed to me in reply to my two communications of May 9th [19th], 1930 and July 7th, 1930, on the subject of the proposals, now under the consideration of the Tangier Legislative Assembly, which emanate from the "Compañía Electra Hispano-Marroqui" and the "Société des Eaux" looking to the award to these combined companies, without the proper procedure relative to public adjudication, of a concession for the distribution of electric light and power in Tangier.

I am pleased to note that assurances are given that proper delays will take place in order that American concerns may be in a position to compete on a footing of perfect equality with the nationals of any other country in connection with the bidding on the contracts for the materials and supplies eventually required for the equipment of the future enterprise for the distribution of electric light and power in Tangier.

I would however point out to Your Excellency that my letter of May 19th, 1930 made appeal for proper respect of the pertinent treaty provisions, on the part of the Tangier Authorities, specifically regarding the rights of American nationals and concerns to participate, on terms of perfect equality with those of any other country, in the opportunity to bid for the concession itself. My letter, therefore, referred unmistakably to Article 107 of the Act of Algeciras in its entirety, and this Article requires that concessions for the operation of public services, as well as contracts for supplies connected with

<sup>4</sup> Copy transmitted to the Department by the Diplomatic Agent at Tangier in his despatch No. 525, July 19, 1930; received August 4.

their equipment, shall be subordinated to the principle of public awards on proposals, without preference of nationality.

In the circumstances it will be obvious to Your Excellency that assurances in regard to the respect of American treaty rights only so far as concerns opportunity to bid on contracts for materials and supplies for the equipment of a concessionary enterprise, to the exclusion of an opportunity to bid for the concession itself, are unsatisfactory. I trust, therefore, that Your Excellency will be good enough to advise the competent Authorities of the Tangier Zone of the necessity for a full and entire observance of all the provisions of Articles 105 to 110 of the Act of Algeciras and of the regulations issuing therefrom, concerning the award of this and of any other concession or contract, which may be contemplated by the Tangier Administration.

In conclusion, I shall be grateful to have Your Excellency's official notification as to the action taken in regard to this matter.

Please accept [etc.]

MAXWELL BLAKE

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881.6463/15

*The Acting Secretary of State to the Ambassador in France (Edge)* <sup>6</sup>

No. 303

WASHINGTON, August 26, 1930.

SIR: The American Diplomatic Agent at Tangier forwarded to the Embassy copies of his despatches No. 507 and 525 of May 28 and July 19, 1930,<sup>7</sup> respectively, concerning a prospective violation of the Act of Algeciras by the Tangier Administration in connection with a contemplated award of a concession for the distribution of electric light and power in Tangier. You are requested to discuss this question informally with the appropriate French officials, setting forth this Government's position in the matter, which is, that awards for concessions such as that in question must be submitted to open bidding and equality of opportunity for American interests must be maintained. Mr. Blake's despatches of May 28 and July 19 will furnish you with sufficient information with regard to this case to obviate the necessity for the Department to explain the details thereof.

A copy of a despatch on this same subject dated July 31, 1930, from the Diplomatic Agent at Tangier is enclosed for your information.<sup>8</sup>

A copy of such report as you may make to the Department should be forwarded to the Diplomatic Agent at Tangier for his information.

Very truly yours,

WILLIAM R. CASTLE, JR.

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<sup>6</sup> The same, *mutatis mutandis*, to the Ambassadors in Great Britain, Italy, and Spain as Nos. 486, 206, and 85, respectively.

<sup>7</sup> Despatches not printed; for their enclosures, see *supra*.

<sup>8</sup> Not printed.

881.6463/15

*The Acting Secretary of State to the Diplomatic Agent and Consul General  
at Tangier (Blake)*

No. 607

WASHINGTON, August 26, 1930.

SIR: The Department refers to your despatches Nos. 507 and 525 of May 28 and July 19, 1930,<sup>9</sup> respectively, concerning a prospective violation of the Act of Algeciras by the Tangier Administration in connection with a contemplated award of a concession for the distribution of electric light and power in Tangier. Your action in formally bringing this matter to the attention of the Resident-General of France, as Minister for Foreign Affairs of His Shereefian Majesty, is concurred with and approved by the Department and you should continue your efforts to obtain for any interested American interests an equal opportunity to bid in on the proposed award of concession.

Appropriate instructions are being forwarded to the American Missions at London, Paris, Madrid and Rome, requesting that this matter be taken up informally with the respective foreign offices. For the present the Department feels it will be advisable to approach the matter informally with a view to sounding out the various governments interested but at the same time making clear the position of this Government.

Very truly yours,

WILLIAM R. CASTLE, JR.

881.6463/16

*The Diplomatic Agent and Consul General at Tangier (Blake) to the  
Secretary of State*

No. 538

TANGIER, August 29, 1930.

[Received September 15.]

SIR: I have the honor to refer to my previous Despatches, Nos. 507, 525 and 527 of May 28th, July 19th, and July 31st, 1930,<sup>10</sup> concerning the illicit disposition by the Tangier Administration of a concession for the supply of electric light and power, and to report further developments in this connection.

In my No. 527 of July 31st, 1930, I informed the Department that the Tangier Legislative Assembly, in disregard of the provisions of the Act of Algeciras, had passed a vote according this concession to a Franco-Spanish combine, without the requisite public appeal to international competition, and that this resolution was to be submitted for the approval of the Committee of Control, composed of

<sup>9</sup> Neither printed.

<sup>10</sup> None printed.

the representatives in Tangier of the Powers signatories of or adherent to the Tangier Conventions, signed in Paris by Great Britain, France and Spain in December 1923<sup>11</sup> and by these Powers and Italy in July 1928.<sup>12</sup>

The question was brought before the Committee of Control on August 25th, 1930, at a meeting presided over by the representative of Spain, and I am indebted to the British Vice-Consul in Charge, for the account which I am able to give hereunder of the deliberations of the Committee on the subject.

The British, Dutch and Portuguese representatives impugned the legality of the resolution of the Legislative Assembly. The French and Spanish representatives contended that the Tangier Administration was free to grant the concession without having recourse to public adjudication on proposals without preference of nationality, under the terms of the Franco-German Agreement of 1911<sup>13</sup> which superseded the provisions of the Act of Algeciras in this regard. They were supported by the representative of Belgium.

Against this contention the British and Dutch Vice-Consuls in Charge opposed the terms of Article 7 of the Tangier Convention, (quoted on page 4 of my No. 525 of July 19th, 1930), and also the corroborative provisions of Article 11 of the Shereefian Dahir Organizing the Administration of the Tangier Zone, which reads in the French text as follows:—

“Article 11. L’Administration de la Zone est tenue de respecter les traités actuellement en vigueur entre Nous et les Puissances.

S’étendent notamment de plein droit à la Zone de Tanger les accords internationaux auxquels toutes les Puissances signataires de l’Acte d’Algésiras sont parties contractantes ou auront adhéré.

En cas de désaccord entre les stipulations desdits traités et les lois et règlements établis par l’Assemblée législative internationale, les stipulations des traités prévaudront.

L’Administration de la Zone veille d’une façon spéciale à l’observation des Articles 3, 7 (paragraphe 2), 8 (paragraphe 3), 10, 11 et 12 de la Convention en date du 18 Décembre 1923.”

being in translation:—

“Article 11. The Administration of the Zone is under the obligation to respect the treaties actually in force between Us and the Powers.

International agreements especially, to which all the Powers signatories of the Act of Algeciras are parties or shall have adhered, shall extend of right to the Zone of Tangier.

<sup>11</sup> December 18, 1923; League of Nations Treaty Series, vol. xxviii, p. 541

<sup>12</sup> July 25, 1928; *ibid.*, vol. lxxxvii, p. 211.

<sup>13</sup> Convention between France and Germany respecting Morocco, signed at Berlin, November 4, 1911; *British and Foreign State Papers*, vol. civ, p. 948.

In the event of difference between the stipulations of the said treaties and the laws and regulations passed by the International Legislative Assembly, the stipulations of the treaties shall prevail.

The Administration of the Zone shall be particularly heedful of the observation of Articles 3, 7 (paragraph 2), 8 (paragraph 3), 10, 11 and 12 of the Convention of December 18th, 1923."

The British representative maintained that the adhesions of any of the signatories of the Act of Algeciras to the Franco-German Accord did not imply the application of this agreement in the Tangier Zone; that this position was confirmed by Article 7 of the Convention and by paragraph 2 of the above Article of the Organic Dahir; that even admitting for the sake of argument the doubtful validity of this thesis so far as concerned the adherents to the Franco-German Agreement, it must not be forgotten that one of the signatory Powers of the Act of Algeciras, namely, the United States of America, had not adhered to the Franco-German Convention, and therefore, under the provisions of the Tangier Convention and of the Organic Dahir referred to, the Tangier Administration and the Committee of Control were bound to a full respect of the rights of the United States under the Act of Algeciras, which have been modified by no subsequent instrument. The grant therefore of the electric light concession by the Tangier Administration, without recourse to an appeal to international competition as provided by the Act of Algeciras, and notwithstanding an official protest made by the American Diplomatic Agent in Tangier, was a violation of the treaty rights of the United States, which it was the duty of the Committee of Control to veto.

The French and Spanish representatives refused to admit these conclusions, the Spanish Consul-General contemptuously describing the appeal for the respect of American rights as an academic objection of no weight in the discussion.

Up to this point in the discussions, the Italian Minister had given no indication of his position in the matter. Prior to the meeting of the Committee of Control, private discussions between him and his British Colleague, are understood to have shown the Italian position, in obedience to considerations of a political order, to have been uncertain, with the possibility however that in the event of an equally divided vote the Italian representative would acquiesce in the condemnation of the illegal award of the concession.

This situation having materialized, France, Spain and Belgium being opposed on the question by Great Britain, Holland and Portugal, the Italian Minister made a statement to the following effect:—

In his opinion the concession for the supply of electric light and power should be the subject for appeal to international competition, however, in view of the fact that the Committee of Control, when considering this very important question, was mainly composed of

Vice-Consuls, (the principals being on leave of absence) he proposed that the question relative to the interpretation of the treaty principles involved, should be referred to the consideration of the Governments represented on the Committee of Control.

However, notwithstanding the eventual maintenance by the Powers of the principle of international competitive bidding in conditions of perfect equality in regard to concessions for public service to be let in the Tangier Zone, Mr. de Facendis further proposed that, in view of special circumstances attending the electric light and water services of the city, the members of the Committee of Control should suggest to their Governments the advisability, in the present instance, of acquiescing in a derogation from the aforesaid principles, and of permitting a direct grant by the Tangier Government of the concession jointly to the Spanish Electric Light Company and the French Water Company, on the stipulation that the special arrangement should not be deemed to create a precedent.

Aside from this aspect of the matter, he continued, the terms of the concession, as granted by the Administration might be described as iniquitous. In the first place the basis of the capital and of the tariffs was Spanish paper currency, liable to wide fluctuations which could not but prove eventually prejudicial to the consumers; the tariff was subject to periodical increase dictated by variations of the price, in Spanish Pesetas, of fuel oil and also of the cost per hour of labor employed by the concessionary company, and which the latter was in a position arbitrarily to inflate. The financial working of the concern should be based on a gold currency allowing the fixation of unvarying tariffs. The tariffs as approved by the Legislative Assembly included an additional payment by the consumer representing 8 percent of certain capital expenditures of the concessionaires. The concessionaires were further empowered to increase the tariffs in such measure as to wipe out any aggregate loss sustained by the operation of the enterprise during two successive years. Such provisions eliminated all commercial risk and made the concession inadmissible as a rational financial proposition. He therefore proposed that the concession should be referred back to the Administration for its reconsideration of these financial aspects.

Both the above proposals of the representative of Italy were adopted by the Committee of Control.

The resolution adopted by the Committee of Control on the question of the treaty principles governing economic equality in Morocco, is of a disquieting character.

I venture to believe that in view of the attitude of the Moroccan Government, under the aegis of France and Spain, towards its treaty obligations in the connection under discussion, the Department will be averse to any condonation of further violation of these principles.

I cannot concur in the validity of the consideration to be urged by the members of the Committee of Control upon their Governments, in support of the irregular grant of the electric light concession at Tangier.

My British Colleague frankly admits that the Committee of Control is being coerced into submitting the proposition, under intimidation by the interested companies, who threaten, unless their demand for the concession is satisfied, to retaliate on the community by deliberate indifference in the execution of their present contractual obligations, which still have three years to run.

It is further distressing though not perhaps surprising to note that the French Engineer of the Tangier Administration, Technical Adviser of the Shereefian Government, and of the Legislative Assembly, was actively concerned in devising the contract which granted to the concessionaires the extraordinary privileges referred to above, and that in the Commissions and meetings of the Assembly he advocated these terms with aggressive effrontery.

Aside from the foregoing circumstances which are of primary importance in the American Government's consideration of the matter, and in the determination of the action which it may deem proper to take in the premises, the conduct of the Committee of Control, in this instance, is open to criticism from the point of view of its own statutory position.

The representation, duly provided for in the circumstances, of the Powers on the Committee of Control by Vice-Consuls in Charge, is no valid reason to justify the shirking by the Committee of its legal responsibilities. The Tangier Convention provides that a majority vote of the Committee shall be binding, and there was a majority in support of respect for the treaty provisions in the premises. The Committee failed therefore to comply with the obligations imposed upon it by Article 26 of the Organic Dahir, which provides that the Committee of Control shall immediately annul "deliberations and decisions of the Legislative Assembly taken in violation of the law or of the treaties."

Furthermore, it is quite within the possibilities that the Tangier Administration may attempt to over-ride the hesitating latent opposition of the Committee of Control.

The Administration would appear to be in a position to claim that as a result of the provisions of Article 31 of the Tangier Convention, the Committee of Control has forfeited its right to veto the decision of the Legislative Assembly awarding the concession. The Article above referred to stipulates that within fifteen days from the date of receiving the texts of the laws and regulations voted by the Assembly, the Committee of Control will have the right to veto the promulgation of any enactment. In such cases the non-observance of the provisions and principles of the statute must be recited in the decision.

So far as concerned the violation of the Act of Algeciras by the



conditions in which the concession is accorded, the Committee of Control has failed to meet the provisions of this Article of the Statute.

Article 27 of the Organic Dahir provides moreover that: "The laws and regulations voted by the Assembly, and which, within the delay fixed by Article 31 of the Convention of December 18th, 1923, have not been vetoed by the Committee of Control, shall be effective only after promulgation by Our Mendoob, with the countersignature of the President of the Committee of Control."

Now the position is that no formal veto on any point has been registered by the Committee of Control, that the French representative could secure promulgation by the Mendoob of the Legislative Assembly's decision, and the representative of Spain, as the President of the Committee of Control, would probably have no compunction in countersigning the promulgation.

Recourse to the above procedure may be looked upon perhaps as a somewhat remote contingency, but I venture to submit that the proved versatility of the political consciences at work divests the suggestion of its inherent extravagance.

In conclusion, I would inform the Department that the Resident-General of France has totally ignored my communication to him of July 18th, 1930,<sup>14</sup> (Enclosure No. 3 to my Despatch No. 525), requesting that the Tangier Authorities be recalled to a respect for the rights of American nationals to participate in bids on the concession above referred to, and I venture to suggest that, in view of the conditions herein above set forth, identic Notes be addressed, without delay, to the four Powers, France, Spain, Great Britain and Italy, the signatories of the Conventions relative to Tangier, protesting against the violation by the Tangier Administration of American treaty rights, and demanding the observance of the requisite conditions in respect of the adjudication of the concession for the electric light and power services in Tangier. The other Governments signatories of the Algeiras Act should also be informed of the tenor of the American Government's representations in this connection.

Indications would appear to show that the position of the American Government would be supported by Great Britain, Holland and Portugal; the American action might also promote the adjunction of Italy with prospects of successfully vindicating the principles of the Act of Algeiras in the Tangier Zone and, incidentally, of scoring in the controversy between the Department and the French Residency-General in regard to the irregular award of the concessions, in the French Zone of Morocco referred to in the Department's Instruction to this Diplomatic Agency, No. 458 of February 10th, 1928, (File No. 881.77/31.)<sup>15</sup>

<sup>14</sup> *Ante*, p. 589.

<sup>15</sup> Not printed.

The Department may perhaps deem it opportune to point out, in its Note to the four Powers which sponsor the Tangier Régime, that the American Government has given proofs of its voluntary assistance to the Tangier Administration and that it cannot conceal its surprise at the failure of the Authorities concerned to restrain the Tangier Administration from violation of American treaty rights, in the matters in question.

I have the honor to annex hereto copy of a protest, which I have addressed to Mr. Lucien Saint, as Minister for Foreign Affairs of His Shereefian Majesty, under date of August 25th, 1930, in regard to a further instance of violation by the Tangier Administration of the provisions of the regulations issuing from the Act of Algeciras in connection with the procedure for the adjudication of public contracts.

There is also appended hereto for the Department's information an excerpt from the *Tangier Gazette* of August 23rd, 1930,<sup>16</sup> containing a clear and concise statement of the position relative to the electrical concession in the Tangier Zone.

Respectfully yours,

MAXWELL BLAKE

[Enclosure]

*The American Diplomatic Agent and Consul General (Blake) to the French Resident General in Morocco (Saint)*

TANGIER, August 25, 1930.

MR. RESIDENT-GENERAL:—I have the honor to signalize to Your Excellency a fresh instance of disregard by the Tangier Administration, of the terms of the treaties in connection with the adjudication of public contracts.

Notice of the award to be made on September 9th, 1930, of a contract for the supply of 200 tons of tar, (*émulsion de bitume*) appears in the *Tangier Gazette* of August 23rd, 1930.

Under the regulations issuing from the Act of Algeciras, the publication of proposed adjudications is required 100 days in advance, and, even in cases of emergency, this period may not be less than 60 days. In the case above mentioned, this notice is reduced to 17 days, a period manifestly insufficient to allow concerns in the United States of America an opportunity to secure the data relative to the specifications and conditions of the contract, and to put in their bids.

I shall be grateful if Your Excellency will be good enough to draw this matter to the attention of the Authorities concerned, and I shall be pleased to be informed that, as a result of Your Excellency's action, dispositions will be taken by the Tangier Administration for the proper

<sup>16</sup> Not reprinted.

respect of the treaty provisions in the premises, both in regard to the contract above referred to, and to all other contracts to be awarded in the future.

Please accept [etc.]

MAXWELL BLAKE

881.6463/17

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

No. 1197

LONDON, September 10, 1930.

[Received September 20.]

SIR: I have the honor to refer to the Department's instruction No. 486, August 26, 1930,<sup>18</sup> concerning the prospective violation of the Act of Algeciras by the Tangier Administration, and to state that this matter was discussed with the Foreign Office today, subsequent, however, to the receipt of despatch No. 538, August 29, 1930, from the American Diplomatic Agent at Tangier. This last mentioned despatch sets forth the remarks of the British Vice Consul at the meeting of the Committee of Control. It was stated at the Foreign Office that there was little to add for the moment, since the legal representative of the Foreign Office was investigating the British position, more especially as to how far the hands of the British Government were tied by British adherence to the Franco-German Agreement of 1911. The Foreign Office have promised to communicate with me again at an early date but stated informally in the course of the conversation that they did not feel they could accept the view of the Italian Minister as expressed before the Committee of Control, reported in the American Diplomatic Agent's despatch No. 538, August 29. Furthermore, the Foreign Office stated their full desire for open adjudication of contracts, and intimated that to obtain this result, if the British position were in any way constrained by existing agreements, they would be doubly prepared to stress the position of the United States Government, which was deemed most happy in this instance.

Respectfully yours,

(For the Ambassador)

RAY ATHERTON

*Counselor of Embassy*

881.6463/18

*The Ambassador in Spain (Laughlin) to the Secretary of State*

No. 175

SAN SEBASTIAN, September 23, 1930.

[Received October 4.]

SIR: I have the honor to report that pursuant to the instructions contained in your No. 85 of August 26th, last,<sup>18</sup> I took up yesterday

<sup>18</sup> See footnote 6, p. 590.

with Señor Barcenas at the Ministry of State in Madrid the matter of the contemplated grant by the Tangier Administration of an electric light and power concession in that region.

As I had been instructed to discuss the matter informally I repeated the substance of your Instruction and read to him the enclosed *Aide-Mémoire*,<sup>19</sup> to which he replied that the concession referred to was not a new concession but an amplification of one already existing.

Respectfully submitted,

IRWIN LAUGHLIN

881.00/1475

*The French Minister in Morocco (Blanc) to the American Diplomatic Agent and Consul General at Tangier (Blake)*<sup>20</sup>

[Translation <sup>21</sup>]

No. 293D

RABAT, September 24, 1930.

MR. DIPLOMATIC AGENT: By letter of August 25 last,<sup>22</sup> you have been good enough to call my attention to a notice published by the Administration of the Shereefian Zone of Tangier relative to a contract for the supply of 200 tons of tar, with a delay of only 17 days anterior to the date of adjudication. You observe that the Algeciras regulations provided a minimum of 60 days and you protest against the disregard of this rule by the Tangier Administration.

I have the honor to acknowledge the receipt of this letter the contents of which have been brought to the attention of the Administrator of Tangier. It results, from the explanations which have been furnished in this connection by Mr. Le Fur, that the notice in question was inserted as from August 21st in the daily papers of Tangier, and that it was necessary to take prompt action to avoid prejudicing the interests of the Zone and its inability to utilize, before the heavy rains, the credits made available for the upkeep of the roads. It is in a great measure for these first reasons that, notwithstanding his desire to be agreeable to you, the Administrator finds himself confronted with the impossibility of postponing the adjudication brought into question by your letter. On the other hand, the Zone of Tangier subsequently to the installation of the Statute and as a consequence of the disappearance of the Special Committee of Public Works and of the Special Committee of Adjudications and Contracts, is governed in matters of adjudication by the Dahir of May 25th, 1925, which has brought the procedure relative to adjudications into harmony with the new necessities created by the development of Morocco and

<sup>19</sup> Not printed.

<sup>20</sup> Copy transmitted to the Department by the Diplomatic Agent at Tangier in his despatch No. 548, October 1, 1930; received October 20.

<sup>21</sup> File translation revised.

<sup>22</sup> *Ante*, p. 597.

the increased speed in communications. The long delays therefore provided by the Act of Algeciras have had to be reduced to the maximum of one month, this maximum even being susceptible of abridgment in case of urgency.

In view of these explanations, you will undoubtedly be disposed to admit that the Administrator has not acted in the premises otherwise than in conformity with the above mentioned text and that no incorrection can be imputed to him.

Please accept [etc.]

URBAIN BLANC

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881.6463/19

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

No. 1229

LONDON, September 25, 1930.

[Received October 4.]

SIR: With further reference to my despatch No. 1197, September 10, 1930, concerning the prospective violation of the Act of Algeciras by the Tangier Administration, I have the honor to state that the Foreign Office has reported to me that upon further consideration of the question arising from the contemplated electric light and water concession the attitude of the British Government would appear to coincide entirely with that of the Government of the United States. The Foreign Office did, however, make reference to the possibility that it might be well to consider, purely in the interests of the inhabitants of Tangier, the advisability of granting the electric light and water concession to the Franco-Spanish company, with, of course, all suitable safeguards and no establishment of precedent. The Foreign Office stated that they knew of no outside interests that would be willing to compete with the Franco-Spanish company, since a considerable amount of capital would be required for any new venture, and it is doubtful whether it might be forthcoming without the necessarily lacking Franco-Spanish official support. However, the British Government has taken no position in the matter and is awaiting a note which the Quai d'Orsay is preparing, setting forth the French position and apparently justifying the actions of the French Administrator of the Tangier Zone.

Respectfully yours,

(For the Ambassador)

RAY ATHERTON

*Counselor of Embassy*

881.6463/20

*The Ambassador in Italy (Garrett) to the Secretary of State*

No. 537

ROME, September 26, 1930.  
[Received October 9.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 206 of August 26, 1930,<sup>23</sup> regarding a prospective violation of the Act of Algeciras by the Tangier Administration in connection with a contemplated award of a concession for the distribution of electric light and power in Tangier, and to inform the Department that owing to the temporary absence from the Italian Ministry of Foreign Affairs of the official competent to deal with this matter, it was not possible to discuss this question informally at the Foreign Office until two days ago.

At that time a brief history of this concession was communicated to the official at the Foreign Office, together with a statement of the position of the Government of the United States relating thereto based on the despatches on this case which had been received from Mr. Blake. I was informed at the Foreign Office that a brief despatch on this matter had been received from the Italian Consul General at Tangier, but as the Consul General stated that owing to a disagreement among the representatives at Tangier of the interested Governments the entire question had been referred to the Committee of Control for further study, and that consequently the Italian Government did not feel itself called upon to issue any instructions in the premises at this time.

I should be glad to be informed of any developments in this matter which may take place at Tangier in order that I may be in a position to make such further representations as the Department may desire.

Respectfully yours,

For the Ambassador:

ALEXANDER KIRK  
*Counselor of Embassy*

881.6463/21

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

No. 1406

LONDON, November 19, 1930.  
[Received November 29.]

SIR: I have the honor to refer to my despatch No. 1229, September 25, 1930, relating to the electric light concession in Tangier, and to enclose a copy, in triplicate, of a Foreign Office note received today,<sup>24</sup>

<sup>23</sup> See footnote 6, p. 590.

<sup>24</sup> Enclosure not printed.

in which the Foreign Office more or less re-considers the position taken in former conversations with an officer of the Embassy, and would appear to be considering favorably the possibility of granting this concession to the Franco-Spanish merger. However, the last paragraph of the note asks that inquiries be made as to whether the State Department shares the views of the Foreign Office on this question, as set forth in its note of November 18, and, if so, whether the State Department, in the interests of the Tangier Zone, would join with the British in accepting a compromise of sorts. I have informed the Foreign Office that the matter has been referred to the Department of State.

Subsequently to the receipt of this note I was asked orally to regard as strictly confidential this consultative action of the British on this question.

Respectfully yours,

(For the Ambassador)  
RAY ATHERTON  
*Counselor of Embassy*

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**INABILITY OF AN AMERICAN COMPANY TO WAIVE CAPITULATORY RIGHTS ENJOYED BY THE UNITED STATES IN MOROCCO**

881.602/24

*The Diplomatic Agent and Consul General at Tangier (Blake) to the Acting Secretary of State*

No. 477

TANGIER, March 3, 1930.

[Received March 25.]

SIR: I have the honor to transmit to the Department herewith copy of a communication which I have received from the Paris office of the Coudert Brothers,<sup>25</sup> enquiring as to the possibility of the waiver of capitulatory rights in Morocco, by an American concern, in compliance with a clause of a contract to be entered into by the latter with a French Company.

The enquiry is stated in self explanatory terms, and I would respectfully solicit an expression of the Department's opinion as to the tenor of the reply which should be made in the premises to the parties referred to.

I have [etc.]

MAXWELL BLAKE

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<sup>25</sup> Not printed.

881.602/24

*The Acting Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)*

No. 586

WASHINGTON, April 3, 1930.

SIR: Receipt is acknowledged of your despatch No. 477 of March 3, 1930, relating to the possibility of waiver of capitulatory rights in Morocco by an American concern.

The United States has acquired its capitulatory rights in Morocco, as well as in certain other countries, through treaty, custom and usage. The rights thus obtained were granted to the United States as a sovereign nation and inure to the benefit of private persons or concerns only by reason of their American nationality. The Secretary of State has stated, notably in a telegraphic instruction last year to the American Minister in Cairo that "under the capitulatory regime the United States only can waive or derogate rights possessed thereunder by American citizens".

It is therefore considered that an American company has no authority to waive any of the capitulatory rights enjoyed by the United States in Morocco by contract or otherwise.

I am [etc.]

For the Acting Secretary of State:  
G. HOWLAND SHAW

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**RESTRICTIONS ON MISSIONARY ACTIVITIES IN THE FRENCH ZONE IN MOROCCO**

381.1163/1

*The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State*

No. 559

TANGIER, November 7, 1930.

[Received November 22.]

SIR: I have the honor to report to the Department that the Reverend Fred. C. Enyart, an American citizen, resident for some thirty-five years in Mequinez, Morocco, Secretary of the "Morocco Mission" of the Gospel Missionary Union Incorporated of Kansas City, Missouri, United States of America, recently visited me in Tangier for the purpose of apprising me of the opposition manifested by the French Authorities to the evangelizing work of the American Missionaries in Morocco.

The question was fully and frankly discussed between us in all its aspects. I told Mr. Enyart that, while in principle, I was not disposed to admit of any right of the French Authorities to restrict the right of residence and the freedom of travel provided for by the treaties, or the legitimate activities of any American citizens in Morocco, it



certainly did appear necessary in the present condition of affairs in the French Zone, for Christian Missionaries to observe the greatest tact and restraint.

I reviewed the extremely delicate position which had arisen for the French and native Authorities, as a result of the so-called "Berber Dahirs" which I reported to the Department in my Despatch No. 540 of September 18th, 1930.<sup>26</sup> Mr. Enyart was fully aware of these conditions, freely admitted the delicacy of the situation, and expressed his intention to observe the requisite prudence in his activities.

Enclosed herewith is a copy of a written communication submitted, at my request by Mr. Enyart, on the subject of his conversations with me.<sup>26</sup>

Although as a result of my interview with Mr. Enyart the situation for the time being would appear to have been met, difficulties might not improbably present themselves in the near future.

One cannot deny that religious activities of Christian propagandists are liable, with the disturbed atmosphere created in Mohammedan circles by the French Berber policy, to provoke serious political repercussions in the French Zone of Morocco. In these circumstances it appears that the Sultan has received formal assurances of the French Authorities as to the suppression of all attempts to Christianize the Berber tribes, and these assurances appear to have produced a desirable measure of appeasement to the Moorish population.

To what degree such promises may be deemed a justification to restrain the American Missionaries in Morocco from carrying on activities, which, as Mr. Enyart points out, they have peacefully pursued in this country for over thirty-five years, is a question of some complexity, in the circumstances. Furthermore, as it is anticipated that similar difficulties may present themselves in the near future, also in the Spanish Zone of Morocco, I venture to solicit the Department's instructions as to the measure of official support, which it may be deemed proper for me to afford to American Missionaries in Morocco, in the event of their further appeal for my intervention with the French and Spanish Authorities.

Respectfully yours,

MAXWELL BLAKE

381.1163/2

*The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)*

No. 616

WASHINGTON, December 8, 1930.

SIR: The Department has received your despatch No. 559 of November 7, 1930, concerning the opposition of the French authorities in Morocco to evangelization work of Christian missionaries.

<sup>26</sup> Not printed.

The Department is reluctant to permit the French authorities, without protest, to restrict the activities of American missionaries when such restriction would appear to be in violation of American rights. Nevertheless, the Department is equally reluctant to raise an issue so pregnant with possible difficulties as that inherent in controversies of a religious nature, especially those of a political character. It is understood from your despatch that the opposition to the Christianization of the Berbers comes from the Moorish population and that the French authorities have found it necessary to issue the orders in question in order to maintain an undisturbed political situation. It is assumed that the suppression of attempts to Christianize the Berbers has been applied to missionaries of all nationalities, (including French), so that there is no element of discrimination against American missionaries.

If, in your opinion, it has been reasonable and necessary for the French authorities to adopt the measures in question you should advise American missionaries in Morocco, should they seek your assistance, that they should restrict their activities to conform to the restrictions of the French authorities.

Very truly yours,

For the Secretary of State:

W. R. CASTLE, JR.

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**NEGOTIATIONS CONCERNING CLAIMS AND PROPOSED RECOGNITION BY THE UNITED STATES OF THE SPANISH ZONE IN MOROCCO**<sup>27</sup>

452.11/238

*The Acting Secretary of State to the Ambassador in Spain (Laughlin)*

No. 5

WASHINGTON, January 18, 1930.

SIR: The Department has received Mr. Whitehouse's confidential despatch No. 1416, dated November 25, 1929,<sup>28</sup> in reply to its instruction No. 637 of November 6, 1929,<sup>29</sup> relative to American claims in the Spanish Zone of Morocco, the details concerning which are set forth principally in despatch No. 311 of July 12, 1928,<sup>30</sup> and despatch No. 433 of September 4, 1929, from the American Diplomatic Agent at Tangier.<sup>31</sup> Copies of these despatches as well as others bearing on the matter were sent to your office by Mr. Blake.

The Department fails to understand the attitude of the Spanish Government towards these claims and remains of the opinion that the latter's proposal for a settlement thereof on the basis of recognition

<sup>27</sup> Continued from *Foreign Relations*, 1929, vol. III, pp. 492-505.

<sup>28</sup> *Ibid.*, p. 504.

<sup>29</sup> *Ibid.*, p. 503.

<sup>30</sup> *Ibid.*, 1928, vol. III, p. 349.

<sup>31</sup> Not printed.

of the Spanish Protectorate to be followed by the renunciation on the part of the United States of its capitulatory privileges in Morocco, constitutes a virtual repudiation of the agreement arrived at in the Joint Report.<sup>32</sup>

Viewing this case in its present status, the Department is inclined to lay down two general principles looking towards a satisfactory settlement; namely, it is of the opinion that these claims should be settled along the lines of the agreements reached by the Spanish Government's plenipotentiary Plá, Mr. Blake, and later General Jordana, thereby precluding further negotiations or arbitration unless you suggest otherwise; and, it does not desire to discuss the question of renunciation of capitulatory privileges in Morocco in connection with or contingent upon the settlement of the American claims presented.

The Department feels that a consistent policy with regard to the matter of capitulations in the whole of Morocco should be maintained, and, having initiated such a policy in connection with identical questions in the French Zone of Morocco, it would be unwise to deviate, in principle, from that policy as regards other Zones. In other words, it is thought that the capitulations question in the French, Spanish, and Tangier Zones of Morocco should be settled integrally. It may be well to keep in mind also the fact that the surrender of our capitulatory rights in Morocco, which are based on treaty provisions, could not be accomplished except by new treaties subject to the approval of the Senate.

However, before taking further action in the matter, the Department desires to obtain any suggestions you may wish to make with a view to a satisfactory settlement of the claims, at the earliest practicable date after you have had an opportunity to study the matter carefully, keeping in mind the attitude of the Department and the action that has already been taken.

To assist you in formulating your opinions, you may wish to confer with Mr. Blake, who has handled the matter at Tangier and who is conversant with the details. Your conferences with him may develop the necessity for further discussions with the Foreign Office.

The Department will be pleased to receive your recommendations relative to a conference with Mr. Blake, together with information as to when and approximately how long you may desire his presence in Madrid.

A copy of this instruction is being sent to the American Diplomatic Agent and Consul General at Tangier.

I am [etc.]

J. P. COTTON

<sup>32</sup> *Foreign Relations*, 1928, vol. III, p. 353.

452.11/242

*The Ambassador in Spain (Laughlin) to the Secretary of State*

No. 49

MADRID, February 27, 1930.

[Received March 26.]

SIR: I have the honor to acknowledge the receipt of your instruction No. 5 of January 18th, ultimo, with regard to the American claims in the Spanish Zone of Morocco. A few days before the arrival of this instruction, I received from the Spanish Secretary General of Foreign Affairs, a long note dealing with the question, the copy of which I beg leave to transmit herewith for your information, as well as a translation thereof.

I have analyzed carefully the Secretary General's note, and, while it must be considered as conciliatory in tone, and is indeed meant to be so, as the Secretary General himself emphasized to me in a very informal conversation I had with him on the subject a few days ago, I do not find that it makes us any real concessions except perhaps in the second class of claims.

On the occasion of my conversation with Señor Palacios I mentioned casually to him the practical difficulty of renouncing the Capitulations as a condition to a settlement of the claims, pointing out the part the Senate would have to play in such a surrender of rights. To this he replied that he of course understood my contention, but that it would still be possible for you to give your consent in principle and take the necessary steps for obtaining the requisite legislative action. According to Señor Palacios, the following governments have renounced their Capitulatory rights in Morocco:—France, Norway, Sweden, Russia, Belgium, Denmark, Italy, Greece, Germany (Treaty of Versailles), Austria-Hungary (Treaty of the Trianon), Portugal, Switzerland, and The Netherlands.

The first class of claims, amounting to 134,046.30 Pesetas, which was accepted in the Spanish Government's note of August 9th last, a copy of which was transmitted you with Mr. Hammond's despatch No. 1338 of August 20, 1929,<sup>33</sup> are again accepted *in toto* in the note just received. With regard to the third class of claims, totalling 62,993.55 Pesetas, these are likewise accepted, but on condition that the United States Government renounce the regime of Capitulations in the Spanish Zone of Morocco. This was exactly the status of the matter as presented by the Secretary General in his note of August 9th, last.

Only in the second class of claims, which total 451,745.85 Pesetas, does the Spanish Government make a concession. Of the five claims in this class, three are absolutely turned down, as they were in the note of August 9th, last. The remaining two, that of Kettani for

<sup>33</sup> *Foreign Relations*, 1929, vol. III, p. 500.

400,000 Pesetas, and Raisuni Muhal [*Rahamin Muyal*] for 10,000 Pesetas, while still not admitted, in the view of the Spanish Government, may be brought before the competent legal authorities for a definite decision.

Before taking this matter up further with the Spanish Government, or discussing it with Mr. Blake as you suggest in the instruction under acknowledgment, I feel that I should submit this last note for your consideration and further instructions. A copy of this despatch, together with its enclosure is being forwarded Mr. Blake for his information.

I have [etc.]

IRWIN LAUGHLIN

[Enclosure—Translation <sup>34</sup>]

*The Spanish Secretary General of Foreign Affairs (Palacios) to the American Ambassador (Laughlin)*

No. 15—R. G. 48

MADRID, January 22, 1930.

EXCELLENCY: My dear Sir: When on November 22, last, Mr. Whitehouse, then Chargé d'Affaires, informed me, as a result of instructions received from his Government that the Department of State in Washington was surprised at the note of August 9th, last, addressed to him, relative to the American claims in the Spanish Zone in Morocco, I expressed the intention again to examine the question and inform him with respect to the results of such examination.

As a result of this offer, and having reached the conclusion that the surprise echoed by Mr. Whitehouse might be ascribed to the conciseness, perhaps excessive, with which the point of view of His Majesty's Government was expressed in the said note relative to each of the claims mentioned therein, I have deemed the moment opportune to continue an analysis of the cases referred to in sufficient detail to permit appreciation of the proposals made in their true spirit and meaning.

For the sake of greater clarity, the same order adopted in the said note of this Secretariat General of August 9, 1929, will be followed:—

1. Claims:

a) For payment of taxes:

The sole claim of S. and J. Cohen . . . . .	4, 140. 00	pesetas.
The third claim of Rahamin Muyal . . . . .	17, 035. 50	“
The fourth “ “ “ “ . . . . .	5, 992. 75	“
The sole claim of J. Bentolila . . . . .	6, 384. 30	“

b) For harbor dues:

The second claim of Rahamin Muyal . . . . .	4, 738. 00	“
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<sup>34</sup> File translation revised.

Since these claims in the amounts demanded are accepted as good and without discussion, the amounts demanded corresponding to the taxes and dues paid, verification of which surely will be apparent when in due course the interested parties present the necessary receipts, it does not seem necessary to trouble Your Excellency with any explanation.

- c) The sole claim of David Bergel, for seizure of trucks . . . . . 50,255.75 pesetas.

The payment of this claim is also accepted; nevertheless, it may be remarked, as regards the amount, that while in principle the claimant has demanded 110,000 Spanish pesetas, he has hastened to recognize the exaggeration of the sum demanded, following an examination of the claim in question by the experts, Messrs. Cortes and Cahzen, in May, 1928, both experts having agreed in a reduction of the claim to the said 50,255.75 Spanish pesetas. This is the same figure which the Government of His Majesty has shown itself disposed to accept.

- The first claim of Raisuni <sup>35</sup> for seizure, \$6,500, which represents at the exchange of 7 . . . . . 45,500.00 pesetas.

It is only necessary to state here that while Raisuni has claimed \$10,000 in this matter, the experts above mentioned, after having examined the case, have agreed to reduce it to \$6,500, which is the same figure accepted by the Government of His Majesty.

It is believed that the agreement between the two Governments is complete in the matter relative to these seven claims.

## 2. Claims:

- a) The sole claim of the Singer Company for the events of 1921 . . . . . 6,412.50 pesetas.

As a result of the events in this case, the Singer Sewing Machine Company has demanded an indemnity for the destruction or robbery of 8 sewing machines in Nadir, 4 in Monte Arruit, and 2 in Zeluán, during the events of 1921, without presenting justifiable proofs of the then existence of the said machines. It is not necessary at the present moment to discuss the then existence of these machines. It is sufficient to state that, in view of the reservations made by the Consul General of Spain at Tangier, Señor Plá, no Government can be held responsible for damages caused by rebels. Mr. Blake, after he had established certain distinctions between the Government of His Majesty and the Maghzen, distinctions which will not be discussed at this moment, proposed that this claim should be submitted to the consideration of the two Governments, following recognition of the

<sup>35</sup> Hassan Raisuli.

Spanish Zone. This moment has not arrived, but the Government of His Majesty must point out that the destructions or robberies, which the Singer Company alleges, took place during military operations against an organized rebellion of such importance that it was necessary, as it is known to everyone, to inaugurate a regular campaign in the whole of Morocco to suppress it. The principles of international law, applicable not only to regular warfare but to suppression in the case of states in rebellion, in Europe as well as in Spanish America, including the intervention of foreign military forces, establish that the damages which the Singer Company alleges it has suffered are not subject to indemnification.

b) The sole claim of Dris-El-Quettani<sup>36</sup> on account of the Lala-Sfia farm. . . . . 400,000.00 pesetas.

This claim refers to the Azib-Es-Shorfa farm, which the claimant holds to be his own, presenting to that end documents which he believes give him legitimate rights to the property. The Spanish Government took possession of the farm, which is situated to the left of that of Lucus and near the Alcázar, in the year 1912, as result of the purchase of various Maghzen properties in the western part of our Zone from the Sultán Muley Haffid. Among these properties is the one which is the subject of this claim, but it bears the name of Lala-Sfia. It is proper to recall that the experts, Messrs. Cortes and Cahzen, after examining the matter, expressed the opinion that in view of the documents presented by Sidi-Dris-El-Kettani, the sum of 320,000 pesetas should be paid him for the value of the same, in case the Spanish State preferred to retain it, or the sum of 80,000 pesetas for the rent of the farm during sixteen years, at the rate of 5,000 pesetas annually; this last sum, which will only be paid in case the Spanish State decides to return the farm to the claimant, was accepted by Mr. Blake in his conversations with the Spanish High Commissioner in Morocco.

The Government of His Majesty, in rejecting the claim in question, has no intention of establishing in a definite manner the lack of right thereto of the claimant. The Spanish State bought the property claimed in good faith from Sultán Muley Haffid, and it was registered in its name in regular manner in the Registry of Landed Properties. If Sidi-Dris-El-Kettani believes that the property of the said farm belongs to him, he should assert his rights before the Courts, which will pass judgment as to whether the disputed farm belonged to Muley Haffid or to Sidi-Dris-El-Kettani. In the first case,<sup>37</sup> there is no right, consequently no indemnification can be recognized as accruing to Sidi-Dris-El-Kettani. On the other hand, and in the second case,<sup>38</sup>

<sup>36</sup> Driss El-Kittany.

<sup>37</sup> i. e., if it were the property of Muley Haffid.

<sup>38</sup> i. e., if it were the property of Sidi-Dris-El-Kettani.

the Government of His Majesty will be under the obligation to evacuate the farm, unless, following an agreement by both parties on a reasonable price, it decides to retain the farm. Nevertheless, the Spanish Government will continue to exercise its right of eviction until it is established that the Lala-Sfia farm was sold without right.

As has already been explained, it is a judicial matter, which must come before, and follow the proceedings of, the ordinary courts; it cannot be a question for diplomacy except in case of a denial of justice, and there has been no reason to expect that such will happen.

Furthermore, it must be shown that the status (*calidad*) of American protégé, which El-Kettani claims (*ostenta*) does not exempt him from the competency of the said courts. In fact, article 11 of the convention relative to the right of protection in Morocco, signed at Madrid, July 3, 1880,<sup>39</sup> and signed by the Government of His Majesty as well as by that of the United States, establishes that property rights shall be subject to the provisions of the laws of the country, and that any question that may arise concerning the rights of property shall be decided according to these same laws, except in the case of appeal (*salvo apelación*) to the Ministry of Foreign Affairs, stipulated in the Treaties. At a later date, article 60 of the General Act of the Conference of Algeciras of April 7, 1906,<sup>40</sup> also signed by Spain and the United States, confirmed the said provision of the convention of 1880, and at greater length in article 123 of the Act itself which reads, "All treaties, conventions, and arrangements of the signatory powers with Morocco remain in force."

The only competent authority in the matter, until the establishment of the Spanish Protectorate, was the authority of Xeráa, but from the time of the publication of the dahir of the Registry of Landed Properties, the Spanish courts also took cognizance of questions affecting properties of this class inscribed in the said register, and since the signatory powers of the convention of Madrid, when they recognized the competency of the territorial jurisdiction of the Maghzen, voluntarily and expressly submitted themselves to the subsequent reforms in matters relating to the proceedings and administration of justice which the Moroccan authorities considered convenient to introduce,

<sup>39</sup> *Foreign Relations*, 1880, pp. 917, 919. Article 11 reads:

"The right to hold property is recognized in Morocco as belonging to all foreigners.

The purchase of property must take place with the previous consent of the government, and the title of such property shall be subject to the forms prescribed by the laws of the country.

Any question that may arise concerning this right shall be decided according to the same laws, with the privilege of appeal to the minister of foreign affairs stipulated in the treaties."

<sup>40</sup> *Ibid.*, 1906, pt. 2, pp. 1495, 1504, 1511.



without anything being stipulated on this point or any reservation to the contrary being formulated by the Government of the United States on signing the said convention of 1880, it is evident that the United States accepted the reforms which might be established, and by virtue of one of these reforms (the said Shereefian dahir creating the Register of Landed Properties), the Spanish courts of the Zone were substituted in cognizance of these questions in the name of the Sultán of Morocco. Only in the event that this legislation of the Maghzen has broken international treaties or the rules of international law, or brought about differences of treatment on account of nationality which has not occurred, could it be a question for reparation.

To sum up, the declaration contained in the note of this Secretariat General of August 9, 1929, refuting the claim of Dris-El-Kettani, should be cleared up in the sense of referring the matter to the competency of the courts of justice, and before which the interested parties may take action according to established procedure; only in case of a denial of justice may the matter be referred to diplomacy.

- c) The first claim of Rahamin Muyal against  
the railway company..... 10,000.00 pesetas.

This claim has been brought against the Railway Company of Larache-Alcázar, for having constructed a culvert which debouches into a road giving access to various orchards belonging to the claimant, with the result that his woodland has been destroyed. The damages which have thereby been produced are appraised by Rahamin Muyal at 12,000 pesetas; the experts have estimated them at 10,000.

Furthermore, this case is one of litigation, that is, it is in the competency of the courts of justice, and the claimant should bring up the matter before these courts; until this has been done, His Majesty's Government is not able to accept diplomacy.

- d) The 11th claim of Tahami Selauí <sup>41</sup> for the closing of a fondak.

This case refers to the shutting down during nine months of a fondak at Alcázar; indemnification in the amount of 3,600 Hassani pesetas, or 2,000 Spanish pesetas, is demanded.

In view of the fact that the closure of the fondak resulted from a police regulation issued for sanitary reasons, which affected all fondaks of the same class, foreign subjects and protégés not being exempt from

<sup>41</sup> Thamy Slawee.

compliance with the police regulations, the claim is inadmissible, and Mr. Blake so recognized it, to a certain extent, when discussing the matter with the High Commissioner he abandoned in principle the said claim.

- e) The second claim of Raisuni through fear of cultivating his lands on account of the possible vengeance of his cousin, the late Caid de Yebala . . . . . 33, 333. 35 pesetas.

Sid-El-Hassan-Ben-Ahmed-Ben-Adik-Raisuni has presented this claim; he alleges the impossibility of being able to administer and attend to his lands and farms for a period of eleven years, that is, from 1918 to 1928 inclusive, through fear of being again seized and then assassinated by his cousin *el jerife* of the same name and the Caid de Yebala; for this reason he claims 515,165 Hassani pesetas. Aside from the notorious exaggeration of these figures, the unrightfulness of the claim is apparent, and only in a spirit of special compromise has the High Commissioner reached an agreement in principle with Mr. Blake, relative to the basis on which the claim would be withdrawn in exchange for increasing the amount to be paid the claimant for his third claim—damages caused to his lands, from 6,412 to 12,000 Spanish pesetas.

The impossibility of admitting the claim in question cannot be more eloquently stated than by translating below the words of the well-known Swiss juriconsult, Mr. Hubert, a member of the Permanent Court of International Justice at the Hague, and charged not so very long ago by the Governments of Spain and Great Britain with examining the demands brought by the latter in favor of British protégés who had been damaged in the Spanish Zone of Morocco. In stating that the two claims were unlawful, this high authority spoke as follows: "Now, if nothing more is involved than the subjective evaluation made by the interested party with regard to the possible risks relative to the tilling of the soil, this is not sufficient to establish the responsibility of the Protectorate, notwithstanding that in other aspects, and in a general way, the conditions proving this responsibility have been fulfilled."

Therefore, the Government of His Majesty refuses this claim, but taking into account the spirit of cordial compromise shown on the part of the Conde de Jordana, referred to above, it admits, *a título gracioso*, the compensation mentioned by the High Commissioner in his conversations with Mr. Blake, and this will be shown when the third claim of Raisuni is examined.

## 3. Claims:

## a) For robberies:

3rd, 4th and 5th [claims of] Tahami Selau for thefts of livestock*	
7th [claim of] Tahami Selau for theft of a mare.....	555.55 pesetas
8th [claim of] Tahami Selau for theft of a horse.....	277.75 “
9th [claim of] Tahami Selau for theft of a mule.....	555.55 “
The 2nd [claim of] Mohamed Oknin.....	4,188.23 “

## b) For damages to farmlands:

2nd [claim of] Tahami Selau (El Minza)..	23,083.35 pesetas
10th [claim of] Tahami Selau (Tarik Er Rad).....	2,777.75 “
3rd [claim of] Raisuni.....	12,000.00 “
1st [claim of] Mohamed Oknin.....	8,333.35 “

The figures mentioned in relation to each of the claims included in this group agree exactly with the amounts arrived at by the experts, with the sole difference, not with regard to amounts but with regard to figures, that the sums which the experts have arrived at are as a rule in Hassani pesetas; these have been converted into Spanish pesetas. With regard to Raisuni's 3rd claim, for damages to various farmlands, the figure arrived at by the experts was 112,500 Hassani pesetas, equivalent to 6,412 Spanish pesetas, but as a result of the offer of the High Commissioner mentioned above, with respect to the second Raisuni claim, it has been fixed at 12,000 Spanish pesetas.

Already in its note of August 9th, last, this Secretariat General has shown that in none of the cases included in this third group of claims has the responsibility of the Protectorate been clearly established; and in many of these cases, when this responsibility has been established, the figures mentioned are considered excessive; nevertheless, the Government of His Majesty showed itself in the said note disposed to approve the payment (*aceptar el pago*) of 62,993.55 Spanish pesetas the moment when the American Government should renounce the capitulatory régime; therefore, it seems unnecessary to analyze the said claims case by case.

As Your Excellency will readily understand, there does not exist much difference between the proposals contained in the above-mentioned note of August 9, 1929, and the conversations which took place previously in Tangier and in Tetuán. The Government of His Majesty accepts payment of the seven claims included in the first group, and the eleven claims which form the third, or eighteen claims

\* The amount of these claims, which should read 11,222.00 Ptas., is omitted, obviously a typographical error. [Footnote in original translation.]

amounting to 134,046.30 pesetas in the first group and 62,993.55 in the third; or a total of 197,039.85 pesetas; the only claims that it is unable to accept are the five which form the second group, but it must be stated that only three of these claims, totaling 41,745.35 pesetas are absolutely rejected; it should be pointed out that the most important of these claims, the second Raisuni claim for fear of cultivating his lands, 33,333.35 pesetas, has been in principle withdrawn by Mr. Blake, on condition that the sum paid to the said Raisuni for his third claim be raised to 12,000 pesetas; this condition has been accepted by the Government of His Majesty, as has already been explained, in such a way that these three claims, of which only two are really rejected, amount to 8,412.50 pesetas.

The non-admission of the two remaining claims, i.e., the sole claim of Dris-El-Kettani for the farm Lala-Sfia, 400,000 pesetas, and the first claim of Rahamin Muyal against the railway company for 10,000 pesetas, amounting to 410,000 pesetas, does not imply on the part of the Government of His Majesty a refusal of all rights to the claimants, but only the statement that diplomacy as a means of solution is inadmissible, and that the question comes within the competency of the courts of justice, before which the interested parties must take their cases in order to secure recognition of the rights which they allege are in justice due them; the Government of His Majesty reserves for itself the right to defend before the said courts the legal titles which, in the case of the Raisuni claim, are opposed to the claim of the said British [*American?*] protégé.

Furthermore, with regard to the claim of Rahamin Muyal, and in view of the fact that it is a question of an unimportant sum, the Government of His Majesty is disposed, as was announced to Mr. Whitehouse in the note of August 9th, last, to satisfy this claim, leaving only the claim of Dris-El-Kettani to be taken up in the courts.

There is no doubt that with the information given above, the Government of the United States will be able to appreciate the reasons which justify the attitude of His Majesty's Government in the matter, and, as a result of a spirit of cordial friendship which has inspired His Majesty's Government to assent to the payment (*aceptar el pago*) of the claims, all of which it does not consider absolutely just, the Washington Government (*Gabinete*) on its part, in view of what Mr. Kellogg, Secretary of State, said in the note which he sent to His Majesty's Ambassador at Washington, November 7, 1927,<sup>43</sup> stating that the Government of the United States was disposed and even desirous of taking into benevolent consideration the recognition on its part of our Protectorate, as soon as a satisfactory solution of the American claims in our Zone could be found, should not withhold

<sup>43</sup> *Foreign Relations, 1927*, vol. III, p. 273.

*de jure* recognition of the Spanish Protectorate in Morocco, nor should it delay in signing the said convention giving up the capitulatory regime in this Zone. This matter has already been the subject of conversations on the part of His Majesty's Ambassador at Washington, it being understood that His Majesty's Government is desirous of knowing the date when this convention of renunciation may be signed, with a view to settling in Tangier, or in Washington, as the American Government (*Gabinete*) desires, the payment of the claims, the acceptance of which is ratified by the present note, so that payment may take place the same day.

I avail myself [etc.]

EDUARDO PALACIOS

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452.11/241

*The Acting Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)*

No. 584

WASHINGTON, March 13, 1930.

SIR: The Department acknowledges the receipt of your despatch No. 473, dated January 31, 1930,<sup>44</sup> relating to American claims in the Spanish Zone of Morocco, and encloses for your information an instruction sent to the American Ambassador at Madrid.<sup>45</sup>

In regard to the references in your telegram of December 3, 1929,<sup>44</sup> and in your despatch of January 31, 1930, to press reports concerning negotiations between the United States and Spain relative to Spanish claims against the United States Government arising out of the war, you are informed that no such negotiations are being conducted. Pursuant, however, to a proposal concurred in by the Spanish Government in a note of the Embassy here dated June 20, 1929,<sup>46</sup> there are being prepared by the Governments of the United States and Spain lists of reciprocal claims, and it is anticipated that partial lists will be completed and exchanged by May 1 of this year. These claims, some of which go back to the early part of the last century, cover various subjects but do not embrace the Spanish Zone in Morocco.

Referring to your proposal that the payment of awards to Spanish claimants should be contingent upon an equitable settlement of American claims in Spanish Morocco, the Department believes that such a course would be unnecessary with respect to those claims agreed upon in the Joint Report of July 12, 1928, and impracticable at present in regard to restitution of taxes illegally collected from American citizens and protégés in the Spanish Zone in Morocco for

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<sup>44</sup> Not printed.

<sup>45</sup> No. 30, March 13, 1930 (not printed); it requested an early reply to instruction No. 5, January 18, p. 605.

<sup>46</sup> *Foreign Relations*, 1929, vol. III, p. 798.

the reasons that not only will it be some time before the reciprocal claims are liquidated but furthermore it cannot now be anticipated that a balance will be due to Spain.

With reference to your suggestion that the Department formally request an immediate restitution by the Spanish Government of all Gate and Consumption Taxes illegally collected from American citizens and protégés in Spanish Morocco, the Department does not believe in view of the other matters pending between the Governments of the United States and Spain that a request of this character would be expedient at the present time.

A copy of this instruction is being transmitted to the American Ambassador at Madrid.

I am [etc.]

J. P. COTTON

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452.11/242

*The Acting Secretary of State to the Ambassador in Spain (Laughlin)*

No. 75

WASHINGTON, August 6, 1930.

SIR: Reference is made to your despatch No. 49, dated February 27, 1930, enclosing a copy of a note, dated January 22, 1930, which you received from the Spanish Secretary General of Foreign Affairs, in regard to the pending question of American claims in the Spanish Zone of Morocco.

The Department regrets that the Spanish Government has seen fit to question the validity of certain of the claims approved first by Señor Pla and subsequently by General Jordana and is making its acceptance of others contingent upon the renunciation of this Government's capitulatory rights in the Spanish Zone of Morocco.

You will, of course, understand that with respect to the capitulatory rights of the United States in Morocco, this Government's position is that the whole question must be considered integrally and not considered with respect to any one Zone, hence it can form no part of this particular question.

With respect to the matter of claims the Department is loathe to believe that the claims cannot be adjusted by direct diplomatic action in accordance with the procedure contemplated in the notes from the Spanish Embassy in Washington, dated July 26, 1927, and February 11, 1928, respective, (two copies of each of which, accompanied by translations, are enclosed).<sup>47</sup>

The Department hopes that the Spanish Government can be persuaded to see the desirability of reconsidering the matter of the American claims in the Spanish Zone of Morocco in the spirit which moved its plenipotentiaries, Señor Pla and General Jordana, and of

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<sup>47</sup> *Foreign Relations, 1927*, vol. III, p. 272; *ibid.*, 1928, vol. III, p. 346.

thus attaining a practical settlement with a view to granting reasonable redress to the injured parties and bringing about a normalization of the relations of the United States with the Spanish authorities in Morocco. It is suggested, therefore, that you discuss this matter with the appropriate authorities.

Should it develop that the Spanish Government is unwilling to reconsider its position with respect to the American claims in Morocco, you are instructed to request formally of the Spanish Government an immediate restitution of all gate and consumption taxes collected in violation of the treaties, from American citizens and protégés in the Spanish Zone of Morocco, and at the same time request the Spanish Government to give a specific undertaking that further unauthorized taxation or legislation will not be applied to such persons without the consent of this Government, since in advance of formal recognition of the Spanish Zone, this Government cannot consent to the application to American citizens and protégés of legislation or taxation introduced by the Spanish Administration. Reference is made in this connection to the precedents of British claims in the Spanish Zone, mentioned on page 3 of Mr. Blake's despatch No. 473, of January 31, 1930,<sup>49</sup> a copy of which has been sent to you directly from Tangier.

If the Spanish Government evinces a disposition to renew its consideration of the claims, you may point out in conversation that, as stated in Mr. Blake's letter to you of April 4, 1930,<sup>49</sup> the two Governments appointed Plenipotentiaries who were clothed with full powers for passing on the claims and assessing the amounts of the indemnities, and that their findings were embodied in a joint report signed on July 12, 1928, by Mr. Blake, American Diplomatic Agent at Tangier, and Señor Don Antonio Pla, then Minister Plenipotentiary and Consul General of Spain at Tangier; that subsequently General Jordana, the Spanish High Commissioner at Tetuan, gave Mr. Blake his personal assurance that the joint report of the Plenipotentiaries had been placed in his hands with final responsibility for approval; that General Jordana urged several modifications which Mr. Blake accorded under an *ad referendum* understanding; that General Jordana thereupon informed Mr. Blake that the matter was settled to his entire satisfaction and, furthermore, that it was only in consideration of these assurances that Mr. Blake consented to recommend any alterations in the joint report.

With reference to the Spanish Government's stipulation that the payment of the third class of claims cited in the note from the Secretary General of Foreign Affairs, given therein as amounting to a total of 62,993.55 Spanish pesetas, is acceptable but only on condition that the United States Government renounce the régime of capitulations

<sup>49</sup> Not printed.

in the Spanish Zone, you should reply in the sense of the third paragraph of this instruction. Furthermore, this question formed no part of the understanding arrived at in 1927 between the Spanish Government and the Government of the United States to proceed with negotiations for the settlement of the American claims. As already stated in its instruction to you of January 18, 1930, the Department cannot make any departure in this connection from the policy which it pursued in regard to the settlement of American claims in the French Zone and to the recognition of the French Zone.<sup>50</sup>

The Department suggests that you leave with the appropriate authorities an *aide-mémoire* setting forth this Government's views as outlined herein and in previous instructions on this subject. The *aide-mémoire* should be accompanied by a memorandum treating in detail the claim of the American protégé Sid Driss El-Kittany for the usurpation of his property near Alcazar-Kebir in substantially the terms suggested by Mr. Blake in pages 4 to 9 of his despatch No. 487 of April 4, 1930,<sup>51</sup> a copy of which accompanied his letter to you of the same date.

Should you conclude that there is a possibility that the Spanish Government can be induced to recognize the fundamental unsoundness of its position with respect to the American claims in the Spanish Zone of Morocco and make a further effort to meet this Government's expectations in the matter, and if Mr. Blake's presence in Madrid might be of help in furthering a settlement, the Department would be pleased to instruct him to proceed to Madrid at whatever time that would be convenient to both of you.

A copy of this instruction is being sent to Mr. Blake for his information.

Very truly yours,

WILBUR J. CARR

881.512/80

*The Acting Secretary of State to the Ambassador in Spain (Laughlin)*

No. 77

WASHINGTON, August 7, 1930.

SIR: Reference is made to your despatch No. 47, of February 19, 1930, with which you enclosed a copy, in translation, of a note, dated February 11, 1930, from the Secretary General of Foreign Affairs<sup>52</sup> in which request was made that certain Dahirs be applied to American citizens and protégés in the Spanish Zone of Morocco.

You will please advise the appropriate Spanish authorities that this Government cannot admit the application of the Dahirs in question until after this Government has accorded its recognition of the Span-

<sup>50</sup> See *Foreign Relations*, 1917, pp. 1093 ff.

<sup>51</sup> Not printed.

<sup>52</sup> Neither printed.



ish Zone, such recognition being contingent upon a proper and equitable settlement of American claims in that region which forms the subject of an instruction going forward to you today.<sup>53</sup> You should point out at the same time that any application of the Dahirs in question to American nationals and protégés would be in derogation of this Government's rights in the Spanish Zone.

Very truly yours,

WILBUR J. CARR

452.11/253

*The Ambassador in Spain (Laughlin) to the Secretary of State*

No. 174

SAN SEBASTIAN, September 23, 1930.

[Received October 4.]

SIR: Pursuant to the instructions you were so good as to issue following my telegram No. 41 of August 25, 12 Noon,<sup>54</sup> the Diplomatic Agent at Tangier came to see me at San Sebastian and went over with me the question of our Claims in the Spanish Zone of Morocco. I had already examined in detail more than once the voluminous correspondence in the Embassy's files on this subject, but my conversations with Mr. Maxwell Blake prepared me far better to deal with it. I am much gratified to have had the benefit of his explanations and views.

I suggested to Mr. Blake that on his way back to Tangier he stop in Madrid to talk informally at the Ministry of State with certain under-officials in the Moroccan Division, and on the 21st of this month I went up from San Sebastian to Madrid to discuss the matter with Señor Barcenas, the Under Secretary of State, with whom I have a close and friendly acquaintance that began many years ago. The Duke of Alba is not within reach at present, and in any case I have preferred to treat with Señor Barcenas who is the administrative head of the Spanish Foreign Office. I had a conversation of an hour and a half at the Ministry of State with Señor Barcenas yesterday, during which I went completely over the ground covered by your instructions No. 5 of January 18, 1930, and No. 75 of August 6, following, and I have the honor to summarize very briefly the results.

I told him that I thought there had been so much written on this subject over a number of years that the issue was beginning to be seriously confused, and that I thought it might be possible to reach a settlement by clearing the ground of accumulated details and regarding the matter squarely as one that reduced itself to our desire to have the claims settled, and the Spanish desire to have our recognition of their sphere of influence.

<sup>53</sup> *Supra.*

<sup>54</sup> Not printed.

I suggested, however, that much had been accomplished by the examination of the question by Mr. Maxwell Blake and Señor Pla, and that it would not do to throw all that overboard. I went into Mr. Blake's contention that he and Señor Pla had been furnished with full powers by their respective Governments to settle the question between them, and to this Señor Barcenas replied in the most positive manner that his Government had never given Señor Pla such powers. He said that the latter had been fully authorized to negotiate with Mr. Blake for a settlement but that the result of the joint negotiations had to be submitted to Madrid for approval and possible correction before a binding agreement could be made, and he showed me the copy of a note addressed on February 25, 1928 by Mr. Kellogg to Señor Padilla<sup>55</sup> which, taken by itself, seemed to indicate nothing more extensive than an intention to clothe Mr. Blake with powers necessary to make a report. He reminded me that the last Spanish note on the subject, that of January 22, 1930, signed by Señor Palacios, which was submitted to you in my No. 49 of February 27th, had never been answered in writing, and I said that as I expected to go home on leave in October, I would go over the whole question at the Department of State and attempt to find a solution that would be mutually acceptable.

During the course of the conversation I presented all the points of principle for which you have contended and succeeded in getting Señor Barcenas to admit that his Government would no longer urge the question of our abandonment of the Capitulations in the discussion of the claims. He was not, however, willing to yield anything on the point of the Spanish objection made to the territorial item of Sidi-Dris-El-Kettani in the note of January 22, 1930, an objection which had been interjected after the Pla-Blake Joint Report, saying that these lands had been bought by the Spanish Government in good faith from the Sultan of Morocco and that the question of who had possessed the title to them before the purchase was one that must be decided by the competent courts.

I do not think the Spanish Government is unwilling to reconsider its position touching these Claims, and this is indicated by Señor Barcenas' present attitude toward the matter of the Capitulations; but I am not confident of a desirable result in continuing written remonstrances to the Spanish Government without having the advantage of conversations at the Department in Washington which I earnestly hope I may be allowed at an early date.

Respectfully yours,

IRWIN LAUGHLIN

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<sup>55</sup> *Foreign Relations*, 1928, vol. III, p. 346.

## NETHERLANDS

### ARBITRATION TREATY BETWEEN THE UNITED STATES AND THE NETHERLANDS, SIGNED JANUARY 13, 1930<sup>1</sup>

711.5612a/27

*The Netherlands Minister (Van Royen) to the Secretary of State*<sup>2</sup>

No. 1333

With reference to its *aide-mémoire* of June 27, 1928, No. 1949,<sup>3</sup> the Netherlands Legation has the honor to state that the Netherlands Minister for Foreign Affairs has learned with great interest the contents of the first article of the Arbitration Treaty signed by the American States at the occasion of the International Conference on Conciliation and Arbitration of Washington (December 10, 1928–January 5, 1929).<sup>4</sup>

As is known to His Excellency the Secretary of State the first article of that treaty reads as follows:

“The High Contracting Parties bind themselves to submit to arbitration all differences of an international character which have arisen or may arise between them 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 and which are juridical in their nature by reason of being susceptible of decision by the application of the principles of law.

“There shall be considered as included among the questions of juridical character:

“(a) The interpretation of a treaty;

“(b) Any question of international law;

“(c) The existence of any fact, which if established would constitute a breach of an international obligation;

“(d) The nature and extent of the reparation to be made for the breach of an international obligation.”

The Netherlands Minister for Foreign Affairs would greatly appreciate if the terminology of this first article could be used likewise in the first article of the American-Netherlands Arbitration Treaty.

The article, if the United States Government prefers—in the same way as in the draft for the American-Netherlands Treaty, submitted by the State Department<sup>5</sup>—could begin with the words, “All differ-

<sup>1</sup> For previous correspondence, see *Foreign Relations*, 1928, vol. III, pp. 412 ff.

<sup>2</sup> Handed to Assistant Secretary of State Castle on May 10, 1929.

<sup>3</sup> *Foreign Relations*, 1928, vol. III, p. 412.

<sup>4</sup> Signed January 5, 1929; *ibid.*, 1929, vol. I, p. 659.

<sup>5</sup> Draft not printed. It was identical in effect with treaty signed with France on February 6, 1928; *ibid.*, 1928, vol. II, p. 816.

ences", after which, like in the above quoted article, the words "of an international character etc. etc." would follow and after the words "principles of law" the words "shall be submitted etc. etc." of the above mentioned draft could be maintained as the continuation and end of the sentence.

The Netherlands Minister for Foreign Affairs prefers the above quoted text of the Inter-American Treaty on account of its being simpler and for the reason that the word "equity" (a juridical notion which does not seem well-defined to non-Anglosaxon minds) does not appear in it. Jonkheer Beelaerts moreover considers important, that the enumeration has been inserted of the above quoted groups (a) to (d), which likewise has been entered in several treaties concluded by the Netherlands. This, no doubt, during the discussion of the treaty in the States-General, will make the replacement of the old treaty by the new one more acceptable.

Besides, in art. 2 of the Inter-American Treaty of Washington an exception is made for differences "(a) which are within the domestic jurisdiction of any of the Parties to the dispute *and are not controlled by international law.*" The underlined words<sup>5a</sup> do not appear in the draft submitted by the United States to The Netherlands last year. At the same time, they give a more precise description of the exception. For, if a case lies albeit "within the domestic jurisdiction of any of the parties" but is subject at the same time to international law, there is no reason to withdraw it from arbitration. The additional determination expresses more clearly, that, in order that a case may be withheld from arbitration, it is not sufficient that, *according to the internal legislation* of a State, a difference belongs to its own jurisdiction, but that, moreover, it is required, that such difference be not subject to international law. The same precise determination would be obtained more or less by inserting the word "inclusive" before "domestic jurisdiction" but the text of the Inter-American Treaty is clearer.

It is by no means the intention of the Netherlands Minister for Foreign Affairs to cause, by his modification proposals, delay in the negotiations of the new Netherlands-American Arbitration Treaty. But as it is clear, that certain stipulations in a treaty signed by the United States are decided improvements, Jonkheer Beelaerts deems it his duty, not to fail to make an effort to insert those improvements also in the American-Netherlands Treaty. The Netherlands Legation therefore has been directed to submit the foregoing remarks to the kind consideration of the Secretary of State.

Though perhaps superfluous, the Netherlands Legation ventures to draw the attention of the State Department to the fifth paragraph of

<sup>5a</sup> Printed in italics.

the preamble of the draft, the latter has submitted, where, since the temporary prolongation of the present treaty,<sup>6</sup> the words "which expires by limitation on March 25, 1929" should now be cancelled.

WASHINGTON, May 9, 1929.

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711.5612a/32

*The Acting Secretary of State to the Netherlands Minister (Van Royen)*

WASHINGTON, June 14, 1929.

SIR: I have the honor to refer to *aide-mémoires* No. 1949, which you handed to Mr. Kellogg on June 28, 1928, and No. 1333, which you left with Mr. Castle on May 10, 1929, concerning the proposal for a treaty of arbitration between the United States and the Netherlands which was made in this Government's communication dated March 29, 1928.<sup>7</sup>

I am gratified to note, in the earlier *aide-mémoire*, your statement that the proposal was received with satisfaction at The Hague. There were, however, certain counter-suggestions which, in accordance with your Government's desire, have been considered and may be answered as follows:

(1) It might be preferable, your Government feels, to omit in Article 1 the words "which have not been adjusted as a result of reference to the Permanent International Commission constituted pursuant to the Treaty signed at Washington December 18, 1913."<sup>8</sup> This is the Treaty of Conciliation which, you will recall, became effective on exchange of ratifications March 10, 1928. Article 1 provides that all disputes between the two parties, "to the settlement of which previous arbitration treaties or agreements do not apply in their terms or are not applied in fact, shall, when diplomatic methods of adjustment have failed, be referred for investigation and report to a permanent International Commission." Your Government appears to feel that this language may be inharmonious with the language of Article 1 of the proposed arbitration treaty, providing that justiciable disputes which it has not been possible to adjust by diplomacy and "which have not been adjusted as a result of reference to the Permanent International Commission" shall be submitted to arbitration and that it would be preferable to have the language of both conventions such as to require a stated arrangement for the invocation of investigation by commission or of arbitration, depending upon the nature of the dispute.

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<sup>6</sup> See *Foreign Relations*, 1929, vol. III, pp. 539 ff.

<sup>7</sup> Not printed; but see telegram No. 11, March 29, 1928, 5 p.m., *ibid.*, 1928, vol. III, p. 412.

<sup>8</sup> *Ibid.*, p. 408.

While fully appreciative of your Government's position, this Government doubts the necessity as well as the desirability of this change. The Treaty of 1913 should be read with the proposed treaty of arbitration. As this Government construes the language of the two instruments the remedies of conciliation and of arbitration exist side by side, indeed, but neither takes precedence over the other. The party which shall desire to invoke one of these remedies for the settlement of a particular dispute will always have the option of deciding which remedy it will propose. Either remedy may be proposed before the other provided, of course, that it is suitable under the treaties for the adjustment of the dispute.

This attitude of the Government of the United States is brought forth clearly in the recent treaties signed by this Government with the Government of Germany. The signature took place on the same day, May 5, 1928.<sup>9</sup> Article I of the Conciliation Treaty provides that "any disputes . . . 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." Article 1 of the Arbitration Treaty provides that justiciable differences which have not been adjusted by diplomacy or "as a result of reference to an appropriate commission of conciliation," shall be submitted to the Permanent Court of Arbitration at The Hague or to some other competent tribunal.

Although the language used in Article I of the Conciliation Treaty with the Netherlands differs somewhat from that in the Treaty with Germany, I consider that the construction of the two should be the same. Wherever the dispute is of such a character that it may be settled in accordance with the procedure laid down by either the Arbitration Treaty or the Conciliation Treaty the party proposing a settlement may also name the procedure. Of course, if the dispute is not justiciable, the remedy of conciliation alone is available.

I concur with the opinion of your Government that the expression "previous arbitration treaties or engagements" in Article 1 of the Treaty of 1913 refers to arbitration treaties which exist previous to the dispute referred to, not previous to the conciliation treaty.

In view of the foregoing statements it may appear to be a repetition for me to refer to the conclusions expressed on page 6 of the Legation's *aide-mémoire* of June 27th, that differences arising after the conclusion of the new Arbitration Treaty and falling within its scope are excluded from the application of the procedure under the Conciliation Treaty of 1913. I may say, however, that I do not concur in that view, but, consider, as already stated, that if the question is justiciable recourse

<sup>9</sup> *Ibid.*, vol. II, pp. 867 and 869.

may be had to either the new Arbitration Treaty or the Conciliation Treaty of 1913.

(2) Your Government suggests the omission in Article 2 of the proposed treaty of the provision that the treaty shall not be invoked in respect of any dispute the subject matter of which "involves the interests of third parties." I regard this exception as necessary. Of course, the interests of third parties referred to must be substantial interests. The mere possibility of some remote interest arising could not, as I view it, be made the ground for refusing to submit a dispute to arbitration. But I do not feel that, where there is a definite and substantial interest of a third party, the two parties to the proposed treaty of arbitration should be obligated to refer the dispute to an arbitration between themselves. If it is desirable to arbitrate the matter with the participation of a third party, there is nothing in the Convention to hinder in any way such resort to arbitration. Both the United States and the Netherlands are, happily, parties to the Convention for the Pacific Settlement of International Disputes concluded at The Hague on October 18, 1907.<sup>10</sup> To this Convention a large number of the other governments of the world are also parties. Its remedy for the settlement of disputes remains open and might naturally be invoked in case of disputes among several countries all or any of which are parties to it. I believe that the obligation of the bilateral treaty should be confined to disputes which may arise between the two Governments parties to that treaty and that such obligation should cease where third parties have substantial interests in the dispute.

(3) With reference to the effective date of the treaty under consideration, you will recall, of course, that the treaty signed February 27, 1929,<sup>11</sup> for the purpose of further extending the term of the treaty of 1908,<sup>12</sup> has come into force and provides in Article I that the extension indicated is for one year from March 25, 1929, "or until within that period a new arbitration convention shall be brought into force" between the Parties. Accordingly, the language of the draft treaty as originally proposed by this Government, making the treaty effective "on the date of the exchange of the ratifications", would seem to require no alteration.

(4) Your Government suggests that the term of the treaty shall be ten years and that thereafter it shall continue for periods of five years unless notice of termination is given. You will recall that in the present draft no specific term is stated but that the treaty runs

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<sup>10</sup> *Foreign Relations*, 1907, pt. 2, p. 1181.

<sup>11</sup> *Ibid.*, 1929, vol. III, p. 539.

<sup>12</sup> Signed at Washington, May 2, 1908; *ibid.*, 1909, p. 442.

on indefinitely unless it is terminated by either party on notice of one year. It is believed that the latter provision is preferable and this Government will be glad if your Government will accept the provision as contained in the draft.

In turning, now to your *aide-mémoire* No. 1333, dated May 9, 1929, I need hardly say that the foregoing detailed reply to your *aide-mémoire* No. 1949, dated June 27, 1928, must be regarded as suggesting the feeling on the part of this Government, that for the immediate future at least, your proposal that the Governments of the United States and the Netherlands model their arbitration treaty upon the general treaty of inter-American arbitration is impracticable. That treaty has not yet, so far as I am informed, received the ratification of any Government. The formula upon which is based the treaty proposed by the United States to the Netherlands has, on the other hand, been accepted in numerous cases and treaties based upon it are now in operation between the United States and Albania, Austria, Czechoslovakia, Denmark, Finland, France, Germany and Sweden.

In arriving at this conclusion, however, this Government has not failed to take note of the spirit of friendship and zeal for the advancement of arbitration which prompted your suggestion and I wish to express to you my cordial appreciation.

The slight alteration mentioned on page 6 of your *aide-mémoire* of May 9 will, of course, be made.

Accept [etc.]

J. REUBEN CLARK, JR.

711.5612a/35

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*The Netherlands Legation to the Department of State*

No. 3160

The Royal Netherland Legation has not failed to transmit to the Government at The Hague the communication of the Secretary of State of June 14, 1929, answering certain counter suggestions which have been made by the Netherland Government to the proposal of a treaty of arbitration between the Netherlands and the United States.

The Foreign Minister at The Hague has received this detailed answer with great interest but regrets that the Government of the United States will not be in a position to agree with certain improvements that he thought necessary to suggest. However in order to prove his earnest desire to arrive as soon as possible at a satisfactory result and to show his spirit of friendship for the advancement of arbitration, the Minister of Foreign Affairs is ready to accept the text for the treaty as lately proposed by the Secretary of State.

At the same time the Foreign Minister wishes to draw the attention of the Secretary of State to the following question.



The wording of Article I of the Treaty of December 18, 1913 for the Advancement of Peace between the Netherlands and the United States "to the settlement of which previous arbitration treaties or agreements do not apply in their terms", were by the drafting of a treaty chosen on purpose to express the opinion that in case a dispute should be suitable under the treaty of arbitration, one of the parties could refuse the settlement in accordance with the procedure laid down by the Conciliation Treaty and insist upon arbitration following the Arbitration Treaty. Proof of this will be found in the negotiations for the Conciliation Treaty. The Secretary of State, Mr. Bryan, proposed to the Netherland Government a conciliation treaty<sup>13</sup> of which Article I should have read as follows:

"The high contracting parties agree that all disputes between them, of every nature whatsoever, which diplomacy shall fail to adjust, shall be submitted for investigation and report to an International Commission, to be constituted in the manner prescribed in the next succeeding Article; and they agree not to declare war or begin hostilities during such investigation."

In a note of December 13, No. 1452,<sup>14</sup> the Netherland Minister informed the Secretary of State that Her Majesty's Government would be very glad to conclude a treaty as proposed by Mr. Bryan but that a modification in Article I would be highly appreciated, in order to lay down that in case of international disputes the existing arbitration treaties should have to be followed in the first place so as to arrive, if possible, to a settlement of these disputes by arbitration. Only in the case the two Governments might fail to reach to an agreement on arbitration (f. i. by not approving of the compromise by the Senate) or in the case of the three exceptions that can be invoked following the arbitration treaty, the dispute should be referred to an International Commission. The original text of part of said note relating to this question reads as follows:

"... a stipulé expressément à l'article 1° qu'en cas de différends internationaux les traités d'arbitrage existants devront être observés en premier lieu afin d'arriver si possible à une solution arbitrale de ces différends.

"Ce n'est que lorsque les deux Gouvernements ne peuvent tomber d'accord quant à un arbitrage (par exemple dans le cas où le Sénat Américain rejeterait un compromis projeté) ou bien lorsqu'il s'agirait d'un des trois cas concernant l'honneur national, l'existence nationale ou l'intégrité du territoire, pour la solution desquels l'arbitrage est exclu, que le différend serait soumis à la commission permanente d'examen. Voilà pourquoi a été insérée à l'article premier la phrase 'to the settlement of which previous arbitration treaties or agreements do not apply in their terms or are not applied in fact'."

<sup>13</sup> Correspondence not printed.

<sup>14</sup> Not printed.

For this reason Minister van Rappard proposed to Mr. Bryan to insert the following words to Article I, "to the settlement of which previous arbitration treaties or agreements do not apply in their terms or are not applied in fact."

On the 15th of December 1913 the Secretary of State, Mr. Bryan, informed Minister van Rappard orally that the Government of the United States accepted the suggestions and modifications made by the Netherland Government; which statement was forwarded telegraphically to The Hague the same day. A letter from Mr. Bryan dated December 15, 1913<sup>15</sup> confirmed this. The Government of the United States has here consequently adopted the principle that by international disputes in the first place be followed the provisions of the existing arbitration treaty and that every effort should be made to arrive to a solution by arbitration. Only in case this should prove not to be possible, the dispute would be laid before the Conciliation Commission.

Mr. James Brown Scott is of the same opinion and mentions, in the introduction of the publication of "Treaties for the Advancement of Peace Between the United States and Other Powers", published in 1920 by the Carnegie Endowment for International Peace on page XL (40) that "the Netherland Government wanted to have it distinctly appear that, as far as it was concerned, the treaty was primarily to bring to investigation and report questions ordinarily reserved from the obligation to arbitrate contained in the general treaties of arbitration, although if the agreement to arbitrate under the general treaty or agreement has not been complied with, the Bryan treaty may then be utilized to cause the particular matter to be submitted to the commission. Such action is, however, to be the exception, not the rule." Mr. Scott says also, concerning the limitation added to the draft of Article I of the treaty with The Netherlands: "This limitation is just and proper from every point of view."

In order to remain in harmony with the high idea and intention of the promoter of the Conciliation Treaty, Mr. Bryan, and in order to conform with the system adopted in the other treaties signed by the Netherlands, the Government at The Hague should appreciate highly if the Government of the United States could accept to exchange notes at the time of the signature of the new arbitration treaty, in which notes would be mentioned that it is not the meaning that judicial disputes, which it has not been possible to adjust by diplomacy, should not as a rule be settled by arbitration. Whereas this question has been discussed by the drafting of the Bryan treaty and the Government at Washington adopted the point of view above exposed, the Netherland Government now expresses its sincere wish

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<sup>15</sup> Not found in Department files.

and feels confident that the United States Government will have no objection in the exchange of notes as proposed herewith.

In these notes could be expressed from both sides that the words: "which have not been adjusted as a result of reference to the Permanent International Commission constituted pursuant to the treaty signed at Washington, December 18, 1913" in Article I of the signed arbitration treaty between the Netherlands and the United States, do not have the intention to alter the meaning of the definition expressed in Article I of the Treaty for Advancement of Peace between the Netherlands and the United States, signed, December 18, 1913, whereby the agreement to submit disputes to the Permanent International Commission as a rule covers controversies "to the settlements of which previous arbitration treaties or agreements do not apply in their terms or are not applied in fact."

The Royal Netherland Legation will be glad to hear from the Department of State that now its Government has adopted the draft as proposed by the Government of the United States, nothing will be in the way to proceed to the signature of the treaty and by this advance materially the noble structure of Arbitration.

WASHINGTON, August 29, 1929.

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711.5612a/40

*The Department of State to the Netherlands Legation*

The observations made by the Netherland Legation in its note No. 3160 of August 29, 1929, relating to the treaty of arbitration under negotiation between the Government of the United States and the Netherland Government have been given careful consideration in the Department of State.

The Government of the United States is greatly pleased that the Netherland Government has seen its way to accept the text for the treaty of arbitration as proposed by the Secretary of State. Note has been made of the request by the Netherland Government, that at the time of the signature of the arbitration treaty an exchange of notes be signed to the effect that the words "which have not been adjusted as a result of reference to the Permanent International Commission constituted pursuant to the treaty signed at Washington, December 18, 1913" in Article I of the arbitration treaty do not have the intention of altering the meaning of the language in Article I of the treaty for the advancement of peace of 1913 between the United States and the Netherlands, defining the matters to be submitted to the Permanent International Commission as being disputes "to the settlement of which previous arbitration treaties or agreements do not apply in their terms or are not applied in fact."

This Department is glad to state that it does not construe the language hereinabove quoted from the draft of the arbitration treaty under negotiation as altering the meaning of the language hereinabove quoted from Article I of the treaty for the advancement of peace of 1913, contemplating that disputes involving questions of a juridical nature shall as a rule be referred to arbitration. It construes the clause under consideration merely to imply that disputes of a legal nature may first be submitted to the commission in the event that the parties to the two treaties agree in any particular case to make such submission. The Government of the United States will be glad if the Netherland Government will regard this statement as a sufficient assurance of this interpretation and will not feel that it is necessary to insist upon the proposed exchange of notes at the time of signing the treaty.

If, however, notwithstanding the foregoing statement of the views of this Government concerning the interpretation of the language under consideration, the Netherland Government should feel that it is necessary to insist upon the proposed exchange of notes, this Government will raise no objection. In the event that the exchange of notes be decided upon, the Department of State would be glad to receive, at as early a date as may be convenient to the Legation, a draft of the proposed note for its consideration.

The Department of State would also be glad to receive from the Netherland Legation the Dutch text of the treaty as accepted by the Netherland Government.

WASHINGTON, November 23, 1929.

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711.5612a/41

*The Netherlands Legation to the Department of State*

No. 4274

The Netherlands Legation had the honor to receive from the State Department the note of November 23, 1929, No. 711/5612/A, concerning the treaty of arbitration proposed by the Secretary of State.

In the second paragraph of that note the State Department refers to the request of the Netherlands Government, that at the time of the signature of the arbitration treaty an exchange of notes be signed to the effect, that the words "which have not been adjusted as a result of reference to the Permanent International Commission constituted pursuant to the treaty signed at Washington, December 18, 1913" in Article I of the arbitration treaty do not have the intention of altering the meaning of the language in Article I of the treaty for the advancement of peace of 1913 between the United States and the Netherlands, defining the matters to be submitted to the Permanent Inter-

national Commission "to the settlement of which previous arbitration treaties or agreements do not apply in their terms or are not applied in fact."

In the third paragraph of that note the Department informs the Legation, that it is glad to state, that it does not construe the language quoted in the second paragraph from the draft of the arbitration treaty under negotiation as altering the meaning of the language quoted in that second paragraph from Article I of the treaty for the advancement of peace of 1913, contemplating that disputes involving questions of a juridical nature shall as a rule be referred to arbitration. The Department states, that it construes the clause under consideration merely to imply that disputes of a legal nature may first be submitted to the commission in the event that the parties to the two treaties agree in any particular case to make such submission.

The Netherland Legation has lost no time in transmitting these statements to the Government at The Hague.

Pursuant to instructions now received, the Legation begs to inform the State Department, that the Netherland Government will regard these statements as a sufficient assurance of this interpretation and does not insist upon the proposed exchange of notes at the time of the signing of the treaty.

After having received the necessary authorization from the Queen, the Minister of Foreign Affairs at The Hague will forward to the Netherlands Minister, as soon as possible, the full power which will enable him to sign the treaty. Jonkheer Beelaerts van Blokland will send at the same time the text in the Dutch language of that instrument.

WASHINGTON, December 10, 1929.

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711.5612a/42

*The Department of State to the Netherlands Legation*

The Department of State has been gratified to receive the note from the Netherland Legation, dated December 10, 1929, wherein the Department is informed (1) that the Government of The Netherlands will regard the statements made in the Department of State's note of November 23, 1929, as sufficient assurance that the words "which have not been adjusted as a result of reference to the Permanent International Commission constituted pursuant to the treaty signed at Washington, December 18, 1913," appearing in Article I of the proposed arbitration treaty, do not have the intention of altering the meaning of the language in Article I of the treaty for the advancement of peace of 1913 between the United States and The Netherlands

defining the matters to be submitted to the Permanent International Commission as being disputes "to the settlement of which previous arbitration treaties or agreements do not apply in their terms or are not applied in fact", and (2) that the Government of The Netherlands does not insist upon the exchange of notes at the time of the signing of the treaty, proposed in the Legation's note No. 3160 of August 29, 1929.

The Department of State has been happy to take note of the statements, as well as of the further statement made by the Legation that a full power authorizing the signature of the treaty on the part of The Netherlands will be forwarded as soon as possible. The Department of State will be happy to receive, at the convenience of the Legation, the Dutch equivalent of the English text of the draft in order that the treaty may be put in shape for signature.

WASHINGTON, December 30, 1929.

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Treaty Series No. 820

*Arbitration Treaty Between the United States of America and the Netherlands, Signed at Washington, January 13, 1930*<sup>16</sup>

The President of the United States of America and Her Majesty the Queen of the Netherlands

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 new treaty of arbitration enlarging the scope and obligations of the arbitration convention signed at Washington on May 2, 1908, which expires by limitation on March 25, 1930, and for that purpose they have appointed as their respective Plenipotentiaries:

The President of the United States of America: Joseph P. Cotton, Acting Secretary of State of the United States; and

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<sup>16</sup> In English and Dutch; Dutch text not printed. Ratification advised by the Senate, January 31 (legislative day of January 6), 1930; ratified by the President, February 6, 1930; ratifications exchanged at Washington, July 17, 1930; proclaimed by the President, July 19, 1930.

Her Majesty the Queen of the Netherlands: Dr. J. H. van Roijen, Her Envoy Extraordinary and Minister Plenipotentiary to the United States of America;

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 the Permanent International Commission constituted pursuant to the treaty signed at Washington, December 18, 1913, 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 the Netherlands 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 the Netherlands 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 Her Majesty the Queen of the Netherlands.

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, from which date the arbitration convention signed May 2, 1908, shall cease to have any force or effect. 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 Dutch languages, both texts having equal force, and hereunto affixed their seals.

Done at Washington the thirteenth day of January, nineteen hundred and thirty.

J. P. COTTON [SEAL]

J. H. VAN ROIJEN [SEAL]



## NICARAGUA

### ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN NICARAGUA<sup>1</sup>

817.00/6218 : Telegram

*The Secretary of State to the Minister in Nicaragua (Hanna)*

WASHINGTON, May 8, 1930—7 p. m.

39. Legation's despatch 914, February 13, 1929.<sup>2</sup> Please inform President Moncada that the President has designated Captain Alfred Wilkinson Johnson, United States Navy, for appointment as Chairman of the National Board of Elections of Nicaragua, and suggest that his appointment to that position by the Supreme Court of Justice be effected as soon as practicable. It is contemplated that Captain Johnson will arrive at Managua in the early part of July.

As Captain Johnson is an official of the United States Navy, he will not, of course, receive a salary from the Government of Nicaragua for his services, but it is expected that he will be given his necessary traveling expenses and a suitable per diem while on this mission. The necessary arrangements to this end can be made after Captain Johnson reaches Nicaragua.

You may also inform President Moncada that the Department is considering necessary changes in the 1923 electoral law along the lines mentioned in its telegram 71 of May 13, 6 p. m. 1929,<sup>3</sup> which revision the Department understands is concurred in by President Moncada, as reported in the Legation's telegram No. 138, dated May 16, 11 a. m. 1929.<sup>4</sup>

STIMSON

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817.00/6616 : Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, May 9, 1930—3 p. m.

[Received 6 p. m.]

53. Department's 39, May 8, 7 p. m. I have informed President Moncada as instructed and he has requested me to inform you that

<sup>1</sup> Continued from *Foreign Relations*, 1929, vol. III, p. 646-650.

<sup>2</sup> *Ibid.*, p. 646.

<sup>3</sup> *Ibid.*, p. 648.

<sup>4</sup> *Ibid.*, p. 649.

he is pleased with the designation of Captain Johnson and that he will convene an extra session of the Nicaraguan Congress in June to consider the necessary changes in the electoral law. I did not discuss with him the specific changes to be made in the law.

The President pointed out significantly that the Department's proposals in this matter are in response to his urgent request for the assistance of the Government of the United States as set forth in this Government's note of February 12, 1929,<sup>5</sup> and I presume he would desire this point to be made clear in case the matter is given publicity in Washington.

HANNA

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817.00/6618 : Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, May 10, 1930—noon.

[Received 2:50 p. m.]

55. My telegram number 53, May 9, 3 p. m. Ex-President Diaz called at the Legation this morning and inquired if the Government of the United States will supervise the Nicaraguan elections this year. He said that the nominations of candidates should be made on May 20th and that the Conservative Party will not make nominations unless it knows before that date that the elections are to be supervised.

I told him I would not fail to advise him as soon as I could give him any specific information. I suggest that the Department's intentions in this connection be made public in Washington immediately and that this Legation be so informed for its guidance.

HANNA

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817.00/6618 : Telegram

*The Secretary of State to the Minister in Nicaragua (Hanna)*

WASHINGTON, May 12, 1930—6 p. m.

41. Legation's 55, May 10, noon. The Department is releasing today for publication tomorrow the following statement respecting the impending Nicaraguan congressional elections.

"Before the Nicaraguan Presidential elections of 1928, the candidates of the two contending parties agreed by an exchange of letters<sup>6</sup> that the one who was successful would request the supervision of the next following Presidential election by the Government of the United States.

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<sup>5</sup> *Foreign Relations*, 1929, vol. III, p. 647.

<sup>6</sup> *Ibid.*, 1928, vol. III, pp. 510-511.

Shortly after his inauguration President Moncada addressed a formal communication to the Government of the United States<sup>7</sup> stating that the Government of Nicaragua 'being desirous of laying the foundation for peace in the Republic in a firm and stable manner, by the practice of free institutions, has arrived at an agreement with the Honorable Supreme Court of Justice, by which this High Tribunal, in the exercise of the powers which are conferred on it by the Electoral Law of March 20, 1923, will appoint a citizen of the United States of America, previously designated by His Excellency the President of the United States, as President of the National Board of Elections, in order to assure complete impartiality of this official, and as the primary part of a general plan aiming at the attainment of truly free elections in the future,' and requesting the designation of the American who should serve in this capacity.

In accordance with the desires of the Government of Nicaragua the President has now designated Captain Alfred Wilkinson Johnson, United States Navy, for appointment by the Nicaraguan Supreme Court as President of the National Board of Elections.

It is contemplated that Captain Johnson will proceed to Nicaragua in the next few weeks for the purpose of assuming his office and assembling the necessary personnel in connection with the impending congressional elections, a step of the utmost importance in the Nicaraguan electoral process."

STIMSON

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817.00 Johnson Electoral Mission/6 : Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, May 24, 1930—10 a. m.  
[Received 11:55 a. m.]

61. Department's 39, May 8, 7 p. m. The Supreme Court of Nicaragua on May 23 named Captain Alfred Wilkinson Johnson, President of the National Board of Elections.

HANNA

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817.00 Johnson Electoral Mission/20

*The Secretary of State to the Personal Representative of the President in Nicaragua (Johnson)*

WASHINGTON, June 13, 1930.

MY DEAR CAPTAIN JOHNSON: The President having submitted your name to the President of Nicaragua for appointment as Chairman of the Nicaraguan National Board of Elections, and the Supreme Court of Nicaragua on May 23 having appointed you to that position, I take pleasure in transmitting herewith your commission as the

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<sup>7</sup> See note of February 12, 1929, from the Nicaraguan Acting Minister for Foreign Affairs to the American Minister in Nicaragua, *Foreign Relations*, 1929, vol. III, p. 647.

Personal Representative of the President of the United States in Nicaragua, with the rank of Envoy Extraordinary and Minister Plenipotentiary.

In handing you this commission, I am authorized by the President to inform you that your mission in Nicaragua will be to carry on to a further point of advancement the cooperation of this Government in electoral matters which was extended during the Presidential elections of 1928, and which the Government of Nicaragua has requested, shall likewise be extended in connection with the impending Congressional elections and the later Presidential elections.

It is also the President's desire that you should, during your stay in Nicaragua, study conditions, both political and military, and make recommendations to the President and to me and do everything possible to assist the Nicaraguan Government in electoral and military matters. During your sojourn in Nicaragua you will rank immediately after the American Minister.

I am [etc.]

HENRY L. STIMSON

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817.0131/6 : Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, June 25, 1930—5 p. m.

[Received 7:18 p. m.]

75. Department's 55, June 24, 1 p. m.<sup>8</sup> When I told President Moncada this morning that the amendments to the electoral law probably would be ready in the very near future for submission to an extra session of the Nicaraguan Congress he told me, to my surprise, that he is strongly of the opinion that the amendments should be made by Executive decree. He said that he felt quite sure that some member or members of the Congress would force an expression of opinion from the Supreme Court involving questions of constitutionality and that obviously unfavorable decision of the Court would create a situation which would defeat the passage of the amendments. When I suggested that a trial submission to Congress be made and that in the event an emergency should arise therefrom similar to that which existed in 1928 the Government could meet it as it was met then, he replied that he had not overlooked that idea but desired to avoid such an emergency and the creation of a scandal. He said that his position moreover would be embarrassing and difficult if he should have to make the amendments by Executive decree after they had been adversely reported upon by the Supreme Court. He added that there could be no legitimate criticism of the Government by the

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<sup>8</sup> Not printed; it transmitted text of changes in the proposed amendments to the electoral law.

Opposition for making the changes by Executive decree because the procedure is for the protection of that opposition in the elections. I answered that such might be the case provided he could say that the amendments to the electoral law were published by him in the exact form that they were drafted by Captain Johnson to guarantee an absolutely free and fair election. He agreed and requested me to present his views for your consideration. I told him I would do so but asked him to keep an open mind on the matter until we could hear from you.

The President reminded me that he had long desired to amend the Constitution in such manner as to give specific Constitutional sanction to future supervisions and place them on an enduring basis (see my telegram number 138, May 16, 1929<sup>9</sup>). He seemed to have no doubt that the Supreme Court would be consulted and would give an adverse opinion in the matter.

HANNA

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817.0131/7 : Telegram

*The Secretary of State to the Minister in Nicaragua (Hanna)*

WASHINGTON, June 27, 1930—2 p. m.

58. Legation's 75, June 25, 5 p. m. Although the ultimate decision with respect to the manner in which enabling arrangements are to be made for the conduct of the impending Congressional elections rests, of course, with the Nicaraguan Government, the Department is of the opinion that it would be desirable to have the amendment of the electoral law effected under Congressional authority. Would not amendment by Executive Decree be exposed to challenge on Constitutional grounds?

Please discuss the situation fully with President Moncada and report by telegraph, giving your recommendations and explaining why objection to the amendments on the part of the Supreme Court need be anticipated in view of its approval of the appointment of Captain Johnson as Chairman of the National Board of Elections.

STIMSON

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817.0131/8 : Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, June 29, 1930—4 p. m.

[Received 8:52 p. m.]

76. Department's 58, June 27, 2 p. m. After a prolonged search I met President Moncada late yesterday in the Sierras where he was

<sup>9</sup> *Foreign Relations*, 1929, vol. III, p. 649.

inspecting public works. He strongly maintained his opinion that the Nicaraguan Congress would have to reject the amendments to the electoral law because it must ask the Supreme Court for its advice and because that advice would be unfavorable, and that therefore the amendments should be made by Executive decree. He said he had informally consulted leading members of the Supreme Court including Dr. Morales, its President, and that they maintained that the Court could not escape giving an unfavorable report if consulted by Congress but that it could and would render a favorable opinion if consulted with respect to making the amendments by Executive decree. He said there is no inconsistency in this attitude of the members of the Court and that it is also consistent with the Court's approval of the appointment of Captain Johnson because the Constitution does not say that the President of the National Board of Elections must be a Nicaraguan. He insisted with emphasis that a situation even more annoying and complicated than that which arose in 1928 would be created if the amendments were submitted to Congress and that his only desire is to avoid such a situation and insure free and honest elections. He does not anticipate directing [*direct?*] strong or organized opposition to the procedure he has proposed and does not think it will be seriously challenged on Constitutional grounds. He said his proposed action will be the best guarantee he can give to the Conservative Party and that he will be following a precedent established by a Conservative administration.

The Minister of Fomento who is a lawyer was present and he supported President Moncada especially on the legal points involved. At the conclusion of our conference I requested the President to give me a memorandum of the principal points he desired to have brought to your attention and he and the Minister of Fomento immediately drafted the following memorandum:

"By the Constitution, the President of the Republic is charged to enforce the laws and especially to guarantee the right of free suffrage, and may prescribe the measures which he deems necessary for this purpose. With reference to elections of supreme authorities such as Senators and Deputies the recognition and qualification of the members elected and the final canvass of the votes pertain to the faculty of the respective legislative chambers and therefore, after the completion of the electoral procedure, everything is brought to the attention of the Congress through the appropriate official.

With respect to the point under consideration, the Supreme Court of Justice may take cognizance, by virtue of any direct charge of unconstitutionality, of any law which is enacted; and in the case of a bill sent to Congress which is in conflict with the Constitution or any law of the land, it is also a Constitutional duty to request an opinion of the Supreme Court.

Consequently, the Executive, in submitting to Congress a bill in the form under discussion, would abrogate the very rights which the Constitution has granted to him and would expose the initiative to rejection by the Congress.

In case the Executive should decree the electoral procedure, it is believed that it would run no risk of being rejected because it is the executive power that decrees laws of guarantee.

It is also true that Congress in renouncing the right of canvass and other faculties which it possesses in connection with elections of supreme authorities would also abrogate the corresponding constitutional provisions.

For the reasons thus stated the President thinks that it is better to follow the precedent established for the cooperation of General McCoy. The Supreme Court of Justice is in accord with the President in this opinion."

The President told me this statement was merely to supplement my report of our conversation. He added that, in expressing his views, he takes it for granted that the proposed amendments which he has not yet seen will fix a procedure along the same general lines as that followed by General McCoy. I told him I would deliver the draft amendments to him as soon as he returned to Managua. I did not tell the President that the amendments do not deprive Congress of its right to make the final canvass conferred by article 91 of the unamended law partly because he said there are other Constitutional objections and partly to leave the Department free to point this out later if the Department sees fit to insist upon its view. The President stressed his objection to what he conceives an abrogation of his powers. He said he is personally pledged to guarantee a supervision and does not want to impair his responsibility for its success.

I am inclined to think President Moncada's present attitude is based on the advice of members of the Supreme Court probably initiated by Dr. Morales. I think the President is sincere in his views but I suspect that the initiators of the idea, whoever they may be, have some well-concealed motive. When I asked President Moncada if the validity of the elections could be challenged subsequent thereto by the Nicaraguan Congress on the grounds of unconstitutionality he replied in the negative and the Minister of Fomento concurred. I doubt if the President's views can be changed in opposition to the advice he is receiving from the Supreme Court but even if he should ultimately agree to submit the amendments to Congress it probably would result in his being subject to pressure to disclaim responsibility for future developments. I believe we will be in a stronger position to meet developments if the Government is fully responsible for the choice of methods in this particular matter.

HANNA

817.0131/9 : Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, June 30, 1930—7 p. m.

[Received 11:39 p. m.]

77. Legation's 76, June 29, 4 p. m. Dr. Cordero Reyes told me today that neither under article 99 or any other article of the Constitution of Nicaragua is it obligatory for the Nicaraguan Congress to hear the opinion of the Supreme Court before discussing the amendments to the electoral law, and that the Congress would not have to request the Court's opinion merely because one or more deputies or senators should desire such an opinion.

Dr. Cordero Reyes is opposed to making the amendments by Executive decree and thinks that to do so may result in serious complications and charges of illegality in the elections at some future time. I judge from what he told me that the plan to make the amendments by Executive decree will meet with opposition among President Moncada's advisers when it becomes known and it is possible that such opposition may cause the President to change his attitude. I am inclined to think that the plan represents the opinion of a very limited number and that the discussion which will come with publicity may alter the situation.

HANNA

817.0131/10 : Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, July 2, 1930—9 p. m.

[Received July 3—12:38 a. m.]

[81?] My telegram No. 77, June 30, 7 p. m. President Moncada has just given me legal citations supporting his plan to make the amendments to the electoral law by Executive decree, with the request that Captain Johnson and I confer informally with members of the Supreme Court and then advise him as to our conclusions. We will do so unless you instruct otherwise but we will report our conclusions to you before communicating them to President Moncada. Details by air mail.

HANNA

817.0131/12 : Telegram

*The Secretary of State to the Minister in Nicaragua (Hanna)*

WASHINGTON, July 3, 1930—9 p. m.

61. Your 76, June 29, 4 p. m. and 77, June 30, 7 p. m. As stated in the Department's telegram No. 58, dated June 27, 2 p. m., the



final decision with respect to the method to be followed in amending the electoral law rests with the Nicaraguan Government, and the Department does not wish to make further comment with respect to the advisability or inadvisability of effecting amendment by presidential decree or by congressional action.

You may say to President Moncada, however, that the cooperation of this Government in the conduct of the impending elections involves a serious responsibility and that consequently the Department deems it to be essential that all measures affecting the elections, including of course the amendment of the electoral law, shall be free from serious challenge.

After having communicated the foregoing to President Moncada you may deliver the proposed amendments to the electoral law to him for such action as he deems appropriate. If you prefer, however, you may await Captain Johnson's arrival for a final discussion with him before delivering the amendments to the President. Please report by telegraph the action taken.

Please indicate also whether Article 85, Section one of the Nicaraguan Constitution may be considered as requiring amendment by Congressional action rather than by Presidential decree.

STIMSON

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817.0131/14:Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, July 11, 1930—5 p. m.

[Received 10:05 p. m.]

85. My telegram No. 81, July 3 [2?], 9 p. m. Captain Johnson and I on President Moncada's invitation conferred with him and seven members of the Supreme Court this afternoon concerning desirability of modifications of the amendments to the electoral law and the manner in which the amendments will be issued. The modifications suggested in a general way are few and appear to be of minor importance and a committee of the Supreme Court will meet with Captain Johnson and me tonight to discuss them further and endeavor to settle upon them definitely. The prevailing opinion of those present was that, for reasons stated in my previous communications in this connection, the amendments should be made by an Executive decree. With respect to this last point I expressed the attitude of the Government of the United States as set forth in the Department's telegram No. 58, June 27, 2 p. m., and No. 61, July 3, 9 p. m., and Captain Johnson and I refrained from any further observations on this point.

HANNA

817.0131/15 : Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, July 22, 1930—4 p. m.

[Received 9:15 p. m.]

90. My 85, July 11, 5 p. m. Captain Johnson and I have reached satisfactory agreement with the Nicaraguan authorities with respect to the amendments to the electoral law. The changes made in the draft amendments submitted by the Department are few and of minor importance and in our opinion do not weaken the supervisory powers of Captain Johnson in conducting a perfectly free and fair election. The amendment to article 20 has been changed to read as follows: "The National Board of Electors shall cooperate with the President of the Republic in the supervision of the elections of 1930 and of 1932 for the supreme authorities and is hereby vested with full and general authority to conduct such supervision and to prescribe with obligatory force all measures et cetera". This change was made to meet the objection that it is unconstitutional for the President to delegate his powers and duties in this connection.

The entire Dodds law as amended will be promulgated by Executive decree and the manuscript will be delivered to the public printer on Friday July 25 unless this should not meet with the Department's approval.

HANNA

817.0131/16 : Telegram

*The Secretary of State to the Minister in Nicaragua (Hanna)*

WASHINGTON, July 23, 1930—5 p. m.

70. Legation's 90, July 22, 4 p. m. Approved.

STIMSON

817.00 Johnson Electoral Mission/68 : Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, August 13, 1930—4 p. m.

[Received 9:38 p. m.]

103. The following is transmitted at the request of Captain Johnson.

"To insure free and fair elections I consider it essential that no less a measure of political freedom be granted this year to Nicaraguans than was granted in 1928.

I believe this can possibly be accomplished if President Moncada will issue decrees and instructions as necessary. These should include amnesty to political prisoners and expatriates, freedom of the

press and of communications, and equal opportunity for unmolested enjoying [*enjoyment of?*] political rights by law-abiding Nicaraguan citizens irrespective of political faith. This is necessary to prevent intimidation and to inspire confidence among all political elements.

Many citizens have been expatriated, detained, or confined during the past eighteen months. Some of these cases and others involving abridgment of the normal liberty of the press and improper control of public communications have received my most careful consideration. In absence of information to the contrary I cannot escape conclusion that free exercise of political rights based on justice and common sense is in danger of being infringed.

On August 8 President Moncada told me that he would issue a proclamation of amnesty. However his intimation that I could not investigate any cases or occurrences of above nature which had taken place prior to my arrival left me with the impression that what he intends to do will be inadequate to meet existing conditions. Recent arrangements have strengthened that impression.

I have assumed from the beginning that the President of Nicaragua would cooperate wholeheartedly with me in granting all reasonable political freedom and that he would take the necessary action in ample time. But time has now become so vital a factor that even if acting in good faith and with the best intentions he will seriously prejudice the success of my mission in Nicaragua by further delay. I am still hopeful that he will act by Thursday, August 14.

The situation differs now from that immediately after the revolution. The Liberal Party is now entrenched in power and holds the whiphand. I consider it essential that the elections this year involving one-half of the Chamber of Deputies shall take place under conditions of political freedom substantially the same as those attending the election of the other half of the Chamber in 1928.

I intend to follow this principle. Am I correct in assuming that the Department concurs in my views?

I am reluctant to disturb equitable harmonious relations existing between President Moncada and myself and have therefore delayed pressing the matter. The American Minister and I have fully discussed the situation and are in accord as to the urgent need of immediate promulgation of the decree and instructions mentioned above. We shall jointly and with the utmost insistence press for this action after Thursday, August 14."

By prearrangement with Captain Johnson, I discussed the situation fully with President Moncada yesterday. He reasserted his determination to cooperate in insuring free and fair elections but stated frankly and firmly that his cooperation must be solicited and given in such manner as not to impair the prestige of his Government. He said that the opposition including its leading paper is endeavoring to put him in the light of being coerced in order to discredit him and his Government and that he is determined to maintain the dignity of his Government against any such [action?]. He said this is a matter of principle that does not admit of vacillation.

He was equally positive in assuring me that, if a proper procedure is followed, he will fully exert his power and influence to have adopted

all measures demanded by the opposition insofar as they are essential to free and fair elections and are not so inimical to the safety of the country as to make them unwise. He stated specifically what the procedure should be to dissolve [*meet?*] two important demands of the opposition and said that similarly a proper way can be found to meet most or all of their other demands.

He said the amnesty decree is now being prepared and that, while he is making every effort to issue it during the present week, he may have to delay in order to consult some of his advisers. When I expressed the hope that it would be comprehensive he said it would be as broad as considerations of public safety will permit.

I gave Captain Johnson a complete account of my conference with the President. Now that the President's attitude has been made clear, I believe progress can be made in clearing up existing difficulties and that this phase of the situation can be satisfactorily met. We will not fail to keep the Department advised of important developments.

The foregoing has been added to Captain Johnson's telegram by his request and copy has been furnished him.

HANNA

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817.00 Johnson Electoral Mission/69: Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, August 15, 1930—3 p. m.

[Received 5:31 p. m.]

107. My telegram 103, August 13, 4 p. m. President Moncada has just given me an advance copy of his amnesty decree, dated August 13, which he plans to make public in the very near future.<sup>10</sup> Article 1 of the decree grants "full and unconditional amnesty to all persons who have committed political offenses from January 1, 1930, to date."

The Spanish text of this article is identical with the text of article 1 of President Diaz's similar decree of May 5, 1927,<sup>11</sup> except the dates.

Article 2 of the decree instructs commandants of ports to give necessary assistance to those who return to the country to enable them to reach their respective homes.

Article 3 directs the authorities of the Republic to place at liberty political prisoners who are in jail. The decree takes effect on its publication in the *Official Gazette*.

The President has told me that he does not deem it wise to grant amnesty to persons engaged in banditry and there appears to be no

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<sup>10</sup> The amnesty decree was made public on August 20, 1930 (817.00 Johnson Electoral Mission/73).

<sup>11</sup> See telegram No. 125, May 6, 1927, 1 p. m., from the Minister in Nicaragua, *Foreign Relations*, 1927, vol. III, p. 342.

popular or other noteworthy demand for this. President Diaz's decree of September 26, 1928, granted amnesty to individuals who had committed common offenses in connection with political offenses. It may be in the President's mind to issue a supplemental decree covering such common offenses and possibly other offenses should later developments make this desirable.

HANNA

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817.00 Johnson Electoral Mission/74

*The Minister in Nicaragua (Hanna) to the Secretary of State*

No. 122

MANAGUA, August 15, 1930.

[Received August 21.]

SIR: I have the honor to report that during Admiral Campbell's visit to Managua last week two conferences were held in the Legation at which were present Captain Johnson, Admiral Campbell, General McDougal, Colonel Bradman and myself, together with representatives of our respective staffs, at which the principal topic discussed was the cooperation of the marines and Guardia with the electoral mission under Captain Johnson during the electoral campaign.

Captain Johnson submitted an estimate, prepared by a member of his staff who was here during the electoral supervision under the direction of Major General Frank R. McCoy, which called for an increase of approximately 800 in the combined marine and guardia forces for the protection of voting places and the surrounding regions during the periods of registration and on election day. Captain Johnson stated that he was not prepared to say that this additional strength was necessary and that he would limit his request in this matter to asking for "adequate protection", leaving the decision as to what would constitute adequate protection to the judgement of those responsible.

After a thorough discussion of the whole subject, taking into account the change in the situation since the electoral supervision of 1928, the prevailing opinion appeared to be that adequate protection could be afforded by a much smaller increase in the military forces at present in Nicaragua. In order to arrive at a still more accurate basis for making arrangements to afford adequate protection, a committee composed of officers representing Captain Johnson, Admiral Campbell, General McDougal, and Colonel Bradman, was formed to make a thorough study of the matter.

The conference discussed the advisability of obtaining the necessary increase by landing additional marines from naval vessels shortly before election day, or by temporarily reenforcing the marine garrison in Nicaragua for the period of the elections, using such additional

marine forces to replace the guardia and make the latter available for duty at the polling places and also using them to preserve order at the polling places and in their vicinity. I believe that the majority of opinion in this connection was that every effort should be made to furnish the necessary protection without increasing the marine force in the Republic and that marines should not be employed to preserve order at the polling places or to perform any duties which would involve the possibility of their having to arrest Nicaraguan citizens.

I deem it most undesirable to make any increase in the marine force in Nicaragua in connection with the elections, thereby running the risk of creating an impression concerning the situation here which is not warranted by the facts. It would be regrettable if the impression should get abroad that the success of an Electoral Mission depends upon a show of force by American troops. I see no sound reason for the opinion that the registrations or the elections will be accompanied by any more violence than is usually to be expected in connection with an election elsewhere, to say nothing of a pre-arranged and concerted effort to create disorder. There was very little disorder in connection with the unsupervised municipal elections last year when political feeling was intense in some places. Of course, the polling places in or near the regions where bandit outrages occur from time to time must be given special protection. Fortunately, however, there are only a few such polling places and practically all of them are now garrisoned by forces of the guardia.

The commission mentioned in paragraph 3 of this despatch has made its report recommending that the Guardia be increased by 260 men, and Captain Johnson has officially communicated this fact to President Moncada in writing with the request that the Guardia be increased by this number of men, enlisted for a period of three months. Captain Johnson informed me this morning that the President has just replied expressing his regret that the condition of the Republic's finances makes it practically impossible for him to make the increase and that, on the contrary, his desire is to decrease the present strength of the Guardia and its cost. The present period of enlistment of the 200 additional men added to the Guardia recently to meet the danger threatened by the return of Sandino will expire towards the end of the year after the elections have been held. General McDougal is just about to begin the execution of a carefully planned drive from two directions into the bandit region with a large number of combat patrols, and he has reason to believe that it will meet with considerable success. He says that there is ample time between now and election day to plan and carry out another such drive if that appears desirable.

The circumstances therefore may change materially for the better between now and election day in such manner that adequate protection may be given to Captain Johnson with the present guardia forces. The Guardia has the upper hand of banditry and I will not be surprised if a part of the Guardia forces now operating against bandits may be withdrawn from the Segovias before the election and distributed over the Republic to give the adequate security desired by Captain Johnson. I deem it of importance that the Nicaraguan Government and people should be taught to look to their own police force for protection during elections and not be given the unfortunate impression that they need the protection of foreign soldiers in order to assure a free and fair election.

I believe that a further conference between Captain Johnson, General McDougal, Colonel Bradman and myself will be helpful. There are practical ways out of the difficulty which have not yet been fully discussed, and some or all of them may be adopted. Of course, ample protection must be provided against violence to all Americans as well as their Nicaraguan associates conducting the supervision but this will present no great difficulty. There is opportunity, however, for the exercise of broad discretion in determining the amount of protection that may be accorded to voters journeying to and from the voting places. All the circumstances should be carefully weighed in determining this latter point.

There are still some months before the election and I hope and expect that our combined cooperative efforts here will find a solution for this problem in that interval.

I have furnished Captain Johnson with a copy of this despatch.  
Respectfully yours, MATTHEW E. HANNA

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817.00 Johnson Electoral Mission/72: Telegram

*The Acting Secretary of State to the Minister in Nicaragua (Hanna)*

WASHINGTON, August 16, 1930—1 p. m.

84. Legation's 103, August 13, 4 p. m., and 107, August 15, 3 p. m. Please inform Captain Johnson that the Department is in entire agreement with his views respecting the conditions under which the cooperation of the Government of the United States in the conduct of the impending Nicaraguan congressional elections should be effected.

The Department infers from the penultimate paragraph of your telegram No. 103 and your later telegram No. 107 that you and Captain Johnson consider the immediate situation to be satisfactory. If this is not the fact, however, or should later developments make such action seem desirable, you are authorized again to remind President Moneada of the serious responsibility which this Government has

assumed by extending its cooperation to the Government of Nicaragua in connection with its electoral problems, and that it is essential that the conditions under which this cooperation is carried out shall be such as to preclude the possibility of serious challenge in the future.

CASTLE

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817.00 Johnson Electoral Mission/81

*The Minister in Nicaragua (Hanna) to the Secretary of State*

No. 124

MANAGUA, August 18, 1930.

[Received September 8.]

SIR: I have the honor to report for the Department's records that Captain Alfred Wilkinson Johnson, United States Navy, selected by the President of the United States as his personal representative with the rank of Envoy Extraordinary and Minister Plenipotentiary to cooperate with the Government of Nicaragua in the supervision of Congressional elections to be held in November, 1930, arrived in Managua on July 1, 1930. Captain Johnson took his oath of office as Chairman of the National Board of Elections before the members of the Supreme Court of Nicaragua on July 3, 1930. The other members of the Board are Dr. Ramón Castillo, representing the Conservative Party, and Dr. Mariano Arguello Vargas, representing the Liberal Party.

Prior to the arrival of Captain Johnson the Department had forwarded to the Legation the proposed amendments to the Electoral Law of 1923 which were deemed necessary to legalize and facilitate the present supervision, and the Legation had submitted the amendments for the consideration of the Nicaraguan Government. Certain minor changes were made in the amendments in conferences with representatives of the Nicaraguan Government, and the amendments as finally agreed upon were published in *La Gaceta*, No. 164 of July 23 [28], 1930, copies of which are transmitted herewith.<sup>12</sup> There are also enclosed for the Department's convenient reference copies and translations of the changes made here to the Department's proposed amendments compiled by the Legation.<sup>12a</sup>

The amended electoral law is in the hands of the printer and will be ready for circulation shortly. Copies of the law will be promptly transmitted to the Department when available.<sup>13</sup> Captain Johnson has been well received by all parties and classes and it is worthy of note that no opposition to his mission has so far been manifested.

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<sup>12</sup> Not reprinted.

<sup>12a</sup> Not printed.

<sup>13</sup> Transmitted to the Department with unnumbered despatch of August 25, 1930, not printed (817.0131/17); see *Electoral Law of Nicaragua as modified by the Executive Decree of 26 July, 1930, in Spanish and English* (Tipografía Alemana de Carlos Heuberger & Co., Managua, Nicaragua.)



Both parties appear to be sincerely committed to supervision and to regard it as Nicaragua's principal hope in its endeavor to develop orderly and representative government.

The Legation is informed that the machinery for the electoral supervision is steadily being perfected and that some of the officers and men designated to serve at outlying places have already left Managua for their posts. Under the amended law registrations will be held on September 21, 24 and 28, and the elections on November 2, the first Sunday in November.

Respectfully yours,

MATTHEW E. HANNA

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817.00 Johnson Electoral Mission/92 : Telegram

*The Acting Secretary of State to the Minister in Nicaragua (Hanna)*

WASHINGTON, September 27, 1930—2 p. m.

98. The Nicaraguan Minister said Friday morning that he had received instructions to inquire whether Captain Johnson "had instructions from the United States Government to supervise the municipal elections in Nicaragua." He was informed that you and Captain Johnson had general instructions and broad powers to cooperate with the Government of Nicaragua in connection with the congressional elections, and that the specific instructions given to Captain Johnson had been to serve as President of the National Board of Elections of Nicaragua. It was explained that the Department understood that some question had arisen in connection with the municipal governments in Chontales and other Departments, and that you and Captain Johnson were fully authorized to make such suggestions as you might deem most helpful for dealing with these questions in so far as they might have a bearing on the national elections.

Please report present status of this matter.

COTTON

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817.00 Johnson Electoral Mission/94:Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, September 29, 1930—9 a. m.

[Received 2:55 p. m.]

124. Department's 98, September 27, 2 p. m. The attitude of the Legation and Captain Johnson in this matter has been as stated by the Department to the Nicaraguan Minister.

Captain Johnson recently tendered the assistance of the electoral mission in supervising a few municipal elections if the Government should decide to hold such elections on November 2nd, but the de-

cision of the Government was that municipal elections could not be legally held on that date. This decision known and accepted by the principal Opposition leaders and present indications are that the matter is ended. Captain Johnson has given assurance that the existing municipal situation will not impair the fairness of the Congressional elections.

HANNA

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817.00 Johnson Electoral Mission/103 : Telegram

*The Secretary of State to the Minister in Nicaragua (Hanna)*

WASHINGTON, October 8, 1930—1 p. m.

106. Please inform Captain Johnson that the Department has carefully considered his airmail letter of September 27.<sup>14</sup> Whatever may be the rights and wrongs of the situation in Chontales, we do not feel that it appears from his letter that the present situation will make it unduly difficult for the American Supervision to hold entirely free elections there. In the absence of further evidence on this point, we should have no sympathy with any group which refused to participate in the Congressional elections simply because of the situation in the municipal governments, and you and Captain Johnson may make this clear to those interested, if you deem it advisable. Since we were asked only to supervise the Congressional elections, we do not feel that we should insist upon the prior adjustment of the municipal situation, which is a matter to be determined by the Nicaraguans themselves. If you and Captain Johnson feel that there are considerations involved which the Department does not fully appreciate, please cable your views at once.

STIMSON

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817.00 Johnson Electoral Mission/106

*The Minister in Nicaragua (Hanna) to the Secretary of State*

No. 191

MANAGUA, October 11, 1930.

[Received October 20.]

SIR: I have the honor to report that I informed Captain Johnson concerning the matter of the municipal situation in Chontales and elsewhere in this Republic as instructed in the Department's telegram No. 106 of October 8, 1 P. M.

The Department is now aware from my air mail despatch No. 184 of October 2<sup>14</sup> that this incident was terminated on September 27. Consequently Captain Johnson was entirely in accord with me that it was not necessary to cable the Department in the matter as sug-

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<sup>14</sup> Not printed.

gested in the last sentence of the Department's telegram under reference. We agreed, however, that it would be well to make clear to the Conservative leaders the views of the Department, and I have just explained the Department's views as set forth in the telegram to Don Adolfo Diaz. He indicated his accord with the Department's views and expressed himself as confident that the situation will not prevent the Electoral Mission from guaranteeing entirely free elections. He is not satisfied, naturally, with the existing municipal situation in the five departments concerned and expressed the hope that a way may be found to correct it.

Captain Johnson has just forwarded me for my information a letter dated October 10 which was presented to him by the Conservative member of the National Board of Elections. The purpose of the letter appears to be to complete the record in this matter. It reviews the attitude of the Conservative Party and concludes with the following statement in translation: "In view of the unbreakable determination of the President of the Republic, General José María Moncada, to prevent by all means at his disposal the free exercise of the suffrage by the Conservative Party, and to nullify the action of the American Electoral Mission which has come to the country with the exclusive object of giving free, just and honest elections to the Nicaraguan people, I make known the disagreement of the party I represent and disclaim responsibility for whatever may result from any action that the National and Legal Board of the Conservative Party may take". I have suggested to Captain Johnson in reply that he may desire to take exception to the statement that President Moncada's attitude in this matter will nullify the action of the American Electoral Mission.

Respectfully yours,

MATTHEW E. HANNA

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817.00/6841 : Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, November 3, 1930—11 a. m.

[Received 12:30 p. m.]

139. Congressional elections were held throughout Nicaragua yesterday without disorder. Returns indicate important gains by the Liberals in both branches of Congress.

HANNA

817.00/6850 : Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, November 6, 1930—4 p. m.

[Received 10:12 p. m.]

145. Supplementing my telegram No. 139, November 3, 11 a.m. Election returns have now been received from all but ten cantons and show succession of results which probably will not be changed by the final official canvass.

The Liberals have elected 7 Senators and 16 Deputies. The Conservatives have elected 2 Senators and 6 Deputies. These successful candidates will replace 4 Liberal and 5 Conservative Senators and 7 Liberal and 15 Conservative Deputies. The Conservatives have lost 3 seats in the Senate and 9 seats in the House. The Conservatives had a large majority in Chontales but failed to elect one of the two Deputies from Granada. The total votes cast were approximately 70 percent of those cast in the same districts in 1928.

I have noted no disposition to question the result of the elections or criticism of the supervision by the electoral mayors.

HANNA

817.00 Johnson Electoral Mission/127; Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, November 14, 1930—5 p. m.

[Received 8:30 p. m.]

155. The evacuation of the bulk of the personnel of the electoral mission and additional marines temporarily ashore in Nicaragua to assist in the preservation of order during the electoral period began on November 4th and will be completed when the *Rochester* leaves Corinto for the Canal Zone on November 17th. The total electoral personnel thus evacuated embraces 36 officers and 536 enlisted and 153 additional marines. There remain 18 officers and 24 enlisted to complete the work of the mission.

HANNA

817.00 Johnson Electoral Mission/135

*The Chairman of the American Electoral Mission (Johnson) to the Secretary of State*

MANAGUA, 21 November, 1930.

[Received November 24.]

MY DEAR MR. SECRETARY: I have to report that the elections for Senators and Deputies to the Nicaraguan Congress were held on

November 2nd, 1930, under the supervision of the American Electoral Mission of which I am Chairman.

The Elections were conducted in conformity with Nicaraguan law and were free, fair and honest.

My official report to the Nicaraguan Congress of the results of the elections has been delivered to the Minister of Gobernacion of Nicaragua, and a copy has been furnished to the American Minister in Managua, Mr. Hanna.

My final report, and report on the political and Military situations which I have been directed to make, together with the complete files of the Mission will be delivered to the State Department in Washington by officer courier, who should arrive in the latter part of December. I plan to be in Washington at that time myself to confer with you concerning my final report.<sup>16</sup>

The personnel of the American Electoral Mission has been disbanded and its members returned to duty with their respective services.

Respectfully yours,

A. W. JOHNSON

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**PROPOSALS FOR AMENDING THE AGREEMENT ESTABLISHING THE GUARDIA NACIONAL DE NICARAGUA AND FOR REDUCING ITS EXPENSES**<sup>17</sup>

817.51/2145 : Telegram

*The Minister in Nicaragua (Hanna) to the Acting Secretary of State*

MANAGUA, April 18, 1930—6 p. m.

[Received 9:00 p. m.]

50. The Chamber of Deputies approved the annual budget just before taking recess for Holy Week and it will be taken up in the Senate next week. The estimate for the Guardia was reduced by the Chamber to approximately \$760,000 and present indications are that the Senate will concur in the reduction. President Moncada has been out of town ever since April 11 and I have had no opportunity to discuss the subject with him but I am told that he probably is not out of sympathy with the reduction.

General McDougal<sup>18</sup> says the reduced amount will provide for a Guardia of approximately 1,500 men. The budget disposes of all estimated receipts from all sources for the fiscal year and it is scarcely probable that there will be a surplus as heretofore from which to make supplemental allotments for support of the Guardia. On the contrary a deficit is more probable.

HANNA

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<sup>16</sup> His final report is filed under 817.00 Johnson Electoral Mission/171.

<sup>17</sup> For previous correspondence, see *Foreign Relations*, 1929, vol. III, pp. 606 ff. For text of the agreement establishing the Guardia Nacional de Nicaragua, signed at Managua, December 22, 1927, see *ibid.*, 1927, vol. III, p. 434.

<sup>18</sup> Douglas C. McDougal, Chief of the National Guard of Nicaragua.

817.51/2145 : Telegram

*The Acting Secretary of State to the Minister in Nicaragua (Hanna)*

WASHINGTON, April 19, 1930—2 p. m.

37. Your 50, April 18, 6 p. m. The Department assumes that the approval of the proposed budget by the Senate and the President would necessitate the early reduction of the Guardia forces to approximately 1,500 men, as you have been informed by General McDougal, inasmuch as the item amounting to \$760,000 for its expenses presumably could not be increased owing to the anticipated absence of surplus revenues.

The Department is sending to you by air mail a copy of its instruction No. 645<sup>19</sup> in which its views are fully set forth for your guidance.

Please see President Moncada, or in his absence the Minister for Foreign Affairs, and suggest the advisability of withholding final action on the budget until you have had the opportunity to present the views of the Department as contained in that instruction.

CARR

817.1051/397a

*The Acting Secretary of State to the Minister in Nicaragua (Hanna)*

No. 4

[WASHINGTON, April 19, 1930.]

SIR: The Department desires that you should avail yourself of an early opportunity to discuss with the Nicaraguan Government the status of the Guardia Nacional. It is considered essential that adequate provision for the financial support of this institution be made in the very near future by some arrangement through which the funds required will be placed to the credit of the commanding officer of the Guardia at stated times and in sufficient amounts. The Department desires, therefore, to receive your detailed recommendations as to the form which an arrangement for this purpose should take, giving due consideration to the existing financial commitments of the Nicaraguan Government. It would appear that adequate provision for the Guardia can only be assured by placing this institution in at least an equal position with other Departments of the Nicaraguan Government so far as the distribution of funds is concerned.

The Department has carefully considered the opinion apparently entertained by the Nicaraguan Government that the Guardia Nacional involves a disproportionately heavy expense. As the Legation has already been informed, the best information which the Department has thus far been able to obtain indicates that an efficient constabulary

<sup>19</sup> Same as instruction No. 4 of April 19, *infra*.

force cannot be maintained in Nicaragua with an expenditure of less than approximately one million dollars per annum. If, however, reductions in the present force can in your opinion be made without seriously handicapping the commander in chief in the maintenance of order, the Department desires of course that the size of the force and the corresponding expense should be curtailed. It would wish to be guided by the desires of the Nicaraguan Government in this matter, although it would not be disposed to concur in the reduction of the existing force to a point where its efficiency and ability to maintain order was seriously impaired, so long as American officers assume the responsibility for its direction.

The Department has noted President Moncada's suggestion that the extra salaries now paid to American marine officers and enlisted men serving as officers in the Guardia should be reduced. It desires that you should give careful consideration to this suggestion and report your views.

The Department has also considered the suggestion discussed with you during your visit to Washington regarding the establishment of municipal police forces which would take the place of the existing Guardia forces in several Nicaraguan cities. It feels that it is essential to maintain the Guardia as the sole military and police force in Nicaragua. It does not, therefore, feel that it could concur in any plan for the establishment of local police forces under local control or recruited in a manner which would not assure their non-partisanship. It would seem very appropriate that the various municipalities should contribute toward the maintenance of adequate police protection, but it is not believed that any local police forces should be established unless they are an integral part of the Guardia and completely subject to the control of that organization.

The Department desires if possible to clear up the situation regarding the agreement for the establishment of the Guardia Nacional. In its instruction No. 519 of May 29,<sup>20</sup> it set forth several objections to the amendments to the agreement enacted by the Nicaraguan Congress.<sup>21</sup> It understands that these objections have never been communicated to the Nicaraguan Government and that some of them are perhaps no longer of great importance. It will be glad, therefore, to have you consider this matter and report thereon in detail, in order that the Department can determine definitely what course it will pursue with regard to the amended Guardia agreement.

I am [etc.]

For the Acting Secretary of State:  
FRANCIS WHITE

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<sup>20</sup> *Foreign Relations*, 1929, vol. III, p. 630.

<sup>21</sup> See *ibid.*, p. 625.

817.1051/402

*The Minister in Nicaragua (Hanna) to the Secretary of State*

No. 45

MANAGUA, May 23, 1930.  
[Received May 27.]

SIR: With reference to the Department's instruction No. 4 of April 19, 1930, expressing the Department's desire that I avail myself of an early opportunity to discuss with the Nicaraguan Government the status of the Guardia Nacional, I have the honor to report that I took up this matter informally with President Moncada soon after the instruction reached the Legation and outlined briefly the scope of the inquiry which the Department desires to have made in this matter. I pointed out particularly the Department's desire to clear up the situation regarding the Guardia Agreement which became confused as a result of certain amendments made to it by the Nicaraguan Congress and approved by President Moncada on February 21, 1929. President Moncada expressed his willingness to discuss these matters and assured me of his cooperation in reaching a satisfactory arrangement of them.

It appeared to me that the logical starting point for the discussion is the Department's instruction No. 519 of May 29, 1929, regarding the amendments to the Guardia Agreement which presented a specific method of procedure to render those amendments satisfactory to the Government of the United States. Accordingly I transmitted to President Moncada on May 5 a memorandum embracing the objectionable amendments together with a complete statement of the Department's objections to them and the draft of an exchange of notes embodying the Department's views as to the points which should be covered. A copy of the memorandum is transmitted herewith.

As stated in the last paragraph of the Department's instruction No. 4, some of the objections to the amendments as stated in the Department's prior instruction No. 519 are no longer of great importance, and it will be noted that I included in my memorandum only those objections which appear to be of importance at this time.

I called upon President Moncada this morning at his request and he discussed the memorandum with me and, while concurring with it in substance, suggested that the following changes be made in the draft of the note to be presented by the Nicaraguan Government.

1. To delete the words "of five hundred thousand cordobas during a period of six months" at the end of Paragraph 2, Page 1, of the draft note to be presented by the Nicaraguan Government and to substitute therefor "necessary to maintain the Guardia at a strength adequate to perform the duties for which it was created". The President stated that it might provoke criticism to mention the specific amount of five hundred thousand cordobas, that it is his firm intention to continue



to provide necessary funds for the Guardia whatever the amount as in the past, and that the phrase substituted for the deleted words is more elastic and applicable to emergencies such as the present, for example, in which he has increased the Guardia by two hundred men. I agreed to this change.

2. To add on Page 2 of the note to the second paragraph the sentence "provided that the Chief of the Guardia shall render due account in accordance with law to the Tribunal Suprema de Cuentas of the Republic". I agreed to this addition.

3. To delete the paragraph of the note relating to Article 5 of the Agreement. He said he could not approve this paragraph of the note without first consulting the Supreme Court because there are those who hold the opinion that the procedure outlined in this paragraph is in opposition to the correct procedure under Nicaraguan law. He said he is averse to consulting other branches of the Government in this matter because he fears that publicity would follow which would jeopardize the success of our efforts in this matter. He suggested therefore that the point covered by this paragraph of the note be left for later adjustment. I told him I thought it desirable to clear up all points at this time if at all practicable and requested him to let me endeavor to find a formula which would be acceptable to him and to my Government. He gladly agreed and I have substituted the following for the objectionable paragraph of the note.

"With respect to Article 5 my Government desires to point out that the purpose of the amendment to this article was to make it conform to Nicaraguan legal procedure. My Government understands, however, that the Government of the United States considers that the efficiency and morale of the Guardia might be gravely affected if the Nicaraguan members of the organization were exposed to prosecution by local judicial authorities for acts performed in the line of duty, and would not wish to be party to an agreement under which its officers might be placed in a position where their subordinates might be subjected to prosecution for acts committed in good faith under the orders of those officers. My Government gives full weight to this objection of your Government and, pending a possible change in the prescribed legal procedure of Nicaragua, will be guided in this matter by Article 1 of the Articles for the Government of the Guardia Nacional de Nicaragua prepared in agreement with the Nicaraguan Supreme Court of Justice and approved by the President of the Republic which reads literally as follows:

"Article 1. The personnel of the Guardia Nacional de Nicaragua will be subject for all military offenses and for acts committed in the line of duty to the jurisdiction of the military tribunals established under the articles for the government of the Guardia Nacional de Nicaragua. The findings of such tribunals, after approval of the Chief of the Guardia, are final and are not subject to appeal or review except by the Supreme Court of Nicaragua, and then only on questions of excess power or questions of jurisdiction.

“Other offenses committed by members of the Guardia Nacional de Nicaragua shall be investigated by officers of the Guardia Nacional as directed by the Chief of the Guardia Nacional. If it should appear upon investigation that the offense is not subject to military jurisdiction, the offender will be turned over to the civil authorities.’”

4. To omit the reference to Article 12 on Page 3 of the note because of its comparatively trifling importance and for the further reasons that this point has never been raised in practice and the amended article need not be interpreted as meaning that officers of the Guardia must speak Spanish at the time of their detail to that organization. I agreed to this omission.

I am submitting a new draft note modified as outlined above for President Moncada's consideration and I believe all the changes will receive his approval excepting possibly the change in the paragraph relating to Article 5 of the Agreement. I hope the Department may find it convenient to instruct me by cable whether my action in this matter is approved and if I may so advise this Government in a similar note in conformity with the plan set forth in the Department's instruction No. 519 of May 29, 1929. I have hoped to clear up this matter before proceeding to discuss the other points mentioned in the Department's recent instruction No. 4.

I have [etc.]

MATTHEW E. HANNA

[Enclosure]

*The American Legation to the Nicaraguan Ministry for Foreign Affairs*

MANAGUA, May 5, 1930.

#### MEMORANDUM

The Minister for Foreign Affairs transmitted to the Legation on March 8, 1929,<sup>22</sup> a copy of the Agreement for the creation and establishment of the National Guard embodying the amendments to this Agreement which were proposed by the Congress of Nicaragua and approved by the President of the Republic on February 21, 1929.<sup>23</sup> Among the amendments thus proposed were the following:<sup>24</sup>

<sup>22</sup> Note No. 82, March 8, 1929, not printed.

<sup>23</sup> See *Foreign Relations*, 1929, vol. III, p. 620.

<sup>24</sup> The extracts which follow were submitted in Spanish. The translation for the "Original Agreement of 1927" has been supplied from the text of the agreement as printed in *Foreign Relations*, 1927, vol. III, p. 434; the translation for the "Amendments Proposed by the Congress of Nicaragua" has been supplied by the editors.

ORIGINAL AGREEMENT OF 1927 AMENDMENTS PROPOSED BY THE CONGRESS OF NICARAGUA

I

I

The foregoing provisions shall be regarded as the minimum requirements for the Guardia Nacional de Nicaragua. If the condition of the Nicaraguan Government's finances shall so warrant, the strength of the Guardia Nacional, commissioned and enlisted, and the expenses thereof may be increased upon the recommendation of the Chief of the Guardia Nacional and upon the consent in writing of the President of Nicaragua.

*The foregoing provisions shall be the only ones which shall be authorized for the maintenance of the Guardia Nacional, and any increase or distribution thereof shall be made only by virtue of the prior and express authorization of Congress.*

II

II

It shall be subject only to the direction of the President of Nicaragua, . . . . .

It shall be subject only to the direction of the President of Nicaragua, *through himself or through the proper channels (por si o por los organos correspondientes),*

III

III

All matters of recruiting, appointment, instruction, training, promotion, examination, discipline, operation of troops, clothing, rations, arms and equipment, quarters and administration, shall be under the jurisdiction of the Chief of the Guardia Nacional.

All matters of recruiting, appointment, instruction, training, promotion, examination, discipline, operation of troops, clothing, rations, arms and equipment, quarters and administration, shall be under the jurisdiction of the Chief of the Guardia Nacional *and always under the control and command of the President of the Republic.*

V

V

Other offenses committed by members of the Guardia Nacional de Nicaragua shall be investigated by officers of the Guardia Nacional as directed by the Chief of the Guardia Nacional. If it should appear upon investigation that an offense has been committed, the offender will be turned over to the Civil authorities.

*Infractions not included in the preceding article which constitute civil crimes or offenses, committed by members of the Guardia Nacional shall be investigated and tried by the judicial authorities of the country.*

VIII

VIII

The Guardia Nacional [de Nicaragua] shall be under the control of the President of Nicaragua and all orders from him pertaining to the Guardia Nacional shall be delivered to the Chief thereof . . . . .

The Guardia Nacional [de Nicaragua] shall be under the control of the President of Nicaragua, who will himself, *or through the proper channels*, issue all orders pertaining to the Guardia Nacional to the Chief thereof . . . . .

XII

XII

All American officers serving with the Guardia Nacional of Nicaragua shall be appointed from personnel of the United States Navy and Marine Corps by the President of Nicaragua. . . . .

All American officers serving with the Guardia Nacional de Nicaragua *must speak Spanish* and shall be appointed from personnel of the United States Navy and Marine Corps by the President of Nicaragua. . . . .

The Legation has heretofore informally advised the Government of Nicaragua that changes in the Agreement of 1927 should receive the concurrence of the Government of the United States in order to become effective. The Government of the United States has found itself unable to concur in the amendments transcribed above and has commented upon them as follows:

Article I. The proposed change in the penultimate paragraph if put into effect would apparently compel the reduction of the Guardia to a strength which has been shown by experience to be inadequate for the fulfillment of its mission. The Department of State would have

no objection to a definite provision regarding the number of officers and men and the amount of money to be appropriated, with a further provision that increases must be approved by Congress, but if Article I is to be amended in this manner it must obviously authorize a sufficient force and a sufficient appropriation to cover the actual minimum needs of the Guardia at the present time. The best information now available would indicate that the Guardia under present conditions requires an annual appropriation of approximately \$1,000,000. The Government of the United States is gratified to know that this amount is still being made available. It would seem advisable that a further study of this matter should be made in the near future by the Nicaraguan Government and the Legation in consultation with the Chief of the Guardia in order that both Governments may be more fully informed regarding the present needs of the organization, and in order that arrangements may be made to provide for its financial requirements in a satisfactory and permanent manner.

Article II. The Government of the United States cannot consent to a provision which might be interpreted to require subordinate officers of the Guardia to take orders from local Nicaraguan officials. Such an arrangement would prevent any unity of command or policy in the organization. Furthermore, because of the inevitable differences in points of view, it might lead at times to situations where local Guardia officers might be called upon to take action which they considered inconsistent with the non-partisanship and exact justice which must characterize the conduct of the organization if American officers are to be connected with it. Friction and loss of efficiency would necessarily result. The Department of State feels that this difficulty can only be avoided and that the prestige of the Guardia as an organization can only be maintained if the force is subject solely to the direct command of the President of the Republic, acting in his own name.

Article III. The amendment to this article apparently contemplates an increased supervision by the President of the Republic over matters pertaining to the internal organization of the Guardia. While the Government of the United States of course desires that the policy pursued by the Chief of the Guardia in the direction of the organization should always be satisfactory to the President it does not feel that the aims of the organization can be best attained unless the Chief of the Guardia is given full authority and responsibility over matters such as recruiting, training and discipline. The non-partisanship of the new force cannot otherwise be maintained. The Department of State has no doubt that President Moncada would always uphold the Chief of the Guardia in maintaining the best standards in its internal organization, but it wishes to point out that a situation might easily arise at some time in the future and under

another administration when it would be of the utmost importance for the Chief of the Guardia to have the necessary authority with respect to its internal administration to maintain it on the high plane contemplated by the Tipitapa Agreement.<sup>25</sup>

Article V. Nicaraguan members of the Guardia who commit ordinary offenses will of course be subject to prosecution in the local courts, and there will be no disposition on the part of their American officers to shield them or to hinder a thorough investigation of their actions. The efficiency and morale of the Guardia might, however, be gravely affected if the Nicaraguan members of the organization were exposed to prosecution by local judicial authorities for acts performed in the line of duty, or in extreme cases to judicial persecution for political or personal reasons. The Government of the United States would not wish to conclude an agreement under which its officers might be placed in a position where their subordinates might be subjected to prosecution for acts committed in good faith under their orders. The Department of State feels that the original wording of Article V amply safeguards the rights of all concerned in this respect.

Article VIII. The proposed amendment to this Article is unacceptable for the same reason as the proposed amendment to Article II.

Article XII. The amendment to this Article if interpreted to mean that all officers must speak Spanish at the time of their detail to the Guardia would be very difficult of enforcement. Every effort will be made to detail Spanish-speaking officers to the Guardia and to require those who do not already speak that language to learn it, but it would be inadvisable to restrict the selection of officers to the relatively small number of members of the Navy and Marine Corps who now possess this qualification.

The Government of the United States desires as far as possible to meet the wishes of General Moncada and the Congress of Nicaragua with respect to the Guardia Agreement, and has no desire to insist upon its own point of view with respect to unessential details. It has, however, found itself unable to accept certain of the changes proposed by the Congress of Nicaragua because it can not take the responsibility of lending officers of its armed forces for the organization of the Guardia unless it feels certain that the outcome will not reflect discredit on them and that they will never be placed by the operation of the Agreement in a situation inconsistent with their position as officers of the United States. The Government of the United States considers it especially necessary that the Agreement, while making the

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<sup>25</sup> i. e., the agreement between Colonel Stimson and General Moncada, confirmed by Colonel Stimson's note to General Moncada, dated at Tipitapa, May 11, 1927, *Foreign Relations*, 1927, vol. III, p. 345.

Guardia Nacional subject of course to the command of the President of Nicaragua, should give the Chief of the Guardia a sufficient measure of control over such matters as recruiting, internal organization and discipline to enable him to maintain the strict non-partisanship which under the terms of the Tipitapa Agreement must be its essential characteristic.

The Government of the United States considers the existing situation highly unsatisfactory and would not desire it to continue indefinitely, although because of its deep interest in assisting President Moncada to maintain peace and order it has continued temporarily to cooperate with the Nicaraguan Government on the existing basis. The Department of State now desires if possible to clear up the situation regarding the Agreement. While a reconsideration by the Nicaraguan Congress of the proposed amendments would, in the opinion of the Department of State, be the most satisfactory method of reaching an accord, the Department of State feels that many if not all of the objections to the amendments as outlined herein might adequately be dealt with by an exchange of notes between the two Governments if President Moncada considers it preferable to arrive at the necessary understanding in this manner. Accordingly the Legation transmits herewith drafts of notes to be exchanged which embody the views of the Department of State as to the points which should be covered.

The Legation, as President Moncada is aware, has recently received instructions to discuss with the Nicaraguan Government this subject and a number of other matters affecting the status of the Guardia, with the special view of decreasing in every practicable way the financial burden of the Guardia.

In the opinion of the Legation, the discussion should logically begin with the subject covered by this memorandum and a firm basis be thus established for the arrangement of the other matters involved. It is the Legation's intention, therefore, to take up the other matters in detail as soon as the matter of the Agreement can be disposed of in some mutually satisfactory manner.

[Subenclosure 1]

*Draft of a Proposed Note To Be Presented to the American Minister by  
the Nicaraguan Government*

With reference to this Ministry's note No. 82 of March 8, 1929, transmitting a certified copy of the Agreement for the creation and establishment of the National Guard embodying the amendments to this Agreement which were proposed by the Congress of Nicaragua and approved by the President of the Republic, I have the honor to set forth in this note, for the information of the Government of the United States in considering whether these proposed amendments are

acceptable to it, the intent of the amended provisions and the procedure which will be followed in carrying them out.

My Government does not interpret the penultimate paragraph of Article I of the Agreement as prohibiting the Executive Power of Nicaragua from making such further provision for the needs of the Guardia as may be necessary, utilizing for this purpose funds taken from the surplus revenues or other sources. It is understood that the amount necessary for the efficient maintenance of the Guardia will be the subject of study by the two Governments, and that pending a further agreement between them regarding this amount the Nicaraguan Government will continue to allot funds to the Chief of the Guardia for the use of that organization at the rate of five hundred thousand cordobas during a period of six months.

Articles II and VIII of the Agreement have been amended to provide that the President may issue his orders to the Guardia through the proper channels (*organos correspondientes*). It is the understanding of my Government that this provision refers to orders issued by the President through the Ministers of Gobernacion and Hacienda, and furthermore it is understood by my Government that all orders for the Guardia will be issued only through the Chief of the Guardia.

With regard to Article III it is understood by my Government that the words "control y comando" refer to the general authority of the President of the Republic, who will issue orders in general terms as to the policy to be followed. The Chief of the Guardia, however, will have full authority and full responsibility with regard to the details of its internal administration, including matters relating to recruiting, appointment, instruction, training, promotion, examination, discipline, operation of troops, clothing, rations, arms and equipment, and quarters and administration.

In executing Article V the following procedure will be followed:

If a Nicaraguan member of the Guardia is charged with an offense covered by that Article the judicial authorities before whom the charge is made shall inform the Commanding Officer of the Guardia in that district. The latter, after investigating and ascertaining that there is evidence that an offense has been committed which is not within the competence of the Guardia tribunals established under Article VI, shall deliver the accused to the judicial authorities.

Article XII is not interpreted by my Government to mean that officers of the Guardia must speak Spanish at the time of their detail to that organization.

I avail myself [etc.]



[Subenclosure 2]

*Draft of a Proposed Note To Be Presented to the Nicaraguan Government  
by the American Minister*

I have the honor to acknowledge the receipt of the note of . . . . . with which Your Excellency transmitted a certified copy of the Agreement for the creation and establishment of the National Guard embodying the amendments to this Agreement which were proposed by the Congress of Nicaragua and approved by the President of the Republic.

I have informed my Government of the text of these amendments and of Your Excellency's explanation of their meaning and the procedure to be followed in executing the provisions of the Agreement as amended. In this connection Your Excellency made the following statement:

[Here follows the main portion of the draft of a note to be presented to the American Minister by the Nicaraguan Government, printed *supra*.]

In view of the above statement I have the honor to inform you that my Government accepts the provisions of the Agreement as amended by the Nicaraguan Government upon the understanding that these amendments will be interpreted in accord with the understanding arrived at by this exchange of notes.

I avail myself [etc.]

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817.1051/403 : Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, May 30, 1930—11 a. m.

[Received 1 p. m.]

63. Department's instruction No. 4, April 19th. President Moncada has just told me that he approves draft note with amendments as stated in my air mail despatch No. 45, May 23rd, and will direct the Foreign Office to submit the note.

HANNA

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817.1051/403 : Telegram

*The Secretary of State to the Minister in Nicaragua (Hanna)*

WASHINGTON, June 7, 1930—1 p. m.

49. Your telegram 63, May 30, 11 a. m., and despatch 45, May 23, 1930. Your action approved. Please enter into the exchange of notes using the model submitted as enclosure No. 2 with your memo-

randum of May 5, 1930 to the Government of Nicaragua,<sup>26</sup> but changed as indicated on pages 3 and 4 of your above mentioned despatch.

STIMSON

817.1051/407

*The Minister in Nicaragua (Hanna) to the Secretary of State*

No. 72

MANAGUA, June 26, 1930.

[Received July 1.]

SIR: Supplementing my despatch No. 45 of May 23, 1930, concerning a draft note to clear up the situation regarding the Amendments to the Guardia Agreement, I have the honor to report that this Government has not accepted the draft.

The Minister for Foreign Affairs consulted the Supreme Court with respect to the portion of the draft relating to Articles II, III, V and VIII of the Agreement as amended by the Nicaraguan Congress and the Supreme Court's reply is the basis of this Government's objection to the draft. Copies and translations of the letter of the Minister for Foreign Affairs to the Supreme Court and the reply of the Court are transmitted herewith.<sup>27</sup> The Minister for Foreign Affairs informally handed me the copies of this correspondence, and I subsequently submitted for his consideration a revised draft for the paragraphs of the note to which the opinion of the Supreme Court refers. The revised draft is as follows:

"Articles 2 and 8 of the Agreement have been amended to provide that the President may issue his orders to the Guardia through the proper channels (*organos correspondientes*). It is the understanding of my Government that this provision refers to orders issued by the President through the Ministers of Gobernación and Hacienda, and furthermore it is understood by my Government that, *without impairing the faculty which pertains to the President as Commander in Chief of the Guardia* (*sin menoscabo de la facultad que compete al Presidente como Comandante General de la Guardia*), all orders for the Guardia will be issued only through the Chief of the Guardia.

With regard to Article 3 it is understood by my Government that the words "control y comando" refer to the general authority of the President of the Republic *as Commander in Chief of the Guardia* (*como Comandante General de la Guardia*). The Chief of the Guardia, however, *under the direction of the President of the Republic to whom command over the Guardia pertains* (*bajo la dirección del Presidente de la República a quien corresponde el comando sobre la Guardia*), will have full authority and full responsibility with regard to the details

<sup>26</sup> *Ante*, pp. 661, 668.

<sup>27</sup> Not printed.

of its internal administration, instruction, training, promotion, examination, discipline, operation of troops, clothing, rations, arms and equipment, and quarters and administration. Provided that the Chief of the Guardia shall render due account in accordance with law to the Tribunal Suprema de Cuentas of the Republic.

With respect to Article 5 my Government understands that the Government of the United States agrees that Nicaraguan members of the Guardia who commit ordinary offenses (*delitos ó faltas comunes*) will of course be subject to prosecution in the local courts, and that there will be no disposition on the part of their American officers to shield them or to hinder a thorough investigation of their actions. My Government also understands that the Government of the United States considers, however, that the efficiency and morale of the Guardia might be gravely affected if the Nicaraguan members of the Organization were exposed to prosecution by local judicial authorities for acts performed in the line of duty, or in extreme cases to judicial persecution for political or personal reasons, and would not wish to be party to a provision in the Guardia Agreement under which its officers might be placed in a position where their subordinates might be subjected to prosecution for acts committed in good faith under the orders of those officers, and that the Government of the United States therefore makes the corresponding reservation with respect to this Article V as amended. My Government duly notes this objection and reservation of the Government of the United States and will gladly join it in an endeavor to agree upon a modification of this Article acceptable to both Governments for submission to the next regular session of the Nicaraguan Congress, and, pending such modification, it will strive in every proper way, consistent with due observance of Nicaraguan law and procedure, to meet this objection of the Government of the United States."

When I handed this revised draft to Dr. Irías I told him that I had answered the principal objection in point one of the Supreme Court's communication by making it very clear that the President of the Republic is Commander in Chief of the Guardia, a point which has never been raised or questioned by my Government. He replied that I had overlooked two other points mentioned by the Supreme Court, namely (*a*) that the President has authority to give orders personally and directly to any member of the Guardia and (*b*) that Nicaraguan Civil Officials such as *Jefe Politicos* may also issue orders to the Guardia in their respective localities. I replied that the power of the President to issue orders as mentioned in (*a*) is a natural and unquestionable faculty of his authority as Commander in Chief of the Guardia, and that it seemed to me quite unnecessary if not somewhat absurd to mention it specifically in the exchange of notes. He did not seem disposed to press this point.

With respect to the authority claimed for local Nicaraguan civil officials as stated in (*b*), I explained very fully what I considered would be the Department's objections. Dr. Irías had already pointed out that, under the conditions existing in Nicaragua, it was deemed essential by the Supreme Court in its opinion that effective mainte-

nance of order, the apprehension of criminals and the due enforcement of law could not be attained if the local civil officials should have to communicate with the President before orders could be issued to the Guardia in emergencies, and that for this reason the local civil officials should have the power to issue orders directly to the Guardia. I pointed out to Dr. Irias the danger involved in granting such authority to local civil officials, many of whom would subject it to serious abuse. I reminded him that there is no failure on the part of my Government and Guardia officers to understand the prime importance of friendly and effective cooperation between the local Nicaraguan officials and the Guardia officers and that I am aware that General McDougal is continually impressing the importance of this upon his officers. I expressed the opinion that this cooperation should be attained in the future as in the past through the application of administrative measures by the proper branch of the Nicaraguan Government on the one hand and the Chief of the Guardia on the other, all under the supervision of the President of the Republic, and not by any such dangerous procedure as conferring upon Nicaraguan local officials the power to issue orders to members of the Guardia. Finally, I reminded him that the fundamental idea of the Guardia is that it should be a non-partisan organization and that giving local officials such authority over it would seriously threaten if not destroy its non-partisan character. I reminded him that I am endeavoring to arrive at a formula satisfactory to his Government and which will receive the approval of my Government, and told him that I felt sure that a formula extending such power to local Nicaraguan officials would not receive the approval of the Secretary of State.

With respect to point two in the communication from the Supreme Court, I told him I could understand that his Government might feel obliged to accept the decision of the Supreme Court to the effect that clause 2 of paragraph I of the rules and regulations of the Guardia is unconstitutional. I told him that, therefore, it seemed that it only remained for us to find a formula to avoid conflict over this point until such time as Article V of the Guardia Agreement could be re-submitted to the Nicaraguan Congress for modification in such a way as to make it acceptable to both Governments, and that I had worded the corresponding Article of the draft note in this sense.

I made it very clear to Dr. Irias that I was acting on my own initiative in submitting this modification of the draft note and it would be subject to the approval of the Department of State, and that I was not clear in my own mind as to whether such approval would be given. He said he would discuss the whole subject with the President and would be in a position to communicate with me further in a few days.

I have [etc.]

MATTHEW E. HANNA

817.1051/407 : Telegram

*The Secretary of State to the Minister in Nicaragua (Hanna)*

WASHINGTON, July 18, 1930—7 p. m.

68. Your despatch No. 72, June 26. Please continue your discussions and keep Department informed.

STIMSON

817.51/2168a : Telegram

*The Acting Secretary of State to the Minister in Nicaragua (Hanna)*

WASHINGTON, July 30, 1930—6 p. m.

73. Carazo<sup>28</sup> called at the Department today to report the receipt of a cable from President Moncada saying that all Government salaries were being reduced twenty per cent on account of the economic crisis in Nicaragua and that a meeting would be held in New York tomorrow of the railroad to take similar action with regard to railroad salaries. The only ones not to be reduced are the salaries of the bank officials. He stated that the President inquired whether Guardia salaries might also be reduced an equal amount. The Department understands reduction applies only to salaries from one hundred dollars per month up. Please investigate matter, consult with General McDougal and cable your views.

It was pointed out to Carazo that the American officers were in a different category from other Nicaraguan officials whose salaries are fixed by the Nicaraguan Government and can be reduced by it whereas the American officers are not in Nicaragua of their own accord and their salaries were fixed by a specific agreement.

CARR

817.51/2170] : Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, August 2, 1930—3 p. m.

[Received 8:23 p. m.]

97. Department's 73, July 30, 6 p. m. In my memorandum for President Moncada dated May 5 last, a copy of which was transmitted to the Department with my despatch number 45 of May 23, I referred to the Department's interest "as set forth in the Department's instruction number 4 of April 19 which I previously had discussed fully with President Moncada" in (1) clearing up the situation regarding the Guardia agreement, and (2) meeting Nicaragua's desire to decrease the financial burden of the Guardia, and suggested that

<sup>28</sup> Evaristo Carazo, Counselor of the Nicaraguan Legation.

these two subjects be taken up in the order mentioned. President Moncada appeared to accept this order of procedure. The Department has been kept informed of the progress or lack of progress made in the matter of the Guardia agreement. I have had no reply to my last representations on this point, a copy of which accompanied my despatch No. 72 of June 26. I have noted a reluctance in the Foreign Office to continue discussion of this subject and President Moncada also appears to have less interest in the matter. This Government's action in approaching the Department through its Legation in Washington concerning a reduction of salaries may be an effort to secure a decision on this point without settling the matter of the agreement.

I am in hearty sympathy with this Government's anxiety to reduce the cost of the Guardia and appreciative of its continued support of the Guardia on the present cost basis in spite of the existing financial crisis and am extremely desirous to cooperate in making economies. I am not prepared to recommend that the scale of salary reductions applicable to Nicaraguans should be extended to American officers of the Guardia, in view of the present salaries being fixed by international agreement, but I am decidedly of the opinion, and so stated when in Washington, that serious consideration should be given to modifying the agreement so as to reduce the salaries of those officers. However, I believe we are in a stronger position to bring about an understanding regarding the Guardia agreement if we insist on settling the matter of the agreement before taking up the other point. I deem it of prime importance to clear the record with respect to the agreement even though we should fail to reach an understanding of some of the changes made in the agreement and should ultimately find it desirable to inform this Government that we will be guided by the original terms of the agreement until such time as an understanding may be reached concerning those changes. I think it essential that this Government should not fail to realize its responsibilities arising out of the international character of this agreement.

I have not yet consulted with General McDougal because I am confident that a reduction of the salaries of the American officers of the Guardia would encounter their keen opposition and it therefore appears to me unworthy to incite agitation of this nature before I have the Department's reply to this telegram. If such a reduction is made it would seem that it must be with the concurrence of the Navy Department and the assurance that it will have that department's disciplinary support. For similar reasons I have not yet discussed the matter with this Government.

The reductions vary on an ascending scale from 5 percent for salaries of \$20 and less to 20 percent on salaries of \$100.

HANNA

817.51/2170 : Telegram

*The Acting Secretary of State to the Minister in Nicaragua (Hanna)*

WASHINGTON, August 8, 1930—5 p.m.

80. Legation's 97, August 2, 3 p.m. The Department concurs in your opinion that the Guardia Agreement should be disposed of before consideration is given to the question of reducing the salaries received from the Nicaraguan Government by American officials serving with the Guardia.

The Department accordingly will say to Dr. Carazo that while it is entirely sympathetic to the desire of his Government to reduce its expenditures in an effort to accommodate them to the present economic depression, it does not consider that it can cooperate in this effort by recommending to the appropriate authorities of this Government that they consent to a reduction in the salaries paid by the Nicaraguan Government to the American members of the Guardia until the agreement whereunder those officials are serving with the Guardia has been definitively established. He will be told that when this shall have been done the Department will be in a position to discuss the matter, although no commitment can be made.

CARR

817.51/2171 : Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, August 9, 1930—3 p.m.

[Received 4:39 p.m.]

100. Department's 80, August 8, 5 p.m. I appreciate the Department's support in the matter of the Guardia agreement. I hear [*hope?*] you may also induce the Nicaraguan Legation to cooperate in this matter. My negotiations would be hindered if that Legation should transmit the Department's reply to Dr. Carazo in a form which would irritate President Moncada.

HANNA

817.51/2171 : Telegram

*The Acting Secretary of State to the Minister in Nicaragua (Hanna)*

WASHINGTON, August 11, 1930—noon.

81. Legation's 100, August 9, 3 p.m. The Department's views were stated to Dr. Carazo by telephone to New York practically verbatim as set forth in the second paragraph of its telegraphic instruction No. 80, August 8, 5 p.m.

The Department of course is unable to say in what manner Dr. Carazo will report this statement to President Moncada. He was,

however, informed that the views conveyed to him had been telegraphed to you. You may, therefore, if you deem it necessary, take such steps as appear desirable to prevent President Moncada from misunderstanding the Department's attitude.

CARR

817.1051/454

*The Minister in Nicaragua (Hanna) to the Secretary of State*

No. 222

MANAGUA, November 7, 1930.

[Received November 13.]

SIR: With reference to the Department's telegram No. 111 of October 31, 11 A. M.,<sup>29</sup> transmitting a message from the Secretary of State concerning the proposed reduction in the Guardia Nacional for delivery by this Legation to President Moncada and to the subsequent exchange of telegrams on this subject,<sup>30</sup> I have the honor to enclose herewith a copy of the message as it was delivered to President Moncada.

I will not fail to keep the Department advised of developments in this important matter.

Respectfully yours,

MATTHEW E. HANNA

[Enclosure]

*The Secretary of State to the President of Nicaragua (Moncada)*

In conjunction with the Secretary of the Navy and other Navy officials I have most carefully considered the present situation in Nicaragua with a view to doing anything possible to be of help in the two acute situations now confronting Your Excellency's Government namely, the disturbances and brigandage in the border departments and the financial and economic difficulties.

You will I feel sure readily agree with me that the primary duty of any Government is to maintain law and order. Unless this is done no Government can stand. The situation in Nueva Segovia, Jinotega and Estelí is the big problem now facing the Nicaraguan Government. This situation must be met by the Nicaraguan Government and all possible resources of the Government devoted to its solution. This is the first and paramount duty and obligation of the Government.

Nicaragua's present economic and financial problem is fully appreciated by us. The whole world is passing through a period of great depression and practically all governments are suffering from a shrinkage of income. The question before Nicaragua is how can the duty

<sup>29</sup> Not printed.

<sup>30</sup> Not printed. After the receipt of telegram No. 111 the Minister in Nicaragua initiated a series of discussions with the Secretary and as a result of these the message to be delivered to the President was modified and in its final form was delivered on November 6 (817.1051/442, 444, 446, 447A).



of suppressing banditry and the maintenance of order elsewhere in the Republic be met by Nicaragua's resources.

After very careful consideration and deliberation on our part I feel that the best suggestion that can be made at this time and which indicates the utmost that my Government can do in the matter is as follows.

While all estimates indicate that the preservation of law and order under existing conditions requires an effective and efficient Guardia of a minimum strength of 2,000 at an annual cost of \$1,000,000 exclusive of maintenance of penal establishments, my Government would nevertheless be willing in view of the present financial depression to consent to continue to cooperate in the Guardia at a less strength if and after an auxiliary force of the nature of a local police hereinafter mentioned has been created and has proved effective. In this connection I beg to refer to the penultimate paragraph of your letter of October 3, 1930, to General McDougal in which you promise to introduce into the next Congress a measure providing for contribution by the municipalities to the cost of maintenance of municipal police. Such a measure would appear to be fair and reasonable and would in itself, if it proved effective in operation, materially decrease the cost of the Guardia to the National Government.

I am sure that as a military man you will appreciate fully, Mr. President, how essential it is that funds be provided regularly and promptly for the maintenance of the Guardia. If troops are not regularly paid there is a possibility of mutiny and other disorders and this Government cannot assume the responsibility for exposing its officers to such danger more especially in the exposed and isolated sections of the disturbed departments. I feel that Your Excellency having those considerations in mind will readily agree with me that I am making a perfectly reasonable request when I ask you to give explicit and irrevocable instructions to the Collector General of Customs to segregate during each month as a first charge on the customs revenues after paying the expenses of the collectorship and the service of the debt sufficient funds so that he can pay directly to the Chief of the Guardia on the first of each month the full amount necessary for the expenses during the ensuing month of the Guardia at a strength of 2,000 men. This amount to be reduced as and when the two Governments consent to a reduction in the strength of the Guardia.

I contemplate that the reductions in the Guardia will be made from detachments stationed in the peaceful districts so that not only will there be no reduction in the Guardia forces operating in the bandit infested area but even if possible that those forces may be augmented by a greater concentration there of the Guardia forces. This would in a certain measure leave certain municipalities and areas without police protection and I contemplate that this deficiency should be

supplied by the municipalities themselves through the establishment of local police which will be a branch of the Guardia Nacional to be known as the Guardia Municipal or some other appropriate title indicating that it constitutes an integral part of the Guardia Nacional.

Your Excellency will recall that at Tipitapa we agreed that one of the outstanding needs of Nicaragua was a nonpartisan police force or Guardia to be trained up by the United States Marines and which would be the sole military and police force in the country. I feel confident that you will concur with me that our view then was sound and is still sound as regards the requirements of Nicaragua, both for military protection and for the preservation of law and order. The Guardia Municipal would be under Nicaraguan officers to carry on police duties in each locality; its officers and enlisted personnel would be recruited by the Guardia Nacional and it would have the same relationship to the Guardia Nacional as has the local police recently created in Managua which is an integral part of the Guardia Nacional but is paid for from municipal funds.

What I have outlined above covers merely the day to day hand to mouth necessity of preventing the spread of banditry in Nicaragua. It does not cure the cancer. To bring about a permanent betterment in conditions not only in the bandit infested area but throughout the Republic as a whole I feel very strongly, Mr. President, that you should divert all possible funds from other public works for road building in the affected area. I would suggest that \$50,000 per month or as much thereof as may possibly be provided be set aside for this work. I realize that to do this may mean cutting down the public works in other localities and that this in itself may create in such localities a problem of law and order preservation for the Guardia. I feel that the retrenchment of public works should first be done in areas where there is the least likelihood of disturbances. The building of roads in the affected area will, by providing work for the inhabitants of these bandit ridden provinces, tend to stabilize men who might otherwise be tempted or driven into banditry. At the same time it will provide means for opening up this very sparsely settled area, making it possible to establish farms and other productive enterprises which will add to the general economic prosperity of the country and it will provide the means of communication necessary to patrol the country and hence keep it in a permanent state of law and order. This now seems to me to be the best and surest way of solving definitely the problem which has been acute in Nicaragua for three years and which is no nearer solution now than it was when you and I met at Tipitapa. This proposal I think opens the way for a definite solution of the problem and if you will carry it out will be one of the most statesmanlike acts of your administration and one for

which I feel you will receive the gratitude and recognition of your country in years to come. I am not minimizing the necessity of development in the more densely settled portions of Nicaragua but this is something which I feel must be postponed until more prosperous times in order that the threat of banditry which is now upsetting the whole structure in Nicaragua may be removed.

I know it will be difficult to find funds for this work but the suggestion that occurs to me is that the profits from the operation of the Pacific Railway might very appropriately be used to this end. The construction of these roads will open up new territory and will act as feeders for the railroad; furthermore, the revenue from the railroad is a comparatively new source of revenue to the Government as most of the profits in the past when the railroad was hypothecated to the bankers as security for their advances was used in paying interest and amortization charges on these advances. Now that the railroad has reverted to the Government the profits from the railroad could most profitably be used in further productive enterprises. This Government will be glad to loan the services of its officers and engineers in supervising the road construction work and any Marine equipment such as trucks, et cetera, that may be available.

I have gone into this matter at great length with Your Excellency because after mature deliberation the above offers the best chance I see for meeting the situation the seriousness of which is fully appreciated and in no wise minimized by me. Your Excellency will appreciate, however, that the preservation of law and order is as I have said the first obligation of a country. This Government would hesitate to continue to cooperate with the Guardia unless its expenses are met and even so it would feel that the work, money and effort expended would be wasted unless the fundamental problem of banditry is solved. I therefore feel that this Government is going as far as it can in a helpful attitude to Nicaragua in saying that it is willing to continue to cooperate with the Guardia eventually reduced as set forth above if first the arrangement as above outlined is made for the prompt and regular payment of the Guardia and secondly, if funds for road building in the disturbed sections are provided in order to solve this basic problem.

\* Orderly procedure requires that the reduction of the Guardia be made as indicated above and I sincerely hope that after considering this matter you will agree with me that the reduction cannot be made drastically by November 15th as contemplated in your recent letter to General McDougal. I therefore earnestly request you, Mr. President, to agree to modify that order in the manner outlined above or at least to hold it in abeyance pending the final solution of the present problem.

NOVEMBER 6, 1930.

817.1051/459

*The President of Nicaragua (Moncada) to the Secretary of State*<sup>31</sup>

No. 33

MANAGUA, November 7, 1930.

[Received November 13.]

MY DEAR G[ENE]RAL STIMSON: Your message relating to the reduction of the Guardia was delivered to me on November 6, 1930.<sup>32</sup> A very careful study of your message leads me to believe that at the time you sent this communication you had not received all the pertinent information relating to the subject under discussion.

In order to clarify this matter I desire to make a résumé of my actions and ideas regarding the Guardia and the existing conditions and facts on which my actions and ideas are based.

The agreement for the establishment and the organization of the Guardia provided for a total appropriation of \$689,132.00. In April 1929 the Congress allotted \$720,000.00 for the maintenance of the Guardia and made an additional appropriation of \$40,000 to cover the expenses of the prisons and penitentiaries. Shortly thereafter the country being in a prosperous condition, I, in my desire to exterminate organized banditry in Nicaragua, informed the Jefe Director that I would allow him an additional \$340,000.00 for the maintenance of the Guardia. And some six months ago the Jefe Director advised me that with a temporary increase of two hundred Guardia he believed that within six months organized banditry would be exterminated. I authorized this increase and furnished the necessary funds but at that time I informed the Jefe Director that the economic outlook was bad, that Nicaragua could not continue to support a million dollars Guardia and that the size and cost of the Guardia must be reduced. Since that time I have on several occasions told the Jefe Director and your Minister that the growing economic depression had so seriously affected the finances of my country that plans must be made to manage the Guardia on an annual allotment of \$800,000.00.

And recently I have advised your Minister that the maintenance of the Guardia must not exceed that figure, that furthermore, I believed that such an appropriation would under most careful administration permit a Guardia of at least 1,700 men with a corresponding number of officers, and, that with a Guardia of that size peace and order could be secured in those parts of the country most vital to its welfare.

In my letter to your Minister I suggested that a reduction of three hundred men in the Guardia could be effected by abandoning some 60

<sup>31</sup> In his telegram No. 149, November 8, 11 a. m. (not printed), the American Minister in Nicaragua reported: "I delivered your message concerning reduction of the Guardia on November 6 and at President Moncada's request I am forwarding his reply by air mail tonight" (817.51/2196.)

<sup>32</sup> *Supra.*

posts garrisoned by from one to five men and some 12 posts garrisoned by from 6 to 9 men. This would release approximately 300 men. As a military man it has been and it still is my belief that posts of such small size are of no real military value and that the cost of maintaining small outposts is exceedingly expensive. Furthermore, I suggested that the pay of officers in the Guardia could be temporarily reduced twenty per cent, which would I believe effect a saving of about \$42,000.00 on a basis of 1,700 men. Incidentally, for the past few months the pay of all employees of my government has been reduced twenty per cent because of the shrinkage in our national income. In fact the officers of the Guardia constitute the only group of government employees whose salaries have not been reduced as I have indicated. To me and my people this last suggestion of reducing the expenses of the Guardia is a just one. Undoubtedly, other saving can be effected by revising and carefully supervising the expenses of the Guardia.

Referring to your message, I understand very well that "the primary duty of any Government is to maintain law and order. Unless this is done no Government can stand. The situation in Nueva Segovia, Jinotega and Estelí is the big problem now facing the Nicaraguan Government. This situation must be met by the Nicaraguan Government and all possible resources of the Government devoted to its solution. This is the first and paramount duty and obligation of the Government."

My dear Mr. Secretary, my Government has met this grave problem with the greater part of the resources of the Republic and has given all the authority in the Republic to the commanding officers of the Marines and of the Guardia Nacional and yet banditry has not been exterminated during the two years of my administration. Which is to say, that the problem is still acute despite the efforts of 2,200 Guardias aided first in 1929 by no less than three thousand Marines, and afterwards, in this year of 1930 by approximately 1,500 Marines in the first six months and by about 750 during the last few months.

All of this leads me to believe that the problem of banditry in Nicaragua cannot be solved by following the methods of what might be termed scientific warfare but that *bandolerism*[o] must be met by the use of patrols in the field that can operate as freely and actively as those of the bandits.

And in consequence I am of the firm opinion that banditry cannot be stamped out of Nicaragua with a Guardia of less than five thousand men. To support a Guardia of that size is of course out of the question and the only alternative is to maintain a Guardia of sufficient size to protect all vital points and to then use all available funds to educate my people, thru schools and by building roads, to desire and to follow the pursuits of peace. The latter I have been and am

doing and the results of the recent elections are tangible evidence of the success I have met in that direction.

And at this time I desire to observe that the efficiency of an army depends not only upon the number of men composing it but also upon the qualities of the chiefs of the army and their activity and desire to accept and assume responsibility.

I am able to prove and I have demonstrated many times to the Jefe Director of the Guardia, General McDougal, the error he has committed in stationing in exposed places small groups of Guardia of ten men. Such detachments are inevitably the victims of the bandits. Even as I write this message, word has been received that a garrison *cuartel* has been burned and that probably five Guardia have been killed by the bandits. I have repeatedly told General McDougal that he should locate his principal detachments at strategic points and use them as a base from which active patrolling could be done.

Even though the Guardia has cost two million of dollars during the last two years, my Government would gladly continue to give one million of dollars for the coming year if the national income permitted it, but my Government has not the necessary funds. And now, at every moment I fear that my government will be obliged to say to the Guardia that *there is no money*, and in that moment the disaster will be greater than that feared by you in reducing the Guardia some three hundred men.

You have suggested to me some means by which money may be obtained for the Guardia. One of them I consider practical, that regarding the formation of local police supported by the municipalities.

This scheme was proposed by me more than a year ago but the idea was not accepted by the Department of State, by Señor Minister Hanna or by General McDougal. Finally after much persuasion, the Jefe Director a few months ago agreed to the formation of municipal police in Managua and to test its possibilities. Because of this opposition and because in the last Congress my Government did not have the requisite majority, no law pertaining to this matter was presented. However, at the opening of the coming Congress on the first of December such a law will be presented. But it will probably take six months to pass this law, to repropotion the municipal budgets and to provide for an efficient collection of taxes within the municipalities. But during these months the resources of my country will not warrant the maintenance of a million dollar Guardia.

Along this same line of thought, I would invite your attention to the fact that during the recent electoral period <sup>33</sup> at the request of the President of the Electoral Mission, the Jueces de Mestas and Jefes de Cantones, who constitute a group of about five thousand men have

<sup>33</sup> See pp. 636 ff.

worked under the orders and supervision of the Guardia and I am of the opinion that these officials can be so organized that they will be of valuable assistance to the Guardia in maintaining peace and order.

As you doubtless know the Jueces de Mestas and Jefes de Cantones perform work similar to that of deputy sheriffs in your country and for almost a year I have urged the Jefe Director to permit this group to operate under the control of the Guardia. These men are scattered thruout the country and can and will prove of great assistance to Guardia in securing information and in making arrests in sections of the country where there are no Guardia and where such arrests would otherwise only be made by sending out a Guardia patrol to effect the capture, which procedure is unnecessarily expensive.

Furthermore, if an emergency should arise requiring the repression of any undue disorder by the use of force I can place under the direction of the Guardia one or more groups of volunteers whose employment will cost the government much less than a corresponding number of Guardia.

Also you have suggested to me that I "give explicit and irrevocable instructions to the Collector General of Customs to segregate during each month as a first charge on the customs revenues after paying the expenses of the collectorship and service of debt sufficient funds so that he can pay directly to the Chief of the Guardia on the first of each month the full amount necessary for the expenses during the ensuing month of the Guardia at a strength of 2,000 men."

I have already requested the Department of State to authorize the Collector General of Customs to retain in this country for use by this Government all funds collected in excess of the required annual payment of \$400,000.00 to the bond holders. In the past all monies collected from certain specified sources in excess of the \$300,000.00 has been distributed among the bond holders. The Department of State has as yet not acceded to this just request.

At the present time the Customs are collecting approximately one hundred thousand dollars monthly which is more or less seventy thousand dollars less than was collected in the corresponding months of the preceding year: which is to say that the customs collections barely provide for the pay of government employees, public schools, maintenance of roads, etc.

If we do not pay these employees, *bandolerism*[o] will enter the very heart of the Republic and will not be confined solely to Jinotega, Estelí and Nueva Segovia.

If we suspend the small public works that are now being undertaken, those without work will precipitate the Republic into a grave disaster.

If Nicaragua is forced to continue at this time to support a million dollar Guardia it would mean the temporary suspension of public

instruction and the temporary conclusion of all road building which would create a most aggravated unemployment problem and would cause untold discontent and unrest among my people. I do not feel that I could accept the responsibility for the creation of such a situation when I am firmly convinced that a Guardia composed of seventeen hundred men could thru this period of financial depression protect the vital interests of my country and that a Guardia of such a strength can be maintained on an annual appropriation of \$800,000.00.

The problem is indeed grave and should be solved by viewing it from all sides and with a complete and full spirit of cooperation and friendship on the part of the American Government, the Honorable Señor Stimson and the Nicaraguan Government.

I earnestly urge and beseech that the fullest thought be given this serious question in order that it may be solved to the present and future satisfaction of all concerned.

I am [etc.]

J. M. MONCADA

817.1051/459

*The Secretary of State to the Minister in Nicaragua (Hanna)*

No. 89

WASHINGTON, November 24, 1930.

SIR: There is enclosed herewith a letter from the Secretary of State to President Moncada which you are requested to deliver to President Moncada as soon as possible. An extra copy of the letter is enclosed for the files of the Legation.

Very truly yours,

For the Secretary of State:  
FRANCIS WHITE

[Enclosure]

*The Secretary of State to the President of Nicaragua (Moncada)*

WASHINGTON, November 24, 1930.

MY DEAR MR. PRESIDENT: Your letter of November seventh has been received by me and has been given my most careful thought and consideration. You must know that I fully appreciate the difficult economic situation with which you are confronted as well as my sympathetic desire to render you every assistance within my power in the solution of your difficult problems. I believe that when you have read the latter portion of this letter you will realize this even more strongly, and will recognize how far I am willing to go in my desire to help you find some equitable balance between the vital necessity of maintaining an effective Guardia and of keeping its cost within the financial powers of your Government during this period of reduced revenue.



But in order to more effectively grasp the details of our problem, let us begin by summarizing the general factors in order that we may understand the limitations within which our actions must be confined.

It is now three years and a half since you and I met at Tipitapa and formulated the general principles of peace, which we then negotiated, and of the solution of the future problems which we then foresaw. At that time all of the armed forces in the Republic which had been conducting the civil war agreed to lay down their arms and return to peace. The only exception was the small group headed by Sandino, which you then informed me amounted, according to the best of your information, to not more than one hundred and eighty men. It seemed to us both at that time a very easy problem to suppress this insignificant force of lawless individuals who thus elected to continue a life of banditry rather than to follow the example of their compatriots in returning to the path of peace.

But how different has been the event! Nearly four years of constant warfare in the three northern provinces of your country, where these bandits took refuge, has ensued. Your country has raised an admirable force of over two thousand Guardia carefully trained in the best methods of modern warfare by the experienced officers of our Marines. In addition to this, the United States has, at your request, maintained in your country a large force of American marines, sometimes aggregating over four thousand men, and still amounting to over fifteen hundred, for the purpose of adding stability to the efforts of your peaceful and well-disposed citizens. Yet the conditions in the three provinces of Nueva Segovia, Estelí, and Jinotega still continue, and the situation seems as unsettled as it was three years ago.

I have heard of no criticism of the efficiency or character of your Guardia. The men and their officers are thoroughly brave. They are most energetic in their pursuit of the bandits. They are supplied with all the equipment that modern science can devise, including a regular line of airplanes, maintained by our forces, to communicate with them in the difficult terrain. Whenever they meet the bandits, they are successful in defeating them. If reports are to be believed, they have accounted for in killed, wounded and captured far more than the original force which Sandino led away three years ago. Yet the fountains of banditry in those difficult localities seem to be indefinitely supplied, and we are as far from peace and settled conditions as ever. A new group of bandits seems to step into the shoes of the ones who are disposed of as soon as the latter fall, and the problem remains as difficult as ever. The situation in the remainder of your Republic seems to be satisfactory and reasonably stable, but certain portions of these three provinces remain as a No Man's Land over which the authority of the forces of peace and order apparently cannot be permanently extended. There is thus constituted a continuing

focus for possibly infecting with disorder the remainder of your country.

My dear Mr. President, this seems to me to be a situation which cannot be explained by minor differences of viewpoint as to the military tactics employed. We have furnished you with the best leadership which our Marines could produce, and their reputation for skillful hard fighting is world-wide. As I have already said, the courage and staunchness of your men in the Guardia has elicited the highest praise from their officers. Under these circumstances, I cannot but feel that the problem presents certain underlying factors of geography, as well as economic conditions, which unless remedied and changed render the military problem practically insoluble. Not only is the terrain so difficult and the means of communication so lacking that even the bravest and most enduring forces cannot continue in the field and be supplied for the requisite time to secure a permanent peace, but the same factors place the population at the mercy of its lawless elements to such an extent that the entire population is forced to become the allies of the bandits and the sources of additional banditry. The danger is that unless these conditions are changed, the strain will continue until the efforts of the lawful forces of your Republic are exhausted, and these three provinces will remain unchanged a menace to the peace of the rest of Nicaragua.

It, therefore, seems imperative that the economic conditions should be changed before the problem can be solved. It would seem to me, in the first place, that routes of communication in the shape of good roads must be constructed, which will make easy passage for the disciplined forces upon which we rely, which at present are necessarily at a disadvantage with the unorganized bandits who cannot meet them in battle but who can harass them and then get away. The construction of such roads would not only serve this military purpose, but it would furnish employment for the present unstable population, and would also powerfully conduce to the economic agricultural development of those provinces. Such roads should be constructed not only with reference to the supply of your forces in the field from their bases in the other parts of Nicaragua, but they should be constructed with a view to the protection of your northern frontier, where it is commonly said that the bandits of Sandino are reinforced from the bandits of Honduras.

In the second place, every effort should be made by your Government to educate the people of those provinces through schools and agricultural assistance to desire and follow the pursuits of peace. I agree with every word that you say in your letter on this subject, but I suggest that until this situation in these three provinces is cured, your Government should concentrate its efforts in these directions in

that portion of Nicaragua, even at the cost of slowing up the process in other portions of the Republic.

At the present moment you are engaged in important construction in the other and peaceful parts of your country; to wit, a highway to Rama, and two railroads, the one between Leon and El Sauce, and the other between San Jorge and San Juan del Sur and a third one planned for from Chinandega to Nagascolo. Important as these projects are, they are not, in my opinion, so important as the solution of the vital problem of peace and order in the North; and, in my opinion, from the funds which are now being expended in their prosecution should be drawn the funds necessary for this vital communication and development, and thus for the solution of this problem in Nueva Segovia, Estelí, and Jinotega.

At this point, I feel bound to remind you that the time is rapidly approaching when it will be necessary for the United States Government to withdraw its Marine forces and officers from Nicaragua. The presence of those forces have always necessarily created an abnormal situation and one which can not be permanent. They have remained there at the request of both parties of your country solely because of the sincere desire of my Government to assist you temporarily in the solution of these crucial and fundamental problems. I can not see how they can remain later than to assist you in carrying out the elections of November, 1932. This country will then have helped Nicaragua for five years to police its territory and to keep banditry in check. Public opinion in this country will hardly support a further continuance of that situation. The result of these controlling factors necessarily indicates that the problem of these Northern Provinces must be solved by that date.

I have spoken very frankly because I believe that you thoroughly know my goodwill towards and my interest in your country and its problems. You are the head of its Government and the decision of all these questions is in your hands. Nevertheless, the assistance which my Government, at your request, has been and is continuing to render to yours, makes it proper for me to tell you very frankly my advice upon these questions.

Having thus outlined my views as to the general questions which seem to me to control our further action, I will give you my views upon the details of the problem of the Guardia, which you have laid before me in your letter.

You state that you wish to reduce the annual allotment of the Guardia to \$800,000 and that you believe that for this sum a Guardia of 1700 men, with a corresponding number of officers, can be maintained. You propose to bring about this reduction by abandoning some 60 posts, garrisoned by from 1 to five men, and some 12 posts, garrisoned by from 6 to 9 men, which will release approximately 300

men. You further state that the pay of officers in the Guardia should be reduced temporarily 20 per cent.

It is not clear that your proposal to abandon the 72 posts would introduce an effective permanent arrangement, or that it could be introduced and maintained in the face of local pressure for Guardia protection. Nevertheless, in order to emphasize the desire to cooperate with you to the fullest extent, I am willing to express my approval of this proposal on the specific understanding (1) that the Government of Nicaragua assumes full responsibility for the abandonment of any post after consultation with the Jefe director of the Guardia; (2) that ample time be given to effect transfers to and from troops serving in the bandit area, in connection with selecting the men to be discharged; and (3) that if and when any abandoned post is reestablished or any new post of this nature is established, the Jefe director of the Guardia will automatically be authorized to make a corresponding increase in the total strength of the Guardia and that funds for the maintenance of this increase will be made available to him.

The task with which the Guardia Nacional is confronted is twofold—first, it must restore order in the bandit infested region and secondly, it must maintain order elsewhere in the Republic. The forces now engaged in executing the first task should not be reduced and this should be insisted on. As shown above, I do not criticise your proposal for reducing small posts elsewhere in the Republic established for the maintenance of order.

In your letter under acknowledgment you imply criticism of the Jefe director of the Guardia on account of stationing small groups of Guardia men in certain exposed places. You say that such detachments were inevitably the victims of bandits and that even as you wrote your message word was received that a garrison *cuartel* had been burned and that probably five Guardia men had been killed by the bandits. You doubtless refer to the recent attack on the Guardia post of 10 men at Matiguas, east of Matagalpa, in which five members of the Guardia were reported to have been killed. I understand that it is now known that the Guardia detachment fought valiantly until its ammunition was exhausted and then escaped without casualties. This incident illustrates the force of local pressure for protection of the Guardia, alluded to by me above, because I understand that the establishment of this post was requested by the Minister of Gobernacion on the insistence of the deputy from that area.

You also state that if an emergency should arise requiring the repression of any undue disorder by the use of force, you can place under the direction of the Guardia one or more groups of volunteers whose employment will cost the Government much less than a corresponding number of Guardia men. In this connection I must point out to you that this expedient has already been tried in the past, and

I am reliably informed that the volunteers were neither as efficient nor as economical as the Guardia. I consequently feel that we should dismiss from consideration any thought of such outside forces and concentrate our attention, as we agreed to do in the past, on a single military force in Nicaragua, which should be non-partisan and non-political in character.

There are 72 officers and 1,000 enlisted men now operating in the bandit infested region. My military advisers insist that this force cannot be reduced. After abandoning the small posts throughout the Republic, recommended by you, there will be in the remainder of Nicaragua 79 officers and 650 enlisted men. The total in the entire Republic would then be 151 officers and 1,650 enlisted. This would mean an early reduction of 350 in the enlisted strength. The Guardia Nacional serving outside the bandit region will be further reduced if and when the Guardia Municipal is created.

In your letter of October 16 to Mr. Hanna<sup>34</sup> you suggested that the number of officers can be reduced from 10 to 8 per 100 men. This reduction I am likewise prepared to agree to if the calculation is made for the present on an enlisted strength of 2,000, with the understanding that a less strength may be fixed as a basis of the calculation when conditions so justify. This would mean an almost immediate reduction of 35 officers, the 160 officers remaining to constitute an irreducible minimum until the new arrangement has passed through the experimental stage and proved dependable. A number of American officers will be necessary to organize the Guardia Municipal and several officers are essential for other tasks, such as the Military Academy and the Penitentiary Guard. To show you how low this number has been cut, I will point out that no provision is made in this quota for replacing sick officers and officers on leave. The 160 officers are allocated as follows: 1 Jefe director, 6 Colonels, 9 Majors, 38 Captains, 43 First Lieutenants, and 63 Second Lieutenants (permanent and temporary).

You further request a temporary reduction of 20 per cent in the pay of the officers. I desire to point out that in consenting to reduce the number of officers from 10 to 8 per 100 men, a reduction of 20 per cent is effected. Despite this, I am willing to go even further and approve a salary reduction to apply to the American officers who are detailed to the Guardia in the future. The officers now serving consented to serve with the Guardia on the understanding that their pay would be a certain definite amount in the various grades. I cannot ask these officers now to consent to a reduction in their salaries. I appreciate fully the financial situation in Nicaragua and the great efforts you have made to meet it and the very great sacrifice which

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<sup>34</sup> Not printed.

has been made by the Nicaraguan officers and employees of your Government in accepting a 20 per cent reduction in their salaries. The American officers of the Guardia, however, are in a different category. They are not citizens of Nicaragua and they entered into an agreement to help out the Nicaraguan government in the latter's great need by serving in and training a Guardia, and when they consented to do so it was on the basis of a stipulated salary. While I do not feel that I can rightly ask them now to consent to a reduction in their salaries, I am perfectly willing to agree to a lower scale in salary for those who may serve in the Guardia in the future, and I would therefore consent that the salaries in such cases should be reduced as follows: Jefe directors, \$3,000; Chiefs of Staff and Colonels, \$2100; Majors, \$1800; Captains, \$1500, and First Lieutenants, \$1080. These reductions vary, you will notice, from 10 to 16½ per cent.

With the Guardia reduced to 160 officers and 1,650 men, as outlined above, the sums necessary for the upkeep of the Guardia will be as follows:

For maintenance and rations.....	\$310, 546
Pay of officers.....	204, 250
Pay of enlisted men.....	284, 856

or a total of \$799,652, which you will note brings it within the \$800,000 you desired. An additional \$15,000 for the Military Academy and \$40,000 for the maintenance of prisons should also be allotted annually. I desire to point out that in making this estimate General McDougal has met another of your frequently expressed desires by reducing the daily cost of rations per man from 25 to 20 cents, or a 20 per cent reduction.

In order that you may not be misled or disappointed in the immediate working out of this plan, I feel that I should call to your attention that the cost of the Guardia Nacional will continue at a higher annual rate than that set forth above until the contemplated reduction is completed, but, on the other hand, its cost will be reduced below the annual rate set forth above if and when the Guardia Municipal is created. Furthermore, the foregoing estimate is calculated on the present rates of pay for officers and consequently there will be a still further reduction in the annual cost of the Guardia Nacional as the present officers are replaced by others at the lower rate of pay.

There is one more matter of a financial nature which you touched on in your letter which I am now acknowledging. The Nicaraguan Minister, in Washington, approached me on this subject on November 6th, requesting that all sums in excess of \$240,000 collected by the Collector General of Customs annually shall be made available to the Nicaraguan Government. Hitherto, under the agreement with the

bondholders, by which the Collector General of Customs was established, certain portions of the excess beyond this amount, as well as collections from certain other specified sources, were made applicable to the sinking funds of the bonds issued by your Government. The Minister stated that if this were done, the excess thus diverted to the Government would be wholly devoted to the upkeep of the Guardia Nacional.

On the basis of these representations made to me by Dr. Sacasa, namely, that these funds would be used exclusively by the Guardia Nacional, I told him, on November 6th, that so far as this Government is concerned, it would not interpose objection to the Nicaraguan Government's so using these funds as a temporary measure, it being understood that the Collector General of Customs would not turn these funds into the General Treasury but would deliver them directly, on the first of each month, to the Commander of the Guardia, or else deposit them in the National Bank to the order of the Commander of the Guardia. I felt that the very great reduction in the revenues of your Government arising from the present financial depression, which I was assured rendered the maintenance of law and order in the Republic impossible unless these funds were diverted to that purpose, justified me in withholding my objections.

At the same time I pointed out to Doctor Sacasa that this action on the part of your Government would give a serious blow to the credit of Nicaragua; and I pointed out very frankly to the Minister the effect that this will have not only on the present bondholders and the probable market quotation of the bonds, but also on Nicaragua's ability to raise future loans. It will probably mean that Nicaragua will have to pay more for future loans because the interested bankers will say that Nicaragua, in this instance, did not strictly observe the agreement with regard to extra amortization and, therefore, the undertakings of the Nicaraguan Government for future loan negotiations can not be accepted as freely as in the past. I pointed out that the extra amortization in past years of prosperity met from the additional 50 per cent of the land transfer tax will certainly weigh in the balance in the favor of Nicaragua just as account would be taken of the present financial condition in Nicaragua and the general world economic condition. Nevertheless, I pointed out that the failure to live strictly up to the terms of the agreement will tell against Nicaragua and, in order to justify it, Nicaragua should show very clearly how this money is used. Should this money be covered into the general revenues of the Government to be used for miscellaneous purposes, it will undoubtedly prejudice Nicaragua's position in the future. On the contrary, if Nicaragua can show that these funds were earmarked for a certain specific purpose of a justifiable nature, namely the upkeep of the Guardia, and that funds for this purpose were not available from other

sources, it would go far toward relieving the situation. It was on this condition that I withheld objection to the proposal made by your Government, and I did it in the very same interview at which your Minister brought it to my attention.

I feel that you will agree with me, Mr. President, when I say that on the financial side I have done the utmost to meet your wishes. What I have agreed to above conforms to every one of your requests of this nature.

I believe that this résumé of the situation, both in general and in detail, shows that my Government has cooperated effectively and sympathetically with the problems of your Government. I believe that it also shows, so far as I can judge it from here, the course which must be followed in order to eradicate banditry and to restore peace and order in your Northern Provinces by the year 1932. I have frankly stated my position, as I feel that only in this way may misunderstanding be avoided. The responsibility and obligation for the solution of these problems rests upon your Government, and I have indicated to you the only means by which the responsible officers of this Government feel that the situation can be met. In so doing, I feel that I have fully discharged the responsibility of the Government of the United States in this matter and that the questions now rest clearly with you. I earnestly request that you give these matters your fullest thought and most careful attention; and I think that you know that my cordial good wishes in the future, as in the past, go with you.

I am [etc.]

HENRY L. STIMSON

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817.1051/466

*The Minister in Nicaragua (Hanna) to the Secretary of State*

No. 268

MANAGUA, December 13, 1930.

[Received December 22.]

SIR: I have the honor to report that I duly presented to President Moncada the letter of the Secretary of State concerning a reduction in the strength and cost of the Guardia Nacional which was transmitted with the Department's instruction No. 89, November 24, 1930,

I have received no reply from President Moncada and he has not mentioned the subject to me on the numerous occasions when I have seen him since the presentation of the Secretary's letter. Nevertheless, I understand from other sources that President Moncada was greatly pleased with the Secretary's effort as set forth in his letter to be of assistance to President Moncada in this matter.

I am transmitting herewith a copy and translation of a communication which President Moncada addressed to General McDougal on



December 10, 1930,<sup>36</sup> from which it seems clear that the President has accepted the Secretary's suggestions that the strength of the Guardia be reduced to 160 officers and 1650 men at an annual cost of \$799,652.00, that additional annual allotments be made amounting to \$15,000 for the Military Academy and \$40,000 for maintenance of prisons, and that the salaries of American officers who enter the Guardia in the future be reduced as set forth in the Secretary's letter.

The President suggests in his letter to General McDougal that the lower scale of salaries should be applied to officers who enter the Guardia after December 1, 1930, and General McDougal has told him that he is in accord with the suggestion. It will be noted that the President requests General McDougal to submit plans for reducing the cost of the Guardia and the enlisted strength and cautions General McDougal that this reduction should be made as conditions permit bearing in mind the necessity of selecting the men who are to be discharged. It also appears that the President considers appointing the more efficient of the enlisted men thus discharged to the positions of Jueces de Mesta or Jueces de Cantones. General McDougal is now preparing a statement of his plans for submission to President Moncada.

I will not fail to keep the Department advised of further developments in this matter.

Respectfully yours,

MATTHEW E. HANNA

817.1051/467

*The Minister in Nicaragua (Hanna) to the Secretary of State*

No. 274

MANAGUA, December 16, 1930.

[Received December 23.]

SIR: Supplementing my despatch No. 268 of December 13, 1930, concerning the reduction being made in the strength and cost of the Guardia Nacional, I have the honor to transmit herewith a copy of General McDougal's reply<sup>36</sup> to President Moncada's letter of December 10, 1930, a copy of which latter letter was transmitted with my despatch under reference.

General McDougal's letter submits his plan for carrying into effect the reduction in the strength of the Guardia to 160 officers and 1650 enlisted men as contemplated in the recent exchange of correspondence between the Secretary of State and President Moncada. It will be noted that the Guardia serving in the four bandit infested Departments is to be maintained at a strength of 1000 men and that, to effect

<sup>36</sup> Not printed.

a reduction to a total of 1650 enlisted, the strength of the Guardia serving in the remaining nine provinces of the Republic must be reduced to 366 men (the remaining 284 men to make up the total of 1650 are comprised in the Headquarters, prison guard, band, presidential guard and other like miscellaneous services).

It should not be overlooked that General McDougal has not expressed any opinion in his letter concerning the places where the reduction is to be made but has, on the contrary, requested the President to indicate the stations he desires to have abandoned and the number of men he desires to remain at the stations not abandoned so that the total serving in those stations will not exceed 366. In this same connection, General McDougal also makes special mention of President Moncada's statement that "it is of great importance that this reduction be made as conditions permit", and General McDougal states that he will be guided by the President's instructions as to the places where and the date on which the reduction is to take place. I understand that it is General McDougal's desire to avoid all responsibility for decisions of this nature in connection with the reduction.

Respectfully yours,

MATTHEW E. HANNA

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**ASSISTANCE OF THE DEPARTMENT OF STATE IN REORGANIZING  
THE FINANCES OF NICARAGUA** <sup>37</sup>

817.516/239A : Telegram

*The Acting Secretary of State to the Chargé in Nicaragua (Beaulac)*

WASHINGTON, January 28, 1930—3 p. m.

9. Carazo <sup>38</sup> informed the Department some days ago that Sacasa <sup>39</sup> had terminated negotiations with Otis & Company because he considered their final proposal unsatisfactory. He objected particularly to a provision that the manager of the bank would have full authority with respect to the conduct of its business subject only to control as to matters of policy by a two-thirds vote of the members of the Board of Directors consisting of five nominees of the Government and four nominees of the bankers. He also objected to a provision giving the bankers an option on future financing so long as the agreement should remain in force. The Republic would have a right to terminate the agreement at any time on 30 days notice.

Sacasa and Carazo asked the Department's advice as to the next step to be taken, but was informed that the Department could not advise the Nicaraguan representatives regarding the acceptance or

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<sup>37</sup> Continued from *Foreign Relations*, 1929, vol. III, pp. 651-670.

<sup>38</sup> Evaristo Carazo, Counselor of the Nicaraguan Legation.

<sup>39</sup> Juan Bautista Sacasa, Nicaraguan Minister in the United States.

rejection of a particular proposal, or regarding possible new negotiations with other bankers. It was unnecessary to consider the advisability of putting the Nicaraguan representatives in touch with other bankers, as they believed that they already knew of others who might be interested. It is understood that Carazo has had some discussion with the Bank of Manhattan and Trust Company. In response to his request for information he was informed [that the Department understood from the Department of Commerce that this was a strong and reputable institution.

If you find that there is any misapprehension on the part of the Nicaraguan Government regarding the Department's relation to these negotiations you may make it clear that the Department's activity has been confined to introducing the Nicaraguan financial representatives to a group of bankers known to be reputable, and to furnish the latter with general information which seemed likely to be useful to them. The Department could not undertake to advise the Nicaraguan representatives to accept or reject any given proposal, and it has not advised them regarding the beginning of negotiations now with a new banking group. They have acted in these matters entirely on their own responsibility, subject to any instructions which they may have received from their Government.

The text of the final proposal of Otis & Company will be forwarded to you for your information by air mail.

COTTON

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817.516/248

*The Vice President of the International Manhattan Company (Knowlton)  
to the Under Secretary of State (Cotton)*

NEW YORK, April 16, 1930.

[Received April 19.]

MY DEAR MR. COTTON: In February I had the pleasure of discussing with you and Secretary White the conversations which our affiliated institution, the International Acceptance Bank, Inc., was holding with representatives of the Nicaraguan Government. We feel that you may be interested to know that as a result of these conversations, the International Acceptance Bank, Inc. has been appointed the American Depositary and Fiscal Agent of the National Bank of Nicaragua and the Ferrocarril del Pacifico de Nicaragua. Two of the Vice Presidents of our bank, Mr. William H. Schubart and Mr. Howard J. Rogers, have been elected and have consented to serve as directors of the National Bank. Mr. Schubart has been elected and is serving as a director of the railroad company.

In addition to the above mentioned, the board of the National Bank now consists of the Nicaraguan Minister, Dr. Juan B. Sacasa,

the Counsel of the Nicaraguan Legation, Dr. Evaristo Carazo, Dr. Vicente Vita and Dr. Virgilio Lacayo, all Nicaraguans resident in this country, and Dr. C. E. McGuire of Washington, and Mr. H. Christian Sonne of the importing house of Amsinck, Sonne & Co., Inc. of this city. The board of the railroad consists of the above gentlemen (with the exception of Mr. Sonne), and Mr. Henry H. Hanson, Vice President of the International Railways of Central America.

The relations between the International Acceptance Bank, Inc. and the National Bank and railroad have not been made the subject of any contract or formal agreement, and it is understood that our bank, in addition to rendering the usual banking services extended to a depositor, is acting only in an advisory capacity and that the relationship is one which may be terminated at any time by either side.

It is our hope, of course, that in this capacity our bank and its officers who are serving on the boards of the two Nicaraguan institutions may be of real assistance and service to the Government of Nicaragua.

On behalf of my associates and myself, I wish to express to you our appreciation of your and Secretary White's kindness to me when in Washington and to assure you that the conversations which I had with you were of the greatest help to us all.

Respectfully yours,

HUGH KNOWLTON

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**DISAPPROBATION BY THE DEPARTMENT OF STATE OF PROPOSED  
CONSTITUTIONAL AMENDMENTS TO EXTEND THE TERM OF  
OFFICIALS AT THE TIME IN OFFICE**

817.00/6554 : Telegram

*The Chargé in Nicaragua (Beaulac) to the Secretary of State*

MANAGUA, March 14 [13?], 1930—5 p. m.

[Received 8:30 p. m.]

32. Reference my despatch No. 1341 of February 27.<sup>40</sup> I am informed that a project for partial reform of the Constitution was introduced into the Senate last night providing among other things the following: The Presidential term to be extended to seven years; the term of Supreme Court Magistrates and Senators to be extended to nine years; the term of Deputies to be extended to six years. I am informed that the president of the Senate carried away the project with him and I have therefore been unable to confirm the above.

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<sup>40</sup> Not printed.

In conversation with the President the other day he told me that he was aware that certain reforms in the Constitution were being contemplated but that he would have nothing to do with the conversations. Nevertheless it was apparent that no reforms of the nature described would be introduced without his approval. I should appreciate immediate instructions as to the attitude I should take in the event that my information concerning the projected reform is confirmed.

BEAULAC

817.00/6555 : Telegram

*The Chargé in Nicaragua (Beaulac) to the Secretary of State*

MANAGUA, March 14, 1930—11 a. m.

[Received 4:04 p. m.]

33. My 32, March 13, 5 p. m. Prominent officials of the Government profess ignorance of the exact contents of the project of reform and state that its introduction into the Senate was a complete surprise to them. I have not discussed the matter with President Moncada pending the receipt of information concerning the Department's attitude. The Vice President and the Minister for Foreign Affairs have expressed the opinion that the President would not permit any reform, of the character proposed, to be actually carried out without prior consultation with the Legation. I agreed that it was reasonable to suppose that that would be his attitude. The project of reform was apparently introduced into the Senate at 6:30 on the evening of March 12 after a great many Senators had left the Chamber. It was hurriedly read and immediately carried away by the president of the Senate. It is due to be read for the second time and discussed in the Senate Tuesday, March 18. It is generally reported that in addition to the reforms mentioned in my telegram No. 32 the project provides for female suffrage, the restriction of the right of vote to literates, an addition to chapter 18 of the Constitution to make the Guardia Nacional constitutional, the substitution of local boards for municipal governments in ports, and the abolition of the jury system.

[Paraphrase.] Although it is evident and generally conceded that a project of such importance could not have been introduced without his knowledge and will not be passed without his consent, I anticipate that President Moncada will maintain the attitude that he has nothing to do with the proposed reform. [End paraphrase.]

Ex-President Diaz informs me that Liberal members of Congress are stating that the project was prepared and introduced in agreement with the Legation. I told him that the Legation had nothing to do with it and repeated my conversation with him to the Minister for

Foreign Affairs. Ex-President Diaz asked me to receive a delegation of Conservative senators who desired to consult with the Legation regarding the project but I declined.

BEAULAC

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817.00/6555 : Telegram

*The Acting Secretary of State to the Chargé in Nicaragua (Beaulac)*

WASHINGTON, March 15, 1930—4 p. m.

29. Your 32, March 13, 5 p. m. and 35 [33], March 14, 11 a. m. While the question of the amendment of the constitution is one to be determined by the proper Nicaraguan authorities you will please say informally to President Moncada that this Government always deprecates the adoption of constitutional amendments which extend the term of officials at the time in office. It feels that such amendments are contrary to the spirit of republican institutions and they usually react disastrously in the long run on the administration for whose benefit they are enacted. The adoption of such an amendment in Nicaragua at the present time would be especially unwelcome to the Government of the United States, because of its supervision of the recent presidential election and because of the assistance which it has been rendering to President Moncada in the maintenance of order in Nicaragua. It feels that this assistance justifies it in expressing its views in a friendly and informal manner to the President, and that it would in fact be lacking in candor if it did not do so.

COTTON

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817.011/41:Telegram

*The Chargé in Nicaragua (Beaulac) to the Acting Secretary of State*

MANAGUA, March 18, 1930—5 p. m.

[Received 7:47 p. m.]

38. Department's 29, March 15, 4 p. m. I delivered the Department's message to President Moncada informally this morning. He had, however, first reminded me that he had not intervened and could not intervene in the matter. I told him that in a matter of such fundamental importance it appeared to me that he must use his influence for the good of Nicaragua. He said that he did not wish to impose his will on Congress and I replied that I saw no reason why he should not give Congress the benefit of his opinion. He said that there was no present danger as two years would have to elapse before the project could be finally approved. I replied that it seemed to me desirable that a matter involving such dangers to Nicaragua should be stopped in the beginning rather than be allowed to gain headway.

He then said that he was in agreement and would communicate his ideas to Congress informally but that he would not send any written statement. I replied that the method he chose would seem to be a matter for his decision.

Doctor Cuadra Pasos called this morning and said that the governing board of the Conservative Party was in a quandary as to what attitude to take and would naturally like to know the attitude of the State Department since agreement with the Department was the basis of the party's policy. He had particular reference to the provisions for the extension of terms of office holders. I told him that I could not advise the parties on matters of this nature but speaking entirely personally I saw no reason why he should not, if he so desired, base his attitude on his knowledge of the traditional attitude of the United States and his own experience in such matters.

Both President Moncada and Cuadra Pasos expressed doubt that the project would pass in the Chamber of Deputies where the Conservative element was in a position to block it.

It is unfortunate that reforms which are obviously undesirable should have been embodied in a single project with other reforms which are generally considered desirable. If the project is defeated the desirable reforms will be lost also. On the other hand if Congress approves the project as a whole with the idea of later defeating the undesirable reforms one by one as apparently it would ordinarily have the opportunity of doing, it is possible that the individual reforms will not be voted upon separately and the project will be considered as finally approved.

Cuadra Pasos suggested that President Moncada might be willing to encourage the governing boards of the two parties to agree to a second project of reform embodying only the desirable changes. If he were willing to do this I think it would be a desirable solution. I think, however, that he would reiterate his intention not to mix in the matter. Perhaps the least dangerous procedure would be to allow the entire project to be defeated thus sacrificing the desirable reforms. I believe the Conservative Party would follow any suggestion I made but while I cannot refrain from seeing prominent members of the party who come here I am trying to avoid giving the impression that the Department is seeking through what influence it may have with the Conservative Party to defeat a measure which either the President or the Liberal Party desires. Dr. Cuadra Pasos also suggested the calling of a constituent assembly in place of legislative elections this year and said that in that case his party would be satisfied with supervision by an American president of the election board assisted mainly by the Guardia.

President Moncada was very apparently annoyed this morning and it was apparent when I began my conversation that he intended to

continue to maintain that he could have nothing to do with the project in any way. I therefore doubt that he would be very eager to take the initiative in substituting for the present project one embodying the essential and desirable reforms which might be agreed upon by both parties. I do not, however, see that he could object to an informal and friendly suggestion in that sense and if the Department desires I shall be glad to advance it. A copy of the project in full was forwarded by air mail Sunday.

BEAULAC

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817.011/43 : Telegram

*The Chargé in Nicaragua (Beaulac) to the Acting Secretary of State*

MANAGUA, March 28, 1930—4 p. m.

[Received 7:25 p. m.]

41. My telegram number 38, March 18, 5 p. m. The national and legal governing board of the Conservative Party following a meeting yesterday issued the following statement:

“Since in the opinion of Conservative Party the reforms presented do not satisfy or meet the needs and problems of the present public life of Nicaragua which should be treated in an elevated discussion and in a legal manner, the party, which would gladly consent to and accept a broad treatment which would compromise [*comprise?*] all the changes necessary to the country at this time, declares that it cannot accept the amendments to the Constitution which are at present being discussed in the Senate except insofar as they refer to the fulfillment of international obligations, and it expects that all members of the party within their respective activities will maintain its principles inviolate and defend them within their powers.”

The Senate committee is said to have submitted a favorable report on the project. President Moncada now seems to take it for granted that it is intended that the proposed extension of the presidential term will apply to him. He has told me that while he naturally feels complimented he does not favor the idea and has so stated to members of Congress. So far as I know however only one member of Congress has stated in debate that the President does not favor the project.

BEAULAC

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817.032/100 : Telegram

*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, May 10, 1930—noon.

[Received 2:40 p. m.]

53. The regular session of the Nicaraguan Congress terminated yesterday.



Department's air mail instruction of March 22.<sup>41</sup> The proposed amendments to the Constitution have not been approved. It did not appear necessary to communicate to President Moncada the Secretary's informal personal message.

Department's telegram number 37, April 18 [19], 2 p. m.<sup>42</sup> The appropriation for the Guardia is 760,000 cordobas but President Moncada has given me informal assurance that the Guardia will not be reduced in strength and that he can and will make additional necessary funds available as during the present fiscal year. He has told me that he could not insist upon a larger appropriation in the present state of public opinion. The Department's instruction No. 645, of April 19,<sup>43</sup> is receiving the Legation's attention.

HANNA

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**CONCERN OF THE DEPARTMENT OF STATE OVER REPRESSIVE  
MEASURES OF PRESIDENT MONCADA <sup>44</sup>**

817.00/6910

*The Minister in Nicaragua (Hanna) to the Secretary of State*

No. 262

MANAGUA, December 9, 1930.

[Received January 2, 1931.]

SIR: I have the honor to report that a number of Nicaraguans have been arrested by order of the Comandancia General which is immediately subordinate to the orders of President Moncada and have been confined in the penitentiary in Managua without formal charges being made against them. These arrests have been made since the recent elections, and I understand the prisoners are all members of the Conservative Party. The general impression appears to be that these arrests were made on reports submitted by the secret agents of this Government which indicated that the prisoners were engaged in subversive activities against the Government. It has also been freely stated that some or all of them were plotting to assassinate President Moncada.

Among the first individuals to be thus arrested were General Roberto Hurtado and General Marcos Potosmi who were defeated candidates for Congress of the Conservative Party in the recent elections. General Emiliano Chamorro and Don Adolfo Diaz called upon me separately and protested against these arrests, asserting that they were arbitrary and without foundation and claiming that they were the first move in a campaign to terrorize the Conservative Party for the effect this might have on the presidential elections in 1932.

<sup>41</sup> Not printed.

<sup>42</sup> *Ante*, p. 657.

<sup>43</sup> Same as instruction No. 4, April 19, p. 657.

<sup>44</sup> Continued from *Foreign Relations*, 1929, vol. III, pp. 590-606.

An effort seems to have been made to implicate General Chamorro himself in the supposed conspiracy against the Government. General Anastasio Somoza, Under Secretary of Foreign Affairs, called upon me by direction of President Moncada and told me that the latter had information which indicated that General Chamorro was implicated in the conspiracy. General Somoza said he did not know the evidence on which this charge was founded. One of the Liberal newspapers of this capital had just published a letter written by an expatriated Nicaraguan in which the writer spoke of his plotting against the Government here and, in the course of his narration, stated that he understood that General Chamorro would help him when the proper moment arrived. This letter was published under great headlines announcing that General Chamorro was plotting against the Government and the same paper, on the following day, published an editorial accusing General Chamorro of such plotting. When General Chamorro mentioned this incident to me he denounced the charge as utterly absurd. I have no reason to believe that General Chamorro is opposing this Government by methods which are not legitimate and ethical. On the contrary, my dealings with General Chamorro and my information of his political and other activities indicate that he is being most circumspect in an endeavor to give this Government no just reason for criticising or persecuting him.

Generals Hurtado and Potosmi were subsequently expelled from the country together with two other Nicaraguans by the name of Vargas. The latter subjects have not been conspicuous politically but they have long been under suspicion. They lived directly across the street from the residence of the President and it seems that it has been thought for a long time that they were plotting to do the President violence. I understand that they are distant relatives of General Chamorro.

A number of other suspects, at least ten in all, have also been arrested and imprisoned without charges. They are comparatively unknown with the exception of Hernaldo Zuñiga who, I am informed, was Sub-Secretary of Gobernación under General Chamorro after the *coup d'état* of October, 1925, and Pablo Leal, Jr., son of a former Conservative Mayor of Managua in 1926-27.

My conversation with General Somoza referred to above was very frank. I accepted his statement that the reports reaching President Moncada placed the prisoners under suspicion but suggested that a more thorough investigation might reveal that the suspicions were ill-founded and would not warrant the measures that were being adopted. With respect to General Chamorro, I told him that if I were shown conclusive evidence that General Chamorro is plotting against this Government I would spare no effort to cooperate but that all my

dealings with General Chamorro and all my information concerning his activities indicated that General Chamorro is in no wise connected with conspiracies against the Government. I told him I fully appreciated that the Government must be vigilant in protecting itself against its enemies but that I was not convinced that it was following the best course to accomplish that end in making imprisonments and expulsions from the country on evidence which will not stand the test of publicity. I pointed out that this would cause unrest in Nicaragua and might be interpreted outside of Nicaragua in a way that would create wrong and undesirable impressions concerning conditions here and bring disrepute upon the Government. I suggested as a substitute procedure that the subjects under suspicion should be placed under the strictest surveillance to establish their innocence or guilt and to obtain evidence which would convict them in a proper legal procedure in the event they were guilty. General Somoza said that he knew from his own experience when he was in charge of the Government's secret service that probably 80% of the reports reaching him were gross exaggerations or wholly incorrect, and he added that he feared that the President is not being protected at this time from forming wrong impressions from such reports and consequently is probably mistaken concerning the amount and seriousness of the plotting that is going on.

I also discussed this subject informally on two or three occasions with the Minister for Foreign Affairs in connection with the imprisonment of Pablo Leal. Leal's wife appealed to me for assistance alleging her American citizenship. She submitted her certificate of marriage as Dorothy Bowlby to Pablo Leal, Jr., in Newark, New Jersey, on January 4, 1928. The Minister for Foreign Affairs told me yesterday that Leal has been released from the penitentiary.

There seems to be no doubt that President Moncada has been made to think that attempts against his life are being plotted. Reports of this nature continually come to my attention. He seldom or never leaves his residence without being accompanied by a strong detachment of Guardia Nacional in uniform and fully armed. One of the Liberal newspapers recently published an item stating that an armored automobile truck equipped with machine guns had been ordered from the United States to transport a presidential body-guard of twenty men. The Conservative newspaper *La Prensa* has commented editorially on this reported intention of the Government as discrediting Nicaragua, pointing out the significant fact that during the 110 years of Nicaragua's independent existence there had been but one attempt against the life of its President.

I am informed that three of the remaining prisoners have been released from the penitentiary and that no additional arrests and imprisonments have been made since December 6, and it may be that the Government will not persist in this policy.

Respectfully yours,

MATTHEW E. HANNA

817.00/6901

*The Minister in Nicaragua (Hanna) to the Secretary of State*

No. 270

MANAGUA, December 16, 1930.

[Received December 23.]

SIR: Supplementing my despatch No. 262 of December 9, 1930, concerning the arrest and expatriation by Presidential order of a number of Nicaraguans, I have the honor to transcribe below a passage from President Moncada's Message read at the opening of Congress on the 15th instant in which he refers to this subject:

The Administration has been obliged to expel from the country some five persons for their complicity in disturbing order.

Of those who were expelled in 1929 I will say to you that one of them today occupies a seat in one of the Houses of Congress and that another is about to return to the country with permission of the Government. The Government will furnish funds to repatriate him, just as it gave funds to his family, thereby proving in an eloquent manner that it is not partisan passion which impelled the decree of expulsion but effective efforts to resot [*sic*] to political assassinations in Nicaragua.

I desire you to give attention to this pernicious tendency. Political leaders (*caudillos*) not being able, for fear of the North American cooperation, to resort to civil war to attain power, think on occasions of another shorter and more decisive method, and from this arises those sporadic outbreaks which my Government is obliged to repress with imprisonments, expulsion or preventative imprisonment, which latter never exceeds the ten days which Article 112 of the Constitution concedes to the President of the Republic.

I understand that this passage of the Message has provoked much unfavorable comment and criticism. These imprisonments and expulsions were formally considered at a recent meeting of the Executive Committee (Junta Directiva) of the Conservative Party and *La Prensa*, the organ of that party, published in the same issue with which it published President Moncada's Message a Manifesto of the Executive Committee in which the Party protests against these arbitrary acts. A translation of the Manifesto is transmitted herewith.

As though it were a sequel to the President's Message and the Manifesto, the papers of today which published both documents also gave prominent space to an account of the prospective expulsion of the following seven additional Nicaraguans: Noel Ernesto Pallais, Arturo Vega, Agustin Sanchez Salinas, Salvador Morales, Ernesto Centeno, Domingo Conrado and Marco Antonio Benavente. I understand that three of these are Conservatives but that the remaining four are Liberals who were recently made prisoners in Leon on evidence indicating that they were engaged in Communistic activities in cooperation with Bolsheviki organizations in Latin America and elsewhere. One of these two individuals, Doctor Noel Ernesto Pallais, is a son-in-law of

the prominent physician of Leon, Dr. Luis H. Debayle, and a brother-in-law of General Anastasio Somoza, Under Secretary of Foreign Affairs. President Moncada has told me that a Liberal Senator was also implicated in this Communistic plotting and that he would have been expelled from the country with the others were it not that his position as Senator makes him immune.

Respectfully yours,

MATTHEW E. HANNA

[Enclosure]

*Manifesto of the National and Legal Board of Directors of the  
Conservative Party*

TO THE PEOPLE OF NICARAGUA: The pacific attitude of the Conservative Party has been consistent, considerate, open, and notorious in the time which has elapsed since the first of January, 1929, the day on which it yielded the public powers into the hands of its adversary and descended to occupy the field of the opposition in the active politics of the Republic.

Conscious of the obligations which it incurred when it accepted the bases which Mr. Henry Stimson, as personal representative of the President of the United States, proposed to it in a well-intended and friendly mediation to put an end to the last destructive civil war, Conservatism has lent the collaboration of its kindness, moderation, and mildness in order that the High Powers, free from worry, might be able to obtain the effective peace of the Republic, and that the citizens might be able to enjoy that peace in the atmosphere of a true social tranquility.

The Conservative Party knows very well that one of the immovable bases on which the new situation rests is that of the intangibility of the mandate conceded by the people for the entire time which the Constitution provides. As that mandate was entrusted to the Liberal Party by the result of the elections which were supervised by General Frank R. McCoy<sup>45</sup> commissioned by the President of the United States, the Conservative Party which attended those elections voluntarily, cannot by any conception nor by any operation direct or indirect violate it (the mandate), and the Conservative Party is resigned to its fallen situation throughout all the Presidential period which is covered by the verdict of the polls of 1928.

Resigned to that idea it has dedicated itself to reorganizing its ranks and to bettering the elements which it will be able to direct tomorrow in order to take part in political activities, within the enjoyment of the necessary liberties which were guaranteed to it in the same afore-mentioned agreements and by word of the mediator Mr. Stimson himself, and which it feels it has the right to enjoy through having been the party which instituted them in the Republic

<sup>45</sup> See *Foreign Relations*, 1928, vol. III, pp. 418 ff.

and which has restored them as often as they were impaired, injured, or destroyed.

The Conservative Party has not decided to resign itself passively in that new position, but it has operated as an opposition by correct methods, agreeing on the causes which it has fallen to it to support, without violence and advocating its points of view opposed to those of the men now in charge of the High Powers. It does not wish to be even censured as obstructionist, because it is trying to leave all the responsibility for the present administrative situation on the shoulders of the Liberal Party.

Always in the service of public tranquility and stimulated by the desire to contribute to the realization of the plans which were drawn up on the occasion referred to of putting an end to the civil war, it resolved to go to the polls in the elections of Senators and Deputies which have just passed. When it was announced that the elections were going to be supervised by impartial elements, this National and Legal Board of Directors removed the abstention which it had previously decreed, and proceeded to set forth before the electoral Mission what it felt necessary for the free action of the party in its attendance at the polls.

In the spirit of conciliation which it has taken as a cardinal point it presented its claims on the very points which the Liberal Party had demanded of General McCoy in 1928 as necessary and indispensable and which the Conservative Government granted it without discussion. This Board of Directors felt that it would thus facilitate the relations of the Electoral Mission with the Executive Power, which could not deny the justice of the requests which it itself had formulated in like circumstances. However, the majority of those very just petitions were denied us notwithstanding the goodwill with which the National Board of Elections proceeded, presided over by the Honorable Captain Johnson commissioned by the President of the United States.

In spite of such acts of opposition, capable of overwhelming the best efforts of democracy, the Conservative Party, desirous of the good success of the Electoral Mission, did not abstain from attendance at the polls. It prepared itself for an absolutely unequal struggle because it felt that its abstention on such an occasion would upset the political organism of the Republic and would be a cause of uneasiness. To such an extreme it has carried its attachment to peace.

In order to understand the unjust inequality of footing in which the two parties were placed in the last civic campaign, it will be enough to recall that in the Departments of strongest Conservative population the municipalities had been usurped, depriving the cities and towns of their municipal governments, substituting for them, con-

trary to the Constitution and the laws, "de Facto" officials, created by a decree of the Executive, which can well be called a partial "coup d'etat." The tradition of our democracy is essentially municipal as a people of Spanish origin which the Nicaraguan people is. It is inconceivable that there can be fair elections when the original organs of democracy were corrupted and destroyed. The obstacles which the usurping officials placed in the way of the victory of the Conservative majority were innumerable. Withal, through devotion to a far-reaching work of which the party considers itself the founder, we went to the polls in order to pave the way of the Republic in its evolutive march.

In order that peace may be a possession of all, real for the masses and beneficial for society, it must be developed within the bounds of order, which run parallel on the respect of the governed for authority, and on the justice of the governors toward everyone and toward all the citizens. The Conservative Party in its character of opposition has fulfilled in the most rigorous manner the part which belongs to it in the maintenance of that balance of order. It has given its respect to authority and to the laws of the Nation. But from the other side there has not been given to it that which belongs to it through the obligation of justice in which authority is established, and it has constantly been molested, its citizens being denied the individual guarantees which our Fundamental Charter grants them.

Immediately after the Electoral Mission had taken its departure, as if to exhibit the failure of a system, with the impossibility that the aforesaid Mission could effectively guarantee the citizens who are opposed on any grounds to the opinions of the Executive, although it is done according to the forms of law, Conservative citizens have been persecuted, imprisoned, and deported, among them candidates of the Party in the last elections and members of this National and Legal Board of Directors.

Without proceeding in any way according to legal procedure, without respecting the rules which the constitutions of all free and civilized peoples have laid down for reducing a citizen to prison, Conservatives have been seen continually arriving at the penitentiary as criminals without crimes, prisoners by governmental orders emanating from the Commander in Chief, as if martial law were in force. This movement of honorable citizens who enter and leave the prisons without sentence being passed and by arbitrary mandate can only fill society with uneasiness. Peace continues unchangeable, but the calm which must be its child and companion has taken its leave of the Conservatives, who cannot devote themselves to their tasks, because they feel themselves within the risk of the action without reason of the authority. With the Conservative Party, which comprises so

large a part of the Republic, thus harassed, its ill-being will end by disquieting and afflicting the entire Nicaraguan society.

In order to explain such imprisonments and deportations without form of judgment and without hearing those accused, there is talk of conspiracies with criminal inclinations toward an attempt against individuals determined on. The history of the Conservative Party constitutes a precedent which by itself refutes such accusations. Neither in the times in which the Party has suffered the most persecutions, nor when guarantees for life and property were lacking, nor when the families were persecuted and life was impossible did Conservatism give consideration to thoughts of that kind, and it always refrained from criminal transactions even to free itself from any kind of tyranny.

In the presence of these events the National and Legal Board of Directors of the Conservative Party, which at present directs its political destinies and which is its official organ, has felt itself obliged to make before the Nicaraguan people the following declaration of the intentions of the Party and of the protest at the mutilation of its rights:

The Conservative Party insists that it will not deviate a bit in its pacific intentions. It will be a factor for the maintenance of public peace while this rests on the system along which the Republic travels on the axis of the institutions of rotation in office and of free polls.

The Conservative Party protests against the lying accusations that it is fomenting banditry or has understandings with it. All Nicaragua knows what the origin of this evil is and the efforts which Conservatism made when it was in power to attain a complete re-establishment of peace.

The Conservative Party denies as insulting and slanderous every accusation which may be directed against it in the attempt to exhibit it as a participant in traitorous plans and in every kind of criminal attempts against those who exercise the High Powers of the Republic.

The Conservative Party protests at the unjustified persecutions of which some of its honorable citizens are victims, who have been reduced to prison and banished from the territory of the Republic illegally and against all right, driving them from their homes, without submitting them to judicial procedure, and violating the laws and the Constitution of the Republic.

MANAGUA, December 14, 1930.

ADOLFO DIAZ, EMILIANO CHAMORRO, CARLOS CUADRA PASOS, N. LACAYO, F. GUZMAN, C. RIVERS D., G. REYES MONTEALEGRE, D. CALERO B., LUIS ELIZONDO, ISMAEL SOLÓRZANO, ALEJ. CARDENAS, JOSÉ MARÍA SIERO, H. ZUÑIGA PADILLA, D. STADTHAGEN

(There are lacking more signatures which have not been collected.)



817.00/6901

*The Secretary of State to the Minister in Nicaragua (Hanna)*

No. 108

WASHINGTON, January 3, 1931.

SIR: The Department refers to your personal letters of November 28 and December 4, 1930, to Assistant Secretary of State Francis White, and your despatch No. 270 of December 16, 1930, and their respective enclosures, relating to the arrest and deportation, apparently for political reasons, of members of the Conservative Party and others in Nicaragua. The acts described in these communications indicate a tendency in the administration of government by President Moncada which, if persisted in, may well defeat the broader constructive efforts in which he is engaged.

You are requested, therefore, to say to President Moncada orally and in a most friendly manner, stating that you do so by my direction, that this Government is much concerned by the situation you have reported. It is, of course, imperative that the Government of Nicaragua exercise all proper diligence in the suppression of seditious activities, but it is believed that this end can be served by the usual methods of vigilance and detention for proper cause, without resorting to general arrests and deportations upon hearsay or mere suspicion.

In this connection, you may point out that President Moncada's recent message to Congress touches upon a fact of much importance with respect to the problem under discussion. It was formerly very generally asserted that the presence of a small detachment of United States Marines in Managua from 1912 to 1925 constituted an effective barrier between the established Governments and those who might have desired to effect their overthrow, and it may safely be assumed at present that, as stated by him, those who might otherwise resort to violence in opposition to his administration are restrained from such action because of the military cooperation now extended to the Government of Nicaragua by the United States. It is the opinion of this Government that its active military cooperation with the established Government of Nicaragua makes it necessary for it to assure itself that the Nicaraguan Government should not, in the enjoyment of its immunity to serious attack from within, undertake measures against its political opponents which are open to the charge of being of a retaliatory or unjustifiably oppressive nature. You may say to President Moncada that I have directed you to express the request that within the limits imposed by his recognized obligation to safeguard his person and his administration, political arrests and deportations of the nature described be discontinued, and the ordinary processes of law be substituted in dealing with those against whom legitimate cause for suspicion is found to exist.

Very truly yours,

H. L. STIMSON

**AGREEMENT BETWEEN THE UNITED STATES AND NICARAGUA  
REGARDING TRANSPORTATION FOR UNITED STATES ARMY EN-  
GINEERS AND SURVEY OF A RAILROAD ROUTE**

817.812/522

*The Chargé in Nicaragua (Beaulac) to the Secretary of State*

No. 1317

MANAGUA, February 11, 1930.

[Received February 17.]

SIR: With reference to the Department's telegram No. 17 of February 7, 5 P.M.,<sup>46</sup> concerning a proposed agreement under which the Nicaraguan Government would grant free transportation to the United States Army Engineers in Nicaragua in return for which the latter would carry out a survey of a rail route from Lake Nicaragua to the Atlantic Coast, I have the honor to transmit herewith copies of the notes referring to this agreement exchanged between the Legation and the Foreign Office together with a translation of the Foreign Office's note.

It will be observed that the arrangement outlined in the Legation's note No. 14, of February 8, 1930, referred to, and concurred in by the Nicaraguan Government in its note of February 10, 1930, in reply, is that outlined by the Legation in its telegram No. 4 of January 8, 3 P.M.,<sup>46</sup> and agreed to by the Department in its telegram No. 17 of February 7, 5. P.M.

Since information concerning the proposed agreement had reached the Nicaraguan press from Washington, the Minister of Foreign Affairs asked me if I had any objection to his releasing the notes for publication locally and I told him that I had none. He told me that he would have immediate instructions issued to the Railroad in accordance with the terms of the arrangement reached.

I have [etc.]

WILLARD L. BEAULAC

[Enclosure 1]

*The American Chargé (Beaulac) to the Nicaraguan Acting Minister for  
Foreign Affairs (Cordero Reyes)*

No. 14

MANAGUA, February 8, 1930.

EXCELLENCY: I have the honor to refer to a recent conversation with Your Excellency concerning a proposed agreement between the Government of Nicaragua and the Government of the United States of America under which the Government of Nicaragua will grant to the United States Army Engineers engaged in conducting a survey of the Nicaragua Canal Route free transportation over the railroad and lake steamers belonging to the Pacific Railroad of Nicaragua, in

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<sup>46</sup> Not printed.

return for which those engineers will carry out a survey of a rail route from Lake Nicaragua to the Atlantic Coast via the San Juan River Valley and make such survey available to the Government of Nicaragua. In accordance with the understanding reached in our conversation I have the honor to suggest the following as the terms of the agreement between the two Governments:

(1) The Government of Nicaragua agrees to grant to the United States Army Engineers engaged in conducting a survey of the Nicaragua Canal Route free transportation of men and supplies on the railroad and lake steamers belonging to the Pacific Railroad of Nicaragua during the period they have been and will be engaged in their present work in Nicaragua.

(2) In return for this exemption the Army Engineers referred to will carry out in connection with their present duties a survey of a rail route from Lake Nicaragua to the Atlantic Coast via the San Juan River Valley and make such survey available to the Government of Nicaragua.

Accept [etc.]

WILLARD L. BEAULAC

[Enclosure 2—Translation]

*The Nicaraguan Acting Minister for Foreign Affairs (Cordero Reyes)  
to the American Chargé (Beaulac)*

No. 17

MANAGUA, February 10, 1930.

SIR: I have the honor to acknowledge the receipt of your Note No. 14 of February 8, 1930, with reference to a proposed agreement between the Government of the United States of America and the Government of Nicaragua under which the latter will grant to the United States Army Engineers engaged in conducting a survey of the Nicaragua Canal Route free transportation over the railroad and lake steamers belonging to the Pacific Railroad of Nicaragua, in return for which those Engineers will carry out for the Government of Nicaragua a survey of a rail route from Lake Nicaragua to the Atlantic Coast via the San Juan River Valley.

In reply, I beg to state to you that my Government accepts with the greatest pleasure the agreement referred to as outlined in Paragraphs (1) and (2) of the note to which I reply.

Accept [etc.]

M. CORDERO REYES

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**BOUNDARY DISPUTE WITH HONDURAS**

(See volume I, pages 361 ff.)

## NORWAY

### TREATY BETWEEN THE UNITED STATES AND NORWAY FOR EXEMPTION FROM MILITARY SERVICE OR OTHER ACT OF ALLEGIANCE OF PERSONS HAVING DUAL NATIONALITY, SIGNED NOVEMBER 1, 1930<sup>1</sup>

711.574/10

*The Minister in Norway (Swenson) to the Secretary of State*

No. 1602

OSLO, March 10, 1930.

[Received March 26.]

SIR: With reference to the Department's instruction No. 495, of December 13, 1929,<sup>2</sup> I have the honor to enclose a copy of a note which I addressed to the Foreign Office under date of January 10, 1930, on the subject of concluding a treaty with Norway exempting certain persons from military duty, etc.<sup>3</sup> I discussed the matter orally with the Minister for Foreign Affairs with the result that he promised to recommend a reconsideration by the Department of Defence with a view to acceding to the wishes of the United States for a specific agreement.

I am now in receipt of a reply, dated the 7th instant, a copy of which is transmitted herewith,<sup>3</sup> stating that in deference to this urgent suggestion the Department of Defence is willing to consent that hereafter the cases in question be governed by a special agreement. Mr. Mowinckel<sup>4</sup> declares that the Norwegian Government stands ready to enter into such agreement, setting forth the form thereof, which it will be observed is the same as that contained in the Department's original instruction, No. 442, of December 1, 1928,<sup>5</sup> paragraph 3, with the addition that the stay is to be considered as temporary provided it does not exceed two years. It is also suggested that the proposed agreement be made effective from July 1, 1930, in case this is acceptable to the United States. The Minister adds that the arrangement will be considered as having been concluded as soon as a favorable reply is received from me.

<sup>1</sup> For previous correspondence, see *Foreign Relations*, 1929, vol. 1, pp. 471 ff.

<sup>2</sup> *Ibid.*, p. 474.

<sup>3</sup> Not printed.

<sup>4</sup> Johan Ludwig Mowinckel, Norwegian Prime Minister and Minister for Foreign Affairs.

<sup>5</sup> See instruction No. 167, December 1, 1928, to the Ambassador in Belgium, *Foreign Relations*, 1928, vol. 1, p. 497.

I have this day acknowledged the receipt of the note under report, expressing my sincere appreciation of the accommodating attitude shown by the Minister for Foreign Affairs and his colleague the Minister of Defence, and stating that I shall revert to the subject as soon as I have heard from the Department of State.

I have [etc.]

LAURITS S. SWENSON

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711.574/10

*The Secretary of State to the Minister in Norway (Swenson)*

No. 517

WASHINGTON, May 6, 1930.

SIR: The Department has received your despatch No. 1602 of March 10, 1930, concerning the proposal of this Government looking to the conclusion of a treaty with Norway, under which persons born in either country, of parents having the nationality of the other, and continuing to reside in the country of birth, may visit the country of their parents' nationality temporarily, without being held for the performance of military service or other acts of allegiance.

Accompanying your despatch are a copy of your note of January 10, 1930, addressed to the Norwegian Minister of Foreign Affairs, and a copy of the reply received thereto under date of March 7, 1930.<sup>6</sup> It is noted that the Norwegian Government has expressed its willingness to conclude an agreement containing the following provision:

"A person born in the territory of one party of parents who are nationals of the other party, and having the nationality of both parties under their laws, shall not, if he has his habitual residence, that is, the place of his general abode, in the territory of the State of his birth, be held liable for military service or any other act of allegiance during a temporary stay in the territory of the other party.

"The stay is to be considered as temporary provided it does not exceed two years."

The first paragraph, being identical in form with that suggested by the Department, is satisfactory. The second paragraph, suggested by the Norwegian Government, is open to objection. As it stands, a stay in Norway protracted beyond two years is to be conclusively considered as permanent. The Department feels that situations may arise in which such a result would be highly undesirable. For the full protection of citizens of the United States who may take temporary residence in Norway, it seems necessary to predicate no more than a rebuttable presumption of permanency on a stay protracted beyond two years.

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<sup>6</sup> Neither printed.

The Department's despatch No. 442 of December 1, 1928, suggests the following "proviso" in this connection. "Provided, That, if such stay is protracted beyond the period of one year, it may be presumed to be permanent, in the absence of sufficient evidence to the contrary."

You are instructed to substitute for the phrase "period of one year", the phrase "period of two years", and to re-submit said "proviso", so modified, for the consideration of the Norwegian Government.<sup>7</sup>

There appears to be some uncertainty as to the form which the contemplated agreement shall take. The following sentence appears in the reply of the Minister for Foreign Affairs to your note of January 10, 1930. "It will be considered by Norway as having been concluded as soon as a favorable reply is received from you." Seemingly, the Norwegian Government is desirous of putting the agreement into effect by exchange of notes. The Department is unable to assent to such procedure. Negotiations were undertaken with the Norwegian Government pursuant to a Joint Resolution of Congress, set out in the Department's despatch No. 442 of December 1, 1928. This Resolution clearly contemplates the execution of formal treaties. Moreover, apart from the express language of this Resolution, the powers granted the Congress under the Constitution preclude the conclusion of any international agreement, covering this subject, by the exercise of the executive power only.

You are instructed to inform the Norwegian Government to this effect and to renew your suggestion for a treaty.

You will also express to the Norwegian Minister for Foreign Affairs the appreciation of this Government for the willingness manifested by his Government to conclude an agreement on this subject.

I am [etc.]

For the Secretary of State:  
J. P. COTTON

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Treaty Series No. 832

*Treaty Between the United States of America and Norway, Signed at Oslo, November 1, 1930*<sup>8</sup>

The President of the United States of America and His Majesty the King of Norway being desirous of regulating the liability for military service and other acts of allegiance for persons who are

<sup>7</sup> Further correspondence (not printed) resulted in the wording of the "proviso" as it appears in the treaty text, *infra*, art. 1, second paragraph.

<sup>8</sup> In English and Norwegian; Norwegian text not printed. Ratification advised by the Senate, December 20, 1930; ratified by the President, December 31, 1930; ratified by Norway, December 19, 1930; ratifications exchanged at Washington, February 11, 1931; proclaimed by the President, February 12, 1931.

nationals of both countries, have decided to conclude a Treaty for that purpose, and have appointed as their Plenipotentiaries:

The President of the United States of America, Laurits S. Swenson, Envoy Extraordinary and Minister Plenipotentiary of the United States to Norway;

His Majesty the King of Norway, Johan Ludvig Mowinckel, His Prime Minister and Minister for Foreign Affairs;

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

#### ARTICLE I

A person born in the territory of one party of parents who are nationals of the other party, and having the nationality of both parties under their laws, shall not, if he has his habitual residence, that is, the place of his general abode, in the territory of the state of his birth, be held liable for military service or any other act of allegiance during a temporary stay in the territory of the other party.

Provided, that, if such stay is protracted beyond the period of two years, it shall be presumed to be permanent, in the absence of sufficient evidence showing that return to the territory of the other party will take place within a short time.

#### ARTICLE II

The present Treaty shall be duly 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 Norway, and shall enter into effect after the exchange of ratifications at Washington.

It shall thereafter remain in force for a period of ten years. If neither party shall have given the other 6 months' previous notice of its intention then to terminate the same, it shall further remain in force until the end of 12 months after either of the contracting parties shall have given notice to the other of such intention.

In witness whereof, the respective Plenipotentiaries have signed the present Treaty in duplicate in the English and Norwegian languages and have thereunto affixed their seals.

Done at Oslo this first day of November in the year of our Lord one thousand nine hundred and thirty.

L A U R I T S S . S W E N S O N  
[SEAL]

J O H L U D W M O W I N C K E L  
[SEAL]

## PANAMA

### AUTHORIZATION TO THE PANAMANIAN GOVERNMENT TO REMOVE THE STATUE OF COLUMBUS FROM THE GROUNDS OF THE WASHINGTON HOTEL AT COLON

819.413 Columbus/17

*The Minister in Panama (Davis) to the Secretary of State*

No. 37

PANAMA, April 26, 1930.

[Received May 5.]

SIR: I have the honor to refer to the notes exchanged by the Treaty Commissioners representing the United States and Panama, dated July 28, 1926,<sup>1</sup> relative to the statue of Christopher Columbus now standing on the grounds of the Washington Hotel, in Colon, and to submit certain suggestions concerning the transfer of this statue to Panama.

The bronze statue of Columbus, to which the above mentioned notes refer, is the work of an Italian sculptor, Vincenzo Vela, and it was designed and executed under a commission from Empress Eugénie of France, who presented it to the Republic of Colombia, through General Tomas C. de Mosquera, Colombian Minister to certain European countries. In 1866 the Colombian Government accepted the gift and directed that the statue be erected in the city of Colon. The statue was delivered at the Port of Colon in April, 1870, by a special commissioner representing the donor.

Under Law No. 76 of June 7, 1871, the Colombian Government directed that the statue be erected at the Atlantic entrance of the proposed canal on a site to be designated by the State of Panama. It was first erected on a site near the wharfs of Colon, but was later moved to another site overlooking the entrance of the proposed French canal. About 1916 the statue was moved to the grounds of the Washington Hotel, which is owned and operated by the United States Government, through the Panama Railway Company. The grounds of the Hotel are not open to the general public.

A controversy as to the ownership of the statue continued for several years, the American officials maintaining that ownership passed to the United States with the acquisition of the Canal Zone, and Panamanian officials maintaining that ownership was vested in the city of Colon.

<sup>1</sup> *Foreign Relations*, 1926, vol. II, pp. 849-850.



In 1925 it was proposed that a descriptive tablet be placed on the monument reading as follows:

CHRISTOPHER COLUMBUS  
BEQUEATHING TO MANKIND HIS NEW DISCOVERY,  
THE NEW WORLD.  
DESIGNED IN 1864 BY THE ITALIAN SCULPTOR,  
VINCENZO VELA,  
AND PRESENTED IN 1866 TO THE NEW WORLD  
BY THE EMPRESS EUGENIE

A controversy developed over the historical accuracy of the proposed inscription on the ground that the statue had not been presented "To the new world", but to the Government of Colombia, and the suggested legend was not affixed to the statue. (See Department's note to the Panamanian Minister, dated December 15, 1925—file No. 819.413/22.)<sup>2</sup>

The Panamanian public as well as the Panamanian authorities attach considerable sentimental value to the statue, and have consistently maintained that it should be erected in a public place in the City of Colon, rather than on the private grounds of the Hotel Washington. The Municipality has reserved a site for it.

I respectfully suggest that the present moment would appear to be propitious for transferring the statue to Panama. The notes exchanged by the Treaty Commissioners apparently contemplate the transfer, without the necessity of Congressional action, since these notes state that the statue belongs to Panama; and it is my impression that the Canal Zone authorities and the officials of the Panama Railroad perceive no objection to the transfer being effected at an early date. Since the Panamanian authorities attach so much sentimental value to the statue and have resented the fact that it is erected on grounds owned by the United States which are not open to the public, I believe that its transfer to Panama would create a very favorable impression.

In this connection may I suggest that the corner stone for the new monument might be laid by the Panamanian Government when Dr. Olaya, President-elect of Colombia, visits Colon on his return trip to Colombia, and that he might participate in the ceremony, without, of course, making it appear that Colombia is presenting the statue to Panama. It is probable that the ceremonies could be arranged so as to promote sentiments of friendship and good will toward the United States which would be reflected both in Panama and in Colombia.

Should the above suggestions merit the favorable consideration of the Department, it would probably be advisable to discuss the sug-

<sup>2</sup> Not printed.

gestion that Dr. Olaya participate in the ceremony with him informally while he is in Washington before making any definite plans. Should this phase of the matter be arranged to the satisfaction of the Department and of Dr. Olaya, I am confident that I can secure the enthusiastic acquiescence of the Panamanian authorities.

In any event, I respectfully venture the opinion that the moment appears to be propitious for the transfer of the statue to Panama, either with or without the participation of a representative of Colombia in the ceremonies.

I shall appreciate instructions as to the Department's views relative to the above suggestions at its earliest convenience.

I have [etc.]

ROY T. DAVIS

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819.413 Columbus/19 : Telegram

*The Secretary of State to the Minister in Panama (Davis)*

WASHINGTON, May 29, 1930—noon.

29. Your despatch No. 37, April 26, 1930. War Department and Governor Panama Canal state they have no objection to immediate removal of Columbus statue from present situation to another point in the Republic of Panama. Accordingly, you will please inform Panamanian Government that this Government agrees to the immediate removal of such statue. Since it appears that the statue is the property of Panama you will avoid creating the impression that the transfer involves a gift from the United States. The Department does not feel that you should suggest to the Panamanian Government that it invite the President-elect of Colombia to attend any celebration which may be held in connection with the transfer, as any suggestion of this kind should originate with the Panamanian Government itself.

STIMSON

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819.413 Columbus/24

*The Minister in Panama (Davis) to the Secretary of State*

No. 81

PANAMA, June 5, 1930.

[Received June 14.]

SIR: Referring to the Department's cablegram No. 29 of May 29, 12 noon, authorizing me to inform the Panamanian Government that it may remove the Columbus Statue which stands in front of the Washington Hotel in Colon, I have the honor to transmit herewith a copy of my note to the Secretary for Foreign Affairs on this subject, together with copy and translation of his reply.

This note was delivered to the Secretary for Foreign Affairs a few hours before he visited Colon to take part in a banquet honoring

Commander Isaac C. Kidd, who has been Captain of the Port of Cristobal for three years and who has made many friends among the Panamanians. The Secretary for Foreign Affairs, who has been the moving force for many years in claiming this Statue for the City of Colon, manifested his appreciation at the attitude assumed by the Department in this matter and announced the delivery of the Statue at the banquet given in honor of Commander Kidd.

The delivery of the Statue to the Panamanian Government has created a very favorable impression throughout the Republic.

I am transmitting herewith a copy of an article published in the *Star and Herald* of June 3, relative to this matter.<sup>3</sup>

I have [etc.]

ROY T. DAVIS

[Enclosure 1]

*The American Minister (Davis) to the Panamanian Secretary of State for Foreign Affairs (Arosemena)*

No. 35

PANAMA, May 31, 1930.

EXCELLENCY: I have the honor to inform Your Excellency that I have communicated with my Government relative to the Columbus Statue which now stands on the grounds of the Washington Hotel in Colon, and I am pleased to report that my Government has instructed me to advise Your Excellency that since it appears that the monument is the property of Panama, the Government of the United States agrees to its immediate removal from its present site to any point that may be satisfactory to Your Excellency's Government.

Accept [etc.]

ROY T. DAVIS

[Enclosure 2—Translation <sup>4</sup>]

*The Panamanian Secretary of State for Foreign Affairs (Arosemena) to the American Minister (Davis)*

D. D. No. 846

PANAMA, June 3, 1930.

MR. MINISTER: I have the honor to acknowledge receipt of Your Excellency's Note No. 35, in which you inform me that the Government of the United States agrees that the Columbus statue, which at present stands on the grounds of the Hotel Washington, in Colon, be transferred to any other site which may be desired by the Panamanian Government. I am greatly pleased by this determination of the Government of Your Excellency, exponent of the high spirit of justice in its relations with Panama, and I wish at the same time to place on record the appreciation of the Panamanian Government for the kind efforts of Your Excellency in this matter.

I avail myself [etc.]

J. D. AROSEMENA

<sup>3</sup> Not reprinted.

<sup>4</sup> File translation revised.

**PARAGUAY**

**THE CHACO DISPUTE BETWEEN BOLIVIA AND PARAGUAY**

(See volume I, pages 309 ff.)

## PERU

### REVOLUTION IN PERU

823.00 Revolutions /3: Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 22, 1930—11 p. m.  
[Received August 23—3 :14 a. m.]

143. Admiral Pye<sup>1</sup> informs me that according to advices just received through Ministry of Marine, artillery regiment near Arequipa has revolted in absence of two infantry regiments on maneuvers. Colonel of regiment has declared himself head of forces in south until President Leguia ousted. Revolters were marching on Arequipa, which presumably fallen, as no means of resistance. Attitude of two infantry regiments unknown and wires apparently cut between Arequipa and here. News not yet generally known here so far as aware. Attitude of Army forces here unknown although much unrest. Chances are would join in any substantial revolt.

Cruiser under command of Peruvian officer sailing tomorrow from Callao to the south of Mollendo to protect aviation base. Navy considered reliable.

If revolt matures we will be confronted with problem of participation of Naval Mission in Government. As Pye and I believe, our officers of course should not command, but query if and when cease from staff duties at Lima. Unless the Department has clear-cut instructions to give me now, suggest I be authorized to use my discretion.

Furthermore if revolt assumes substantial proportions believe Department should consider expediency of Embassy publishing notice to American citizens refrain from participation either side with disclaimer of protection in event not complied with.

Military Attaché requests War Department be informed.

MAYER

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823.00 Revolutions/4: Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 23, 1930—noon.  
[Received 3:10 p. m.]

144. My telegram number 143 August 22, 11 p. m. Government newspaper *Prensa* publishes account of insurrection at Arequipa from

<sup>1</sup> Rear Admiral William S. Pye, U. S. N., Chief of the American Naval Mission in Peru.

which apparently entire garrison has joined revolt, rest of country described as quiet. The President has issued a decree closing until further notice the port of Mollendo to all merchant vessels, national or foreign, and closing likewise the city of Arequipa and its suburbs for commercial air traffic.

Revolutionists have taken Mollendo. The Government has despatched one plane to Arequipa and one to Mollendo to distribute literature and general purpose of intimidation without actually dropping bombs or the like. The Government has also sent submarine to Mollendo to blockade the port and keep closed in accordance with decree described above. All quiet locally.

Military and Commercial Attachés request repeat also to respective departments.

MAYER

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823.00 Revolutions/5:Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 24, 1930—7 p. m.

[Received 11:54 p. m.]

146. 1. Puno, where Army division, and Cuzco and Camana, on coast north Mollendo have joined revolt. Two out of four army divisions therefore now in it. Anti-Government demonstrations understood to be taking place in the north but no active revolt as yet. A meeting of generals in Lima was held this afternoon at which I understand from reliable source it was decided that President Leguia must go.

2. New military Cabinet taking office, expected this will be headed by General Martinez and include naval officers as well. Minister of Foreign Affairs to be Admiral Olivera (in this connection please see my reports re his opposition to naval mission).

3. Understood on reliable authority that old Cabinet forced to resign when recommended this morning President Leguia resign. Unconfirmed reports from several sources that President Leguia resigning and Cabinet taking over authority pending elections.

4. Against orders of Admiral Pye, Captain Grow<sup>2</sup> yesterday flew to Arequipa to assist in distribution of propaganda from the air to rebels; understand this was at President's personal request. Grow captured this morning at Camana. Although greatly displeased at Grow's action making effort, of course, to obtain assurance of his safety, at wife's request, and to convey informally to revolutionists through Blaisdell at Arequipa the Embassy's interest in Grow's well-being.

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<sup>2</sup> A reserve officer on inactive duty under private contract with the Peruvian Government. He resigned from the United States Navy in December, 1926, when a member of the United States Naval Mission to Peru, in order to sign a private contract as Director General of Peruvian Aviation.

5. Plane of Faucett Aviation Company, Peruvian corporation, seized at Arequipa and understand being flown by rebels; Faucett believed also in Arequipa. Am making inquiries in this regard.

6. Anti-Government demonstrations now going on in Lima with increasing crowds and excitement, police being concentrated.

MAYER

823.00 Revolutions/6: Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 25, 1930—1 a. m.

[Received 2:40 a. m.]

147. My telegram August 24, 7 p. m. Local Politico-military situation apparently growing more confused but President is still in the picture. New military Cabinet reported in my August 24, 7 p. m., refused take office.

Efforts are being made by conference of President and officers to select governing junta from Army and Navy. There are indications that President Leguia may be cleverly manipulating the situation to remain in power here at head of young officer group. South seems solidly in hands of revolutionists.

Have just been around the town and find it now quiet with police patrols everywhere. Repeated to Santiago.

MAYER

823.00 Revolutions/7: Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 25, 1930—9 a. m.

[Received 10:50 a. m.]

148. President resigned at 4 this morning. Military junta in control headed by General Ochsén former Chief of Staff. Colonel Sanchez Cerro in Arequipa apparently is being asked to join junta. Lima quiet but rumors of impending student demonstration this morning.

Reliably reported that President Leguia, family and military suite, left on cruiser *Almirante Grau* early this morning.

Repeated to Santiago, La Paz, Quito.

MAYER

823.00 Revolutions/9 : Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 25, 1930—noon.

[Received 3 p. m.]

149. My telegram No. 148, August 25, 9 a. m. Admiral Pye has just been informed that President Leguia and entourage who went aboard the *Almirante Grau* for protection of himself and family by arrangement with the junta has raised the Presidential flag on the ship and is now anchored off San Lorenzo Island near Callao. He has radioed to the Naval College at La Punta stating that he is President and that his orders should be obeyed. Admiral Bielich, Minister of Marine in the junta, had requested Admiral Pye and the Mission to remain in charge of their duties. In view, however, of this new confused situation Admiral Pye has requested the junta to relieve the Mission temporarily of its executive duties.

The dean of the diplomatic corps has called a meeting for 12 o'clock today. Unless otherwise instructed I shall deal informally and *de facto* with whatever authority is actually in control in Lima if and when necessity arises.

MAYER

823.00 Revolutions/11 : Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 25, 1930—4 p. m.

[Received 6:11 p. m.]

151. At diplomatic body meeting this morning Papal Nuncio, Chilean Ambassador, German Minister, Japanese Minister and myself were delegated a committee to call upon junta and request assurance of protection both for our nationals, their business interests and our own diplomatic mission. We particularly informed General Ponce that a number of people had come to us asking right of asylum which we have of course granted; we requested that the junta afford ample protection for our houses. With this in mind General Ponce and the junta assured us of their protection stating that they were declaring martial law to enforce order.

I was not much impressed with organization of the junta and feel in common with rest of my colleagues and others that there is very little real control and that the situation might get out of hand at any moment. There is considerable rioting and burning of houses in Lima and threats of same even in the suburbs. Unless some strong man steps in to take control I am very apprehensive of disorder which may be dangerous to foreigners as well as others.



Two of the daughters of the President have come to me for asylum which I of course granted and have them and their children in my house along with one of their husbands, Alfredo Larrinaga.

I do not like the looks of things at all nor does Admiral Pye. We believe immediate preparatory steps should be taken at Panama looking toward despatch of naval force here for protection of American lives and interests.

MAYER

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823.30/96a: Telegram

*The Acting Secretary of State to the Chargé in Peru (Mayer)*

WASHINGTON, August 25, 1930—6 p. m.

88. The Department appreciates your full and timely reports on recent events in Peru. You are instructed to exert all appropriate efforts to effect the release of Grow.

CASTLE

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823.00 Revolutions/14: Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 26, 1930—1 p. m.

[Received 3:45 p. m.]

153. My telegram No. 149, August 25th. Disorder in Lima increased yesterday afternoon spreading to Miraflores where a few houses were sacked. When I went down town from the Embassy yesterday afternoon to ask special protection for the National City Bank the crowds were in a very nasty mood. Martial law began to be enforced late in the afternoon and quite a number of rioters were shot. This finally had a quieting influence in the early evening, since when there does not appear to have been any disorder.

The junta seems to be getting more organized and claims that all the five army districts of Peru have adhered to it, this being inclusive of Arequipa which early in the afternoon had been reported as antagonistic to the Lima group. Although no disorder reported this morning large groups are still collected in various places. Will report later on inspection of the state of affairs in the city after diplomatic corps meeting this morning.

The President's brother Augusto and wife and Mrs. Juan Leguia are at the Chilean Embassy which is close to us. The two Embassies are being guarded by large cavalry patrols.

Captain Spears of the Naval Mission, who was aboard the *Almirante Grau*, came over last evening and delivered me a message from Mr. Leguia. The latter wishes to inform me that when he resigned early

Monday morning it was to a constitutionally appointed Cabinet which could legally continue the Constitutional Government on acceptance of his resignation which was properly addressed to the Congress. Until Congress accepted, Leguia was President. It was for that reason that he had hoisted the Presidential flag on the *Grau* and asserted his authority as described in my 152, August 25, 10 p. m.<sup>3</sup> Mr. Leguia wished me to know that he had no desire to return to power being motivated by hope of maintenance of a Constitutional Government in Peru which could continue to be recognized by the United States and receive its support.

Meanwhile the junta has dissolved the Congress which therefore could not accept the President's resignation. The junta's attitude is that President Leguia resigned and went aboard the *Grau* as "de tenido" and by the grace of the junta in order that his life might be saved. They dissolved the Parliament because it was composed of "yes men" and not capable of giving expression to real national sentiment.

These conflicting attitudes are most unfortunate from a point of view of stabilizing the situation. It is generally believed that the President has no chance whatsoever of returning as some feel is the motive behind his present activity on the *Grau*, or of imposing his technical desires regarding constitutionality.

According to Captain Spears the officers of the *Grau* were to a man behind the President and have sworn to support him to the end, although Spears feels they are now weakening and likely in the end to go over to junta.

The junta has just issued a decree giving the *Grau* 48 hours to submit to the new regime.

MAYER

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823.00 Revolutions/16 : Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 26, 1930—11 p. m.  
[Received August 27—9:25 a. m.]

155. Lima and vicinity quiet today with only several small demonstrations. Telegram from Blaisdell, Arequipa, states Grow perfectly safe and well looked after and that Colonel Sanchez Cerro assures no need for apprehension. Blaisdell also reports Aviator Faucett well but will not be free until clears [*cleared?*]. I have telegraphed Blaisdell to inform me at once whether Faucett detained against his will and if so why.

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<sup>3</sup> Not printed.

At diplomatic body meeting this morning unanimously decided that the entire diplomatic corps should call upon president of the junta to express earnest hope in the name of humanity and as friends of Peru that Mr. Leguia's life be protected and to suggest that he be allowed to leave the country. General Ponce received us sympathetically and stated that this was the wish of the junta who had tried as late as yesterday afternoon to have the *Grau* take Mr. Leguia to Panama but that he refused to leave the country desiring to stand trial and defend himself. Ponce also stated that Mr. Leguia would be kept aboard the *Grau* which had joined junta and which would be anchored out at safe distance.

Mr. Leguia's attending physician has informed us that the latter [former] does desire to go. He is apparently quite ill. Several Ministers going out to see ex-President tomorrow morning and report to us in meeting later.

The diplomatic corps believe that Mr. Leguia would be killed immediately should he be brought ashore.

It is doubtful how long the present authorities can continue as believe they have little or no funds. This causes us considerable apprehension of a situation where there would be no control and the troops out of hand.

Need for naval protection is still a distinct possibility. The British have a light cruiser in Chilean waters. The British Chargé d'Affaires consulted me last night regarding the advisability of having it come here. I told him of my telegram to the Department regarding ships to stand by at Panama and that did not believe further action on my part expedient at this moment. He referred to Monroe Doctrine and stated would not risk requesting his cruiser to come without first discussing matter with me.

Juan Leguia, the President's much hated son, now on board the *Grau*, had alleged British citizenship which may complicate the matter for British Chargé d'Affaires and persuade him of necessity of requesting cruiser to come.

Attitude of Sanchez Cerro towards this junta doubtful. Chilean Ambassador states he has set up separate junta in Arequipa and not likely to come here unless to assume control. Sanchez Cerro has requested Grace Company to resume Mollendo as port of call. If my answer by Grace requested I shall recommend falling in with desires, insofar as practicable, of whatever authority is in control at any particular place.

MAYER

823. 001L52/80: Telegram

*The Secretary of State to the Chargé in Peru (Mayer)*

WASHINGTON, August 27, 1930—5 p. m.

89. Embassy's 155, August 26, 11 p. m. The Department approves of your action in associating yourself with the diplomatic corps at Lima in its representations to the authorities now in control in behalf of the safety of ex-President Leguia.

A most unfortunate impression would be made upon the American people were the former President to be subjected to personal injury, and you are accordingly authorized, should developments warrant, to exert your friendly good offices in behalf of his personal safety.

STIMSON

823.00 Revolutions/18: Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 27, 1930—5 p.m.

[Received 11:40 p.m.]

157. My 155, August 26, 11 p.m., paragraph 7. At the diplomatic body meeting this morning, faced as we were with no certainty as to any government existing here, or any definite news of Colonel Cerro's arrival from Arequipa (who is reported as being quite capable of maintaining order), my colleagues were all very much concerned with the state of affairs. It seems quite on the cards that things might get out of hand at any time in dangerous fashion especially since railway labor unions are growing ugly and there seems to be little if any money with which to pay them.

Also, according to very reliable advice there are two military camps in Lima separate from those adhering to Colonel Cerro. Therefore no military protection on which to rely.

In these circumstances, and after earnest recommendation to me by several of my colleagues including the Mexican Legation that steps should be taken for American warships to come to Callao, I discussed the matter with my British and Chilean colleagues. The British Chargé d'Affaires said that he would act in unison with me. The Chilean Ambassador appreciated my discussing this point with him and said that he would telegraph his Government his opinion as to the chaotic and most unsatisfactory state of affairs here with a view to their considering wisdom of sending a Chilean vessel here if American and British war vessels were ordered to Callao. It is perhaps unnecessary for me to explain to the Department that my informal discussion of this with the Chilean Ambassador, who understood I had no instructions, was as much as anything else to prevent undue prominence to the United States should they send war vessels here. The con-

currence of Chile in any such action would also make for Pan American unity.

I informed Argentine and Brazilian Chargés d'Affaires, with whom I have been in very close touch during all the time, of my conversations with my British and Chilean colleagues explaining that what I did was from a point of view of Pan American solidarity,—desiring that there might be no misapprehension of our intentions should necessity arise for United States warships to come for the protection of American lives and interests here. They seemed to be deeply appreciative of my having discussed the matter with them and entirely approved of the idea of Chilean, British and American war vessels coming here. All of the above was predicated on our not being able to learn definitely whether Colonel Cerro was arriving. Since I have just learned that he is coming this afternoon I have postponed further recommendations respecting the necessity for the immediate despatch of war vessels until we can see how Cerro takes hold. The Chilean and British representatives have adopted similar attitude.

Mr. Harold Kingsmill, local representative of Cerro de Pasco Corporation and for many years resident here, called upon me this morning and suggested the desirability of war vessels being sent here. He feels situation very unstable and that better wait and see what Sanchez Cerro will do in next day or two. Kingsmill somewhat apprehensive of conditions at mines as laborers using typical radical manifesto.

MAYER

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823.00 Revolutions/19:Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 27, 1930—6 p.m.

[Received 11:10 p.m.]

158. My telegram No. 153, August 26, 1 p.m., paragraphs 4, 5 and 6. Seems axiomatic that it would be highly desirable for Peruvian-American relations if there could be constitutional continuity in a government here which would eliminate questions of recognition and permit us to continue as previously in our dealings with Peru.

As far as I can learn from witnesses at the time of the President's resignation, the group who later called themselves the military junta were really the duly sworn-in Cabinet described in the paragraphs noted above. Why they did not continue as such duly constituted government under paragraph 116 of the Constitution of Peru I do not

know. Quite likely it was because they were so disorganized and dazed that they did not know what they were doing or it may have been because the group did not wish to be considered as in any way successors of the Leguia regime.

From the best information available in the very chaotic condition existing today the junta is resigning in favor of Sanchez Cerro who has just arrived here this afternoon by plane from Arequipa. It is not known what the latter's attitude will be; but it would seem so much more beneficial for Peru to continue as a recognized government than to attempt to carry on under *de facto* authorities for an indefinite period, that Sanchez Cerro and his group may see the practicalities of the situation if they are pointed out to him. They could claim to be succession to Leguia government in the same manner as "governing cabinets" in China.

There can scarcely be any money in the treasury and a great need exists for some financial arrangement almost immediately or otherwise the troops cannot be kept in hand and business get back to a certain normality.

If the Department agrees I should like to take this line of constitutional continuity with Sanchez Cerro in my first conversations with him which may be when introducing Mr. Kingsmill who wants to discuss Cerro de Pasco affairs with him at earliest moment practicable. I should like to suggest that the United States desires to do everything possible to maintain normal relations with Peru.

Immediate telegraphic instructions respectfully requested.

MAYER

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823.001L52/77 : Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 27, 1930—6 p. m.

[Received 9:08 p. m.]

159. All of the diplomatic body are making every proper effort to save Leguia's life not only for him as a man but to prevent Peru from committing an act which would result disastrously for her for a long time to come.

May I respectfully suggest that the Department could greatly assist in this regard if through the correspondents at Washington a sentiment could be created favorable to the saving of the President's life on the basis of humanity quite apart from the political aspects of the matter.

MAYER

823.00 Revolutions/21 : Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 28, 1930—noon.

[Received 4:17 p. m.]

161. Sanchez Cerro arrived in Lima yesterday afternoon by Faucett plane piloted by same and received a great ovation as the second liberator. Last night the new junta was sworn in.

The following decree appeared in this morning's press:

"Considering that the resignation of the ex-President Don Augusto B. Leguia was brought about through the revolutionary movement which the Army initiated on August 22nd and the opinion of the country has been manifested in the judgment of conferring upon me the supreme mandate of the State as chief of that movement in order to initiate the labor of national reconstitution as stated in the manifesto which explained the ideals of the revolution; there has arrived the moment of organizing the junta of government provided for in the review decree overruled 23rd of this month to prepare for the arrival of constitutionality.

It is decreed:

First: That a Military Junta of Government of the Republic is constituted with the following personnel: President of the Military Junta of Government, (without portfolio) Lieutenant [*Colonel?*] Luis M. Sanctus [*Sanchez?*] Cerro; Minister of War, Major J. Alejandro Barco; Minister of the Navy and Aviation, Commander Carlos Rotalde; Minister of Foreign Affairs, Colonel Ernesto Montagne; Minister of Gobernacion and Police, Major Gustavo A. Jimenez; Minister of Hacienda and Commerce, Colonel Ricardo E. Llona; Minister of Justice, Lieutenant Colonel Armando Sologuren; Minister of Public Works, Colonel Eulogio Castillo.

Second: The military Junta of Government assumes the direction of the Senate for the time necessary for the reestablishment in the country of normal constitutionality and under the word of honor which its members have given to inspire in it the principles expounded in the manifesto law to the nation from Arequipa, August 22nd.

Third: In separate decrees there will be nominated the advisers to the secretaries of the junta which may be needed.

Fourth: Thanks in the name of the nation to the military, etc., etc.

It is too soon to make any considered estimate of this junta but everything thus far heard of its members if [*is*] favorable.

MAYER

811.3323/26a: Telegram

*The Secretary of State to the Chargé in Peru (Mayer)*

[Paraphrase]

WASHINGTON, August 29, 1930—10 a. m.

93. If it can possibly be avoided, the Department does not desire to dispatch an American war vessel to Peruvian waters. If American

lives appear to be in grave and imminent danger, the Department will consider the question further. You will consider the foregoing as entirely confidential.

STIMSON

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823.00 Revolutions/28:Telegram

*The Secretary of State to the Chargé in Peru (Mayer)*

WASHINGTON, August 29, 1930—1 p. m.

94. Your 158, August 27, 6 p. m. The Department desires that you should avoid any action which might be regarded as an interference in the internal affairs of Peru. It does not wish to make suggestions or give advice regarding the manner in which the new government should be constituted.

STIMSON

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823.00 Revolutions/35

*Memorandum by the Secretary of State*

[WASHINGTON,] August 29, 1930.

The Peruvian Ambassador called today to give me the names of the members of the new Government. He had with him papers which had come from them. He told me he knew only two of them personally but these were responsible men.

He then said that these men asked him to bring up the question of recognition by this country. He said that prompt recognition by us would be very helpful toward stabilization of the situation. This is, of course, a mere skeleton outline of the points he made. He spoke frankly and with every appearance of fairmindedness. He went into quite a long explanation of the reasons for the rebellion against Leguia, how he had incurred the hostility of many people by banishment, and how, though there was no charge against his personal honesty, there was an impression, growing partly out of hard times when everybody else was poor, that members of his Government had profited out of public affairs. He apologized for coming to see me when I was not here officially.

I told him that I was very glad he had come, that of course we were very anxious and troubled over the situation in Peru, that in the first place I wanted to assure him that contrary to certain reports in the press (and I specified the report in the *Times* which I had heard of but not yet seen) that this Government had no intention of meddling in the internal affairs of Peru. Since, however, he had opened the question of recognition I thought it proper to say that in considering the question of the recognition of a *de facto* government under the rules of international law and its capacity to protect life and property, we



necessarily would be obliged to pay attention to the way in which they showed themselves capable of protecting the deposed members of the last Government from being made the victims of private revenge and persecution or mob violence. I said that in common with the people of my country I had followed with great satisfaction and pleasure the development of stable institutions in South America; that we felt that as an evidence of this that changes of government in South America were no longer followed, as had been common half a century ago, by political executions; that we regarded this as distinct evidence of stability and development of their political institution and that if in this case in Peru the overthrow of the foregoing Government should unhappily be followed by bloodshed and violence against the former government, it would make a profoundly unfavorable impression in this country and would bear very weightily on the question of the responsibility of the Government which sought recognition. I pointed out that this was only one of the many considerations which would have to be considered but that it would be a very potent one and therefore I hoped that no bloodshed or violence would be permitted against Leguia or any of his associates.

He replied that he did not think there was any danger of the taking of life. He could not say so much on the question of property, that there were these charges of corruptly applied wealth and that when a people were as poor as Peru was in the present depression, the sight of members of the government "wallowing in wealth" might induce them to seek to recover such funds by judicial procedure.

I said that was a wholly different question and was an internal question for Peru. I then said that apropos of what he had said about the criticisms made of Leguia that we here had had brought to our notice more sharply the good things which Leguia had done rather than the evil ones which he was charged with doing. I told the Ambassador of my connections several years ago with the Tacna-Arica problem <sup>4</sup> when he himself was the representative of Peru there and told him that I had in that way become familiar with the Tacna-Arica settlement and with Leguia's part in that settlement and that I had formed a very good opinion of Leguia's conduct in that matter.

He rejoined by saying that that settlement, while it had been criticised by some of the Peruvian people, was generally accepted as a good settlement which nobody now wanted to upset and which they all now were glad had been made.

I called in Mr. Castle after I had been over this with the Ambassador, telling the Ambassador I was going away and Castle would be in charge and recited all of the foregoing matters to him in the Ambassador's presence so that there would be no misunderstanding.

H[ENRY] L. S[TIMSON]

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<sup>4</sup> See *Foreign Relations*, 1926, vol. I, pp. 437, 451, 459.

823.00 Revolutions/29 : Telegram

*The Secretary of State to the Chargé in Peru (Mayer)*

WASHINGTON, August 29, 1930—2 p. m.

95. The traditional friendship which has always existed between the Peruvian and American peoples, and the deep interest of this Government in everything relating to the political progress of all of the other American nations, impels me to express the earnest hope that the new authorities at Lima will deal with members of the former government in such a way as to reflect credit on the Government and people of Peru in the eyes of the rest of the world. I have no doubt that Señor Sanchez Cerro and his associates in the government have this consideration in mind. I realize, however, the strong pressure to which they are naturally being subjected by Señor Leguia's personal enemies, and I cannot therefore refrain from asking you to impress upon them again the fact that whatever they do in this matter will have a profound effect upon the international standing and reputation of any government which may result from their movement. All of us who are deeply interested in the progress of the nations of this continent must earnestly hope that there will be no backward step toward the days when violence and personal revenge were characteristic of political movements, and that the leaders of the new regime in Peru will take a firm stand in this matter.

You may show this telegram to Señor Sanchez Cerro unless you consider it inadvisable.

STIMSON

823.00 Revolutions/26 : Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 29, 1930—5 p. m.

[Received 9:52 p. m.]

166. Lima and suburbs quiet today. The tension is much relieved and business is seemingly being conducted as usual.

I am getting in touch this afternoon with the officer in charge of Foreign Affairs as is the case with the rest [of] my colleagues pursuant to a third-person note from him received last night. This resulted from a call upon Colonel Montagne by the Papal Nuncio who at the authorization of the diplomatic body explained the situation thoroughly so that no question of recognition could be implied from our establishing necessary contact with the junta. The morning press printed communiqué to the effect that the diplomatic body had never recognized the previous junta since it is not within the powers of the diplomatic body, being a matter which is solely for the respective Governments to determine. The communiqué closed with the

statement that the present Military Council of Government appreciated the correct attitude of the chiefs of the mission resident in Lima with which it desires to maintain cordial relations. Although owing to the conversation which the Nuncio had with the so-called Minister of Foreign Affairs, the Military Council cannot consider anything the Embassy may do as tantamount to recognition unless expressly so declared, I shall address the Ministry of Foreign Affairs in any communications I have to make to it only in third-person notes in conformity with the long-established practice in Peking. My colleagues here are acting similarly. The Foreign Office has informed diplomatic representatives in Lima by note August 28 of the formation of the junta and of its composition as per my telegram to the Department 161, August 28, noon, and in conclusion conveyed its assurance that the new Council of Government would strictly comply with Peru's international agreements and maintain the good relations which unite Peru with the United States.

MAYER

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323.2322/3 : Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 29, 1930—5 p. m.

[Received 9:30 p. m.]

167. My 151, August 25, 4 p. m., paragraph 3. At diplomatic body meeting this morning the question was discussed of disposition of those who had been given asylum in the various diplomatic missions (save for the British I believe all have refugees). Most if not all of South American representatives will follow the provisions of the Treaty of Montevideo<sup>5</sup> and the Pan American Conference of Havana 1928.<sup>6</sup> Substantially this means:

First, to inform the authorities in control here of the names of those to whom asylum has been given;

Second, to request these authorities to give assurance that the refugees will be placed safely aboard ships leaving the country, and;

Third, that the refugees will agree not to disembark anywhere in Peru or in a neighboring country, especially since Mr. and Mrs. Larranaga and baby and Mrs. Martinez and two small children are essentially political refugees and came to me at a moment when their lives were undoubtedly in imminent danger.

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<sup>5</sup> Signed January 23, 1889; see República Argentina, Ministerio de Relaciones y Culto, *Actas y Tratados del Congreso Sud-Americano de Derecho Internacional Privado, Montevideo 1888-1889* (Buenos Aires, 1928), pp. 877, 882.

<sup>6</sup> See *Foreign Relations*, 1928, vol. 1, pp. 527 ff.

I most heartily recommend that the Department authorize me to adopt the above procedure. This will also consort with Pan American solidarity.

Japanese and Netherlands representatives are making similar recommendations to their Governments.

MAYER

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823.30/99 : Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 29, 1930—10 p. m.  
[Received August 30—6:39 a. m.]

169. The Department's 88, August 25, 6 p. m. From all I can learn and gather the Grow case presents certain difficulties. The United Press representative informs me that in an interview he had this afternoon with Sanchez Cerro the latter referred to Grow with considerable heat and acerbity stating that latter was "hired mercenary" and must stand trial before general court martial. Mr. Fine's impression was that Sanchez Cerro had quite excitable temperament.

I did not feel it advisable to speak of Grow's release to Minister of Foreign Affairs at first interview this afternoon (see my telegram 166, August 29, 5 p. m.) and especially when I am not cognizant of exactly what is his present legal status.

I understand that Grow went on his mission on personal orders of ex-President Leguia. Faucett, who took Grow's plane to Arequipa after capture at Camana, told me that it was equipped with machine gun and bombs. It is also said that Grow tried to bribe officer who captured him to release him.

Assuming, as seems reasonably certain, that Grow went on mission by direction of the then Chief Executive of a Constitutional Government which was acting to suppress a revolt, it would appear that while the revolutionists had every right to capture and hold Grow during existence of civil strife he should be released now that this is terminated.

In order to permit me to take [up?] this matter as soon as possible with Foreign Office I respectfully request immediate instructions as to Department's view of Grow's status and any further directions Department may have to give me in this regard.

MAYER

823.00 Revolutions/30: Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 30 [29?], 1930—10 p. m.

[Received August 30—9:16 a. m.]

170. Department's 94, August 29, 1 p. m., will be strictly complied with. As a matter of fact I had come to same conclusion after seeing Sanchez Cerro's decree establishing his Government (see my 161, August 28, noon). On hearing comment on his personality and on realizing that all classes here seem to recall the Leguia regime with such bitterness, hostility, and disgust, that everything connected with it is anathema, in such circumstances there could be no possibility of desire to carry on government as succession to it no matter how practicably beneficial that might be.

MAYER

823.00 Revolutions/27: Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 29, 1930—10 p. m.

[Received August 30—9:30 a. m.]

171. My 166, August 29, 5 p. m. I called informally this afternoon on Colonel Montagne. He made a very favorable impression [on me?] as well as on others of my colleagues with whom I spoke. Under the circumstances I confined my remarks to expression of gratitude for excellent manner in which order was established and is being preserved as well as for the expeditious manner in which junta had released Panagra plane.

I also thanked Colonel Montagne for Colonel Sanchez Cerro's assurance re Grow's safety. The Secretary of Foreign Affairs reiterated these. Of his own accord he spoke of Sutton, engineer in charge of Olmosa [*Olnios?*] irrigation works, who has been arrested, who was apprehensive as to his safety, and of whom I had sent word to Foreign Office. In conclusion Colonel Montagne referred in cordial fashion to the most friendly relations existing between the United States and Peru which it was his desire to maintain. I of course heartily concurred in this sentiment.

MAYER

823.00 Revolutions/31: Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 29, 1930—midnight.

[Received August 30—9:50 a. m.]

172. Department's 95, August 29, 2 p. m. Feeling throughout the country is so strongly condemnatory of the Leguia regime and all

its works (please see my 170, August 29, 10 p. m.) that, to be effective and at the same time not to result unfortunately for our interests here, any efforts on our part respecting the President's personal safety must be couched in terms immediately responsive to the present psychology. With all deference I submit the following formula for textual communication to Sanchez Cerro or his Minister of Foreign Affairs.

"The traditional close friendship which has always existed between the peoples of Peru and of the United States impels me to express the earnest hope that in dealing with the former government in Peru, the Council of Government at Lima will not usher in a new era in Peru with any steps which, by alienating world opinion, could not but have a profound effect upon the international standing and credit of the Government resulting from the present movement.

I realize the strong pressure to which the leaders of this movement are being subjected. But mindful of the considerations set forth above, the Government and people of the United States sincerely hope that these leaders will take, against disgraceful action, the same firm stand which has so impressed us with respect to the restoration of law and order in Peru."

MAYER

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823.00 Revolutions/37: Telegram

*The Acting Secretary of State to the Chargé in Peru (Mayer)*

WASHINGTON, August 30, 1930—noon.

96. Your 172, August 29, midnight. Department approves proposed change in wording.

CASTLE

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823.30/102a: Telegram

*The Acting Secretary of State to the Chargé in Peru (Mayer)*

WASHINGTON, August 30, 1930—1 p. m.

97. Your 171, August 29, 10 p. m. What assurances have you received regarding Grow's safety and exactly what is the situation of Sutton?

Your 169, August 29, 10 p. m. It appears from the information thus far available that Grow as a reserve officer on inactive duty under private contract with the Peruvian Government is in practically the same position as any other private American citizen. Further information on this point has been requested from the Navy Department. The Department is of course deeply concerned that neither Grow nor Sutton should be subjected to mistreatment or unjustifiable detention, and it desires that you should continue to make all appro-

private efforts to effect their release. You may make it clear, if it becomes necessary, that any mistreatment of American citizens would cause an extremely bad impression in the United States.

CASTLE

823.30/101 : Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 30, 1930—2 p. m.

[Received 4:37 p. m.]

175. Department's 88, August 26 [25], 5 [6] p. m. United Press representative here received the following press notice yesterday under Washington date line:

"State Department officials in response to inquiries from the press as to what action Department intends to take regarding Grow said that United States would demand that Grow be given a fair, unprejudiced hearing. It was unofficially indicated that in the event that Grow's life was in danger, Department would make the strongest possible representation. The United States Government's interest in Grow's predicament is admittedly greater than would have been the case if he were a civilian as it is stated Grow is still a member of the naval reserve."

According to this, the Department only desires that the local authorities give Grow a fair hearing whereas according to my instructions above the Department desired me to effect Grow's release. May I respectfully inquire along which of the two lines the Department desires me to act.

MAYER

323.2322/4: Telegram

*The Acting Secretary of State to the Chargé in Peru (Mayer)*

WASHINGTON, August 30, 1930—3 p. m.

93 [99?]. You are authorized to proceed as outlined in your No. 167, August 29, 5 p. m., with respect to Mr. and Mrs. Larranaga and baby and Mrs. Martinez and two small children. It is desired, however, that the permission which you may request for their embarkation shall be entirely informal and that no effort shall be made to justify your action under any formal treaty or convention.

CASTLE

823.001L52/88 : Telegram

*The Acting Secretary of State to the Minister in Colombia (Cfaery)*

WASHINGTON, August 30, 1930—4 p.m.

42. Your 100, August 28, 9 a. m.<sup>7</sup> The Colombian Chargé called today under instructions from his Government to say confidentially that his Government would gladly cooperate with the United States and with other Governments which might wish to do so in friendly representations at Lima for the purpose of protecting the life of Señor Leguia. He was informed that the American Chargé at Lima had already been given instructions to make friendly and informal representations to this end, and that this Government would be very glad to have the representative of the Colombian Government at Lima associate himself with the American Chargé d'Affaires in this action making similar representations on behalf of his own Government. It was pointed out, however, that any action which might be necessary must presumably be taken immediately, and that it therefore seems doubtful whether it would be advisable to endeavor to arrange for any joint action by other American powers.

Please express to President Olaya my appreciation of his message conveyed through the Colombian Chargé here, and my gratification that his Government's views in this matter coincide with our own.

CASTLE

823.001L52/83 : Telegram

*The Acting Secretary of State to the Chargé in Peru (Mayer)*

WASHINGTON, August 30, 1930—4 p. m.

100. The following telegram dated August 28 has been received from the American Legation at Bogotá: [Here follows text of telegram No. 100, August 28, 9. a. m., from the Minister in Colombia, which is not printed.]

The Department is replying as follows: [Here follows text of telegram No. 42, August 30, 4 p. m., to the Minister in Colombia, printed *supra*.]

While this Government would welcome any action which other American Governments may take for the purpose of preventing the execution of political prisoners, it does not feel that it would be advisable to take part in any joint representations with other Governments.

CASTLE

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<sup>7</sup> Not printed.



823.30/103 : Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, August 30, 1930—8 p. m.  
[Received August 31—1:23 a. m.]

177. [Paraphrase.] Department's 97, August 30, 1 p. m. I received assurances of Grow's safety from Sanchez Cerro through Blaisdell at Arequipa (my 155, August 26, 11 p. m.), and from Colonel Montagne, Foreign Minister. In my interview with Colonel Montagne yesterday (my 171, August 29, 10 p. m.), these seem to be satisfactory. In fact, I do not see how we could ask for additional. This afternoon I sent Major Allen to the War Department to arrange [for dispatching?] clothing to Grow. Major Allen was taken to see Sanchez Cerro at latter's instance. Permission to send clothing was granted. Sanchez Cerro made a very favorable impression on Major Allen. [End paraphrase.]

On receipt of complete information from Department re Grow, I expect discuss matter with Sanchez Cerro or Minister for Foreign Affairs.

My 174, August 30, 1 p. m.,<sup>7a</sup> is response to second paragraph Department's 97, August 30, 1 p. m.

MAYER

823.001L52/84 : Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, September 1, 1930—noon.  
[Received 2:50 p. m.]

178. The Department's 100, August 30, 4 p. m., concluding paragraph. This came to hand most opportunely as I was going to diplomatic body meeting called to discuss the question of further concerted action in behalf of Mr. Leguia. I was opposed to further joint representations and was glad to find that this was Department's instruction.

At the meeting it was decided not to make any further manifestation other than to send the dean to the new Minister of Foreign Affairs to remind him of the diplomatic body's previous action with the former junta. This seemed quite innocuous and to stand against it singly as I should have done strictly to comply with the Department's instruction, would have been inadvisable. I trust the Department approves.

I am reliably informed that Mr. Leguia will probably be moved to San Lorenzo Island early this week. In view of the diplomatic body's action yesterday which covers the matter temporarily, I am delaying seeing the junta as per my 172, August 29, midnight, until after Mr. Leguia has been taken to San Lorenzo.

<sup>7a</sup> Not printed.

MAYER

323.2322/5 : Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, September 1, 1930—1 p. m.

[Received 3:35 p. m.]

179. Department's telegram 99, August 30, 3 p. m. I have communicated informally with the Ministry of Foreign Affairs as indicated; most, if not all, of the other diplomatic representatives concerned have taken similar action. From all I can gather there must be at least sixty or seventy political refugees in the various embassies and legations here.

A certain number are purely of a political character such as the Leguia family and the principal officers of state. Our refugees and those in the Chilean, Brazilian and Netherlands Legations, are of this character. The rest are for the most part in my opinion persons who should not be allowed to escape trial in Peru because of diplomatic immunities therein. While desiring to manifest Pan American solidarity at the beginning of the arrangement of this question of refugees, I believe a point may soon be reached where each mission must stand on its own feet; otherwise I feel it most probable that those missions which have purely political refugees in asylum will be tarred with the same brush as other missions differently situated and whom the Peruvians may rightly consider as standing in the way of the execution of justice.

I have discussed this matter with my Chilean and Brazilian colleagues who feel similarly. Unless otherwise instructed I shall follow this line of action which, in the last analysis, will enable us properly to differentiate between our refugees and others and also enable us to insist on their safe departure.

MAYER

823.001L52/85 : Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, September 1, 1930—6 p. m.

[Received 11:05 p. m.]

182. My 178, September 1, noon, concluding paragraph. Mr. Leguia and Juan Leguia have been taken to San Lorenzo Island. Dr. MacCornack accompanied them there on account of Mr. Leguia's condition. Dr. MacCornack is coming to see me tomorrow when I shall telegraph any further details which may be of interest to the Department.

MAYER

823.001L52/86 : Telegram

*The Ambassador in Brazil (Morgan) to the Secretary of State*

[Paraphrase]

RIO DE JANEIRO, September 2, 1930—11 a. m.

[Received 11:40 a. m.]

52. The Minister for Foreign Affairs informs me that he is not sympathetic to the proposal of Cuba for joint representations to Peru for lenient measures towards ex-President Leguia and although he desires that ex-President Leguia shall not be harshly treated he thinks that individual representations will prove more effective than collective ones. The Minister for Foreign Affairs has instructed the Brazilian Chargé in Peru to confer with his American colleague.

MORGAN

823.001L52/89 : Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, September 2, 1930—6 p. m.

[Received 11:24 p. m.]

183. My 182, September 1, 6 p. m. Mr. Leguia and Juan Leguia are installed in a house by themselves on San Lorenzo Island which is passable. Hospital beds, furniture, rugs, et cetera, are being sent out by the British-American Hospital which should make Mr. Leguia fairly comfortable; also special food, et cetera. I understand that he is being treated with every show of respect by his jailers. Dr. Mac-Cornack, who is permitted to visit Mr. Leguia any time, is going out again in a day or two when I shall know more certainly treatment being accorded the ex-President.

I interpret the Department's 95, August 29, 2 p. m., as amended by its 96, August 30, noon, and other telegrams from the Department giving me discretion to make representation in behalf of Mr. Leguia to be based upon considerations of his personal safety and not upon his comfort except if treatment accorded him would be harmful to his health. I entirely concur in this point of view. The Grow and Sutton cases and other difficulties of a purely American character which I feel likely will arise may necessitate our bringing all influence to bear on the authorities here without using up our ammunition on the President's case unless essential for the protection of his life or health. Unless otherwise instructed I shall not communicate, therefore, with the local authorities in the sense of my 172, August 29, midnight, except in the eventualities set forth above.

The Brazilian Chargé d'Affaires informs me that the Cuban Government at the solicitation of the Cuban Minister here is communicating with the other Latin American countries to the end that similar

representation be made individually by them to the Peruvian authorities for permission for Mr. Leguia to leave the country. I understand the United States was not brought into this because the Cuban Minister here felt that we had enough troubles of our own as indicated above. I am being asked, however, to sit in on a meeting shortly to be held here by the Pan American representatives to discuss this matter.

As indicated above I am doubtful of the advisability of our joining in any formal representation to the Peruvian authorities for the purpose of trying to persuade them to send Mr. Leguia away, desirable as this might be for him personally and politically expedient as it would be for the new regime to have him out of the country and thus obviate a likely source of reaction against them. If it becomes necessary for the Embassy to take a position in this matter we might maintain solidarity by making a representation in the sense of my 172, August 29, midnight.

Instructions requested.

MAYER

823.00/588 : Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, September 3, 1930—1 p. m.

[Received 3:25 p. m.]

184. A decree has been issued whereby the military junta assumes all the attributes which the Constitution confers on the Executive and Legislative powers. Government will be carried on by decrees, laws and resolutions of legislative character which will be promulgated by the president of the junta and the respective ministries in the usual way.

The morning press announces mutual recognition between the juntas of Bolivia and Peru.<sup>8</sup>

A decree has also been published for a complete revision of the budget for 1931 with a view to cutting down expenses materially.

MAYER

823.30/104a : Telegram

*The Acting Secretary of State to the Chargé in Peru (Mayer)*

WASHINGTON, September 3, 1930—6 p. m.

103. The Department desires that you should avail yourself of an early opportunity to obtain a definite indication of the action which the *de facto* authorities propose to take with regard to Grow and Sutton.

<sup>8</sup> See vol. 1, pp. 415 ff.

In Sutton's case the Department would like to know what is the basis for the charges which have been made against him. If he is still being held incommunicado the Department desires you to urge strongly that a representative of the Embassy be allowed to communicate with him and that he be given every proper opportunity to defend himself.

Further information from the Navy confirms the statements regarding Grow contained in the Department's 97, of August 30, 1 p. m. The Department desires you to inquire exactly what offense against the laws of Peru is charged against Grow and what is the intention of the authorities regarding his trial. The Department understands that Grow's contract with the Peruvian Government provides in part as follows "The Government of Peru recognizes in and delegates to the Chief of the United States Naval Mission the disciplinary faculty in virtue of which the latter shall proceed, with the assent and approval of the Minister of Marine, to judge and determine any violation or lack of fulfilment of the terms of the present contract". If this is the case it would appear that Grow might be disciplined by the Chief of the Naval Mission. You may wish to discuss this question with the Chief of the Naval Mission before taking the matter up with the Peruvian authorities.

The Department is deeply concerned that there should be no mistreatment or unjustifiable detention of either of these American citizens.

COTTON

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823.30/106 : Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, September 4, 1930—noon.

[Received 4:18 p. m.]

186. Department's 103, September 3, 6 p. m. Discussed Grow's case with Minister of Foreign Affairs on Tuesday in order that the authorities here would not feel we had lost interest in the matter.

I asked Minister of Foreign Affairs what were charges against Grow. He said Grow had gone in a plane with two bombs which he had admitted intended to use in the neighborhood of Arequipa to demoralize revolutionary forces. The Minister stated that he had no belief that Grow intended to bomb an unprotected city.

I asked the Minister what disposition had been made of the officer in the other plane and the mechanics whom I felt must be in the same position as Grow since they were part of the expedition. The Minister gave me to understand that they were at liberty. I then said I could not see why there should be any discrimination between Grow and the other members of the expedition. I likewise reminded the Minister

of the fact that Grow had only obeyed orders of his supreme chief, ex-President Leguia, and therefore Grow is in exactly the same position as any Peruvian officer, his being a foreigner having nothing to do with the case from the Peruvian legal point of view. In line with the penultimate sentence in the third paragraph of Department's 103 I added that in my opinion the only authorities who had any complaint against Grow were the American naval authorities and myself who did not wish him to participate in civil strife.

The Minister had no rejoinder to the above and gave me to understand that Grow's airplane expedition could not really be held against him. Minister of Foreign Affairs then stated that there are further accusations against Grow in connection with commissions for governments here which is the serious matter with respect to which they wish to detain Grow. I have urged that if such is the case Grow be brought to Lima in the immediate future and the charges produced so that his case might be dealt with expeditiously. There is indication he may arrive from Arequipa today.

Meanwhile I have talked with Blaisdell, see my 155, August 26, 11 p. m., who is in Lima and who reported that Grow is being very well treated and in excellent spirits, having been permitted to visit him daily. I should add that the authorities here have been very courteous with regard to despatch of medicines, clothing, etc., to Grow.

I have kept in constant touch with the Chief of the Naval Mission in regard to Grow's case.

I expect to see Minister of Foreign Affairs regarding Sutton today when I shall avail myself of Department's instruction in its last paragraph of its 103 both as regards Grow and Sutton.

Sutton's chief engineer, who was arrested, was released last evening when he called on me to state that Mrs. Sutton had been permitted to see her husband and was allowed to send him food, clothing, etc., and had recovered her luggage. I shall ask the Minister for Foreign Affairs exactly what are the charges against Sutton and urge that the time has come to give me permission to communicate with him through a representative and to suggest the desirability of releasing him on bail or under some other guarantee. I had same suggestion in mind with regard to Grow if and when he is brought here.

A proscribed list of some 129 names has been made up by the authorities which it is expected will be published shortly. Sutton is the only American on list. This list is in connection with the tribunal of national redress (see my 182 [181], September 1, 5 p. m.<sup>9</sup>); its members have just been announced in the morning press.

MAYER

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<sup>9</sup> Not printed.

823.001L52/90 : Telegram

*The Acting Secretary of State to the Chargé in Peru (Mayer)*

WASHINGTON, September 4, 1930—noon.

104. Your 183, September 2, 6 p. m. The Department concurs in your view that any formal joint representations to the Peruvian authorities regarding Señor Leguia would be inadvisable. It also feels that you should not take action in this matter which might make it more difficult for you to obtain a satisfactory disposition of cases directly involving American citizens. You need not therefore communicate with the *de facto* authorities in the sense of your 172, August 29, midnight unless you consider it necessary to do so in order to save the lives of the Peruvian political prisoners.

COTTON

323.2322/6 : Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, September 5, 1930—2 p. m.

[Received 8:30 p. m.]

188. My 179, September 1, 1 p. m. A reply from the Ministry of Foreign Affairs states that the two ladies and three children may leave the Embassy and embark whenever they desire with the most ample personal guarantees and that in respect to Señor Larranaga there is a guarantee for his departure from the Embassy subject to legal proceeding which could be instituted against him.

At a meeting of the diplomatic body yesterday to consider the replies which the different chiefs of mission received, it appeared that in every case, although in varying phraseology, the junta decline to recognize the letter or practice of the Treaty of Montevideo, setting itself up to all appearances as the arbitrator of whether the *asilés* were political refugees or to be classed as criminals.

The chiefs of mission of all the Latin American countries and the German Minister were greatly aroused at this arbitrary attitude on the part of the Peruvian authorities. A committee of five of the South American representatives was named to study the question and to try and devise formula which would afford a basis on which the various missions concerned could make similar but individual replies to the Foreign Office.

I observed that while sympathetic in principle that studying the question in the manner indicated, I reserved all liberty of action for Mr. Dearing on his arrival today.

MAYER

823.30/108 : Telegram

*The Chargé in Peru (Mayer) to the Secretary of State*

LIMA, September 5, 1930—3 p. m.

[Received 6:43 p. m.]

189. My 186, September 4, noon. Yesterday at my request the Minister for Foreign Affairs promised to ask Minister of Gobierno at once for written statement of charges against Sutton as well as permission for Embassy representative to communicate with him, et cetera.

If notification regarding charges not forthcoming shortly and Sutton is not permitted to see Embassy representative and/or attorney, I believe the time will have arrived when, recalling our patient attitude, we should protest vigorously against what will then appear to be persecution rather than prosecution.

I submit that the same should apply to Grow's case if something is not done in his regard within the next few days.

MAYER

823.30/109 : Telegram

*The Ambassador in Peru (Dearing) to the Secretary of State*

LIMA, September 6, 1930—7 p.m.

[Received 10:30 p.m.]

190. Department's 97, August 30, 1 p.m., and 103, September 3, 6 p.m. Called with Mr. Mayer on Colonel Montagne in charge of Foreign Office this morning and urged, in view of traditional friendship between our country and Peru and the good effect it would have upon public in the United States that Grow and Sutton be released and restored to full liberty upon giving their word of honor to remain in Lima to answer any bona fide charges that might be made against them. Montagne said he had been working out their cases and promised to take them up with the chief of junta at once.

This afternoon Foreign Office telephoned to say president of junta had ordered the immediate liberation of Mr. Sutton and Captain Grow, and that Mr. Gildred, another American arriving tomorrow who feared arrest, would not be detained. Foreign Office stated that legal proceedings would, however, be carried out in the usual way. Mrs. Sutton and Mrs. Grow have been informed and are much relieved. Suggest as friendly and favorable an atmosphere as possible be given the news given to the press to allay the anti-Americanism still prevalent here.

Mr. Mayer, Mr. Coe and the entire Embassy staff have handled the general situation with great good judgment. Lima is orderly and quiet and the new authorities make an increasingly good impression



by their acts. I have not taken up the Leguia question, which seems likely to take care of itself, but shall watch it carefully. Fuller report by mail.

DEARING

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823.01/9 : Telegram

*The Ambassador in Peru (Dearing) to the Secretary of State*

LIMA, September 9, 1930—noon.

[Received 4:42 p.m.]

193. Italian and Ecuadorian Governments yesterday recognized the junta as the government of Peru.

DEARING

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823.30/110 : Telegram

*The Ambassador in Peru (Dearing) to the Secretary of State*

LIMA, September 9, 1930—6 p.m.

[Received 7:37 p.m.]

196. My 190, September 6, 7 p.m. Sutton released; returned home today. Grow released; expected to arrive Lima 11th on the steamer *Rimac*.

DEARING

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823.30/111 : Telegram

*The Ambassador in Peru (Dearing) to the Secretary of State*

LIMA, September 10, 1930—4 p.m.

[Received 8:44 p.m.]

199. Admiral Pye informs me that the junta desire to retain the services of himself as well as Spears, Gunnell, and Compton. Davy's contract, which was shortly to expire, terminated by mutual agreement. He has been treated generously by the junta. Wyatt's contract will be canceled with 3 months' pay.

DEARING

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823.01/11 : Telegram

*The Ambassador in Peru (Dearing) to the Secretary of State*

LIMA, September 10, 1930—8 p. m.

[Received 10:30 p. m.]

201. Informed by Papal Nuncio that Chile has accorded recognition to Peruvian Government today. Expect make recommendations regarding our attitude next 2 days.

DEARING

823.01/12: Telegram

*The Counselor of Embassy in Peru (Mayer) to the Secretary of State*

LIMA, September 11, 1930—10 a. m.

[Received 12:35 p. m.]

202. My 201, September 10, 8 p. m. Paraguay has accorded recognition; and I understand the British Chargé d'Affaires, French Minister, and Papal Nuncio have recommended to their respective Governments that recognition be given. The German Minister may do the same.

MAYER

823.01/13: Telegram

*The Ambassador in Peru (Dearing) to the Secretary of State*

LIMA, September 11, 1930—1 p. m.

[Received 3:50 p. m.]

203. The Papal Nuncio has just informed me that the Holy See is recognizing the junta today. The Nuncio stated that this action was intended to be a gesture of good feeling toward the Peruvian people. Confidentially the Nuncio stated that it was impossible for him satisfactorily to solve his multifarious problems with the local authorities without recognition.

DEARING

823.01/25

*The Minister in Guatemala (Whitehouse) to the Secretary of State*

No. 159

GUATEMALA, September 12, 1930.

[Received September 16.]

SIR: I have the honor to report that the Minister for Foreign Affairs has asked me to let him know as soon as any decision is taken by our Government in regard to the recognition of the new Peruvian Government as he intends to postpone his decision until after ours.

Respectfully yours,

SHELDON WHITEHOUSE

823.01/18: Telegram

*The Ambassador in Peru (Dearing) to the Secretary of State*

LIMA, September 13, 1930—1 p. m.

[Received 2 p. m.]

208. The Japanese Minister informs me that his Government has recognized the junta as the government of Peru.

DEARING

823.01/20 : Telegram

*The Ambassador in Peru (Dearing) to the Secretary of State*

LIMA, September 13, 1930—10 p. m.

[Received September 14—1 a. m.]

207. It seems to me the time has come for the Department to consider whether recognition should or should not be accorded the present military junta as the government of Peru. Upon my arrival in Lima September 5th the detention of Captain Grow and Mr. Sutton and the uncertainty of the junta's intentions with regard to ex-President Leguia made consideration of recognition inadvisable; the question was therefore not raised and I merely sought to carry on with the junta authorities for the protection of American lives and interests. In my contact with junta the question of recognition has arisen but once, midnight September 7th, when I requested protection for the Americans and property at Cerro de Pasco. Sanchez Cerro pointedly stated that our Government had not recognized his and that there was no formal obligation upon him, but that junta was determined to protect foreign life and property.

I have observed the action of the junta and the situation in the country as carefully as possible and it is my belief:

First, that the junta government is acquiesced in by practically the entire population of the country;

Second, that it controls all Peruvian territory and is maintaining public order;

Third, that it is willing and able, and is living up to its international obligations;

Fourth, that it intends eventually to restore the country to a constitutional regime.

It is extremely difficult to predict the future, but the probabilities are that junta will be able to maintain itself for some time to come; this feeling is shared by most of the Americans and colleagues with whom I have spoken. I offer the following comment on the preceding points.

(1) I have held a number of conferences with Americans, colleagues and other well-informed persons since I reached Lima. The acquiescence of the people is limited chiefly by dissatisfaction in the Navy where the officers are said to be opposed to the junta and some disaffection in the Army in the north. It is difficult to estimate the importance of the attitude of the Navy. Some think a potential counter-revolutionary leader exists among the superior officers in the person of Captain Pizarro; others declare he has supinely accepted orders from three different governments, has lost any real opportunity he may have had and that there is not sufficient vigor and initiative in the Navy to cause it to do anything although it may continue to sulk on account of professional jealousy of the Army. Leguia through indecision seems to have lost a real opportunity to make use of the

Navy to regain power (see report of Captain Spears to Naval Intelligence, also my telegram No. 153 August 26, 1 p. m.).

The comment about the discontent in the Army units in the north is so vague as to be almost worthless. It is a fact, however, that a considerable number of experienced officers in the higher ranks are being removed by the Government and being replaced by younger men and without doubt the dismissed officers will be a source of discontent. This discontent will be accentuated if current rumors of reductions to be made in the Army pay are substantiated.

(2) An exception to the maintenance of public order is the Cerro de Pasco mines where there were recently serious mob outbreaks. The blame seems to rest chiefly upon the prefect and possibly to some extent his superior officer, the Minister of Government Jimenez, who, I am told, is radical and anti-American. This is offset by the prompt and energetic action of Sanchez Cerro, reported in my telegram No. 192, September 8, 4 p. m.,<sup>10</sup> and his despatch of further troops at the Embassy's request a day later; see my telegram No. 194, September 9, 1 p. m.<sup>10</sup> I am convinced of the sincerity of the Government and its determination to maintain order and to protect life and property. Last reports are that the situation is quieter and that work has been resumed.

(3) Among the first commitments of the junta was a statement that treaties in force between Peru and foreign countries would be respected and that international obligations would be met; see last paragraph my telegram No. 166, August 29, 5 p. m. It is a fact that even in the case of private contracts renewals or some fair settlement has been made in practically every case. In the heat of the first moments the new authorities made some rash statements but the junta has receded from extreme positions, walks more carefully and evidently intends to observe its international obligations.

(4) Sanchez Cerro has declared that his Government is a complete break with that of the Leguia regime. It would seem therefore that legality and constitutionality might be considered to begin *de novo* with his regime. He has stated, however, that when the country is prepared elections will be held, constitutional government be resumed and the military junta brought to an end. They were repeated by Sanchez Cerro with emphasis at a large public banquet September 11th.

I beg to comment on the factors affecting the recognition question as follows:

Captain Grow, Messrs. Sutton, Gildred and Hebard have been released and the first three have given their personal engagements to reply to any questions the junta may wish to put to them. It is generally expected that they will be required to appear before the court of sanctions for trial.

There is a question as to whether we should seek some guarantee as to the nature of this trial by a specially organized court in order to secure justice and prevent any persecution due to anti-Americanism and possible personal rancor. Sutton says he owes his trouble to the

<sup>10</sup> Not printed.

personal enmity of . . . a land owner in the North whose plans were in conflict with Sutton's. In the case of Captain Grow there is said to be a personal resentment on the part of Sanchez Cerro who feels the success of his movement was jeopardized by Grow's flight towards Arequipa.

At first it appeared as if threatened mistreatment of ex-President Leguia might create a serious situation and be a real obstacle to recognition. I learn however that he is being well treated.

The complexion and composition of the first sanctions tribunal made it seem as if personal vindictiveness would have an opportunity to vent itself upon Mr. Leguia. The composition of the present and second sanctions tribunal is acknowledged to be excellent and calculated to insure justice. The president of the tribunal is recognized as being of high character, able, eminently just and even friendly to Leguia.

It is quite clear from statements made to me by Captain Spears and Dr. MacCornack that Leguia had at first an excellent opportunity to leave which he did not take and that his indecision as much as anything else is responsible for his present imprisonment on San Lorenzo.

Dr. MacCornack who has seen Leguia almost daily since he has been there tells me his spirit is broken and that while his physical condition is not particularly bad he is inclined to refuse to eat and says that he wishes to die. Dr. MacCornack thinks it possible he may die within a few months although he may live much longer. In short, treatment of Mr. Leguia by the junta as an obstacle to recognition would seem to be removed.

Reaction of recognition upon American interests here. Thus far Sanchez Cerro government has been satisfactorily responsive to requests for protection of these interests and the persuasion [*possessions?*] of American citizens. While somewhat slow in releasing Grow, Sutton and Gildred, this was accomplished within a relatively short time considering all the facts in the cases.

American interests in general feel that their business is reasonably safe and favor early recognition as creating a more favorable atmosphere.

Cerro de Pasco. Local authorities although forewarned did not take adequate measures to prevent an outbreak, but when Sanchez Cerro was informed he did. Order has been guaranteed by the junta and work resumed, the situation becoming more satisfactory.

Kingsmill, the manager favors early recognition and will make claim for damages.

Grace and Company. I am reliably informed that Sanchez Cerro told the manager of the Grace Company that he was entirely satisfied

with the company and it could expect his support as it had never dabbled in politics.

Panagra. Captain Harris while not having seen Sanchez Cerro tells me that he is not at all apprehensive of the situation in which the company finds itself by reason of the new Government and favors early recognition.

All America Cables. The same applies to All America Cables. Their home office has stated that it does not wish to take any action with respect to establishment of radio telephony for the present, thinking better to await congressional approval of new contract which may be long deferred. Early recognition favored.

Frederick Snare Corporation. Mr. Seeley, the local manager, has had very satisfactory interviews with the Government who have entirely approved Callao harbor project.

Pan American Petroleum Company's representative, Mr. Bancroft, favors early recognition.

Naval Mission. The attitude of the new Government towards the Naval Mission has been entirely satisfactory. Admiral Pye, Captains Spears and Gunnell, and Commander Compton have been retained in an administrative capacity which Admiral Pye prefers to the executive position the Mission formerly occupied and have resumed their duties. Two of the members of the Mission have been released, one at his own request and very generously treated.

There has been considerable comment in the papers as to our general policy in according recognition to new Government with particular emphasis upon Central American situation and the declarations made at the Pan American Conference in Habana to the effect that we would not recognize governments created by violence. Reports emanating from Washington are to the effect that each case will be treated on its merits. It is my opinion that in the case of Peru we should act in accord with the usual precedents of international law.

A certain atmosphere has been created by the recognition accorded by Bolivia, Italy, Ecuador, Chile, Paraguay and the Holy See and the report that the British, French and German representatives have made favorable recommendations to their Governments. I believe it is just as well that we have not seemed to influence the action of Chile or any other Latin American countries in according recognition but I feel there is a certain disadvantage in coming too far behind in according recognition ourselves in case there are no definite reasons for not doing so.

Seligman-National City Bank fiscal agency. This is the American interest whose position is especially engaged with regard to the junta. At the moment discussions are going on between Mr. Stahl, representing the fiscal agency, and the Minister of Finance respecting some

form of relief for the \$600,000 monthly payment of the national loan service. The junta desires the fiscal agents to establish a 6-month credit for them in gold dollars to pay the service, the junta to give pounds and bonds as collateral. The bankers feel that this security is not adequate but that a sufficient amount of gold dollars in the gold reserve in New York or in the reserve bank in Lima should be earmarked for this purpose. The first payment of the loan service was in pounds on the 1st of September, even during the first difficult days the Peruvian authorities not being able to get gold dollars at that time. The next payment is due October 1st.

When he spoke to me several days ago, Stahl said he hoped recognition would not be accorded until some favorable arrangement had been made. It is difficult to judge the extent to which recognition should be related to the financial situation and whether recognition would help or hinder the negotiation. I suggest that the Department call a representative of the banks to Washington for discussion and that the Embassy be instructed as to the Department's attitude. Mr. Stahl agreed with me that a conversation between the Department and the bankers is necessary.

Withholding recognition seems likely: (1) To create ill-will and promote anti-American feeling; (2) to lessen our prestige; (3) to make business more difficult for Americans having interests here, current operations of the banks in their relations with the central authorities for instance; (4) to leave the junta with a sense of less responsibility; and (5) make it difficult to secure protection and fair treatment and to establish claims.

According recognition soon or promising it for some early definite date will tend, it seems to me: (1) To lessen anti-American feeling; (2) to emphasize our friendship for Peru and Peruvians and thus preserve normal good relationship even if the present junta should be eventually overthrown and another take its place; (3) to show that we are acting in accord with the usual precedents of international law which will give satisfaction throughout Latin America; (4) to create a better atmosphere for American business and for the Americans who have contractual relations with the Leguia government and have a favorable bearing notably upon the cases of Grow and Sutton; (5) to place a more definite legal responsibility upon Government for the protection of American lives and property and American rights in general; (6) to strengthen the morale and prestige of this Government and assist it in providing an effective administration. The whole situation can probably best be brought out by inquiring "why should we not accord recognition?"

It is difficult to say what the future will produce. The weak features of the junta government are naturally enough the same as in the Leguia government. Nepotism is already in evidence. Five

brothers of the chief of the junta have been appointed to important governmental places and other relatives have been appointed, also the chiefs of the various ministries have appointed their friends. The removal of a number of the senior officers of the Army and the appointment of junior officers in their places will undoubtedly cause discontent. Discontent will also be caused if reductions are made in Army pay. Leguia's special police who have been pushed aside, while poorly officered, are good soldiers having been carefully chosen from the Army and may increase the ranks of the malcontents.

I believe however that the advantages are on the side of early recognition and suggest early consideration of the matter. If the Department believes recognition should be made conditional upon certain guarantees, assurances or acts I shall appreciate being informed as to what the Department desires, what are its objectives and what will be its policy. Please instruct me fully.

DEARING

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823.01/21 : Telegram

*The Ambassador in Peru (Dearing) to the Secretary of State*

LIMA, September 16, 1930—10 a. m.

[Received 6:17 p. m.]

213. China and Austria have recognized the junta as the government of Peru.

DEARING

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823.00 Revolutions/52 : Telegram

*The Ambassador in Peru (Dearing) to the Secretary of State*

LIMA, September 16, 1930—11 a. m.

[Received 6:11 p. m.]

214. Kingsmill reports conditions Cerro de Pasco continue to improve.

Rumors of military and naval plots and numerous arrests including Ponce, chief of the first junta, caused some tension yesterday. Sanchez Cerro told me he had made the arrests because the generals and higher officers were making fun of the tribunal of national sanctions. He added that they were robbers and would be tried by the tribunal. Today's reports are that the plots reported have been nipped in the bud.

The tribunal continues its work. Leguia and Huaman de Los Heros, former Minister of Gobierno, and numerous others have been indicted. Leguia's health reported much improved and son Juan were transferred early this morning from San Lorenzo Island to central jail in Lima called Panoptice.



No solution yet reached regarding asylum concerning which Embassy reporting by mail as careful comprehensive instructions are needed. Question will probably be pending for some time and may create serious situation between the Government and diplomatic body.

DEARING

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823.01/22 : Telegram

*The Ambassador in Peru (Dearing) to the Secretary of State*

LIMA, September 16, 1930—noon.

[Received 6:15 p. m.]

215. My 207, September 13, 10 a. m. [p. m.] British Chargé d'Affaires has just informed me Great Britain will, on September 18th, recognize junta in Peru and in the Argentine Republic <sup>11</sup> simultaneously as the governments of their respective countries and that this action is due to your statement to British Ambassador in Washington that you were favorable to recognition, would shortly direct that recognition be accorded to Peru and Argentina at the same time but wished to discuss the situation with the President before issuing instructions.

DEARING

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823.01/23 : Telegram

*The Secretary of State to the Ambassador in Peru (Dearing)*

[Paraphrase]

WASHINGTON, September 16, 1930—2 p. m.

109. On Thursday, September 18, you will please inform the Foreign Minister that you are instructed by the Government of the United States to enter into full diplomatic relations with the new Peruvian Government, thus constituting recognition thereof.

An announcement of this will be made here late Wednesday afternoon.<sup>12</sup> Until release here the above should be treated as confidential. Similar action will be taken as to Argentina and Bolivia.<sup>13</sup>

STIMSON

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<sup>11</sup> See vol. I, pp. 378 ff.

<sup>12</sup> See press release issued by the Department of State on September 17, 1930, vol. I, p. 387.

<sup>13</sup> See vol. I, pp. 378 ff. and pp. 415 ff.

823.01/27 : Telegram

*The Ambassador in Peru (Dearing) to the Secretary of State*

LIMA, September 17, 1930—noon.

[Received 2:52 p. m.]

217. Germany and Holland have recognized the junta as the government of Peru.

DEARING

323.2322/10 : Telegram

*The Secretary of State to the Ambassador in Peru (Dearing)*

[Paraphrase]

WASHINGTON, September 17, 1930—2 p. m.

111. When the provisional Government is recognized by the Government of the United States on Thursday, September 18, it seems especially inappropriate that asylum should continue to be afforded by the American Embassy. Using your full discretion you will please take appropriate steps at an early moment to terminate the asylum granted.

STIMSON

823.01/29 : Telegram

*The Secretary of State to the Minister in Guatemala (Whitehouse)*

[Paraphrase]

WASHINGTON, September 17, 1930—3 p. m.

65. Your despatch No. 159, September 12, was received today.

You may inform the Foreign Office that the Government of the United States will recognize the new Government of Peru on Thursday, September 18.

STIMSON

823.01/56

*The Secretary of State to the Ambassador in Peru (Dearing)*

WASHINGTON, September 17, 1930.

MY DEAR MR. DEARING: Your telegram No. 207 of September thirteenth has been of real assistance to me in the last few days.

Sincerely yours,

HENRY L. STIMSON

823.01/32 : Telegram

*The Ambassador in Peru (Dearing) to the Secretary of State*

LIMA, September 18, 1930—10 a. m.

[Received 4:48 p. m.]

220. This morning's press states that Great Britain, France, Spain, Cuba and Costa Rica have recognized the junta as government of Peru.

DEARING

823.30/114 : Telegram

*The Secretary of State to the Ambassador in Peru (Dearing)*

WASHINGTON, September 18, 1930—4 p. m.

113. Your 199, September 10, 4 p. m. The Department is willing that members of the Naval Mission shall continue to give their services as desired by the Peruvian authorities.

STIMSON

823.01/33 : Telegram

*The Ambassador in Peru (Dearing) to the Secretary of State*

LIMA, September 18, 1930—4 p. m.

[Received 6:06 p. m.]

221. Department's 109, September 16, 2 p. m. Presented note incorporating substance Department's instructions to the Minister for Foreign Affairs, Colonel Montagne, at 10:50 this morning. He received it cordially and expressed his Government's great appreciation of your action. Reports of Secretary's statement at press conference in Washington reached Lima yesterday about 2 p. m. and made an excellent impression upon Peruvians, Americans, and other foreigners and colleagues.

Colonel Montagne assures me recent reports of unrest and Cabinet crisis are purely inventions and declares present position of Government as stronger than ever and that evidence of popular approval multiplies. He scouted the report that Leguia would be humiliated at his trial and assured me it would be a serious and dignified proceeding on highest possible plane. Colonel Montagne will endeavor to arrange wider liberty for Grow and current funds for Sutton and is cooperating for termination Larranaga asylum (Department's 111, September 17, 2 p. m.) this afternoon if possible. Further report later.

I expressed personal opinion Peru could not improve her financial position more than by paying October 1st national loan service requirements and said I felt sure satisfactory arrangements could

immediately thereafter be made with the fiscal agents. He seemed to like this idea. Stahl is to confer with Sanchez Cerro in this sense this afternoon.

DEARING

323.2322/11 : Telegram

*The Ambassador in Peru (Dearing) to the Secretary of State*

LIMA, September 19, 1930—noon.

[Received 2:50 p. m.]

223. Referring to the Department's No. 111, September 17, 2 p. m. Mrs. Larranaga and child went to father-in-law's house last night in accordance with promise made me. Government sent prefect of Lima this morning to conduct Mr. Larranaga to his father's home thus terminating asylum situation.

Full report sent air mail pouch yesterday, further mail report follows.

DEARING

823.01/36:Telegram

*The Ambassador in Peru (Dearing) to the Secretary of State*

LIMA, September 19, 1930—1 p. m.

[Received 2:50 p. m.]

224. Morning press announces that Argentina, Belgium, Colombia, and Panama have recognized junta as government. Brazil is reported to be waiting to see what disposition will be made of Mr. Leguia.

DEARING

823.01/39 : Telegram

*The Chargé in Brazil (Washington) to the Secretary of State*

[Paraphrase]

RIO DE JANEIRO, September 20, 1930—2 p. m.

[Received 2:40 p. m.]

58. Embassy's 57, September 20, noon.<sup>14</sup> Just been informed that Brazil will recognize the Government of Peru today.

WASHINGTON

823.30/122

*The Ambassador in Peru (Dearing) to the Secretary of State*

No. 108

LIMA, September 22, 1930.

[Received October 1.]

SIR: As the Department will recall, the attitude of the Peruvian Navy toward the new Government here has been one of the uncertain

<sup>14</sup> Vol. I, p. 390.

factors in the situation, since the officers of the Navy have always been loyal to Ex-President Leguia and to the Constitution. I gather from a conversation with Rear Admiral William S. Pye, U. S. N., Chief of the American Naval Mission in Peru, that to all intents and purposes this uncertainty may now be said to be removed for the present at least, since it would appear that the Navy is no longer thinking politically but rather of its own problems.

In this general relation Admiral Pye tells me that his own position and that of the remaining members of the Naval Mission is most satisfactory, having been relieved of all administrative duties in exactly the same manner and practically to the same extent of personnel of the Mission as he had originally desired (Please see Embassy's telegram No. 141, Aug. 20, 11 a. m.<sup>15</sup>) Admiral Pye now finds himself with time and opportunity to carry out the strictly educational efforts which he has felt for some time should be substituted for more active executive functions. With Captain Spears' assistance he has organized the Naval War College which it is expected will be opened on the first of October.

Furthermore, an Organic Law of the Navy is being worked out and is about to be put into effect through a series of decrees to be issued by Colonel Sanchez Cerro. The Navy, as it happens, has been administered under most archaic and unsatisfactory regulations, dating for the most part from 1886 and amended in a somewhat bewildering fashion by numberless decrees issued since that date. The Organic Law which Admiral Pye has compiled will bring these regulations up to date and in one body of rules for the conduct of the Naval forces of Peru. All together I see no reason to doubt that the contribution of the Naval Mission both with respect to assistance to Peru and toward the fostering of good relations between Peru and the United States may not go forward perhaps more successfully than ever under the new régime.

Respectfully yours,

FRED MORRIS DEARING

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<sup>15</sup> Not printed.

## POLAND

### CONVENTION BETWEEN THE UNITED STATES AND POLAND FOR THE PREVENTION OF SMUGGLING OF INTOXICATING LIQUORS, SIGNED JUNE 19, 1930

711.60c9 Liquor/1

*The Polish Ambassador (Filipowicz) to the Secretary of State*

No. 1512/30

[WASHINGTON,] May 14, 1930.

SIR: I have the honor to inform you that the Polish Government desire to conclude a Convention with the Government of the United States to aid in the prevention of smuggling of intoxicating liquors into the United States and have instructed me to submit to Your Excellency the proposal of entering into negotiations which would ultimately lead to the conclusion of such a Convention.

My Government believe that, if it be agreeable to Your Excellency, such negotiations could be opened on the basis of a like Convention entered into by the United States and Denmark, signed in Washington on May twenty-ninth and proclaimed on July twenty-fifth, nineteen hundred and twenty four.<sup>1</sup>

The Polish Government have further instructed me to present as urgent the matter of closing the above mentioned Convention, a preliminary draft of which I have the honor to enclose,<sup>2</sup> and to ask Your Excellency to consider it as such, thereby making possible a speedy transfer to Polish registry of the vessels of the newly established Polish Transatlantic Steamship Line, which would otherwise suffer delay.

Accept [etc.]

T. FILIPOWICZ

711.60c9 Liquor/3

*Memorandum by the Assistant Chief of the Treaty Division (McClure)  
of a Conversation With the Commercial Counselor of the Polish Embassy  
(Wańkiewicz)*

[WASHINGTON,] June 4, 1930.

Mr. Wańkiewicz conferred with the Chief of the Division of Eastern European Affairs<sup>3</sup> and the Assistant Chief of the Treaty Division in

<sup>1</sup> *Foreign Relations*, 1924, vol. 1, p. 181.

<sup>2</sup> Not printed.

<sup>3</sup> Robert F. Kelley.

the former's office this morning with reference to a number of verbal changes which it seemed desirable to make in the draft liquor convention which the Polish Embassy recently submitted to the Department as the basis of a treaty to be entered into between Poland and the United States.

Mr. Wańkowitz agreed, of course, to the uniform description of the instrument by the use throughout of the word "Convention".

He saw no objection to the change at the beginning of Article II so as to substitute for the words "The President of the Republic of Poland agrees . . ." to "It is agreed that the Government of Poland . . .".

Mr. Wańkowitz requested that, in view of the fact that the words at the beginning of the first paragraph of the formal concluding portion of the treaty, namely, "in accordance with their respective constitutional methods", would be difficult to translate into Polish, and as he thought that there was no need for such language in the treaty anyhow, the first paragraph be shortened to read as follows:

"The present Convention shall be duly ratified by the High Contracting Parties and the ratifications shall be exchanged at Warsaw as soon as possible."

The two Departmental officers who were present agreed entirely as to this change and both felt that reference to constitutional methods or procedure is out of place in an international instrument.

Mr. Wańkowitz requested that, since the signature was to take place at Washington, exchange of ratifications should take place at Warsaw, in accordance with the custom heretofore observed in regard to treaties between the United States and Poland. Mr. Wańkowitz was, of course, informed that this alteration would be made.

The draft submitted by Poland, with the foregoing alterations, has been recopied and corrected copies attached to the draft note to the Polish Ambassador in reply to his note of May 14, 1930.

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711.60c9Liquor/17

*The Secretary of State to the Polish Ambassador (Filipowicz)*

WASHINGTON, June 14, 1930.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of May 14, 1930, in which you inform me that the Polish Government desires to conclude a convention with the Government of the United States to aid in the prevention of the smuggling of intoxicating liquors into the United States. Reference is also made to a conference which took place on June 4, 1930, between the Commercial Counsellor of the Embassy and officers of the Department.

I take pleasure in informing you that this Government will be happy to enter into the treaty which you propose, and the draft text <sup>4</sup> which accompanied your note is acceptable to this Government with a few verbal changes, as indicated by the draft which I am sending you herewith.<sup>4</sup>

It will be noted that, in accordance with Article V of the draft treaty, the two Governments reserve the right, three months before the expiration of one year from the date of the exchange of ratifications, to propose modifications in the terms of the treaty.

The desirability of a revision of the treaties of the United States for the prevention of the smuggling of intoxicating liquors is at present the subject of careful consideration by several of the Departments of this Government. Accordingly, it must be considered as not unlikely that the Government of the United States will take advantage of the foregoing provision of Article V at the appropriate time.

I assume that you will furnish the Department of State with the Polish text at your early convenience.

Accept [etc.]

H. L. STIMSON

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711.60c9Liquor/10

*The Polish Ambassador (Filipowicz) to the Secretary of State*

No. 2260/30

[WASHINGTON,] June 17, 1930.

SIR: I have the honor to acknowledge the receipt of your note of June 14, from which I have learned with great satisfaction that the Government of the United States is willing to conclude a Convention with the Government of Poland on the Prevention of Smuggling of Intoxicating Liquors into the United States.

I have the honor to acknowledge at the same time the receipt of an accompanying draft of such a Convention,<sup>4</sup> containing the verbal changes mentioned in your note, which changes are acceptable to my Government.

I have noted that the Government of the United States is considering a revision of its treaties for the prevention of smuggling of intoxicating liquors, and that, consequently, it has to be regarded not unlikely that the Government of the United States will take advantage of the provision of Article V of the draft treaty, which reserves the right to the High Contracting Parties, to propose modifications in the terms of the Treaty three months before the expiration of one year from the date of exchange of the ratifications.

<sup>4</sup> Not printed.



Enclosing herewith the Polish text<sup>6</sup> of the above mentioned Convention, I wish to ask you to appoint a date on which it will be convenient to you to proceed with the signing of the Convention.

Accept [etc.]

For the Ambassador:

VICTOR PODOSKI  
*Chargé des affaires*

Treaty Series No. 821

*Convention Between the United States of America and Poland, Signed at Washington, June 19, 1930*<sup>7</sup>

The President of the United States of America and the President of the Republic of Poland being desirous of avoiding any difficulties which might arise between the United States and Poland in connection with the laws in force in the United States on the subject of alcoholic beverages have decided to conclude a Convention for that purpose, and have appointed as their Plenipotentiaries:

The President of the United States of America: Mr. Henry L. Stimson, Secretary of State of the United States; and the President of the Republic of Poland: Mr. Tytus Filipowicz, Ambassador Extraordinary and Plenipotentiary of Poland to the United States:

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

ARTICLE I

The High Contracting Parties respectively retain their rights and claims, without prejudice by reason of this Convention, with respect to the extent of their territorial jurisdiction.

ARTICLE II

(1) It is agreed that the Government of Poland will raise no objection to the boarding of private vessels under the Polish flag outside the limits of territorial waters by the authorities of the United States, its territories or possessions in order that enquiries may be addressed to those on board and an examination be made of the ship's papers for the purpose of ascertaining whether the vessel or those on board are endeavoring to import or have imported alcoholic beverages into the United States, its territories or possessions in violation of the laws there in force. When such enquiries and examination show a reasonable ground for suspicion, a search of the vessel may be initiated.

<sup>6</sup> Not printed.

<sup>7</sup> In English and Polish; Polish text not printed. Ratification advised by the Senate, June 28, 1930; ratified by the President, July 11, 1930; ratifications exchanged at Warsaw, August 2, 1930; proclaimed by the President, August 8, 1930.

(2) If there is reasonable cause for belief that the vessel has committed or is committing or attempting to commit an offense 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.

(3) The rights conferred by this article shall not be exercised at a greater distance from the coast of the United States, its territories or possessions than can be traversed in one hour by the vessel suspected of endeavoring to commit the offense. In cases, however, in which the liquor is intended to be conveyed to the United States, its territories or possessions by a vessel other than the one boarded and searched, it shall be the speed of such other vessel and not the speed of the vessel boarded, which shall determine the distance from the coast at which the right under this article can be exercised.

### ARTICLE III

No penalty or forfeiture under the laws of the United States shall be applicable or attach to alcoholic liquors or to vessels or persons by reason of the carriage of such liquors, when such liquors are listed as sea stores or cargo destined for a port foreign to the United States, its territories or possessions on board Polish vessels voyaging to or from ports of the United States, or its territories or possessions or passing through the territorial waters thereof, and such carriage shall be as now provided by law with respect to the transit of such liquors through the Panama Canal, provided that such liquors shall be kept under seal continuously while the vessel on which they are carried remains within said territorial waters and that no part of such liquors shall at any time or place be unladen within the United States, its territories or possessions.

### ARTICLE IV

Any claim by a Polish vessel for compensation on the grounds that it has suffered loss or injury through the improper or unreasonable exercise of the rights conferred by Article II of this Convention or on the ground that it has not been given the benefit of Article III shall be referred for the joint consideration of two persons, one of whom shall be nominated by each of the High Contracting Parties.

Effect shall be given to the recommendations contained in any such joint report. If no joint report can be agreed upon, the claim shall be referred to the Permanent Court of Arbitration at The Hague described in the Convention for the Pacific Settlement of International Disputes, concluded at The Hague, October 18, 1907.<sup>7a</sup>

<sup>7a</sup> *Foreign Relations*, 1907, pt. 2, p. 1181.

The Arbitral Tribunal shall be constituted in accordance with Article 87 (Chapter IV) and with Article 59 (Chapter III) of the said Convention. The proceedings shall be regulated by so much of Chapter IV of the said Convention and of Chapter III thereof (special regard being had for Articles 70 and 74, but excepting Articles 53 and 54) as the Tribunal may consider to be applicable and to be consistent with the provisions of this Convention. All sums of money which may be awarded by the Tribunal on account of any claim shall be paid within eighteen months after the date of the final award without interest and without deduction, save as hereafter specified. Each Government shall bear its own expenses. The expenses of the Tribunal shall be defrayed by a ratable deduction from the amount of the sums awarded by it, at a rate of five per cent. on such sums, or at such lower rate as may be agreed upon between the two Governments; the deficiency, if any, shall be defrayed in equal moieties by the two Governments.

#### ARTICLE V

This Convention shall be subject to ratification and shall remain in force for a period of one year from the date of the exchange of ratifications.

Three months before the expiration of the said period of one year, either of the High Contracting Parties may give notice of its desire to propose modifications in the terms of the Convention.

If such modifications have not been agreed upon before the expiration of the term of one year mentioned above, the Convention shall lapse.

If no notice is given on either side of the desire to propose modifications, the Convention shall remain in force for another year, and so on automatically, but subject always in respect of each such period of a year to the right on either side to propose as provided above three months before its expiration modifications in the Convention, and to the provision that if such modifications are not agreed upon before the close of the period of one year, the Convention shall lapse.

#### ARTICLE VI

In the event that either of the High Contracting Parties shall be prevented either by judicial decision or legislative action from giving full effect to the provisions of the present Convention the said Convention shall automatically lapse, and, on such lapse or whenever this Convention shall cease to be in force, each High Contracting Party shall enjoy all the rights which it would have possessed had this Convention not been concluded.

The present Convention shall be duly ratified by the High Contracting Parties and the ratifications shall be exchanged at Warsaw as soon as possible.

In witness whereof, the respective Plenipotentiaries have signed the present Convention in duplicate in the English and Polish languages, and have thereunto affixed their seals.

Done at the city of Washington this 19th day of June, one thousand nine hundred and thirty.

[SEAL] HENRY L. STIMSON  
[SEAL] TYTUS FILIPOWICZ

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**AGREEMENT BETWEEN THE UNITED STATES AND POLAND REGARDING MUTUAL RECOGNITION OF SHIP MEASUREMENT CERTIFICATES**

811.841 Poland/1

*The Polish Minister (Filipowicz) to the Secretary of State*

No. 1635/29

[WASHINGTON,] January 17, 1930.

SIR: I have been instructed by my Government, desirous of negotiating with the Government of the United States an agreement relative to the tonnage measurement of ships, to present for your consideration translations of the following documents:<sup>8</sup>

- Decree of the President of the Republic of Poland of May 17th, 1927, relating to the tonnage measurement of ships
- Decree of the Minister of Industry and Commerce of November 24th, 1927
- Regulations as to the tonnage measurement of ships, as well as copies of Polish certificates of tonnage.

In doing so, I have the honor to ask you, Mr. Secretary, to take cognizance of the attached documents and to inform me subsequently, if it be your pleasure to have representatives of the Department of State enter into negotiations with representatives of this Legation with a view to negotiating, on the basis of the attached documents, an agreement which would assure that certificates of tonnage of vessels of either High Contracting Party be reciprocally accepted as establishing the ships' tonnage in respect to levying of harbor duties and taxes.

Accept [etc.]

T. FILIPOWICZ

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811.841 Poland/1

*The Acting Secretary of State to the Polish Ambassador (Filipowicz)*<sup>9</sup>

WASHINGTON, March 14, 1930.

EXCELLENCY: I have the honor to refer to Your Excellency's note No. 1635/29 of January 17, 1930, enclosing copies of documents relating to the tonnage measurement of ships. The regulations of Poland

<sup>8</sup> None printed.

<sup>9</sup> The Polish Legation was raised to an Embassy on March 8, 1930.

on this subject have been found to be substantially the same as those of the United States.

Accordingly, I have the honor to inform you that, in consideration of a like courtesy being extended to vessels of the United States in Polish ports, the appropriate agency of this Government will recognize the tonnage noted in the certificates of registry or other national papers carried by Polish vessels, determined pursuant to the decrees and regulations transmitted with your note of January 17, 1930, as fulfilling the requirements in regard to measurement under the laws and regulations of the United States, and that it will not be necessary for vessels of Poland to be remeasured at any port of the United States.

I shall be glad to be informed when appropriate steps under Polish laws or regulations have been taken to give effect to a reciprocal exemption in favor of vessels of the United States.

This Government considers that the existence of the arrangement between the two countries on this subject may appropriately be evidenced by this note and Your Excellency's reply thereto.

Accept [etc.]

J. P. COTTON

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811.841 Poland/3

*The Polish Ambassador (Filipowicz) to the Acting Secretary of State*

No. 1030/30

[WASHINGTON,] April 22, 1930.

SIR: I have the honor to refer to your note of March 14th, 1930, with which you confirm the receipt of my note of January 17, 1930, and inform me that Poland's regulations on the subject of tonnage measurements of vessels having been found to be substantially the same as those of the United States, the appropriate agency of the United States Government, in consideration of a like courtesy being extended to vessels of the United States in Polish ports, will recognize the tonnage noted in the certificates of registry or other national papers carried by Polish vessels issued in accordance with the regulations transmitted with my note of January 17, 1930, as fulfilling the requirements in regard to measurement under the laws and regulations of the United States, and that it will not be necessary for vessels of Poland to be remeasured at any port of the United States.

Simultaneously, I am informing my Government that, by transmitting to you this note, the agreement on the above subject between the United States and Poland has been definitely closed, in order to enable them to publish the above in the *Monitor Polski*, official daily of the Polish Government and in order that the Minister of Industry and Commerce may issue proper instructions to the Polish harbor authorities.

In accordance with the wish expressed in your above mentioned note, I will inform you when appropriate steps have been taken to effect the reciprocal exemption in favor of vessels of the United States.

Accept [etc.]

T. FILIPOWICZ

811.841 Poland/11

*The Polish Ambassador (Patek) to the Secretary of State*

99/SZ-3

[WASHINGTON,] October 5, 1934.

SIR: Referring to the exchange of notes which took place in 1930, between the Polish Government and the Government of the United States relative to the mutual recognition of the tonnage measurement of ships, I have the honor to enclose herewith a copy, with a certified translation, of the Proclamation, dated July 10, 1930, issued by the Minister of Industry and Commerce of the Republic of Poland.

The said Proclamation, which is published in the official *Monitor Polski* of July 22, 1930, No. 167, pos. 254, states that the Polish merchant marine authorities recognize the tonnage measurement certificates of the sea-going merchant vessels of the United States of North America equally with Polish certificates.

Accept [etc.]

S. PATEK

[Enclosure—Translation]

PROCLAMATION OF THE MINISTER OF INDUSTRY AND COMMERCE OF  
JULY 10, 1930

in the matter of recognizing by Polish merchant marine authorities of tonnage measurement certificates of merchant vessels of the United States of North America.

Be it known that, in accordance with the agreement, concluded between the Polish Government and the Government of the United States of North America by way of an exchange of notes, to wit the note of the Polish Government dated January 17, 1930, and the note of the Government of the United States dated March 4 [14], 1930,—the Polish merchant marine authorities recognize the tonnage measurement certificates of the sea-going merchant vessels of the United States of North America equally with Polish certificates.

*Minister of Industry and Commerce:*

(—)

E. KWIATKOWSKI

I herewith certify that the original and the translation are substantially in agreement.

WASHINGTON, D. C., October 5, 1934.

Z. KLIMPEL  
*Secretary of Embassy*

## PORTUGAL

### REPRESENTATIONS BY THE UNITED STATES AGAINST THE ESTABLISHMENT IN PORTUGAL OF A MONOPOLY FOR THE MANUFACTURE OF PETROLEUM DERIVATIVES

353.115V13/24: Telegram

*The Minister in Portugal (Dearing) to the Secretary of State*

LISBON, November 29, 1929—5 p. m.

[Received 7:50 p. m.]

39. Vacuum Oil Company represents it will be driven out of business in Portugal if Companhia Industrial Luso-Americana, a newly organized Portuguese company, is allowed to exploit a monopolistic concession for the manufacture of all petroleum derivatives and that situation is all the more menacing because of possibility that Government may confirm the monopoly by promising not to change duty on imported refined products for 10 years. Atlantic Refining interests are behind Portuguese company. Government's attitude so far noncommittal (see Department's instruction number 193, April 3, 1919, and Legation's despatch number 486, April 28, 1919, and despatch number 427, July 12, 1923<sup>1</sup>).

New York Office of Vacuum will lay situation before Department and request for their protection such instructions to me as may be possible under circumstances. Vacuum has approached Atlantic Refining which confirms its interests and activity in Companhia Industrial Luso-Americana.

DEARING

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353.115V13/25

*The Minister in Portugal (Dearing) to the Secretary of State*

No. 2903

LISBON, December 9, 1929.

[Received December 27.]

SIR: In confirmation and in supplementation of my telegram No. 39 of November 29, 5 P. M., I have the honor to report that some days ago Mr. James, Director of the Vacuum Oil Company's Branch in Portugal, came to me with the information that representatives of the Atlantic Refining Company were busily engaged at the Min-

<sup>1</sup> None printed.

istry of Finance in an endeavor to arrange for the incorporation, under the title of Companhia Industrial Luso-Americana, of a company to take over a monopolistic concession for the manufacture of petroleum derivatives which was granted as long ago as 1909. The Vacuum Company has always taken the stand that this concession was a mere favor to political adherents accorded in order to enable them to extort money from the Vacuum Company and it has refused to allow itself to be worried thereby, apparently wisely, as no Portuguese interests have yet been able to accomplish anything under the concession. Now, however, when another powerful American company has entered the field, the situation is quite different and the Vacuum and Shell Companies fear that they will be forced out of the country, as the local company will be able to undersell them in the ratio of 1.60 to 2.20. Mr. James also said that the Atlantic Refining Company representatives were making undue use of a letter of introduction from me. To this, I replied that I was certainly not favoring one American Company against another and that I had given the Atlantic Refining people no letter which I would not give to any other American concern.

On November 29, 1929, Mr. Sellers, Manager of the Vacuum Oil Company, called upon me in a state of real alarm. He said that, in order to protect his Company, he had urged at the very beginning that it erect at least a small refinery at Oporto, but that the New York Office had scouted the idea that any harm could come from a concession economically unsound. Mr. Sellers expressed the opinion that the Atlantic Refining Company had gone so far as to contract for machinery, equipment and all other necessities and that a part thereof might even have been shipped. He had seen Mr. Salazar, Minister of Finance, twice and said that Mr. Salazar was impressed by the fact that the grant of the concession would result in a loss to Portugal of about 30,000,000 escudos per annum in customs revenue, would throw out of employment more than one thousand Portuguese and would destroy an enterprise representing invested interests of some 100,000,000 escudos. He added, however, that Mr. Salazar was non-committal. This circumstance is worthy of note, inasmuch as it is known that Mr. Salazar and the Portuguese in general favor the fostering of Portuguese industries. Quite possibly they feel that they will be able to recoup from other sources whatever losses may be suffered in customs revenue.

I was particularly struck by Mr. Seller's statement that Mr. Salazar had showed no little resentment over the efforts of the Congress of the United States to increase the rates of duty on lace and cork. According to Mr. Sellers, Mr. Salazar had said that the proposed rate of duty on lace would adversely affect the industry in Madeira to such an extent that, in order to keep the industry alive,



the Government would be forced to forego the revenues derived therefrom through the existing export tax. It seems that nothing was said in elaboration of the complaint regarding the proposed increase of the duty on cork, but this is evidently a sore point in view of the paramount importance of the cork industry to Portugal and of the fact that the recent Presidential visit to Spain appears to have been conceived largely for the purpose of improving the cork situation in so far as Spain and Portugal are concerned.

I explained to Mr. Sellers that, while I would do everything possible to protect the interests of the Vacuum Oil Company as far as the Portuguese Company was concerned, the American backing of that Company complicated and rendered delicate the situation. I urged him, as a condition precedent to my taking action, fully to lay the case before the Department of State with a view to my being suitably instructed. This, Mr. Sellers said he would do.

I have [etc.]

FRED MORRIS DEARING

353.115V13/27 : Telegram

*The Minister in Portugal (Dearing) to the Acting Secretary of State*

LISBON, February 3, 1930—4 p.m.

[Received 6:30 p.m.]

11. Referring to my despatch of December 9, 1929 No. 2904.<sup>2</sup> Local general manager Vacuum Oil Company called this morning and showed me the following telegram despatched by him to New York office January 31:

“Referring to your telegram No. 9. I am now satisfied information not correct and although I might still be able to defeat project, situation growing critical. I know concessionaires offering big graft money and with this enormous handicap it is very essential to have support of Washington. Minister of Finance absent for a few days, will return Tuesday evening; and it is of the utmost importance United States Minister at Lisbon should be instructed by Washington to call on the Minister for Foreign Affairs, which he is prepared to do, for the purpose of protesting against concession of monopoly on Wednesday, February 5, date on which am arranging for Shell Company to have British Ambassador do likewise. Please bear in mind patent is still in the name of original Portuguese concessionaires even if transferred to name of new company, it is also a Portuguese concern and the Atlantic Refining Company of Philadelphia do not come into the picture in any way, consequently protest in favor of ours, the largest petroleum company in Portugal, is fully justified.

<sup>2</sup> Not printed.

Government circles have remarked that apparently I have no support from United States Minister. F. C. Sellers.”

I called Sellers' attention to statement regarding my alleged preparation to protest and told him it was completely unwarranted, that I [could not favor Vacuum as against Atlantic Refining but if Legation's even standing as between two competing American companies was being interpreted as adverse to Vacuum, I would be glad to inform Portuguese Government Vacuum always had interest and support of] <sup>3</sup> Legation in its legitimate business when competition with another American company was not involved.

Acting on advice of his consulting attorney, who it develops was misinformed, Sellers telegraphed New York office Vacuum, January 11th, that Minister of Commerce had cancelled concession. Having discovered the error he is now endeavoring by all possible means to defeat the purpose of the Portuguese concessionaire as backed by the Atlantic Refining Company and takes the ground that technical Portuguese character of concessionaire collusively [*conclusively?*] warrants our Government in protesting on behalf of Vacuum. He expects his principals to lay matter before Department today.

Further report by mail. Please instruct.

DEARING

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353.115V13/28 : Telegram

*The Acting Secretary of State to the Minister in Portugal (Dearing)*

WASHINGTON, February 5, 1930—3 p. m.

8. Your 11, February 3. The Department has discussed the situation in reference to the establishment of an alleged monopoly of the refining of crude oil with a representative of the Vacuum Oil Company who has asked us to take the matter up with the Portuguese Government through the Legation at Lisbon.

Although it is not believed that this Government could appropriately object in principle to the establishment of an oil monopoly in Portugal you are authorized to explain orally to the appropriate Portuguese officials that this Government regrets to see monopolies created in other countries, when the result thereof works an injury to American interests established there for many years in good faith under existing laws.

You may, in your discretion, orally inform the British Ambassador of the position of this Government as expressed above. The Department will be pleased to learn what action the British Ambassador is taking in reference to this question and the grounds upon which such action is predicated.

COTTON

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<sup>3</sup> Portion in brackets was omitted in the original telegram; it is supplied from the confirmation copy.

353.115V13/33

*The Minister in Portugal (Dearing) to the Acting Secretary of State*

No. 2976

LISBON, February 7, 1930.

[Received February 27.]

SIR: With reference to the Department's telegraphic instruction No. 8 of February 5, 5 [3] P. M., regarding the alleged plan to establish an oil monopoly in Portugal, and to my telegraphic reply thereto, No. 14 of February 8, 11 A. M.,<sup>4</sup> I have the honor to report that, shortly after the receipt of the Department's instruction to which I refer, Messrs. Sellers and James, of the Vacuum Oil Company, called upon me and stated that there was reason to believe no final action in the matter had yet been taken despite the information obtained from the Ministry for Foreign Affairs by the British Ambassador, through one of the Secretaries, to the effect that an extension of time had been granted to those holding the threatening concession. I acquainted Messrs. Sellers and James with the nature of my instructions and told them that I would immediately call upon the Minister of Commerce and the Minister for Foreign Affairs in order to make oral representations to them in the sense of the said instructions. About an hour after they had left the Legation Mr. Sellers telephoned that he had learned that the extension of time had not been granted to the *cessionnaires* and that he had reason to believe that the question at issue remained open.

I reached the Ministry of Commerce at about half past twelve and was very kindly received by Dr. Joao Antunes Guimaraes, the Minister. I explained that I had sought an interview with him in connection with the oil refining monopoly as I understood that the time limit for the extension of the monopolistic concession had expired on the previous day, that my instructions were urgent and that I had been unable to make an appointment to see the Minister for Foreign Affairs during the course of the morning. In consequence, I had sought an immediate interview with the Minister. I further explained that it had been reported to me that the Legation was engaged in intervening actively on behalf of the Atlantic Refining Company and that this was interpreted as inimical to the interests of the Vacuum Oil Company, particularly inasmuch as, in the absence of positive representations on behalf of the Vacuum Oil Company, it was being said that the latter lacked the support of the Legation. It was my desire, I said, to expose the falsity of these rumors and to make it clear that the Legation was prepared at all times to protect all American interests without favor or favoritism toward one American company as against another. I pointed out, however, that the present

<sup>4</sup>Latter not printed.

concession belonged to what is still a Portuguese company, that free and open competition was a traditional principle of our Government and that we would regret to see monopolies created in Portugal inasmuch as the result thereof would be injury to American interests established in good faith and maintained throughout a long series of years. The Minister replied that he understood perfectly this attitude, that to grant the petition of the *cessionnaires* for an extension of time would be practically tantamount to granting them a new concession, that no extension had been granted, that the matter was still open and that, while it had been before him for some months, he desired to study it longer and to go into it more thoroughly. Thereupon, he showed me a voluminous file on his desk, saying that it was composed of the papers in the case. On top, there was a letter from the Vacuum Oil Company. The Minister then went on to say that the Portuguese Government saw in the concession the possibility of forcing foreign oil companies to sell at reasonable prices and that it was felt that gasoline in Portugal was far too dear in consequence of the good understanding existing between some of the companies—evidently meaning the Shell and the Vacuum Oil Company. In reply, I ventured the opinion that the high price of gasoline in Portugal was the result of customs duties and other charges. With regard to the use of the concession for the purpose of bringing about price reductions, I demurred, saying that I felt that this could be accomplished better in other ways and that, in any event, my impression was that the price levels in question conformed very closely to the governing economic laws and that in fact they were probably relatively as low as those of any other commodities. The Minister took this in very good part and again intimated that he would study the matter further in order to determine what would be best in the interest of the Portuguese people, national economy and governmental policy. I asked the Minister kindly to let me know when he had reached his decision. This he promised to do through the Ministry for Foreign Affairs. Finally, I informed the Minister that I would explain why I had come directly to him when I saw the Minister for Foreign Affairs during the course of the afternoon.

Upon leaving the Ministry of Commerce, I went to see Mr. Sellers and gave him the gist of my interview with the Minister. Mr. Sellers said that he had already supplied Dr. Salazar, Minister of Finance, with full details regarding the manner in which the price of gasoline sold by the Vacuum Oil Company was determined and that he was quite prepared to go to the Minister of Commerce in order to remove any existing misconception with regard to price levels and to see that Dr. Salazar had all the facts and data. After saying that he might supply the Minister of Commerce with a copy of his letter to the Minister of Finance, he said that upon reconsideration he would

not care to run the risk of allowing the Shell Company to obtain the Vacuum Company's figures.

About 4-30 in the afternoon I called upon the Minister for Foreign Affairs, to whom I repeated in substance that which I had said to the Minister of Commerce. Captain Branco was very cordial and said that he was glad I had taken up the matter directly with his colleague.

Shortly afterwards I went to see the British Ambassador. Sir Francis said that he had already taken occasion to say to Mr. Sampayo, the permanent Director General and real head of the Ministry for Foreign Affairs, that to grant a monopolistic concession would be injurious to British trade. On being asked whether this was the only ground upon which he had made representations as yet, Sir Francis answered that it was. He added that he had talked the matter over with Mr. Shervington of the Shell Company and that he was referring the case to the Foreign Office in London with a request for instructions. Mr. Shervington had told him that at various times during the past twenty years the original *cessionnaires* had endeavored to dispose of the concession both to the Vacuum Company and to the Shell Company, but that neither of these companies had been interested as the Portuguese Government had refused to guarantee that the import duty on crude oil would not be increased. This feature of the concession rendered it one of very questionable value, especially in a country having disturbed political conditions. Sir Francis was of the opinion that the Standard and Shell groups could prevent the Atlantic Refining Company from obtaining crude oil in most of the usual markets. To this I replied that it had been mentioned to me that the necessary supplies might be obtained from Russia.

This morning, Mr. Sellers called again, giving me a copy of a letter to the Minister of Commerce of February 6, explaining the manner in which the Vacuum Oil Company determined the price of gasoline. He also supplied me with a confidential memorandum on the subject, saying that, while he did not wish to leave it with the Minister, he was quite prepared to call upon him and to offer verbal explanations. He also said that he knew that Sir Francis Lindley had already cabled to London for instructions. Mr. Sellers added that he had heard from the Minister of Commerce in an encouraging sense and that he had received equally good news in respect of Dr. Salazar, who seemed disinclined to grant a concession or an extension of time in view of the attendant loss to the treasury of the large revenue now being obtained from the customs duty on gasoline.

I expect to have occasion shortly to report further in respect of the British attitude in the matter, as Sir Francis Lindley has promised to keep me fully informed. Meanwhile, it would seem as though definite action in the case would be deferred for the time being and that during

this interval the Vacuum Oil Company would have an opportunity fully to present its side of the case and to obtain a hearing for its arguments.

I have [etc.]

FRED MORRIS DEARING

353.115V13/32 : Telegram

*The Minister in Portugal (Dearing) to the Acting Secretary of State*

LISBON, February 26, 1930—3 p. m.

[Received February 26—1:20 p. m.]

16. Referring to Legation's 14, February 8, 11 a. m.<sup>5</sup> Informed concessionaires application for extension denied by Minister of Commerce. Atlantic Refining representative has called to express his regret and will probably telegraph his principals to approach Department. I told him of action taken by the Legation under Department's instruction number 8, February 6 [5], 5 [3] p.m. He expressed no criticism but indicated he would try to revive matter and disclaimed any intention of monopolizing field. Report by mail.

DEARING

**REPRESENTATIONS REGARDING DISCRIMINATORY CHARGES IN  
PORTUGUESE PORTS<sup>6</sup>**

653.116/66 : Telegram

*The Acting Secretary of State to the Minister in Portugal (Dearing)*

[Paraphrase]

WASHINGTON, January 6, 1930—5 p. m.

1. The American-West African Line, Inc. has stated to the Department that it may be compelled to abandon its United States-Angola service owing to certain discriminations in tariffs in Angola which it is understood were to have been raised about January 1, 1930.

The understanding is that freight sent direct to Angola in Portuguese ships or freight sent to Lisbon and from there to Angola in Portuguese ships obtains tariff reductions in Angola which freight sent to Angola on ships of the United States and of other foreign countries does not receive. (See Angola import tariff of March 24, 1928, revision of December 5, 1928, articles 1-7.)

The report is that, in order to benefit from the reductions which can be had by shipping via Lisbon, a large volume of freight is going off the direct route and that this is causing serious injury to the direct American line.

<sup>5</sup> Not printed.

<sup>6</sup> Continued from *Foreign Relations*, 1928, vol. III, pp. 768-789.

Please again call to the attention of the Portuguese Government, if you have no objections, this question of their shipping discriminations and say that we hope that in the near future some way can be discovered to do away with this source of argument between their Government and ours. You should remind them that in the United States full national treatment is accorded to their ships in foreign trade so far as dues and charges levied upon such ships and their cargoes are concerned, and that we ask for nothing more than, reciprocally, a similar absence of discriminatory treatment for our ships in ports which are under Portuguese jurisdiction. Before taking further steps you will perhaps wish to talk with your colleagues in order to learn, in regard to these discriminations, what, if any, action their Governments have in mind.

Your views would be welcomed by the Department as to the wisdom of refusing national treatment to Portuguese ships in the United States as is contemplated by American law in such a situation as this (see sections 4228, 4219, 4225 and 2502 of Revised Statutes, as well as section 26 of the Shipping Act of 1916<sup>7</sup> and section 19 of the Merchant Marine Act of 1920<sup>8</sup>). You will naturally not forget that any such action by us might bring to an end the commercial agreement brought about by an exchange of notes signed June 28, 1910 (Treaty Series No. 514½),<sup>9</sup> according to which most-favored-nation treatment is granted in this country to Portuguese vessels.

COTTON

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653.116/68

*The American Minister in Portugal (Dearing) to the Portuguese Minister for Foreign Affairs (Da Fonseca Monteiro)*<sup>10</sup>

No. 1065

LISBON, January 10, 1930.

EXCELLENCY: I have the honor, acting under telegraphic instructions from my Government, to inform Your Excellency that it is the understanding of my Government that cargo shipped directly to Angola in Portuguese vessels and cargo shipped to Lisbon and thence in Portuguese vessels to Angola enjoy there certain customs reductions not allowed on cargo shipped to Angola in American or other vessels of foreign registry. Furthermore, It is understood that large quantities of cargo are being diverted from their direct route in order to

<sup>7</sup> 39 Stat. 728, 737.

<sup>8</sup> 41 Stat. 988, 995.

<sup>9</sup> *Foreign Relations*, 1910, p. 828.

<sup>10</sup> Copy transmitted to the Department by the Minister in Portugal in his despatch No. 2951, January 14, 1930; received January 31.

take advantage of the customs reductions obtainable by shipping via Lisbon and that in consequence the American Line following the direct route is suffering a serious loss of business.

Under the circumstances, I am directed again to bring to the attention of Your Excellency's Government the matter of shipping discriminations and to state that my Government is hopeful that means will soon be found of solving this controversial question. I venture, in this connection, to remind Your Excellency that Portuguese vessels in foreign trade enjoy full national treatment in the United States in respect of duties and charges levied on such vessels and their cargo, and that my Government only seeks reciprocally the same freedom from discriminatory treatment for American vessels in ports under the jurisdiction of Your Excellency's Government. This it has consistently done heretofore and notably in the note which the American Chargé d'Affaires addressed to Your Excellency's distinguished predecessor, Dr. Bettencourt Rodrigues, under date of May 2, 1928, (No. 726).<sup>11</sup>

I avail myself [etc.]

FRED MORRIS DEARING

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653.116/67: Telegram

*The Minister in Portugal (Dearing) to the Acting Secretary of State*

LISBON, January 11, 1930—2 p. m.

[Received 2:20 p. m.]

3. Question of discrimination against foreign vessels is being vigorously revived by new British Ambassador under instructions from London. French, Dutch, Norwegian, Italian and German colleagues in accord and planning early joint action. I believe we should follow this lead and not consider reprisals until we see what develops. Our exports to Portugal and colonies are steadily increasing and benefits of 1910 arrangement should not be sacrificed without making sure of greater tangible advantages. Situation must be considered in light of present improvement, but difficult economic and political conditions here, the new tariff and Portugal's determined effort to assist and develop its merchant marine. Further report by mail. Have addressed note regarding American-West African Line to Foreign Office in the sense of first part of Department's instruction and am continuing investigation.

DEARING

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<sup>11</sup> *Foreign Relations*, 1928, vol. III, p. 781.



653.116/09

*The Minister in Portugal (Dearing) to the Acting Secretary of State*

No. 2962

LISBON, January 29, 1930.

[Received February 21.]

SIR: I have the honor to refer to my despatch No. 2951 of January 14,<sup>13</sup> regarding flag discrimination and national treatment for foreign vessels in Portuguese ports, and to inform the Department that the vigorous protests that have been made by the various maritime interests here—shippers, naval officers, seamen, etc.—have caused a sudden change of atmosphere in the situation and that I find my colleagues less optimistic as to their ability to secure concessions from the Portuguese Government.

I inquired of my German colleague, since certain German vessels going directly from Germany to Loanda were formerly in the same position as our own, what the situation now is regarding those vessels, and learned from him that the German lines have ceased sailings to Angola for over a year past. This would seem to indicate that they found it unprofitable to do business under the present discrimination.

Since then I have received the Department's instruction No. 1085 of January 8, 1930,<sup>13</sup> and as it is apparent that the American West African Line does not clearly understand the situation and it is not certain whether they are suffering from the actual situation which has already driven out the Germans or fear newer and greater discriminations, the Legation is endeavoring through the Ministry of the Colonies and the General Agency of the Colonies to get a precise and accurate statement of the situation in Angola upon which it can base comment and advice. There seems to be considerable confusion and it is probable that the factors hurting the business of the American West African Line are due to the action of the Lisbon Government rather than to the Colonial Administration in Angola. While the Colonies have a certain autonomy, they are held fairly closely to the home Government and the Cabinet just constituted places the Ministry of the Colonies under the control of the powerful Minister of Finance, Salazar, who asked for it so he could clean up colonial finances and administration. He has stated the work may take three or four years or more, so it would not be surprising to find that the real control of Angolan tariffs and shipping practices is right here in Lisbon.

On January 27 I called with Mr. Magruder, upon the new Foreign Minister, Captain Branco, whom I know quite well. I took advantage

<sup>13</sup> Not printed.

of the call to bring up the question of flag discrimination, to express our great interest in securing better treatment for American vessels, and to point out that Portuguese vessels were receiving national treatment in American ports and that the situation was one sided. I especially mentioned the case of the American West African Line. I inquired about the advisory committees and learned that in addition to the one for the Ministry of Marine mentioned above, there is another representing the Ministry of Commerce and a special one for the Foreign Office itself. The Minister received what I had to say very cordially, but I again got the impression that with all this machinery and new men in office, and all the opportunities for delay, early favorable results are not to be expected and that the Portuguese will again play for time. I pointed out to the Minister the bearing the situation had upon the commercial treaty it would be desirable to negotiate saying it could not be taken up while so uneven a situation existed.

In spite of the foregoing, I continue to feel that we should not now or unless presented with a new situation by the developments of the near future, consider reprisals and the withdrawing of national treatment from Portuguese vessels in our ports. Until we can negotiate a commercial treaty the disadvantages of the discontinuation of the 1910 arrangements and the loss of the most favored nation privilege would outweigh I think any advantage that would be gained. I expect to report further to the Department from time to time.

I have [etc.]

FRED MORRIS DEARING

653.116/70

*The Minister in Portugal (Dearing) to the Acting Secretary of State*

No. 2980

LISBON, February 12, 1930.

[Received March 7.]

SIR: With reference to my despatch No. 2962, of January 29, 1930, regarding flag discrimination, and to the Department's instruction No. 1085, of January 8, 1930,<sup>14</sup> enclosing copies of two letters from the American-West African Line, Inc., relating to the same subject, I have the honor to report that the aforesaid Line appears to be in possession of all available information pertinent to the reduction in duties accorded to cargo shipped to Angola in Portuguese bottoms.

I enclose herewith a copy and translation of a letter from the Agent General of the Colonies<sup>15</sup> which purports to set forth all the modifications made to date in the customs tariff of Angola of March 24, 1928. No new customs tariff was put into effect during January last, as feared by the American-West African Line, which appears to have

<sup>14</sup> Letter not printed.

<sup>15</sup> Not printed.

heard of the new customs tariff put into effect in Portugal on January 6, 1930, and to have confused this tariff with that of Angola—an entirely different and distinct customs tariff. Furthermore, as has been ascertained from the Ministry of the Colonies, no official step has been taken in Lisbon with a view to altering in any way the customs tariff of Angola, which has not been radically changed since its revision on December 5, 1928—a revision of which the American-West African Line is entirely cognizant.

It is to be presumed from the final paragraph of the American-West African Line's letter to the Secretary of State, of November [December] 26, 1929, a copy of which accompanied the Department's instruction under acknowledgment, that the authorities of Angola had in fact planned to modify or revise the customs tariff of the Province, but that they subsequently desisted from so doing.

Finally, it would appear from what the American-West African Line learned from other shippers that it came to a belated appreciation of a situation already existent under previously established rates and regulations, of which its competitors were only beginning to take advantage. Although the line in question may suffer from this development, American exporters, such as those who are shipping to Antwerp and transshipping from there in Portuguese bottoms, are in a position to benefit from the reduction in duties provided for in the customs tariff of Angola.

I have [etc.]

FRED MORRIS DEARING

653.116/74

*The Chargé in Portugal (Magruder) to the Acting Secretary of State*

No. 3027

LISBON, March 21, 1930.

[Received April 8.]

SIR: With reference to the Legation's despatch No. 2996 of February 24, 1930,<sup>16</sup> and to previous correspondence on the subject of flag discrimination, I have the honor to enclose herewith a copy of a draft note which Sir Francis Lindley, British Ambassador to Portugal, has sent to the representatives of the other interested Powers<sup>16</sup> in the hope that he may receive the support of analogous representation on their part.

Sir Francis is aware of the tenor of the Legation's note No. 1065 of January 10, 1930,<sup>17</sup> the text of which accompanied the Legation's despatch No. 2951 of January 14, 1930,<sup>16</sup> and, in consequence, does not expect that we shall deem it politic to send in another note just

<sup>16</sup> Not printed.

<sup>17</sup> *Ante*, p. 778.

yet. However, he has asked for moral support and has been assured that he may rely with confidence thereon as far as we are concerned.

Sir Francis is much struck with the appropriateness and force of the following passages taken from the published abstract of a statement made by Secretary of State Hughes before the Committee on Foreign Relations of the Senate while the commercial treaty with Germany was up for consideration:<sup>18</sup>

"If the United States is to have its proper place as a maritime power and its vessels are to enter the ports of the world, it must secure freedom from discrimination in such ports by the respective sovereigns in relation to their own vessels. We shall need to be free from discriminatory exactions against our commerce in the form of tonnage dues, port charges, cargo duties, etc. How is the United States to obtain such freedom if it refused a reciprocal agreement to that end?"

"There is no gain in asserting a policy of discrimination in favor of our vessels if we do not actually pursue it. But if it is pursued, there will eventually be retaliation. What sort of benefit to our commerce and shipping is to be expected with knives out all over the world and a policy of discrimination for its own sake which is not to be terminated by agreement for equal treatment, such an agreement having been refused in advance?"

"While it is believed that the policy of discriminatory exactions would not benefit our shipping but rather tend to injure it, there can be no doubt of the injury that such a policy would inflict upon American trade."

"Retaliation need not take the same form as the discrimination."

"Discriminatory policy, rejecting agreements for reciprocal treatment, forfeits the good will which is not a negligible factor in promoting foreign trade."

"The policy of the open door, of equal opportunity, of promoting agreements which will put an end to the discriminations which breed ill will and strife is believed to be the policy which the United States should adopt."

I venture respectfully to suggest that the Department give consideration to the advisability of authorizing the Legation to follow up its note No. 1065 of January 10, 1930, by a further note on the subject of flag discrimination, quoting the foregoing passages in clarification of the policy of the United States and intimating, as is done in the British draft note, that the comprehensive system of discrimination complained of may, if persisted in, necessitate giving consideration to the best means of meeting the situation.

I have [etc.]

ALEXANDER R. MAGRUDER

<sup>18</sup> This abstract is condensed and modified from the text printed in *Treaty of Commerce and Consular Rights with Germany*: Hearings before the Committee on Foreign Relations, United States Senate, 68th Cong., 1st sess. (Washington, Government Printing Office, 1924), pp. 304 ff.

For text of the treaty with Germany signed December 8, 1923, see *Foreign Relations*, 1923, vol. II, p. 29.

653.116/77

*The Minister in Portugal (South) to the Acting Secretary of State*

No. 21

LISBON, April 11, 1930.

[Received April 25.]

SIR: With reference to the Legation's despatch No. 3027 of March 21, 1930, enclosing a copy of a British draft note on the subject of flag discrimination, I have the honor to enclose herewith a copy of a note making representations against the system of discrimination maintained in favor of Portuguese vessels, which was sent to the Minister for Foreign Affairs by my French Colleague, Monsieur Eugene Pralon, on April 3, 1930,<sup>19</sup>—on which date the British note to which I make reference and Dutch, Italian and Norwegian notes of a more or less similar tenor were also addressed to the Minister for Foreign Affairs. A German note was sent in a few days later.

It will be noted that Monsieur Pralon employs language of a slightly more guarded nature than does Sir Francis Lindley in his reference to the possible consequences of the continued maintenance of the comprehensive system of discrimination of which he complains.

I have [etc.]

J. G. SOUTH

653.116/79

*The Minister in Portugal (South) to the Secretary of State*

No. 105

LISBON, July 11, 1930.

[Received July 28.]

SIR: Referring to my despatch No. 21 of April 11, 1930, and to previous correspondence on the general subject of flag discrimination and national treatment for foreign vessels in Portuguese ports, I have the honor to enclose herewith a copy and translation of a note from the Minister for Foreign Affairs, dated July 8, 1930, which is in reply to the Legation's note No. 1065 of January 14 [10], 1930,—a copy of which was transmitted to the Department with the Legation's despatch No. 2951 of the same date.

It may be encouraging to note that the Portuguese Government, through the Ministry of Marine, is now instituting a thorough investigation of the matter of shipping discrimination with a view to substituting another and more satisfactory system for the one now in effect, against which so much complaint has been made.

In acknowledging the receipt of the note under reference from the Minister for Foreign Affairs, I have taken the occasion again to stress our vital interest in securing better treatment for American

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<sup>19</sup> Not printed.

vessels and to express the hope that the Portuguese Government may soon be able to reach a fair and just solution of this matter of shipping charges.

I have [etc.]

J. G. SOUTH

[Enclosure—Translation <sup>20</sup>]

*The Portuguese Minister for Foreign Affairs (Branco) to the American Minister (South)*

No. 78/27

LISBON, July 8, 1930.

MR. MINISTER: I have given the greatest attention to note No. 1065 which you were good enough to address to me on January 10, last.

In reply, I have the honor to inform Your Excellency that the Ministry of Marine, by order of the Government of which I form a part, is instituting a detailed investigation, through the customs and other departments on the continent, and in the adjacent islands and colonies, on the subject of the system of differentials that affects foreign vessels.

In addition to the simplification of the maritime charges, which that study cannot fail to promote, it has the essential purpose of considering the substitution for the present protectionist system of another or others, in which the Government of the Republic will not fail to take into due consideration such of the representations made by Your Excellency on behalf of the interests of the shipowners of your country as may be consistent with the necessary development of the Portuguese merchant marine.

I avail myself [etc.]

FERNANDO AUGUSTO BRANCO

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AMELIORATION OF LEGISLATION AFFECTING AMERICAN RELIGIOUS MISSIONS IN PORTUGUESE EAST AFRICA

353q116/2

*The Secretary of State to the Vice Consul at Lourenço Marques, Mozambique (Stanton)*

WASHINGTON, November 8, 1929.

SIR: The Department has received your despatch No. 19 of August 14, 1929,<sup>21</sup> concerning recent legislative enactments in Portuguese East Africa prohibiting the printing of the Bible in the native language and curtailing the use of native dialects.

In reference to the effect of this legislation on American missionaries in that country and any contemplated action on their behalf by the

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<sup>20</sup> File translation revised.

<sup>21</sup> Not printed.

Department, it may be stated at the outset that the right to regulate missionary activities is inherent in the police power of the State and if such regulations do not contravene existing international conventions and/or international law, and if they are not discriminatory in their provisions or in the execution thereof, there is no legal basis upon which could be predicated a diplomatic protest.

You are informed that there are no treaty provisions in force between the United States and Portugal which have a bearing on the subject under discussion and that it does not appear that the legislation in question is in violation of international law. Therefore, in the absence of evidence of discrimination, there is no basis even for informal representations concerning this subject except the general grounds of comity.

On this basis, you may bring the matter to the attention of the appropriate authorities, pointing out that a prohibition against the use of the native dialects would cause almost insuperable obstacles to the continuance of the humanitarian and educational activities of the American missionaries, adding that you are sure the authorities are not desirous of such a result.

In this connection you may bring to the attention of the Portuguese authorities the following quotation from the "Projet d'organisation de l'enseignement libre au Congo Belge", which the Department understands has been recently issued by the Belgian authorities:

*"L'enseignement en langue européenne se heurte à des objections sérieuses d'ordre pédagogique. C'est autant que possible dans leur langue qu'il faut enseigner aux indigènes si l'on veut que l'enseignement porte des fruits."*

(Translation: There are serious objections from the standpoint of pedagogy to instruction in a European language. The natives should be taught as much as possible in their own language, if such instruction is to bear fruit.)

Finally, you may express the earnest hope that the appropriate Portuguese authorities will find it possible to reconsider their action in the respect indicated.

For your own private information, there is enclosed herewith a pamphlet entitled "Educational Policy in British Tropical Africa",<sup>23</sup> which will doubtless prove of interest.

I am [etc.]

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

<sup>23</sup> Not reprinted.

353q116/2 : Telegram

*The Acting Secretary of State to the Vice Consul at Lourenço Marques, Mozambique (Stanton)*

WASHINGTON, January 14, 1930—2 p. m.

Referring to Department's instruction of November 8, 1929, concerning recent legislation affecting religious missions in Mozambique, please take up again with the Governor General in the sense of Department's instruction above referred to, page two, and report to Department.

A communication has been received from the Foreign Missions Conference of North America enclosing a memorandum for presentation to the Portuguese Government at Lisbon, a copy of which is being sent to you under cover of transmitting despatch.<sup>24</sup>

COTTON

353q116/7 : Telegram

*The Acting Secretary of State to the Minister in Portugal (Dearing)*

WASHINGTON, January 14, 1930—2 p. m.

2. Referring to Legation's despatch No. 2906 of December 9, 1929,<sup>24</sup> and Department's instruction of November 8, 1929, to Lourenço Marques, a copy of which was furnished the Legation with Department's instruction No. 1071 of November 8, 1929,<sup>25</sup> please confer with the Foreign Office in the sense of Department's above-mentioned instruction to Lourenço Marques, and report to Department.

A communication has been received from the Foreign Missions Conference of North America enclosing a memorandum for presentation to the Portuguese Government which is being sent to you under cover of a transmitting despatch.<sup>24</sup>

COTTON

353q116/10 : Telegram

*The Minister in Portugal (Dearing) to the Secretary of State*

LISBON, January 15, 1930—1 p. m.

[Received 3 p. m.]

4. Department's telegraphic instructions of January 14, 2 p. m. Decree objected to by foreign missions has been indefinitely suspended; see Legation's mail despatches December 30 and January 2, respectively.<sup>26</sup>

DEARING

<sup>24</sup> Not printed.

<sup>25</sup> Instruction No. 1071 not printed.

<sup>26</sup> Neither printed.



353q116/13: Telegram

*The Vice Consul at Lourenço Marques, Mozambique (Stanton), to the Secretary of State*

LOURENÇO MARQUES, January 20, 1930—2 p. m.

[Received January 20—12:25 p. m.]

Referring to Department's telegram of January 14, 2 p. m. Governor General of Mozambique informed me concessions regarding new mission laws will be made as follows:

1. Building program time limit extended as necessary.
2. Native evangelists now in service unable to comply educational qualifications will be retained.
3. Native languages may be employed for religious service and books. No concession regarding education in native language.

British Consul General, Lourenço Marques has received telegraph instructions from London that the Portuguese Government has suspended above-referred-to laws and instructed Governor General to adjust dispute with the Consuls and the missionaries.

STANTON

## RUMANIA

### PROVISIONAL COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND RUMANIA PROVIDING FOR MOST-FAVORED-NATION TREATMENT, SIGNED AUGUST 20, 1930<sup>1</sup>

611.7131/83 : Telegram

*The Minister in Rumania (Wilson) to the Acting Secretary of State*

BUCHAREST, January 16, 1930—noon.

[Received 3:15 p. m.]

3. Department's telegram No. 19, Dec. 11, 6 p. m.<sup>2</sup> Note from Foreign Office states that, owing to numerous commercial treaties under negotiation, Rumanian Government will only in February be able to begin negotiations with United States. Department's draft treaty still being studied but Legation will be furnished next week with draft of treaty proposed by Rumania. Note adds Rumanian Government desires to conclude consular convention at same time as commercial.

WILSON

611.7131/83 : Telegram

*The Acting Secretary of State to the Minister in Rumania (Wilson)*

WASHINGTON, January 21, 1930—3 p. m.

3. Your 3, January 16, noon.

(1) Please advise Foreign Office that it is hoped Department's draft which will be sent you very shortly will be accepted by Rumanian Government as basis for negotiations.<sup>3</sup> This draft will embody substantially provisions of Articles VII to XI of treaty between the United States and Germany,<sup>4</sup> but certain changes and additions will be made which it is believed will be regarded as improvement on that treaty. Considerable time and study have been devoted to preparation of this draft treaty by interested departments of this Government and its use would greatly facilitate negotiations.

(2) In view of postponement of negotiations until February, Department assumes time for conclusion of treaty will be extended, but desires definite confirmation as soon as practicable in order to avoid

<sup>1</sup> For previous correspondence, see *Foreign Relations*, 1929, vol. III, pp. 755 ff.

<sup>2</sup> *Ibid.*, p. 755.

<sup>3</sup> Department's instruction No. 101, March 20, 1930 (not printed).

<sup>4</sup> *Foreign Relations*, 1923, vol. II, p. 29.

uncertainty on part of commercial interests and consequent injury to trade.

(3) Department would view with favor conclusion of consular convention embodying substantially consular provisions of treaty of friendship, commerce and consular rights between the United States and Germany. However, inasmuch as consular matters are now regulated by convention of June 5-17, 1881,<sup>5</sup> and in view of more pressing need for a treaty of commerce and navigation, Department feels that negotiations for new consular convention should be held in abeyance, or at least subordinated to those for commercial treaty, until latter has been disposed of.

COTTON

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611.7131/87: Telegram

*The Minister in Rumania (Wilson) to the Acting Secretary of State*

BUCHAREST, February 17, 1930—1 p. m.

[Received February 17—12:50 p. m.]

6. Department's 3, Jan. 21, 3 p. m., paragraph (2). Secretary General, Foreign Office, informs me verbally that I may state officially that time for conclusion of commercial treaty for all countries which have begun negotiations, of which United States considered one, will be extended until May 1st and unofficially will if necessary be further extended. He urges that in order to save time delegates with full powers be appointed to negotiate as in negotiations with other countries. Personally do not believe Rumanian Government will be ready to begin negotiations before April.

WILSON

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611.7131/88

*The Rumanian Chargé (Nano) to the Acting Secretary of State*

No. 686/P-26

WASHINGTON, February 24, 1930.

SIR: Referring to your note No. 611.7131/74 of December 13, 1929,<sup>6</sup> I have the honour to inform you that my Government would like the agreement according mutual unconditional most-favored-nation treatment in customs matters, which was signed February 26, 1926,<sup>7</sup> to remain in force until May 1 instead of March 1.

<sup>5</sup> Malloy, *Treaties, 1776-1909*, vol. II, p. 1505.

<sup>6</sup> Not printed.

<sup>7</sup> *Foreign Relations, 1926*, vol. II, p. 898.

My Government wishes to know whether this is agreeable to the Government of the United States, and would be grateful if their decision could be communicated to this Legation as soon as feasible.

Please accept [etc.]

F. C. NANO

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611.7131/88

*The Acting Secretary of State to the Rumanian Chargé (Nano)*

WASHINGTON, February 27, 1930.

SIR: I have the honor to acknowledge the receipt of your note No. 686/P-26, dated February 24, 1930, in which you state that the Government of Rumania would like the agreement according mutual unconditional most-favored-nation treatment in customs matters which was signed February 26, 1926, to remain in force until May 1 instead of March 1, 1930.

In reply, I have the honor to inform you that this Government agrees that the agreement referred to shall remain in force until May 1, 1930.<sup>8</sup>

Accept [etc.]

J. P. COTTON

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611.7131/100: Telegram

*The Minister in Rumania (Wilson) to the Secretary of State*

BUCHAREST, June 6, 1930—2 p. m.

[Received 9 p. m.]

13. Legation's despatch 412, April 17th.<sup>9</sup> Secretary General, Foreign Office informs me that in accordance with law voted by Parliament proposals will shortly be made for exchange of notes providing for indefinite extension of time for negotiation of commercial treaties not yet concluded. Not even preliminary study of American draft proposal has yet begun and I anticipate no action before late autumn owing to slow progress in negotiations now in progress with neighboring and European countries.

WILSON

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611.7131/102: Telegram

*The Minister in Rumania (Wilson) to the Secretary of State*

BUCHAREST, July 1, 1930—7 p. m.

[Received July 2—1:15 a. m.]

22. Contrary to information from Foreign Office reported in my telegram No. 13, June 6, 2 p. m., Minister for Foreign Affairs informs

<sup>8</sup> By an exchange of similar notes, April 17–April 26 (neither printed), the agreement was further extended from May 1 to July 1, 1930.

<sup>9</sup> Not printed.

me that period for conclusion of commercial treaties cannot be extended beyond September 1st as fixed by tariff law. As it is impossible to conclude the numerous pending treaties before that date Minister proposes conclusion of a general provisional agreement such as have already been concluded with several countries which will be valid until a regular treaty can be concluded. Minister will submit in a few days proposed draft of such agreement which I shall telegraph to Department for such action as may be deemed expedient.

WILSON

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611.7131/101 : Telegram

*The Secretary of State to the Minister in Rumania (Wilson)*

WASHINGTON, July 3, 1930—8 p. m.

14. (1) Note dated June 30, 1930, from Rumanian Legation here<sup>10</sup> states that Rumanian Government desires that the agreement according mutual unconditional most-favored-nation treatment in customs matters, which was signed February 26, 1926, should remain in force until September 1, 1930, instead of July 1, 1930, as heretofore mutually agreed upon. Please formally advise Foreign Office that this Government agrees that the agreement referred to shall remain in force until September 1, 1930.

(2) Your 22, July 1, 7 p. m. and 13, June 6, 2 p. m. In view of the fact that time for adjusting matter referred to is limited, you are requested to ascertain and report to Department as soon as practicable the exact nature of Rumanian proposals for new provisional agreement.

STIMSON

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611.7131/103 : Telegram

*The Minister in Rumania (Wilson) to the Secretary of State*

BUCHAREST, July 5, 1930—4 p. m.

[Received July 5—3 p. m.]

24. Department's telegram 14, July 3, 8 p. m., paragraph (2). Forwarding by the pouch July 7th proposed draft of provisional commercial agreement<sup>11</sup> similar to that which is being submitted to other countries who have not yet concluded commercial treaties. Five articles provide for general reciprocal most-favored-nation treatment in matters of establishment, commerce, industry, customs, tariff rates, taxes, navigation. Agreement to become effective September 1st and to continue in force until March 1st, 1931. It is in treaty form but clause requiring ratification has been omitted. Am

<sup>10</sup> Not printed.

<sup>11</sup> *Infra.*

doubtful however whether in present form it would be valid without Senate approval. Endeavored to secure consent to arrange matter by the exchange of notes but Government considers this method precluded by terms to [of] Rumanian tariff law.

Was planning to go on leave July 15th for much needed cure. In view of present circumstances does Department wish me to abandon plan?

WILSON

611.7131/105

*The Minister in Rumania (Wilson) to the Secretary of State*

[Extract]

No. 461

BUCHAREST, July 5, 1930.

[Received July 19.]

SIR: Referring to the Legation's telegram No. 24 of July 5, 1930, I have the honor to submit herewith to the Department the French original, accompanied by an English translation, of a proposed provisional commercial agreement between Rumania and the United States which has been prepared and presented to the Legation by the Ministry of Industry and Commerce.

I have [etc.]

CHARLES S. WILSON

[Enclosure—Translation]

*Rumanian Draft for a Provisional Commercial Agreement*

His Majesty the King of Rumania and the President of the United States of America, animated by the same desire to consolidate and develop the economic relations between their two countries, have resolved to conclude a commercial agreement and for that purpose have named as their Plenipotentiaries:

His Majesty the King of Rumania,

The President of the United States of America,

Who, having communicated to each other their respective full power, found to be in good and due form, have agreed as follows:

ARTICLE I

The Nationals and enterprises having juridical personality of each of the two countries shall enjoy on the territory of the other for their persons and for their property the most-favored-nation treatment in everything concerning their establishment, exercise of their commerce or industry, as well as concerning imposts and other taxes.

The natural or manufactured products of each of the two countries in everything concerning importation, exportation, warehousing, transportation, transit, and, in general, all sorts of commercial operations, as well as ships, in everything concerning navigation in the waters and ports of the other country, shall also enjoy the treatment accorded to the most favored Nations.

Consequently each of the two high contracting parties agrees to extend to the other, immediately and without compensation, every privilege or decrease in rates which it has already extended, or shall in future be extended, in any of the respects mentioned, to any third power.

#### ARTICLE II

The most-favored-nation treatment shall apply also to the amount, the guarantee and the imposition of import and other duties as well as to customs formalities and to their application, to procedure, to conditions of customs and other duties, to the classification of merchandise, to the interpretation of customs tariffs and to the methods of classification of merchandise.

#### ARTICLE III

The High Contracting Parties will reciprocally grant the most-favored-nation treatment in the matter of prohibitions and restrictions of imports and exports.

#### ARTICLE IV

The most-favored-nation treatment is not applicable in cases of:

(a) Special favors which have been, or shall be, granted to bordering countries to facilitate frontier traffic;

(b) The special class of imports intended to facilitate the financial settlements arising from the war of 1914-1918;

(c) The rights and privileges granted or which may be granted in the future to one or several bordering countries for the purpose of conclusion of an economic entente or of a customs union;

(d) The rights and privileges which may be granted in the future by one of the Contracting Parties, to a third State, under multilateral conditions, in which the other Party does not participate, and if these rights and privileges are stipulated in multilateral conventions of general application, concluded under the auspices of the League of Nations, registered there and open to the adhesion of other Nations: if these rights and privileges are only stipulated in these conventions, and when the benefits assure to the other Contracting Party new advantages; if finally the other Contracting Party does not grant reciprocity.

## ARTICLE V

The present agreement shall enter into force on September 1, 1930, and shall remain in force until March 1, 1931.

In faith thereof, the Plenipotentiaries of the two Contracting Parties have signed the present agreement and affixed their seals.

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611.7131/103 : Telegram

*The Secretary of State to the Minister in Rumania (Wilson)*

WASHINGTON, July 9, 1930—5 p. m.

15. Your 24, July 5, 4 p. m. Department regrets necessity of suggesting that unless you consider it imperative to leave Bucharest, you remain there pending conclusion of some arrangement insuring continued granting of most-favored-nation treatment to American trade. Upon receipt of draft of provisional agreement and study of its provisions, Department will send you detailed instructions. With reference to your doubt as to validity of the proposed agreement in present form without approval by Senate provisional commercial agreement signed February 1, 1926, between the United States and Latvia, Treaty Series 740,<sup>12</sup> affords possible precedent.

STIMSON

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611.7131/105 : Telegram

*The Acting Secretary of State to the Minister in Rumania (Wilson)*

WASHINGTON, July 28, 1930—7 p. m.

17. Your despatch 461, July 5. Please take up negotiation of provisional commercial agreement immediately and endeavor to obtain agreement to following changes in Rumanian draft:

Preamble. Substitute form used in provisional commercial agreement signed February 1, 1926, between the United States and Latvia, Treaty Series 740, for that employed in Rumanian draft.

Article I, Paragraph 2. Substitute following for second paragraph of Article I:

“The natural or manufactured products of each country, in everything concerning importation, exportation, warehousing, transportation, transit, and, in general, all sorts of commercial matters, shall also enjoy in the territories of the other country the treatment accorded the most favored nation.”

Apart from minor textual changes suggested in the interest of clarity the only change above proposed is the omission from the

<sup>12</sup> *Foreign Relations*, 1926, vol. II, p. 500.



Rumanian draft of the clause pertaining to the treatment of shipping. In view of the fact that common practice of maritime nations is to accord national rather than merely most-favored-nation treatment to shipping, it is suggested that in lieu of the shipping provision in Paragraph 2 of Article I of the Rumanian draft the following new paragraph be added as the final paragraph of Article I:

“Vessels of either country, in everything concerning navigation in the waters and ports of the other country, including duties and charges levied on such vessels or their cargoes, shall enjoy national treatment, provided, however, that the coasting trade of each country is exempt from the provisions of this paragraph.”

Article II. Substitute the following:

“the most-favored-nation treatment shall apply also to the amount and the collection of import duties and other duties as well as to customs formalities and their application, to procedure, to the conditions of payment of customs duties and other duties, to the classification of goods, to the interpretation of customs tariffs and to the methods of analysis of goods.”

You will observe that aside from minor differences the words “la garantie”, which do not appear to add anything to the meaning, have been omitted. If, however, the Rumanian Government desires their retention you should telegraph explanation and ask instructions.

Article IV, Subdivision (c). Substitute the words “in economic or customs union with either contracting party” for the words “for the purpose of conclusion of an economic entente or of a customs union”. This revision is intended merely to make it clear that preferences should not be granted except in the actual consummation of an economic or customs union.

Article IV, Subdivision (d). You should request that the provisions of this subdivision be omitted from the agreement. You may point out that the comprehensive nature of the exemption therein provided for and the uncertainty as to the circumstances in which exception from the obligation to grant most-favored-nation treatment might be claimed, make this Government unwilling to accept such a provision. Moreover, it does not seem essential to deal with the difficult question presented by this proposed exception in connection with a provisional agreement of this kind, which is only intended to be of short duration and which can be terminated by either party on short notice. The matter should be left for discussion in connection with the negotiation of the definitive treaty.

The text of Article XIII and of last sentence of Article I of draft treaty of commerce and navigation enclosed with instruction 101 of March 20<sup>13</sup> should be proposed as new subdivisions of Article IV

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<sup>13</sup> Not printed.

of the provisional agreement, substituting the word "agreement" for "treaty" therein. These provisions, which pertain, respectively, to treatment of commerce of Cuba, Panama Canal Zone and dependencies of United States and to sanitary measures and regulations for enforcement of police or revenue laws are standard provisions of treaties and agreements concluded by United States.

Article V. Substitute the following for the first paragraph of this article:

"The present agreement shall enter into force on September 1, 1930, and unless sooner terminated by mutual agreement shall continue in force for six months and thereafter until thirty days after notice of its termination shall have been given by either party."

The purpose of the foregoing proposal is to obviate the difficulties and inconvenience incident to renewing the agreement from time to time in case the treaty negotiations are not completed by March 1, 1931.

The following provision should be added to the first paragraph of Article V:

"Should either Government be prevented by future action of its legislature from carrying out the terms of this agreement, the obligations thereof shall thereupon lapse."

The foregoing provision is customarily included in agreements entered into by the United States which are not submitted to the Senate. It is not contemplated that this agreement will be submitted to the United States Senate for its advice and consent to ratification.

If all of the foregoing proposals are agreed to by the Rumanian Government and no other changes are made, you are authorized to sign the agreement on behalf of this Government. Any proposals for other changes should be communicated by telegraph to the Department, which will instruct you by telegraph in the premises.

CARR

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611.7131/107:Telegram

*The Minister in Rumania (Wilson) to the Secretary of State*

BUCHAREST, August 4, 1930—4 p. m.

[Received August 4—2:52 p. m.]

29. Department's telegram No. 17, July 28, 7 p.m. Rumanian Government accepts all changes proposed by Department except following:

1. Desires to maintain paragraph 2, article 1, as in original Rumanian draft granting shipping most-favored-nation treaty [*treatment*] instead of national proposed by Department. Rumanian ships have

number of special rights and privileges in Rumanian ports which would otherwise have to be listed in agreement as exceptions to national treatment.

2. Wishes to maintain subdivision (c), article 4, as in original Rumanian draft, finding Department substitute less clear.

WILSON

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611.7131/108: Telegram

*The Minister in Rumania (Wilson) to the Secretary of State*

BUCHAREST, August 5, 1930—1 a. m.

[Received 9:32 a. m.]

30. Legation's 29, August 4, 4 p. m., paragraph 2. Rumanian Government now agrees to accept Department substitute subdivision (c), article 4.

WILSON

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611.7131/107: Telegram

*The Acting Secretary of State to the Minister in Rumania (Wilson)*

WASHINGTON, August 7, 1930—4 p. m.

19. Your 29, August 4, 4 p. m., and 30, August 5, 1 a. m. For purposes of provisional agreement now under consideration, you may withdraw proposal for new paragraph regarding national treatment of shipping and agree to paragraph 2 of Article I substantially as in Rumanian draft originally submitted. Department suggests, however, that minor textual changes proposed in its telegram 17, July 28, 7 p. m., be adopted and also that in lieu of clause "as well as ships, in everything concerning navigation in the waters and ports of the other country" the following sentence be added to the paragraph "Likewise, the vessels of each country in everything concerning navigation in the ports and territorial waters of the other country, shall enjoy most-favored-nation treatment." These proposals are textual and need not be insisted upon if definitely unacceptable.

You should make it clear that in agreeing to omission of provision for national treatment of shipping you do so without prejudice to this Government's position on the question of principle involved or to proposals which it will make for the inclusion of such provisions in the definitive treaty.

CARR

611.7131/112

*Provisional Commercial Agreement Between the United States of America and Rumania, Signed at Bucharest, August 20, 1930*

[Translation]

The Undersigned,

Mr. Charles S. Wilson, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Rumania, and Mr. Al. Vaida-Voevod, Minister for Foreign Affairs ad interim of Rumania, desiring to confirm and make a record of the understanding which they have reached in the course of recent conversations in the names of their respective Governments with reference to the treatment which the United States shall accord to the commerce of Rumania and which Rumania shall accord to the commerce of the United States, have signed this Provisional Agreement:

ARTICLE I

The nationals and enterprises having juridical personality, of each of the two countries, shall enjoy in the territory of the other for their persons and for their property, the most-favored-nation treatment in everything concerning establishment, the exercise of their commerce or industry, as well as concerning taxes and other charges.

The natural or manufactured products of each country, in everything concerning importation, exportation, warehousing, transportation, transit, and in general all sorts of commercial operations, shall also enjoy in the territories of the other country the treatment accorded the most favored nation. Likewise, the vessels of each country in everything concerning navigation in the ports and territorial waters of the other country, shall enjoy most-favored-nation treatment.

Consequently each of the two High Contracting Parties undertakes to extend to the other, immediately and without compensation, every favor, privilege, or decrease in duties which it has already extended, or which it may in the future extend, in any of the respects mentioned, to any third Power.

ARTICLE II

The most-favored-nation treatment shall apply also to the amount and the collection of import duties and other duties, as well as to the customs formalities and their application, to procedure, to the conditions of payment of customs duties and other duties, to the classification of goods, to the interpretation of customs tariffs and to the methods of analysis of goods.

## ARTICLE III

The High Contracting Parties will reciprocally grant most-favored-nation treatment in the matter of prohibitions and restrictions of imports and exports.

## ARTICLE IV

The most-favored-nation treatment is not applicable in cases which concern:

(a) Special favors which have been, or shall be granted to bordering countries to facilitate frontier traffic.

(b) The special system of importation intended to facilitate the financial settlements arising from the war of 1914–1918.

(c) The rights and privileges accorded or which shall be accorded in the future to one or more bordering states in economic or customs union with either contracting party.

(d) The stipulations of this agreement do not extend to the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded between the United States and Cuba on December 11, 1902,<sup>14</sup> or the provisions of any other commercial convention which hereafter may be concluded between the United States and Cuba. Such stipulations, moreover, do not extend to the treatment which is accorded to the commerce between the United States and the Panama Canal Zone or any other dependency of the United States, or to the commerce of the dependencies of the United States with one another under existing or future laws.

(e) Nothing in this agreement shall be construed as a limitation of the right of either High Contracting Party to impose, on such terms as it may see fit, prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life, or regulations for the enforcement of police or revenue laws.

## ARTICLE V

The present agreement shall enter into force on September first, 1930, and unless sooner terminated by mutual agreement shall continue in force for six months and thereafter until thirty days after notice of its termination shall have been given by either party. Should either Government be prevented by future action of its Legislature from carrying out the terms of this agreement, the obligations thereof shall thereupon lapse.

Signed at Bucharest this 20th day of August, nineteen hundred and thirty.

[SEAL]      ALEX. VAIDA VOEVOD

CHARLES S. WILSON

[SEAL]

<sup>14</sup> *Foreign Relations*, 1903, p. 375.

ATTITUDE OF THE DEPARTMENT OF STATE RELATIVE TO MATTERS  
CONCERNING THE STATUS OF BESSARABIA

871.014 Bessarabia/123

*The Rumanian Legation to the Department of State*<sup>15</sup>

AIDE-MÉMOIRE REGARDING THE STATUS OF BESSARABIA

Although the U. S. S. R. has signed the Litvinoff protocol of February 1929,<sup>16</sup> pledging itself not to resort to war with Roumania and not to attempt to recover Bessarabia by force of arms, it still refuses to recognize the reunion of this province with Roumania.

Roumania's contention is that, by its reunion with Roumania in 1918, Bessarabia has again become an integral part of the Kingdom of Roumania.

In order to completely elucidate this matter, it is necessary to consider the history of this province.

The territory which after the years following the Treaty of Bucharest of 1812<sup>17</sup> was named by the Russians "Bessarabia," since its earliest history was a part of Moldavia and had no separate name.

Following the Russo-Turkish War of 1806-12, by the Peace Treaty of Bucharest, Turkey "ceded" to Russia that part of Moldavia which is situated between the rivers Prut and Dniester.

At that time, Moldavia was in a relation of suzerainty with Turkey. The nature of this relation was minutely regulated by the Treaty of 1511, concluded between Bogdan, Prince of Moldavia, and Sultan Bayazid II; and that of 1634 made between Vasile Lupu, Prince of Moldavia, and Sultan Mohammed IV. They not only insure Moldavia's independence, but the Sultans take upon themselves the obligation to defend Moldavian integrity against all enemies.

Therefore, the Turkish "cession" was a violation of these treaties. On October 26, 1812, the Moldavian Divan protested energetically against this violence but in view of the obvious "vis major" the protest remained without any practical results.

However, by the Treaty of Paris of 1856,<sup>18</sup> the three Southern districts of what had become known as Bessarabia were reunited with Moldavia and the Protocol of Paris of 1858<sup>19</sup> provided that the rela-

<sup>15</sup> Handed to the Under Secretary of State by the Rumanian Minister on February 18, 1930.

<sup>16</sup> Protocol between Estonia, Latvia, Poland, Rumania, and the U. S. S. R. for the immediate entry into force of the Treaty of Paris of August 27, 1928, regarding renunciation of war as an instrument of national policy, signed at Moscow, February 9, 1929; League of Nations Treaty Series, vol. LXXXIX, p. 369.

<sup>17</sup> May 16/28, 1812. English text, Hertslet, *Map of Europe by Treaty* (1814-1891), vol. 3, p. 2030 (art. 4, p. 2031); French text, *British and Foreign State Papers*, vol. XIII, p. 908.

<sup>18</sup> Dated March 30, 1856; Hertslet, *Map of Europe*, vol. 2, pp. 1250, 1259; *British and Foreign State Papers*, vol. XLVI, p. 8.

<sup>19</sup> Convention of Paris, August 19, 1858; Hertslet, *Map of Europe*, vol. 2, p. 1329 (articles 1, 2, p. 1332); *British and Foreign State Papers*, vol. XLVIII, p. 70 (in French).

tions between Turkey and Moldavia (and Wallachia) were to be governed "by the existing treaties." Thus the treaties concluded between Turkey and the Roumanian Principalities,—treaties which guaranteed their independence and territorial integrity,—were recognized as being still valid and in force.

The Congress of Berlin, in 1878, retroceded these three districts to Russia,<sup>20</sup> in spite of the agreement concluded in 1877 between Russia and Roumania,<sup>21</sup> whereby Russia undertook to respect Roumania's territorial integrity. This violation of a solemn pledge was met with a most forceful protest by the representatives of Roumania, but without avail.

Notwithstanding all efforts of denationalization on the part of Russia, the Roumanian character of Bessarabia was preserved until the War and the population is still overwhelmingly Roumanian, even in the Russian statistics.

It is, therefore, no wonder that in 1917, soon after the Russian Provisional Government, which was recognized by the United States of America,<sup>22</sup> adopted and enunciated the principle of the self-determination of nationalities, Bessarabia declared its autonomy (October 20, 1917), and after Ukraina declared itself independent, pronounced itself an independent republic<sup>23</sup> and later, on March 27 [April 9?], 1918, by a vote of its legislative assembly, the "Sfatul Tarii," decreed its reunion with Roumania.<sup>23a</sup>

On October 28, 1920, the principal allied powers concluded a treaty with Roumania<sup>24</sup> by which they have recognized that "from the geographical, ethnographical, historical and economical viewpoints the union of Bessarabia with Roumania is fully justified," and that the sovereignty of Roumania over this territory is "corresponding to the aspirations of the inhabitants."

In view of the above, it is to be deeply regretted that, judging from certain indications, one would reach the conclusion that the Government of the United States of America does not recognize that Bessarabia is an integral part of the Kingdom of Roumania.

One of these indications is the fact that on the official maps of the State Department this territory is designated as being "under Roumanian occupation." Another indication is that the immigration quota

<sup>20</sup> Treaty of Berlin, July 13, 1878; Hertslet, *Map of Europe*, vol. 4, pp. 2759, 2791 (art. 45); *British and Foreign State Papers*, vol. LXIX, p. 749 (in French).

<sup>21</sup> Convention of Bucharest, April 16, 1877; Hertslet, *Map of Europe*, vol. 4, p. 2576.

<sup>22</sup> On March 22, 1917; see telegram No. 1124, March 22, 1917, from Ambassador Francis, *Foreign Relations*, 1917, p. 1211.

<sup>23</sup> See *ibid.*, 1918, Russia, vol. II, p. 715.

<sup>23a</sup> See telegram No. 68, April 10, 1918, from the Minister in Rumania, *ibid.*, p. 719.

<sup>24</sup> See telegram No. 1866, October 29, 1920, from the Ambassador in France, *Foreign Relations*, 1920, vol. III, p. 434. For draft text, see *ibid.*, p. 427; for signed text, see Great Britain, Cmd. 1747, Treaty Series No. 15 (1922).

for Bessarabia is at present incorporated into the Russian quota, although when the quota system was first adopted the Bessarabian quota was included in the quota allotted to Roumania. Later, a separate Bessarabian quota was established, but, since July 1, 1923, this was merged with the Russian quota so that Roumanian citizens residing in Bessarabia and desirous of immigrating to the United States have to obtain their visa from the quantum allotted to Russia.

Representatives of the State Department, in the course of conversations on this subject with members of the Roumanian Legation,—conversations which took place at various times since 1922,—have claimed that the attitude of the United States Government in regard to Bessarabia was in conformity with the principles laid down in the "Colby Note" of August 10, 1920,<sup>25</sup> wherein the Government of the United States enunciated its policy toward all territorial changes affecting Russia. It may be recalled that according to this document the United States Government was not prepared to recognize any diminution of the Russian territory, because the people of the United States considered the people of Russia as their friends and inasmuch as the Soviet Government was not recognized by the United States as having authority to speak in the name of the Russian people,—in view of the friendship between the two nations,—no such diminution could be recognized by the United States until such time when Russia would have a government representing the will of the Russian people. When it was pointed out that Lithuania, Latvia, Esthonia,<sup>26</sup> Finland<sup>27</sup> and territories now forming an integral part of Poland<sup>28</sup> were taken from Russia and that the United States Government accorded them recognition, a fact which sanctioned a diminution of Russian territory,—representatives of the State Department replied that the case of Bessarabia is not identical, as the Soviet Government had concurred in the above-mentioned territorial changes but not in the loss of Bessarabia. However, it is difficult to understand how such a recognition by the Soviet Government might affect the situation inasmuch as this is exactly the same Russian Government which the "Colby Note" disqualifies from having the right to voice the will of the Russian people and which is still not recognized by the United States of America.

Moreover, the United States Government, in the "Colby Note," adopted the principle that the aspirations for liberation of such nations which live on territories forcibly annexed by Russia are legitimate and their liberation from oppressive alien rule involves no aggressions

<sup>25</sup> See note of August 10, 1920, to the Italian Ambassador, *Foreign Relations*, 1920, vol. III, p. 463.

<sup>26</sup> On July 28, 1922; see *ibid.*, 1922, vol. II, pp. 873-874.

<sup>27</sup> On May 7, 1919; see note of January 12, 1920, to the Finnish Minister, *ibid.*, 1919, vol. II, p. 226.

<sup>28</sup> On January 22, 1919; see telegram No. 395, January 22, 1919, from the Commission to Negotiate Peace, *ibid.*, p. 741.



against Russia's territorial rights and has received the sanction of the public opinion of all free peoples. This is precisely the case of Bessarabia. In no case have the Russians more brutally abused a small nation and annexed more arbitrarily a territory from a country which was too weak to defend itself. And of all these annexations, Bessarabia was the most recent one. It is, undoubtedly, for these reasons that the Principal Allied Powers and the majority of the civilized world hastened to repair this wrong.

But leaving aside the juridical and historical aspects of the question, the *de facto* situation is that for over ten years, Bessarabia is an integral part of the Kingdom of Roumania, a country with which the United States of America is in friendly relations. The freely elected representatives of Bessarabia are members of the Roumanian Parliament, and other Bessarabians are to be found in the Government, who together with the Crown have to decide upon the relations between Roumania and the United States of America.

To sum up, there are two theses on the subject:

(1) Roumania, a country with which America has friendly relations, maintains that Bessarabia freely demanded her reunion with Roumania, from whom she was arbitrarily separated, in violation of treaties and good faith. This thesis has been accepted and guaranteed by the European powers.

(2) The U. S. S. R., with whom America has no diplomatic relations, maintains that Roumania has "occupied" Bessarabia.

Roumanians cannot but be painfully impressed by the fact that the United States of America seems to have adopted the Russian point of view, by describing Bessarabia on official maps as being "under Roumanian occupation" and by including Bessarabia in the Russian immigration quota.

It is believed that the United States of America could easily remove these sources of irritation without in any way prejudicing the legal issue, inasmuch as by a change on the above-quoted points they would merely be recognizing the *de facto* situation today. It is further believed that such action would in no way conflict with the traditional American policy of noninterference in European political differences, on the contrary it would be the true expression of a policy of neutrality on such issues.

It should be noted that apart from the three great European powers who have solemnly and explicitly recognized "de jure" the reunion of Bessarabia to Roumania, all other countries have tacitly acquiesced in the *facto* situation as it now exists, with the sole exception of the United States of America.

It hardly needs to be added that any change on the above quoted points would not receive any publicity in Roumania, but would be welcomed with great satisfaction by the responsible factors of the country.

[WASHINGTON,] Febr[uary] 18, 1930.

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871.014 Bessarabia/128

*The Rumanian Minister (Davila) to the Secretary of State*

The Roumanian Minister presents his compliments to the Secretary of State, and has the honour to request him to be good enough to let him have a reply to his *aide-mémoire* of February 18th, concerning the status of Roumanian citizens born in Bessarabia.

WASHINGTON, August 22, 1930.

No. 3650/P-8

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871.014 Bessarabia/133

*Memorandum by the Chief of the Division of Near Eastern Affairs  
(Murray)*

[WASHINGTON,] October 1, 1930.

Mr. Nano, the Rumanian Chargé d'Affaires, called on me this morning at my request, at which time I took up with him the matters mentioned in the Minister's *aide-mémoire* regarding the status of Bessarabia, handed to Mr. Cotton on February 18, 1930. I referred to the Minister's subsequent third-person note of August 22, 1930 in which he requested the Department to let him have a reply to the above-mentioned *mémoire*, which in the latter instance he describes as "concerning the status of Rumanian citizens born in Bessarabia."

I explained to Mr. Nano that the Department had not considered that the Minister's *aide-mémoire* of last February required a reply and that hence none was made. Since the receipt, however, of the Minister's note of August 22, 1930 we had examined certain of the points raised in the original *aide-mémoire* and that I was now prepared to talk to him on the subject.

I stated that inasmuch as the Minister had not specifically raised the question of our recognition of Rumanian sovereignty over Bessarabia there would appear to be no need to touch upon that question in our conversation. Proceeding then to the question of immigration quotas I informed Mr. Nano that the Immigration Act of 1924<sup>29</sup> presented statutory obstacles to shifting Bessarabia from

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<sup>29</sup> Approved May 26, 1924; 43 Stat. 153.

the Russian to the Rumanian quota; that I had been informed by the competent authorities of the Department in Visa matters that the Rumanian wishes in this matter could not be met except by a modification of our present immigration legislation, which I thought would not be feasible.

With regard to the objections which the Rumanians have at various times raised regarding the map of Europe and Asia Minor prepared in 1924 by the War Department, and on which Bessarabia is indicated as being under "Rumanian occupation," I pointed out to Mr. Nano that the above map bears the following notation:

"The boundaries shown upon the map should not be regarded as having political significance, or as involving recognition of new Governments, or of new boundaries, or of transfers of territory, except as the United States Government has already made such recognition in a formal and official manner."

I reminded him that the State Department had had no hand in the preparation of the map and that it was not responsible for the acts of the War Department; in case, however, the latter Department should at any time consider revising its present map, or publishing a new one, the Department of State would be glad to suggest that it omit, in the case of Bessarabia, the description "Rumanian occupation."

Mr. Nano then went over the usual arguments of the Rumanians against our position on the Bessarabian question. He felt the Department had been very inconsistent in insisting that Rumania should come to an understanding with Soviet Russia over Bessarabia before the annexation of that territory could be recognized by this Government. He expressed himself as unable to understand how this Government could take cognizance of any act of the Soviet Government, which this Government refuses to recognize as the proper spokesman for the Russian people. I must confess that there is a good deal to what Mr. Nano says in the above connection. Mr. Nano then pointed out that if the Department wanted to be consistent in this matter it never would have recognized the seizure of the southern districts of Bessarabia by Russia in 1878 against the will of the Rumanian people, since no agreement was ever reached between Russia and Rumania over this territory at that or at any subsequent time. I pointed out, in reply, that we could hardly make retroactive the principle enunciated by Mr. Colby in 1920, since that would lead us to a situation of *reductio ad absurdum*.

Mr. Nano agreed with me that no useful purpose would be served in discussing the matter at the present time, when there was no clear motivation for such action. I remarked that if and when this Government should consent to reopen the question it would doubtless be on some occasion when such action would be clearly

warranted by the circumstances; such circumstances were not, I believed, existent at the present time. Mr. Nano then remarked that the matter was really not one of very great importance, since Rumania now holds Bessarabia and intends to keep it despite Russian protests and that she will conduct herself just as Russia did after 1878 when Rumania protested in vain. He added that, at the time Rumania adhered to the Litvinoff Protocol putting the Kellogg Pact prematurely into force as between Soviet Russia and certain limitrophe States, Litvinoff had stated that the Pact applied to Rumania within her present frontiers and that Soviet Russia, while not giving juridical recognition to Rumania's annexation of Bessarabia, would not use force in order to regain possession of that province.

Mr. Nano said one thing during our conversation which arrested my attention, and it was that it might be difficult for the Rumanian Government to secure from the Rumanian Parliament ratification of any American-Rumanian treaties since the deputies from Bessarabia might obstruct on the ground that this Government had refused to recognize the Rumanian annexation of Bessarabia. I hope what Mr. Nano said in the above connection is not true, since we shall shortly be negotiating a new treaty of commerce and navigation with Rumania and it would be unfortunate to have the treaty defeated because of the opposition of Bessarabian deputies.

## SPAIN

### ARRANGEMENT BETWEEN THE UNITED STATES AND SPAIN GRANTING RELIEF FROM DOUBLE INCOME TAX ON SHIPPING PROFITS

811.512352 Shipping/22

*The Spanish Ambassador (Padilla) to the Secretary of State*

[Translation]

No. 79-11

WASHINGTON, February 9, 1929.

YOUR EXCELLENCY: The attention of His Majesty's Government has been called to the fact that in the List presented by the Treasury Department of the United States of Nations granting an equivalent exemption of foreign shipping in accordance with the provisions of the Revenue Act of 1921 <sup>1</sup> the name of Spain does not appear.

In order to remedy this oversight, I have the honor to enclose herewith the text of a Rapport of the "Ministerio de Hacienda" <sup>2</sup> containing the Spanish Legislation on the matter according to which Your Excellency will be able to observe the way in which the Spanish Law exempts foreign ships from the payment of income tax and, therefore, that according to the system of reciprocity established by the American Revenue Act of 1921, the Spanish ships ought not be compelled to pay taxes in the United States.

I will be much obliged to Your Excellency for being good enough to forward to the Treasury Department the enclosed Rapport for said purpose.

Accept [etc.]

ALEJANDRO PADILLA

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811.512352 Shipping/26

*The Secretary of State to the Spanish Chargé (Amoedo)*

WASHINGTON, September 26, 1929.

SIR: With reference to previous correspondence relative to the desire of Spanish nationals to be exempt from income taxation in this country on revenue from Spanish ships I take pleasure in informing you that the Department is in receipt of a communication from the

<sup>1</sup> 42 Stat. 227.

<sup>2</sup> Not printed.

Secretary of the Treasury, the pertinent portion of which is quoted hereunder:

"I have the honor to advise you that the Collector of Internal Revenue at New York has been advised that the question of whether Spain satisfies the equivalent exemption provision of section 213 (b) (8) of the Revenue Acts of 1921, 1924 and 1926<sup>3</sup> is under consideration by this Department and pending a determination of the matter he was requested to refrain from demanding returns from the *Compañía Transatlántica* for the years 1923-1926, inclusive. In the meantime he will refrain from collecting income taxes for those years from the company."

Accept [etc.]

For the Secretary of State:  
NELSON TRUSLER JOHNSON

811.512352 Shipping/28

*The Acting Secretary of State to the Spanish Ambassador (Padilla)*

WASHINGTON, April 5, 1930.

EXCELLENCY: I have the honor to refer to previous correspondence concerning the desire of Spanish nationals to be exempted from income taxation in this country on revenue derived from the operation of Spanish ships and to inform you that a communication in the matter has been received from the Treasury Department, the pertinent portions of which are quoted hereunder. You will observe that the Treasury Department is of the opinion that Spain meets the reciprocal exemption provisions of the Revenue Acts of 1921, 1924 and 1926, and that accordingly the income of Spanish nationals which consists exclusively of earnings derived from the operation of the ships documented under the laws of Spain will be exempt from taxation by the United States under those Acts.

"The question which has been the subject of correspondence between the Department and the Spanish Government is whether the *Compañía Transatlántica* (Spanish Royal Mail Line) may be accorded exemption from income tax with respect to income derived from sources within the United States, in accordance with section 213 (b) (8) of the Revenue Acts of 1921, 1924, and 1926, which reads as follows:

"The term "Gross income" does not include the following items, which shall be exempt from taxation under this title—

"(8) The income of a nonresident alien or foreign corporation which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States."

"It appeared from the statements made in the communication from the Spanish Government that although American shipping com-

<sup>3</sup> 42 Stat. 239; 43 Stat. 253, 269; 44 Stat. 9, 25.

panies had never been subjected to income tax in Spain, that country did not under all circumstances exempt the profits derived by American corporations from the operation of ships documented under the laws of the United States, but, in the case of American corporations carrying on other business in Spain and also the operation of ships, Spain taxed the shipping profits as well as the profits from other business. In a letter to the Compañía Transatlántica, dated August 2, 1929,<sup>5</sup> a copy of which was sent to your Department on the same date with the request that it be forwarded to the Spanish Embassy, it was indicated that if the Spanish Government would issue a decree or make a statement to the effect that in the administration of the Spanish income tax laws a corporation organized in the United States and a citizen of the United States not residing in Spain exercising maritime traffic in Spanish ports by means of ships documented under the laws of the United States, have not been subjected to income tax on that portion of their income derived from the operation of such ships from January 1, 1921, and that Spain does not and will not under its present law tax such income, this Department will issue a statement to the effect that Spain meets the equivalent exemption requirement from January 1, 1921.

"The letter of February 11, 1930, from the Spanish Embassy,<sup>5</sup> transmitted a copy of a statement from the Secretary General at Madrid, dated January 10, 1930, in which it is stated that the Ministry of Finance has given very special consideration to the proposition of the United States Government in connection with the provisions of the Spanish income tax law of 1922, which provides that the existence in the Kingdom of Spain of consignees or agents of shipping companies whose ships call at the ports of Spanish provinces in navigation of 2nd and 3rd class only, does not create in and of itself the obligation to pay taxes under tariff 3a, and that on the other hand, taxes will be assessed on foreign companies which by means of permanent plants, engage in marketing operations in Spain, even though they have no established agency in the Kingdom. But the Spanish Ministry of Finance, taking as its own the opinion of the Treasury Department of the United States, has deemed it advisable to give the aforesaid provisions the necessary elastic interpretation, adopting, therefore, the following views on the subject: First.—That the mere existence in the Kingdom of consignees or agents of shipping companies whose ships call at the ports of Spanish provinces in navigation of 2nd and 3rd class only, does not create in and of itself the obligation to pay taxes under said tariff, for the aforementioned companies. Second.—That in case said companies will be engaged in any business other than navigation in the Kingdom, the 'Jurado de Utilidades' (Tax Commission), will decide the proportion in which said business will exist with other business engaged in by the company, in order that the exemption of income tax may thus be respected, if on the part of the country to which the company belongs there exists reciprocity for the Spanish companies in similar cases, notwithstanding that the proportion of the business not exempted will be subject to the general regime of taxation.

<sup>5</sup> Not printed.

"It was further stated that having in mind that the text of the Spanish Income Tax Law of 1922, now in force, is a consolidation of former texts, and that one of them, the Royal Decree of October 19, 1920, establishes the above mentioned exemption from the date of its issue, the retroactivity will be adjudged from the date of the Royal Decree of October 19, 1920.

"It is understood that the effect of the foregoing statement from the Spanish Ministry of Finance is to exempt from taxation by the Government of Spain, the income of citizens of the United States and of corporations organized in the United States which consists exclusively of earnings derived from the operation of ships documented under the laws of the United States, such exemption being retroactive to October 19, 1920. This Department is of the opinion, therefore, that Spain meets the reciprocal exemption provisions of the Revenue Acts of 1921, 1924, and 1926, and accordingly the income of Spanish nationals which consists exclusively of earnings derived from operation of the ships documented under the laws of Spain will be exempted from taxation by the United States under those Acts. Inasmuch as sections 212 (b) and 231 (b) of the Revenue Act of 1928,<sup>6</sup> relating to exemption of the income of non-resident aliens and foreign corporations, are substantially the same as section 213 (b) (8) of the Revenue Acts of 1921, 1924, and 1926, the exemption will be extended to the taxable years governed by the Revenue Act of 1928."

Accept [etc.]

[For the Acting Secretary of State  
FRANCIS WHITE

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811. 512352 Shipping/29

*The Spanish Ambassador (Padilla) to the Acting Secretary of State*

[Translation]

No. 84-15

WASHINGTON, April 16, 1930.

MR. SECRETARY: I have the honor to refer to Your Excellency's kind note of the 5th instant, relative to the exemption from taxation in the United States on revenue derived from operations of Spanish vessels, giving me a transcript of the communication which had been received in the matter from the Treasury Department, points of which were quoted thereunder.

It is a satisfaction for me to be able to express to Your Excellency the pleasure with which I have seen that the recent statements of the Spanish Minister of Finance, expressed in my note of February 11, 1930,<sup>7</sup> accord with the proposals which the American Secretary of the Treasury was good enough to make in the letter of August 2, 1929 which he addressed to the Compañía Transatlántica, through my intermediary.<sup>8</sup>

<sup>6</sup> 45 Stat. 791, 847, 849.

<sup>7</sup> Not printed.

<sup>8</sup> See note of April 5, to the Spanish Ambassador, *supra*.



In view of the foregoing, I request Your Excellency to be so good as to give the appropriate instructions to the corresponding authorities in order that they may take into account this decision with respect to the Spanish Shipping Companies in the sense that the profits of Spanish citizens which consist exclusively in earnings derived from vessels documented in Spain shall be exempt from taxation in the United States by the laws of this country, and particularly with respect to that set forth by Your Excellency in your note of September 26, 1929, regarding the case of the Compañía Transatlántica.

As soon as I received the above-mentioned note of the 5th of the current month of April from Your Excellency, I hastened to transmit the correspondence in copy to the Ministry of State at Madrid, and while I await a reply, it is my pleasing duty to express to Your Excellency my gratitude for the good will which from the beginning I have been able to value, both in the Treasury Department and in the Department under Your Excellency's worthy direction, to arrive at a favorable solution of this matter, which cannot do less than strengthen the good relations existing between our two countries.

I avail myself [etc.]

ALEJANDRO PADILLA

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811.512352 Shipping/30

*The Secretary of State to the Spanish Ambassador (Padilla)*

WASHINGTON, June 10, 1930.

EXCELLENCY: I have the honor to refer to previous correspondence concerning the desire of Spanish nationals to be exempted from income taxation in this country on revenue derived from the operation of Spanish ships and to inform you that a communication in the matter has been received from the Treasury Department, the pertinent portions of which are quoted hereunder:

"Under date of March 31, 1930, this office expressed the opinion that Spain meets the reciprocal exemption provisions of the Revenue Acts of 1921, 1924, and 1926, and stated that accordingly the income of Spanish nationals which consists exclusively of earnings derived from operation of ships documented under the laws of Spain would be exempted from taxation by the United States under those Acts. It was further stated that inasmuch as sections 212 (b) and 231 (b) of the Revenue Act of 1928, relating to exemption of the income of nonresident aliens and foreign corporations, are substantially the same as section 213 (b) (8) of the Revenue Acts of 1921, 1924, and 1926, the exemption would be extended to the taxable years governed by the Revenue Act of 1928.

"In order to put the arrangement into effect this Department, under date of April 25, 1930, issued Treasury Decision 4289 which amended article 89 of Regulations 62, 65, and 69, and article 1042 of Regulations 74, pertaining to the reciprocal exemption from income

tax of earnings derived by nonresident aliens and foreign corporations from the operation of ships documented under the laws of foreign countries. The effect of that Treasury decision is to include Spain in the list of countries which exempt from tax so much of the income of citizens of the United States nonresident in such foreign countries and of corporations organized in the United States as consists of earnings derived from the operation of a ship or ships documented under the laws of the United States, and to exclude Spain from the list of countries which do not grant such exemption.

"In addition to the formal Treasury decision issued by this Department the Collector of Internal Revenue, Customhouse, New York, New York, was specifically advised under date of April 23, 1930, as to the ruling contained in the letter from this Department addressed to your Department under date of March 31, 1930, and was informed that the Compañía Transatlántica (Spanish Royal Mail Line) would not be held liable for income tax on income which consists exclusively of earnings derived from the operation of ships documented under the laws of Spain for the taxable years arising under the Revenue Acts of 1921, 1924, 1926, and 1928."

Accept [etc.]

For the Secretary of State:  
FRANCIS WHITE

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NEGOTIATIONS CONCERNING THE AMERICAN EMBARGO AGAINST  
SPANISH FRUITS AND VEGETABLES AFFECTED BY THE MEDITER-  
RANEAN FRUIT FLY <sup>9</sup>

811.612 <sup>Grapes</sup>/<sub>Spain</sub> /162

*The Spanish Ambassador (Padilla) to the Acting Secretary of State*

[Translation]

No. 84-18

WASHINGTON, April 22, 1930.

MR. SECRETARY: On November 8, 1929, I had the honor to transmit to Your Excellency a Note <sup>10</sup> in which I drew attention to Spain's desire to collaborate in the struggle against the *Ceratitis Capitata*-Wied, the fruit fly, suggesting, on behalf of my Government, the establishment in Spain of a quarantine similar to No. 68, by which the work of extinguishing the plague in Florida is carried on, requesting in exchange that the Government of the United States, upon the said quarantine's being established by Spain, should replace the total embargo which it has decreed on grapes from Almeria by the regulations to which fruits from Florida are subject in their commerce in the other States of the United States.

Although quarantine No. 68 is the most intensive campaign of struggle against an insect which has been effected in the world, it is certain that, at this time, it cannot be assured that the extinction of the insect has been achieved, although it is evident that it has made it

<sup>9</sup> For previous correspondence, see *Foreign Relations*, 1927, vol. III, pp. 733 ff.

<sup>10</sup> Not printed.

lose the character of a plague with which it appeared. Perhaps, considering that the desired end has not yet been achieved, the Government of the United States might hold that the establishment of the said quarantine was not sufficient to raise the existing embargo on the fruit of another country, for which reason I wish to call its attention to the fact that, to our way of thinking, the said quarantine has achieved another end which, although intimately connected with the struggle against the insect, is directed to another view and that is permitting trade in the fruits from Florida. It is evident that, in struggling against the insect to localize it exactly, to learn its life, to see whether it is extending or diminishing [in] the places attacked, etc., the American Government, efficiently aided by its technicians, who have observed limits of destruction of fruit in the vicinity of points attacked, protection of the remainder outside of the said zones, sterilization of the fruit exported, etc., has understood that the criterion of total embargo of fruits which it applied to regions of other countries in which the fly existed and in which campaigns of the importance and intensity of that effected in Florida had not been waged, did not need to be applied in Florida and it replaced it by the provisions which are set forth in the said quarantine No. 68 [which] today regulate the partial commerce in the said fruits from Florida coming from zones in which the fly does not exist, thus succeeding in safeguarding the vital interests of other States, making them compatible with those of Florida which has thus seen its situation relieved, due to the technical assistance which has allowed the raising of the total embargo which, in the beginning, was also established in the said State for its fruits.

Thus taking into account the double character of quarantine No. 68 and desiring that the Government of the United States should be convinced of our desire to collaborate, I repeat my request and ask:

If Spain puts into effect and develops a campaign similar to that carried on in Florida in all respects and in all the regions wherein the fruit fly exists, upon inspection by technicians of the United States [to ascertain] whether all the provisions of quarantine No. 68 have been exactly carried out, it would be sincerely grateful to know whether the Government of the United States would, in such case, give fruits from the said Spanish regions the same facilities in their commerce in the United States as fruits from Florida received today, consequently replacing the total embargo by the provisions which regulate commerce in fruits from Florida.

I avail myself [etc.]

ALEJANDRO PADILLA

811.612 <sup>Grapes</sup>/<sub>Spain</sub>/167

*The Secretary of State to the Spanish Ambassador (Padilla)*

WASHINGTON, June 24, 1930.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's communication of April 22, 1930, concerning the importation into the United States from Spain of Almerian grapes. Mr. Amoedo's note of November 8, 1929, with regard to this same question, has, since its receipt, received the earnest and careful consideration of the appropriate authorities of this Government.

In these communications request is made that grapes from Almeria be permitted importation into the United States after this fruit has been treated in the same manner as fruit now permitted shipment in interstate trade from the State of Florida. It is proposed that, in consideration of the raising by the United States of the present exclusion of these grapes, Spain will adopt technical systems similar to those used by this Government in respect of the destruction of the Mediterranean Fruit Fly (*Ceratitis capitata* Wied) as well as to the movement of fruit, will issue an official order similar to that issued by the United States Department of Agriculture in Quarantine Order No. 68 (Revised) and will put such an order into effect at the earliest possible date.

The Government of the United States would be happy to see the Spanish Government take steps looking to the complete eradication of the Mediterranean Fruit Fly from Spain. However, this Government feels that the present situation in Spain is so materially different from that now existing in the State of Florida that it could not without subjecting the American fruit industry to the danger of further ravages by this pest, accede to the request contained in the communications under reference. If Spain were to enter upon a campaign of eradication comparable in magnitude to that instituted by this Government in Florida, if that campaign should result in the complete eradication of the Mediterranean Fruit Fly from Spain and if at the same time Spain should adopt effective measures against the reintroduction of this pest into Spain, the Government of the United States would be happy to give consideration at that time to permitting the importation into the United States of Almerian grapes.

Immediately upon the discovery of the existence of the Mediterranean Fruit Fly in certain parts of Florida on April 6, 1929, the horticultural forces of the Federal Government and of the State of Florida as well as those of other southern and western States were mobilized in a campaign to check the spread of and eradicate this pest. In places where infestation was found "infested zones" two miles in diameter were established within which all host fruits and vegetables were immediately destroyed. During the summer so far as possible

no host fruits and vegetables within these infested zones were allowed to ripen to the stage where they would be susceptible to the attack of the Fly. In addition to these requirements the strictest supervision was maintained over these areas and a poison bait spray was applied to the foliage of trees by or under the supervision of Federal agents. From the date of discovery until September 1, 1929, no host fruits or vegetables were allowed to move in interstate trade from the "infested zones." All fruit that had moved prior to the discovery of the pest from the areas later found infested was traced to its destination and carefully inspected. If any of this fruit was found to be infested the entire shipment was destroyed by the appropriate Federal or State authorities. Every effort continues to be made not merely to check the spread of this pest, but to eradicate it completely. There has already been expended in this work more than \$5,000,000. In addition to this, the Act making appropriations to the Department of Agriculture for the fiscal year 1931, provides and makes immediately available, \$1,740,000. This Act further authorizes the use of \$1,500,000 in event of an emergency.

Extensive and comprehensive studies and experiments have been carried out by the Federal and State authorities in order that all possible information in respect of the eradication and destruction of the Mediterranean Fruit Fly might be found. One of the results of this work has been the discovery that there are available methods of sterilizing citrus fruits either by the use of high temperature and humidity, or by an unusual degree of refrigeration. Whether or not these methods could be used with grapes is not known.

Following the discovery of the results of these methods of sterilization the appropriate authorities felt that fruit so treated could with safety be moved in interstate trade to certain northern States, and to the southern and western States during midwinter, provided that such fruit has been produced in areas in which no infestation had been found after intensive field inspections or in which infestation appears to have been eradicated. In addition to these inspections, the establishment of a non-host period and the application of poison bait sprays, all drop and cull fruits were picked up and destroyed and the packing houses were required to carry out sanitary measures. All infested fruit was promptly destroyed. No fruit or vegetables are permitted movement from areas known to be infested, nor may any shipments be made without the shipper first having obtained specific permission to do so. Permission to move sterilized fruit applies only to fruit sterilized under the supervision of inspectors of the United States Department of Agriculture and grown in areas believed to be entirely free from the pest. In other words sterilization is an added precaution designed to remove the residual risk remaining after careful inspection. Every effort is being made to eradicate completely the Mediter-

ranean Fruit Fly from Florida, every safeguard is being practised to make impossible the spread of this pest to other areas in the United States and every safeguard against its introduction into the United States from foreign sources is being continued.

As has been indicated in the preceding paragraphs the movement of fruit into interstate commerce has been permitted not merely because it has been found that certain methods of sterilization, when practised, have proven fatal to eggs or larvae of the Mediterranean Fruit Fly, but because the areas from which this fruit was shipped have been subjected to severe inspections after a host free period has been maintained, the result being that fruit thus permitted movement was produced only in areas which, so far as it has been possible to determine, were completely free from any Mediterranean Fruit Fly infestation.

In these circumstances, and knowing as it does the disastrous results of fruit infestation by the Mediterranean Fruit Fly, the Government of the United States does not feel that in the light of the present extensive Mediterranean Fruit Fly infestation existing in Spain, it could with safety permit the importation into the United States of Almerian grapes even if these grapes had been sterilized in a manner similar to that now in use with Florida citrus fruits.

Accept [etc.]

HENRY L. STIMSON

## SWEDEN

### SPECIAL AGREEMENT BETWEEN THE UNITED STATES AND SWEDEN FOR THE ARBITRATION OF CLAIMS GROWING OUT OF THE ALLEGED DETENTION OF THE MOTORSHIPS "KRONPRINS GUSTAF ADOLF" AND "PACIFIC," SIGNED DECEMBER 17, 1930<sup>1</sup>

658.119/1017

*The Swedish Minister (Boström) to the Secretary of State*

WASHINGTON, June 16, 1927.

SIR: I have the honour to present to you the claim of my Government on behalf of the Rederiaktiebolaget Nordstjernan, a Swedish corporation, on account of the detention by American authorities of the Motorship *Kronprins Gustaf Adolf* from October 27, 1917, to July 12, 1918, and the Motorship *Pacific* from September 14, 1917, to July 19, 1918. Both vessels belonged at the time in question to the corporation and were of Swedish registry.

At the time when these detentions occurred, the matter formed the subject of an interchange of views between the then Minister of Sweden, Mr. Ekengren, on the one hand, and Mr. Lansing and Mr. Polk, on the other, resulting in a divergence of opinion which I am hopeful that a fuller consideration of the matter at this time may remove.

As is more fully stated in the document which is handed you herewith,<sup>2</sup> these two Swedish vessels entered American east-coast ports in the summer of 1917. The *Kronprins Gustaf Adolf* was in ballast; the *Pacific* carried a cargo of nitrate of soda, the property of a Swedish company, consigned to its owner in Sweden. Both vessels carried with them and had at all times sufficient fuel oil in their bunkers to return to Sweden. The American authorities refused, unconditionally, to permit the *Pacific* to continue her voyage with her cargo. After some discussion this cargo was discharged. However, the American authorities refused to allow either vessel to leave American waters with their bunker oil. This refusal was put upon the ground that before these vessels could depart from American waters,

<sup>1</sup> For records of the arbitration of this case, see Department of State Arbitration Series No. 5, *Arbitration Between United States and Sweden Under Special Agreement of December 17, 1930: The "Kronprins Gustaf Adolf" and the "Pacific"*, in six parts (Washington, Government Printing Office, 1932-1934).

<sup>2</sup> Department of State Arbitration Series No. 5 (1), p. 253.

carrying their bunker oil, they must obtain a so-called "export license" for this bunker oil.

As a condition precedent to the granting of such a license and of permission to depart from American waters it was required by the American authorities:

(1) That the voyage and trade of the vessel be approved by the War Trade Board—an agency of the President of the United States—and that if under charter, the charterer and the terms and conditions of the charter be approved by the same Board;

(2) That the owner of the vessel file with the War Trade Board a list of all vessels owned or controlled by him and enter into an agreement providing, among other things, that:

(a) None of such vessels be chartered to any German, or trade with any German port, or any country allied with Germany, or carry any cargo which came from, through, or was destined to Germany or her allies; and that

(b) None of such vessels carry cargo to any port not approved by the War Trade Board, or carry any cargo or embark on any voyage, or be laid up in port without the approval of the War Trade Board; and that

(c) No vessel be bought or sold without the consent of the War Trade Board, which might also direct the owner to discharge any master, officer, or member of the crew of any of his vessels; and that

(d) A report be furnished to the War Trade Board each month, showing in detail the movements of the owner's vessels.

The War Trade Board refused to approve a voyage by the vessels in question to Sweden. The owner, while willing to undertake other voyages, refused to enter into an agreement of the character mentioned above. For this reason, an export license for the bunker fuel carried by the two vessels on their arrival in the United States was refused and the departure of the two vessels was not permitted by the American authorities, until July, 1918.

In connection with the aforementioned interchange of views in this matter Mr. Ekengren respectfully directed Mr. Lansing's attention—in his communications of November 24, 1917,<sup>3</sup> January 30, 1918,<sup>4</sup> and April 30, 1918<sup>5</sup>—to certain clauses in the Swedish-American treaties of 1783<sup>6</sup> and 1827<sup>7</sup> then in force, which at that time appeared to my Government, and still appear—with the greatest deference to the views expressed by Mr. Lansing—to have a most important bearing upon this matter. In his first mentioned letter Mr. Ekengren thus referred to Art. 17 of the Treaty of 1783, according to which Swedish property was exempted from every kind of embargo or deten-

<sup>3</sup> Department of State Arbitration Series No. 5 (3), appendix, p. 102.

<sup>4</sup> *Ibid.*, p. 104.

<sup>5</sup> *Ibid.*, p. 106.

<sup>6</sup> Miller, *Treaties*, vol. 2, p. 123.

<sup>7</sup> *Ibid.*, vol. 3, p. 283.



tion in the United States. In his reply of June 26, 1918,<sup>8</sup> Mr. Lansing stated that this article, while forbidding both the laying of an embargo and the detention of ships, vessels and merchandises in general, by seizure, by force or by any such manner, did not appear to place the United States under obligation to refrain from applying general regulations for the control of commodities exported from or taken out of that country, to the Swedish motorships in question. Mr. Lansing furthermore stated that these vessels could not be held to have been the subject of any embargo or detention, the Government of the United States having merely required the licensing of certain commodities desired to be removed from the jurisdiction of the United States.

I am now directed to inform you that my Government does not see its way to agree with the views expressed in these statements of Mr. Lansing. It is, on the contrary, the opinion of my Government that by forbidding—even if only conditionally—the vessels to proceed from American territory with the bunker fuel carried at the arrival and *indispensable for the navigation of the ships*, the ships themselves were in fact subject to detention in the sense of Article 17 in the Treaty of 1783. Such commodities and objects aboard a vessel, destined exclusively for its navigation, as bunker oil and bunker coal or screws and other parts of the engine, compasses, etc., must in this respect be deemed to constitute parts of the ship itself. The detention of the bunker fuel would, indeed, seem no more justifiable than, for instance, an export prohibition of sails, if applied to sails carried by a ship calling at a port where such a prohibition were in force. I trust that you will concur with the opinion of my Government that such a regulation, depriving the ship of the means of navigation already at its disposal, would be wholly unacceptable.

Quite apart from this question—whether the ships as such were detained in violation of the rules laid down in Article 17 of the treaty aforementioned—this must, anyway, be held to have been the case with the commodities carried by the vessels. You will not fail to observe that the vessels in question, both carrying bunker fuel for their own use, and the *Pacific* moreover a cargo of nitrate, arrived at American east-coast ports already on June 23, 1917, and July 1, 1917, respectively, whereas the first proclamation forbidding the export of oil and nitrate was issued on July 9, 1917.<sup>9</sup> In these circumstances and on the strength of the clause aforementioned, the Swedish Government feels entitled to claim that these export-proclamations ought not to have prohibited the re-export of Swedish property carried on board Swedish vessels which had entered American ports before the issuing of these regulations.

<sup>8</sup> Department of State Arbitration Series No. 5 (3) appendix, p. 107.

<sup>9</sup> 40 Stat. 1683.

This opinion of my Government seems to be in close accordance with the views expressed by the Government of the United States in a similar case, referred to in "A Digest of International Law", Volume VI, Par. 1035, (particularly pages 910-912), by Mr. J. B. Moore, the renowned American lawyer. My Government has observed that in the case quoted, your Government claimed—on the strength of an international clause almost identical with Art. 17 in the Swedish-American treaty and concluded during the same period as the treaty just mentioned—the exemption from an export-prohibition issued in a foreign country of all goods which, prior to the date of the going into effect of this prohibition, were the actual property of American citizens.

Admitting this construction of the word "detention", the prohibition of the re-export of the commodities carried by the Swedish vessels now in question seems not to have been justified. Whereas, on the other hand, it has furthermore been confirmed by Mr. Lansing in his letter of June 26, 1918, that the fact that these vessels were not permitted to leave the United States was entirely due to the prescriptions regarding the export of the fuel carried—and thus in no way based on any legal regulations forbidding the clearance of the ships as such—the arguments now laid before you would seem sufficient to prove that the detention of the ships was scarcely in conformity with the treaties aforementioned.

This opinion seems, however, to be strongly supported by certain other articles of the same Treaty of 1783, viz., Articles 7-10, which seem to have a most important bearing upon this matter. These articles guarantee to the subjects and inhabitants of both countries complete freedom to navigate with their vessels either in time of peace or war, without regard to those to whom the cargo may belong, from any port whatever, and to sail and trade with their vessels and to carry on commerce not only directly from ports of an enemy of either country to neutral ports but between enemy ports. This liberty of navigation extends to all merchandises, except those expressly listed in Article 9 and Article 10 as contraband.

Neither the cargo of the *Pacific* nor the bunker oil carried by both vessels is listed as contraband. Indeed, by Article 10, oil is expressly excluded from the list of prohibited goods.

In this connection I beg to draw your attention, first, to the letter of the War Trade Board, dated November 1, 1917, appearing as Annex V (e)<sup>10</sup> of the Claim. By this letter an export license for the cargo of the *Pacific* was unconditionally denied because, it was stated, no licenses were being granted at that time for export to certain countries, including Sweden. Quite apart from the question

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<sup>10</sup> Department of State Arbitration Series No. 5 (1), p. 268.

as to whether such action constituted an embargo or detention of the vessel and its cargo, you will not fail to observe that by this action the *Pacific* was not accorded that freedom of navigation with its cargo which is specified in Article 7 of the Treaty of 1783.

I also beg to direct your attention to the situation common to both vessels. The vessels were refused permission to depart in ballast. The reason for the refusal was the necessity of obtaining an export license for the bunker oil brought into American waters by the ships. The reason for the refusal of the export license was (1) that the voyages to Sweden were not approved by the War Trade Board, and (2) that the owner would not enter into an agreement affecting all its vessels and greatly limiting their freedom of navigation and commerce. You will note that in order to obtain the necessary permission for the vessels to depart from American waters, the owner was required to give up the rights secured to him by Articles 7, 8, 9 and 10 of the Treaty of 1783, not only as to the particular vessels in American waters, by abandoning the voyage to Sweden and undertaking a voyage approved by the War Trade Board, but as to all his vessels, wherever situated. The owner being unwilling to surrender these rights, the vessels were detained by force in ports of the United States.

It is unnecessary to point out in view of your great experience in the construction of legal documents, that, as the Supreme Court of the United States of America has said, such documents are not to be construed so as to be self-destructive. The treaty can hardly contemplate that, as a condition to the exercise of any one right granted therein, either contracting party may require the waiver of any other right granted. It is, therefore, the view of my Government—in which I venture to trust that you will concur—that the detention of a vessel, or of the commodities carried by such a vessel, of either contracting party in a port of the other, forbidden by Article 17 of the Swedish-American Treaty, cannot be justified on the ground that the detention might have been terminated, had the owner agreed to waive rights guaranteed by Article 7.

I, therefore, submit the claim for compensation for loss and damage arising from the detention of the vessels referred to, in the belief that you will find it founded upon the principles of law and equity.

Awaiting your views upon this matter, and with renewed assurances of my highest consideration, I have [etc.]

W. BOSTRÖM

411.58J63/11

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*The Secretary of State to the Swedish Minister (Boström)*

WASHINGTON, June 13, 1928.

SIR: Adverting to recent conferences which you had with members of the Department to discuss the claim of your Government in behalf

of the Rederiaktiebolaget Nordstjernen, a Swedish corporation, on account of the alleged detention of the motor ship *Kronprins Gustaf Adolf* from October 27, 1917, to July 12, 1918, and the motor ship *Pacific* from September 14, 1917, to July 19, 1918, I have the honor hereby to answer your note of June 16, 1927, in regard to the claim.

It appears that the *Kronprins Gustaf Adolf* arrived at the port of New York on June 23, 1917, and that about October 27, 1917, the owners of the vessel were orally informed by the War Trade Board that the vessel would not be permitted to leave the port of New York without an export license for the fuel oil which was on board when the vessel entered the port. It appears that on July 1, 1917, the motor ship *Pacific* arrived at the port of Newport News, Virginia, with a cargo of nitrate and that on September 14, 1917, application was made for a license to export the cargo of the vessel to Sweden.

In the note of your Legation dated June 16, 1927, the circumstances under which the vessels entered the ports of the United States and the efforts of the owners of the vessels and of your Legation to obtain licenses for the exportation of the cargo of the *Pacific* and for the exportation of fuel oil carried by both vessels on entering the United States were reviewed. The position was taken in your note and enclosure thereto that the Export Administrative Board and later the War Trade Board, in refusing to grant licenses for the exportation of the cargo of the *Pacific* and for the fuel oil carried by both vessels, detained the ships and the commodities thereon contrary to Article XVII of the Treaty of 1783 and denied the subjects of Sweden freedom of navigation of vessels contrary to Articles VII, VIII, IX and X of the Treaty.

It is understood that your Government predicates the claim on behalf of the owners of the *Kronprins Gustaf Adolf* and the *Pacific* on the refusal of the War Trade Board to grant licenses, and that your Government contends that the action of the War Trade Board in refusing to grant licenses constituted detention of the vessels and denial of freedom of navigation.

The formalities required of vessels in ports of the United States to depart for foreign ports are prescribed by Section 4197, Revised Statutes of the United States. The Section cited reads as follows:

“The master or person having the charge or command of any vessel bound to a foreign port, shall deliver to the collector of the district from which such vessel is about to depart, a manifest of all the cargo on board the same, and the value thereof, by him subscribed, and shall swear to the truth thereof; whereupon the collector shall grant a clearance for such vessel and her cargo, but without specifying the particulars thereof in the clearance, unless required by the master or other person having the charge or command of such vessel so to do. If any vessel bound to a foreign port departs on her journey to such foreign port without delivering such manifest and obtaining a clearance,

as hereby required, the master or other person having the charge or command of such vessel shall be liable to a penalty of five hundred dollars for every such offense."

It will be observed from the foregoing that the Collector of Customs is the official to whom application should be made for clearance for vessels. As indicated by the enclosure to your note of June 16, 1927, the War Trade Board was created by Executive Order for the purpose among others of effectuating Title VII of an Act approved June 15, 1917.<sup>11</sup> Section 3 of that Title read as follows:

"Whenever there is reasonable cause to believe that any vessel, domestic or foreign, is about to carry out of the United States any article or articles in violation of the provisions of this Title, the Collector of Customs for the district in which such vessel is located is hereby authorized and empowered, subject to review by the Secretary of Commerce, to refuse clearance to any such vessel, domestic or foreign, for which clearance is required by law, and by formal notice served upon the owners, master, or person or persons in command or charge of any domestic vessel for which clearance is not required by law, to forbid the departure of such vessel from the port, and it shall thereupon be unlawful for such vessel to depart. Whoever, in violation of any of the provisions of this section, shall take, or attempt to take, or authorize the taking of any such vessel, out of port or from the jurisdiction of the United States, shall be fined not more than \$10,000 or imprisoned not more than two years, or both; and, in addition, such vessel, her tackle, apparel, furniture, equipment, and forbidden cargo shall be forfeited to the United States."

Section 3, Title VII, of the Act of June 15, 1917, conferred upon the Collector of Customs authority to refuse clearance to vessels in some circumstances. Although Title VII of the Act of June 15, 1917, constituted the authority of law for the licensing of exports that Title contained no provision by virtue of which the War Trade Board could properly have detained vessels or denied freedom of navigation. Nor were such powers conferred upon the War Trade Board by any other provision of law. It may be observed, moreover, that no showing has been made that officials of War Trade Board detained the vessels or denied them freedom of navigation. The only conceivable way by which the vessels could have been lawfully detained would have been for the Collectors of Customs at the two ports to have refused clearance and to have forbidden the departure of the vessels. It is not contended, and the records do not disclose, that application for clearance was ever made to the Collectors of Customs. In the absence of a showing that such action was taken, it is scarcely necessary to consider whether refusal of clearance and the forbidding of the departure of the vessels without clearance would have been warranted by law or would have been in violation of the provisions of the treaties to which you refer. It may be stated,

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<sup>11</sup> 40 Stat. 217.

however, that had the vessels been denied clearance and had their departure been forbidden, there was yet an appeal to the Secretary of Commerce. Had he sustained the Collectors of Customs, the question whether such action was warranted by law and was in violation of the provisions of the treaties would have been for determination by the competent courts in proceedings instituted by the owners of the vessels.

Reference is made in your note of June 16, 1927, to the correspondence exchanged between the Secretary of State and your Legation from November 24, 1917, to June 26, 1918.<sup>12</sup> In the course of that correspondence your Legation expressed the view that the export regulations of the United States did not apply to bunker fuel on board vessels when they entered ports of the United States, and that it was contrary to the provisions of Article XVII of the treaty of 1783 and Article XII of the treaty of 1827 to apply those regulations to bunker fuel for vessels of Sweden. The Secretary of State advanced the view that the Articles of the treaties mentioned were not applicable in the circumstances attending the *Kronprins Gustaf Adolf* and the *Pacific*.

The question whether Title VII of the Act approved June 15, 1917, and the regulations issued thereunder, applied to bunker fuel and cargo brought into the ports of the United States on the *Kronprins Gustaf Adolf* and the *Pacific* and the relation of the provisions of the treaties to which you have referred to Title VII of the Act of June 15, 1917, could have been authoritatively determined only in the course of appropriate proceedings instituted in the competent court by the owners of the vessels. The War Trade Board adhered to the view that Title VII of the Act of June 15, 1917, and the regulations issued pursuant thereto, applied to the cargo and bunker fuel brought into the ports of the United States on board the vessels concerned. The Secretary of State in his note of January 24, 1918,<sup>13</sup> expressed the view that the provisions of the treaty to which attention had been called by your Legation had no application in the circumstances attending the vessels. The issue was susceptible of judicial determination. The owners of the vessels failed to take the necessary steps to have their rights determined in that manner. Considering that the rights of the owners of the two ships were susceptible of judicial determination and that they failed to resort to the available judicial remedy, the Government of the United States can not receive with favor a claim in their behalf.

In reaching the conclusion announced above, the Department has not failed to give due consideration to the memorandum which ac-

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<sup>12</sup> See footnotes 3, 4, 5, and 8, pp. 819, 820.

<sup>13</sup> Department of State Arbitration Series No. 5 (3), appendix, p. 103.

accompanied your note of March 7, 1928,<sup>14</sup> and to subsequent communications on the subject.

In part one of the memorandum which accompanied your note of March 7, 1928, the proposition is advanced that there was no legal remedy open to the claimant in the courts of the United States by which the claimant could have obtained either the right to take the vessels in ballast out of the United States or reparation for their detention. This proposition is discussed in the memorandum under four subdivisions. It is asserted

1. That Title VII of the Act of June 15, 1917, applied to all articles within the territorial jurisdiction of the United States whether on board a foreign vessel or not.

2. That the War Trade Board to which the President, by Executive Order of October 12, 1917, delegated his authority, under Title VII of the Act of June 15, 1917, applied the regulations to cargoes and bunkers brought in by foreign vessels to ports of the United States.

3. The treaty with Sweden being one hundred years prior to the Act of June 15, 1917, the United States courts were bound to enforce the statute and not the treaty.

4. The courts of the United States could have given the Swedish owners no redress.

Considering these several assertions in the order in which they are stated above, it may be said, with respect to the first assertion, that the question whether Title VII and the regulations issued pursuant thereto applied to bunker fuel and cargo on vessels coming into the United States was one for judicial determination. In the note which the Swedish Legation addressed to the Secretary of State on November 24, 1917, the view was expressed that the regulations issued pursuant to Title VII of the Act of June 15, 1917, had no application to bunker fuel on board vessels when they arrived in the United States. The War Trade Board adhered to the opposite view. The proper procedure for the owners of the vessels to have pursued would have been to apply for clearance to the Collectors of Customs at the ports which the vessels had entered. Had the Collectors of Customs denied clearance, and been sustained in such action on appeal by the owners of the vessels to the Secretary of Commerce, action would have been available to the owners in the courts of the United States to recover damages for the refusal to grant clearance to the *Kronprins Gustaf Adolf* and the *Pacific*. This action would have brought in question the scope and effect of Title VII of the Act of June 15, 1917, and the regulations issued thereunder, with respect to those two vessels. The question whether Title VII of the Act of June 15, 1917, and the regulations issued thereunder applied to the cargo and bunker fuel brought into ports of the United States by the *Kronprins Gustaf Adolf* and the

<sup>14</sup> For text of this note, see Department of State Arbitration Series No. 5 (1), p. 303; enclosed memorandum not printed.

*Pacific* or whether the Title and the regulations did not apply to those vessels was one which, as already stated, could have been authoritatively determined only by appropriate action in the competent courts. The owners of the vessels failed to institute the necessary proceedings to have the question adjudicated. The Government of the United States can not consider as established the proposition that Title VII of the Act of June 15, 1917, applied to the two vessels.

With respect to the second assertion advanced in part one of the memorandum, it is pertinent to reiterate that the War Trade Board possessed no authority to detain vessels or cargoes. The authority of the War Trade Board was limited to granting or refusing to grant export licenses. The authority to grant or refuse clearance rested with the Collectors of Customs. Had the owners of the vessels applied for clearance and had clearance been refused, their remedy would have been by appropriate action in the courts, as previously suggested. While the War Trade Board adhered to the view that Title VII of the Act of June 15, 1917, applied to the *Kronprins Gustaf Adolf* and the *Pacific*, the decision of the War Trade Board was not final and its attitude did not constitute detention. The position of the War Trade Board with respect to the scope and effect of Title VII of the Act of June 15, 1917, and the regulations issued thereunder, could have been brought in judicial review had clearance of the vessels been refused. The Government of the United States does not consider that the action of the War Trade Board in regard to the two vessels to which this discussion relates afforded grounds for a claim against the Government of the United States.

With respect to the third assertion advanced in part one of the memorandum, it may be said that the relation of the treaties and the Act of June 15, 1917, was susceptible of judicial determination. The courts were competent to consider what application, if any, the treaties with Sweden had in the circumstances attending the two vessels. By proper diligence the owners of the vessels could have had the question judicially determined. They failed to take the necessary steps to have this done. The Government of the United States does not accede to the proposition that the treaties exempted Swedish vessels from the operation of Title VII of the Act of June 15, 1917, even if it be assumed that Title VII applied to bunkers on those vessels, or that if the treaties did entitle the vessels to exemption from the operation of Title VII and complementary regulations, the treaties would have been disregarded had the matter been presented to the courts.

The Government of the United States does not concur in the fourth assertion set forth in part one of the memorandum, but maintains that the courts were competent to afford redress had the owners of the two vessels been entitled to relief. As has been emphasized in the foregoing, the proper procedure for the owners of the vessels to have



taken was to apply to the Collectors of Customs for clearance. Had clearance been denied, the owners could then have appealed to the Secretary of Commerce and, if necessary, to the courts, and could have had determined whether Title VII of the Act of June 15, 1917, and the regulations issued thereunder, applied to the two vessels, as well as the bearing of the treaties on the rights of the owners and the status of the vessels. As bearing on the power of the courts of the United States to review the action of Collectors of Customs in refusing to grant clearance to vessels, reference may be made to *Hendricks v. Gonzalez*, reported in 67 Federal Reporter, page 351. The decision is interesting also in relation to the power of the courts to grant redress for withholding clearance without justification of law.

In part two of the memorandum the proposition is advanced that there is no impediment to the presentation of the claim of the owners of the *Kronprins Gustaf Adolf* and the *Pacific* through diplomatic channels, and in support of this proposition the assertions are made

1. That the War Trade Board was the agent of the President and an authority for whose conduct the Government of the United States was responsible.

2. That there was no legal remedy which should have been exhausted prior to diplomatic interposition.

The answer to the assertions advanced in part two of the memorandum is apparent from what has been said in the course of this note. The War Trade Board had no authority to detain vessels or cargoes. It was without means of detention and no showing has been made that the War Trade Board attempted to detain the two vessels or cargoes concerned in this discussion. The War Trade Board was authorized only to grant or refuse to grant licenses for export. The War Trade Board may or may not have been mistaken in its interpretation and application of the law. This question could and should have been submitted to the courts for decision. The action of the War Trade Board, however, did not find expression in the detention of the vessel or cargo. The allegation that the War Trade Board detained the vessels and cargo can not, therefore, be accepted as a basis for a claim.

The impression under which you seem to be laboring that there was no legal remedy which should have been exhausted has doubtless been dispelled by what has heretofore been stated in this communication. It is obvious that the owners of the *Kronprins Gustaf Adolf* and the *Pacific* had available a remedy in the courts by which they could have had adjudicated their rights under the laws of the United States and under the treaties. The Government of the United States considers that it was incumbent upon the claimants to exhaust that remedy. Failure to do so leaves them by their own omission without redress. In these circumstances the Government of the United States can not entertain a claim in behalf of the owners. To do so would be

to ignore the remedies established by the Government pursuant to the sovereign right of the State. Whether the remedies established by the laws of the United States are to be employed or ignored is a matter of vital concern to the Government of the United States.

In conclusion I respectfully submit that the allegation that the United States, acting through the War Trade Board, detained the *Kronprins Gustaf Adolf* and the *Pacific* finds no support in the record presented to this Department; that the vessels mentioned were not detained by the War Trade Board or by any other authority of the Government of the United States; that had there been any attempt to detain the vessels the owners would have had access to the courts of the United States; and that the claim on behalf of the owners must be rejected for lack of legal basis.

Accept [etc.]

FRANK B. KELLOGG

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411.58J63/13

*The Swedish Minister (Boström) to the Secretary of State*

WASHINGTON, October 31, 1928.

SIR: Your Excellency's note of June 13, 1928, by which you replied to my note of June 16, 1927, containing the claim of my Government on behalf of the Rederiaktiebolaget Nordstjernan, a Swedish corporation, on account of the detention by the United States of the Motor Ship *Kronprins Gustaf Adolf* from October 27, 1917, to July 12, 1918, and the Motor Ship *Pacific* from September 14, 1917, to July 19, 1918, has been accorded the most careful consideration by my Government. Inasmuch as my Government with the deepest regret find themselves unable to agree with the conclusions reached in your note, I have the honour to present to You the views of my Government thereupon.

The conclusions reached by Your Excellency appear to be five in number, as follows:

1. The Collector of Customs was the official vested with authority to grant or refuse clearance, and no such authority was reposed in the War Trade Board. Since the record discloses no application for clearance to a Collector of Customs and refusal thereof by him, there was no detention of the vessels by the United States.

2. Even if there had been a refusal of clearance by a Collector of Customs, the United States would not have been responsible for his conduct in the absence of an appeal to the Secretary of Commerce.

3. The question whether Title VII of the Act of June 15, 1917, applied to bunker oil brought by a foreign vessel into American waters, was a question for the courts to decide. The Government of the United States cannot consider as established that the statute did so apply.

4. The question whether the treaty of 1783 was applicable to the vessels in question and entitled them to the right to depart without

export licenses under the conditions existing was susceptible of judicial determination.

5. The Government of the United States do not accede to the view that the treaties exempted Swedish vessels from the operation of Title VII of the Act of June 15, 1917, under the circumstances in the present case.

Considering these several conclusions in the order in which they are stated above, it may be said, with respect to the *first conclusion* that Your Excellency seems to have somewhat misconceived the position of my Government. My Government do not contend that the War Trade Board detained the vessels. They do contend that the Government of the United States of America detained them. You point out that Section 1 of Title VII of the Act of June 15, 1917, constituted the authority of law for the licensing of exports, which licensing was a condition precedent to lawfully taking such commodities out of the United States, that this authority to license was vested in the War Trade Board, but that the authority to refuse clearance to a vessel unlawfully taking any article out of the United States remained in the Collectors of Customs by Section 3 of the Act.

A Collector of Customs is a minor official of the United States in the Department of the Treasury. Under the statute his duty was absolute to refuse clearance to any vessel attempting to depart without an export license when such was required. On June [July] 9, 1917, the President proclaimed that no bunker oil should be taken out of the United States unless an export license had been granted therefor. The War Trade Board having thereafter refused an export license to the two Swedish ships for their bunker oil, my Government made demand upon the Government of the United States, by the note of this Legation to the Secretary of State, dated November 24, 1917, that the vessels be permitted to proceed on their journeys. The United States Government, through the Acting Secretary of State, replied on January 24, 1918, as follows:

"I am now in a position to state, in reply to your communication, the view of this Government on the facts of these cases, as understood by me, that the two articles of the treaties mentioned have no application to the delay caused to the *Kronprins Gustaf Adolf* and the *Pacific* on account of difficulty in obtaining export license. Inasmuch as the Government entertains this view, which has been arrived at only after thoughtful consideration, I am, as you will appreciate, under the necessity of requesting that these vessels, and others in like cases, comply with the regulations of the Government for the control of commodities exported from or taken out of the jurisdiction of the United States."

Thus the Government of the United States declined to permit the departure of the vessels unless and until export licenses were granted for their fuel oil. The vessels were detained not by reason of the de-

cision of some minor official but of that of the Government of the United States.

It is unnecessary to point out to Your Excellency that after that Government had determined that the vessels must comply with the regulations requiring export licenses as a condition precedent to their departure, nothing could have been more futile than to have applied to a minor official of the same Government, the Collector of Customs, for the right to depart without such licenses. No such demand was necessary in order that the responsibility for the detention should attach to your Government. "*Lex neminem cogit ad vana seu inutilia*"—the law will not force anyone to do a thing vain or fruitless.

The demand of my Government upon the Government of the United States that the vessels be permitted to depart therefrom was a demand upon that Government and all its officials from the highest to the lowest that they permit that departure without condition. When this was refused, the vessels were, in the view of my Government, detained by the authority of the Government of the United States and it became unnecessary, in order to preserve the rights of the owners, to go through the vain and useless formality of making the same demand upon a minor official.

With respect to the *second conclusion*—that even if the Collector of Customs had refused clearance an appeal lay to the Secretary of Commerce—it is only necessary to recall again that the note of January 24, 1918, already referred to, stated "the view of this Government" to be that the Swedish owners must "comply with the regulations of the Government[?]" pertaining to export licenses before the vessels could be permitted to depart. The Secretary of Commerce was a member of "this Government" the views of which were thus expressed. It is surely not the position of Your Excellency that, after an appeal had been made to the Government and a decision had been taken, it was necessary or proper to appeal to a single member of that Government in order that the decision that export licenses were an essential prerequisite of the right to depart should be the decision of the Government of the United States. Here again the maxim, *Lex neminem cogit ad vana seu inutilia*, is applicable. In the view of my Government no principle of law requires such a vain and useless step.

Both of the foregoing conclusions relate solely to matters of procedure. Your Excellency, I am sure, cannot doubt that the Government of the United States considered upon its merits the demand of my Government that the vessels be permitted to depart from the United States without the exaction of conditions, which in the view of my Government, deprived their owners of rights guaranteed to them by treaty, and in a most solemn manner communicated to my Government its decision that the vessels would not be permitted

to depart until their owners met these conditions. You object now for the first time that this demand was made directly to the Government of the United States through Your Excellency's predecessor and the reply made directly by him to my predecessor instead of the demand being made to a minor official of the United States and through his superior to the Government.

Your Excellency does not object that the Government was deprived, by any omission of the Swedish owners, of any opportunity to consider the question presented carefully or to weigh any considerations affecting it. Nor do You point out that at the time the demand was made, your predecessor raised any question as to the propriety of the procedure adopted or suggested any other procedure which should have been followed in order properly to bring the question before the Government of the United States for its decision. Under these circumstances my Government believe that a principle of law universally recognized and announced in the United States by Your Supreme Court renders the procedural objections referred to above ineffective as defenses to the present claim. In the case of *Doane v. Glenn* appearing in Wallace's Reports, Volume 21, on page 33, at page 35, the Court said:

"When such objections, under the circumstances of this case, are withheld until the trial is in progress, they must be regarded as waived . . . This is demanded by the interests of justice. It is necessary to prevent surprise and sacrifice of substantial rights. It subjects the other party to no hardship."

The *third conclusion* referred to above is that Your Excellency's Government cannot consider it as established that Title VII of the Act of June 15, 1917, applied to bunkers brought into American waters and that this question should have been submitted to the courts of the United States. My Government must confess their inability to follow the positions taken by the Government of the United States upon this subject. My Government were informed by Mr. Polk, in his note of January 24, 1918, that these vessels must comply with the regulations of his Government pertaining to export licenses. They were again so informed by Mr. Lansing in his note of June 26, 1918. In the latter note Mr. Lansing was explicit and said:

"The law on this subject makes no distinction between the exportation of an article of commerce and the taking out of an article which has never been entered at a custom house of the United States and never left the ship on which it came into the territorial waters of this country."

It seems clear to my Government, therefore, that at the time these notes were written the Government of the United States considered it established beyond all question that Title VII of the Act of June 15,

1917, applied to all articles within the territorial jurisdiction of the United States. Furthermore, my Government are aware that Title VII of the Act of June 15, 1917, was administered by the agencies of the United States in charge of its enforcement throughout the entire period of its existence as applicable to articles brought into the United States merely in transit. As instances of this, I refer Your Excellency to War Trade Board Ruling 101, (War Trade Board Journal, June, 1918, page 12) and War Trade Board Ruling 199, Journal, September, 1918, page 6.

It is not the understanding of my Government that You repudiate the action of your predecessor, Mr. Lansing, in his statement that the view of the Government of the United States was that the Act of June 15, 1917, was applicable to the bunker oil in question. My Government, therefore, find it difficult to follow the conclusion stated in Your Excellency's note that your Government cannot accept it as established that the law did so apply.

Similarly, my Government are unable to concur in the conclusion that the only authoritative determination which could have been had on the question as to whether Title VII of the Act of June 15, 1917, and the regulations issued thereunder applied to the bunker fuel brought into American ports by the Swedish vessels was in the course of judicial proceeding. The determinations made by the Government of the United States and communicated to my Government in the notes of November 24, 1917, and June 26, 1918, purported to be, and were, authoritative. My Government must reasonably have been expected to consider the statement of the Government of the United States as authoritative even if it had not been confirmed by the courts. There is no law of the United States, so far as I am aware, which provides that no act of the executive branch of the Government is authoritative until it has been confirmed by the courts. And there is no such rule of international law.

I am, therefore, unable to escape the conclusion that neither the law of the United States nor the law of nations imposed any duty upon the Swedish shipowners to institute any proceeding in any court of the United States to determine whether or not the action of the Government of the United States in refusing to permit the ships to depart without export licenses under the circumstances in question was in accord with the provisions of the Act of June 15, 1917. Whether any court of the United States had jurisdiction to secure to the Swedish shipowners the rights which they claimed under the treaty will be discussed below.

In respect to the *fourth conclusion*—that the question whether the provisions of the treaty were applicable to the vessels under the circumstances in question was capable of judicial determination—Your

Excellency cannot be unaware that although the courts of the United States had jurisdiction to determine that the terms of the treaty were not applicable because of the subsequent legislation of June 15, 1917, they had no jurisdiction to enforce those treaty provisions in the face of that subsequent legislation. The decisions of your Supreme Court leave no doubt upon this question. In *Whitney v. Robertson*, reported in Wallace's Reports, Volume 124, page 190, that Court said:

"If the country with which the treaty is made is dissatisfied with the action of the legislative department, it may present its complaint to the executive hand of the Government and take such other measures as it may deem necessary for the protection of its interests. The Courts can afford no redress. Whether the complaining nation has just cause of complaint or whether our country was justified in its legislation are not matters for judicial cognizance."

It is, therefore, clear to my Government that no matter how earnestly the Swedish shipowners might have presented to the courts their complaint that the enforcement of the Act of June 15, 1917, and the regulations thereunder, against them invaded their rights under the treaty, their complaint was not a matter for judicial cognizance. Since, therefore, the courts had no authority to give an effect to the treaty contrary to the provisions of the statute, the Swedish shipowners had no remedy for the violation of the treaty provisions. They were by no principle of law or justice obliged to institute judicial proceedings in which their rights could not be enforced and where the only possible outcome of the litigation must have been adverse to them.

For the same reason the case of *Hendricks v. Gonzalez*, reported in 67 Federal Reporter, page 351, appears to be no authority for the assertion that the Swedish shipowners had an adequate remedy in the courts. That case decides only that when a collector of customs denies clearance in violation of American municipal law, the person injured may recover damages against him. It does not hold that such damages may be recovered when clearance is denied under the authority of American law although in violation of a prior treaty. As pointed out above it could not be authority for such a proposition because the courts have no authority to enforce a treaty when its provisions are opposed by subsequent legislation.

Local remedies which should be exhausted prior to diplomatic presentation of a claim, exist only when the local courts are empowered to give legal effect to the right alleged to have been infringed. No such remedy existed in the present case. The right asserted in the present case was, and is, that notwithstanding the Act of June 15, 1917, the two Swedish ships, under the circumstances here involved, had the right under treaty provisions to depart from the United States without complying with the conditions demanded of them by the

American Government in accordance with that Act. No court of the United States had authority to give effect to that right because all such courts were bound to enforce the statute, and the question was, therefore, not susceptible of judicial determination.

Turning to the *fifth and last conclusion*—that the American Government cannot agree that the treaty provisions referred to in my note of June 16, 1927, confers upon Swedish subjects the rights asserted—I note that Your Excellency states but does not discuss it. In asserting these rights of free navigation my Government claim no more than the American Government successfully claimed under the similar provisions of the treaty with Spain,<sup>15</sup> as stated in my prior note. Indeed it claims less, for the American Government claimed immunity from export restrictions for tobacco produced in Cuba and the property of American citizens, while my Government claim only that the Swedish ships which had entered American waters and desired only to depart in ballast without drawing upon the resources of the United States had the treaty right to depart freely and unconditionally. It is impossible for my Government to believe that so simple and elemental prerequisite to freedom of navigation clearly within the plain terms and purport of the treaty can by any process of legal reasoning be placed beyond its scope. I venture to hope, therefore, that Your Excellency will reexamine this conclusion and that, if any doubts remain in your mind that this right is not guaranteed, you will communicate them to me so that I may have the opportunity to remove them.

I also note Your Excellency's statement that it is a matter of vital concern to the Government of the United States whether the remedies established by the laws of the United States are to be employed or ignored, and I am happy to be able to point out to you that no such question is involved in the present claim. So far as administrative remedies are concerned, as stated above, the present controversy was not merely appealed to a single officer of the Government but was twice appealed to the Government of the United States, itself, by which the questions involved were, as stated in the notes of November 24, 1917, and June 26, 1918, given "the careful and considerate attention which it merits at the hands of this Government". Here obviously there was no failure—but, on the contrary, the most earnest effort—to obtain all possible administrative relief. Since the matter in controversy was essentially an issue which was not, as the Supreme Court has said, a matter of judicial cognizance, no judicial remedy existed and none was ignored. So far as I am aware, the only issue on this subject which has been raised by officials of the Department of State is not whether remedies established by the laws of the United

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<sup>15</sup> Treaty of October 27, 1795, Miller, *Treaties*, vol. 2, p. 318. See Moore, *Digest*, vol. vi, par. 1035, particularly pp. 910-912.



States are to be ignored but whether the laws of the United States have established any remedy available in the present case. This question obviously is not of the character mentioned by Your Excellency.

In conclusion I beg to express the hope that you will reexamine the claim in the light of the observations here made and will reach a favourable conclusion in regard to it. Should that happy conclusion not result, I am instructed by my Government to request that the Government of the United States join with my Government in submitting the present controversy between them to arbitration.

My Government feel confident that in view of Your Excellency's great service to the world in advocating so conspicuously and ably the process of the disposition of international differences by arbitration that this disposition of the matter in accordance with the treaty of March 18, 1925,<sup>16</sup> will meet with your approval. I am further assured in this view by the fact that in the cases of *Sheldon Lewis*, reported in Moore's International Arbitrations, page 3019, and in that of the Dutch vessel *Zeelandia*, (now in the Court of Claims of the United States, Docket No. H 252) the Government of the United States referred similar differences with the British Government and the Dutch Government, respectively, to such disposition. In both of these cases the shipowners, believing that their asserted rights were not the subject of judicial cognizance, did not resort to the Courts of the United States, which was justly regarded by the Government of the United States as no bar to the presentation of the claims through diplomatic channels. In the latter case the detention was by virtue of the same statute invoked by the Government of the United States in the present case.

With renewed assurances [etc.]

W. BOSTRÖM

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411.58J63/24

*The Swedish Minister (Boström) to the Secretary of State*

WASHINGTON, June 14, 1929.

MY DEAR MR. SECRETARY: I had the honour to call upon you on June 13, in regard to the claim of my Government (which was filed June 15 [16], 1927) on account of the detention in 1917-1918 of two ships belonging to the Rederiaktiebolaget Nordstjernan, the *Kronprins Gustaf Adolf* and the *Pacific*. Unhappily, I found that you had been called to New York. Since I was not able to see you

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<sup>16</sup> Arbitration convention between the United States and Sweden signed at Washington, June 24, 1924, and proclaimed on March 18, 1925; *Foreign Relations*, 1924, vol. II, p. 702.

personally, I am taking the liberty of writing in this letter a short review of the case.

In June, 1917, the *Kronprins Gustaf Adolf*, and in July, 1917, the *Pacific* entered American harbors. The *Gustaf Adolf* came in in ballast expecting to take a cargo to Finland. The *Pacific* came in with a cargo of nitrates bound from South America to Sweden. Both vessels on entering American waters had in their bunkers sufficient fuel oil to go from the United States to Sweden. After some discussion, the cargo of nitrates was unloaded and no question has been raised with reference to that cargo. The questions involved concern simply the detention of the vessels contrary to treaty provisions.

When the vessels sought to leave the United States in ballast for Sweden, they were informed by the War Trade Board that they could not obtain clearance without an export license for the fuel oil which they had in their bunkers. And the War Trade Board made it a condition precedent to the granting of licenses that the owner should agree to surrender its right to the free use of these vessels and others which it owned, guaranteed by Articles 7, 12 and 17, of the treaty between the United States and Sweden of April 3, 1783, revised by the treaty of July 4, 1827.

Your Excellency will not fail to observe that these two vessels were not permitted to leave United States waters, although they proposed to take out no cargo and no fuel except what they had entered with.

Upon the owner refusing the conditions, licenses were refused and the vessels were not permitted to depart until June, 1918, when the owner accepted the required conditions, somewhat modified.

My government immediately presented the matter to Mr. Lansing, then Secretary of State, by note of November 24, 1917, drawing his attention to the treaty provisions and requesting that the vessels be permitted to depart. Mr. Lansing, after some intermediate correspondence, replied on June 26, 1918, that the law under which the export licenses were required, applied to the fuel oil and that the treaty provisions in question did not prevent the requiring of such licenses as a condition of departing from the United States. Within a few days of the receipt of this note, the owner in order to obtain the use of its vessels, yielded to the War Trade Board, and secured the release of the vessels.

I feel confident that so distinguished a jurist as Mr. Lansing would not have found that the treaty provisions were inapplicable had it not escaped his attention that the agreement demanded by the War Trade Board, as the condition of granting the licenses, was the surrender of rights guaranteed by the treaty. The principle applicable has been often stated by the Supreme Court of the United

States but never more concisely than in *Barron v. Burnside*, 121 U. S. 186:

“As the . . . statute makes the rights to a permit dependent upon the surrender by the foreign corporation of a privilege secured to it by the Constitution and laws of the United States, the statute requiring the permit must be held to be void.”

I can not, therefore, escape the conclusion that the treaty guaranteed the privilege of complete freedom of navigation to nationals of the two contracting parties, and that the action of the War Trade Board in conditioning the granting of export licenses upon the surrender of treaty rights was an infraction of the treaty. It is especially gratifying to me that this view accords with the interpretation placed by the Department of State upon the similar provisions of Article VII of the treaty between the United States and Spain of 1795, which was subsequently accepted by the Spanish Government. (Moore, *Int. Arb.* 1033-35)

After the release of the vessels the matter of compensation for the loss sustained by the detention was discussed informally from time to time with officials of the Department of State by representatives of the owner. But the matter of preparing and presenting a formal claim was delayed and greatly hampered by the sudden death of Mr. Eckstrom, the New York representative of the owner. Since presentation of the claim in 1927, I have conferred with the Solicitor of the Department of State regarding it.

The Solicitor has suggested that the owner should have brought either a petition for a writ of mandamus or an action at law for damages in the United States District Court against the Collectors of the ports of New York and Norfolk for their failure to grant clearance. But neither of these proceedings could have secured for the owner his treaty rights or compensation for their denial. As Mr. Lansing pointed out in his note of June 15, 1927 [*June 26, 1918*], Title VII “makes no distinction between the exportation of an article of commerce and the taking out of an article which has never been entered at a customs house of the United States, and never left the ship on which it entered the territorial waters of this country”. The Collector, therefore, was not only under no legal obligation to grant clearance, in the absence of an export license, but was actually under a legal duty to refuse clearance. The fact that this law conflicted with a prior treaty did not, under well recognized rules of law laid down by the Supreme Court, make it any less binding upon courts of the United States.

There was no obligation upon the owner to do a futile thing in order to preserve its right, through my Government, to appeal to Your Excellency that just compensation be made possible for the loss

sustained. I am the more convinced that this will be the view taken by Your Excellency since it has already prevailed in the case arising from the claim of the Royal Holland Lloyd out of the refusal of the Federal authorities to grant clearance to the Dutch vessel, *Zeelandia*, from October, 1917, to March, 1918, under the same authority invoked in the present case. In that case, no suits were filed by the owner in American courts, but the case was considered through diplomatic channels and procedure developed for its disposition upon its merits.

In addition to conferences with the Solicitor of your Department, I had several talks with your distinguished predecessor, Honorable Frank B. Kellogg, and he indicated to me that he recognized that my Government has a just claim, and that the United States Government ought to make amends in some form or other, but before the negotiations could be brought to a conclusion, his term of office ended.

I am aware of the immense load of responsibility you have undertaken and the many matters pressing for your attention, and I have been reluctant to urge the matter of my Government's claim upon your attention. And I hope you will not think me insistent in writing this letter; rather my thought is that it may summarize the situation for you, and therefore, to some extent, facilitate your study of the case. I would be much obliged if Your Excellency could find time to peruse all our notes and memoranda, in which, I believe, all the contentions made by the Solicitor have been conclusively answered. It is my hope that the soundness of the claim will be recognized and that it might be possible to reach an agreement as to the exact damages suffered, thus avoiding the lengthy and costly proceedings of arbitration.

I beg you to inform me when it will be convenient for Your Excellency to discuss the matter with me orally, and remain, my dear Mr. Secretary,

Yours very sincerely,

W. BOSTRÖM

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411.58J63/27

*The Under Secretary of State (Cotton) to the Swedish Minister (Boström)*

WASHINGTON, July 1, 1930.

MY DEAR MR. MINISTER: You will recall that on Friday last in my office you and I talked, in the presence of Mr. Castle, on the possible submission to a neutral tribunal of the claim of your Government against the United States for ship detention damages during the last war. I said to you that I was willing to try to agree to a convention to that end, provided we could agree on terms of sub-

mission and personnel of the tribunal. I said *inter alia* (a) that I thought such a tribunal should clearly sit in Washington (where all the evidence is and those familiar with the matter are), (b) that there should be a study by both of us to see if any other question between the two countries should go before the same tribunal (as it would be preferable to clear the slate), (c) that I thought it best to have a tribunal composed of a single judge who should not be a national of Sweden or the United States (although I am not clear as to this point about the number), (d) that I was making a similar proposal for a convention relating to claims of a different character to at least one other European country and would hope that the same person (who would have to be a person generally familiar with American law though not a citizen of the United States) would be selected who could sit on both tribunals—obviously that would minimize our time wasted in the matter.

I threw out the suggestion that if we found difficulty in agreeing on a tribunal, we both might trust our mutual friend, Mr. Massey,<sup>17</sup> or someone like him to do it or to select a panel from which a tribunal might be chosen.

To all these suggestions you said nothing but that you would consider the matter, and I think that is the best way to leave it. Neither of us is in the least bound to any such scheme, but we will consider it as a proposal open between us with the idea that when you come back in the autumn you will have talked to your Government concerning its position in regard to such a proposal.

Very sincerely yours,

J. P. COTTON

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411.58J63/52

*The Swedish Minister (Boström) to the Under Secretary of State (Cotton)*

WASHINGTON, October 17, 1930.

MY DEAR MR. COTTON: With reference to your letter of July 1st last, concerning submission to a neutral tribunal of the claim of my Government against the United States for ship-detention damages during the war, and to my preliminary answer of July 2nd,<sup>18</sup> I have the honour to inform you that I have discussed the matter with my Government and that I am ready to discuss with you the terms of submission and the personnel of the tribunal.

I beg to transmit herewith a draft of the main points of a compromise, drawn up by our Foreign Office, and will be glad to discuss the whole matter with you orally.

Very sincerely yours,

W. BOSTRÖM

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<sup>17</sup> Vincent Massey, Canadian Minister to the United States.

<sup>18</sup> Not printed.

[Enclosure]

*Swedish Draft of the Main Points of a Compromise*

Whereas the Swedish Motor ships *Kronprins Gustaf Adolf* and *Pacific*, which had entered American ports on June 23rd, 1917 and July 1st, 1917, respectively, were prevented to leave American territory until July 12th, 1918 and July 19, 1918, respectively, as a consequence of the refusal of the American Government to allow, unconditionally, the exportation of the bunker oil carried by these ships at their arrival to American territory,

His Majesty the King of Sweden and the President of the United States of America agree to submit to arbitration the following questions:

- 1) Do the facts stated above constitute a contravention of the Swedish-American Treaties of April 3rd, 1783 and July 4th, 1827?
- 2) Should the reply be in the affirmative, what pecuniary reparation is due to the Government of Sweden on behalf of the owner of the ships above-mentioned?

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411.58J63/50

*The Under Secretary of State (Cotton) to the Swedish Minister (Boström)*

WASHINGTON, November 14, 1930.

MY DEAR MR. MINISTER: The Solicitor's Office has prepared, after consideration of your memorandum, a proposed draft convention of which I now enclose a copy.<sup>19</sup>

As to the questions to be submitted to arbitration, the first differs from your memorandum and the second and third, I think, are in substance the same. Article II I understand to be in general in line with what we have previously said.

Articles III, IV, V, VI, VII, VIII, and IX are, according to our Solicitor, in the usual form excepting the part about being in English and being in Washington, to which I understood you did not object.

I am not wedded to this particular form of procedure but some procedure requirements should be clear. It would be our intention, in case we reach agreement, to submit this convention to the Senate for its approval.

Sincerely yours,

J. P. COTTON

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<sup>19</sup> Not printed; this draft was accepted by the Swedish Government and, except for several typographical changes, is identical with the definitive treaty printed *infra*.

Treaty Series No. 841

*Special Agreement Between the United States of America and Sweden for the Arbitration of Claims Growing out of the Alleged Detention of the Motorships "Kronprins Gustaf Adolf" and "Pacific," Signed at Washington, December 17, 1930*<sup>20</sup>

WHEREAS, the Government of Sweden has presented to the Government of the United States of America certain claims on behalf of Rederiaktiebolaget Nordstjernen, a Swedish corporation, for losses said to have been incurred as a result of the alleged detention in ports of the United States of America, in contravention of provisions of treaties in force between the United States of America and Sweden, of the motorship *Kronprins Gustaf Adolf* and the motorship *Pacific* belonging to said Swedish corporation; and

WHEREAS, the Government of the United States of America has disclaimed any liability to indemnify the Government of Sweden in behalf of the owners of the said motorships, therefore:

The President of the United States of America and His Majesty the King of Sweden being desirous that this matter of difference between their two Governments should be submitted to adjudication by a competent and impartial Tribunal have named as their respective plenipotentiaries, that is to say:

The President of the United States of America,

Henry L. Stimson, Secretary of State of the United States of America; and

His Majesty the King of Sweden,

W. Boström, Envoy Extraordinary and Minister Plenipotentiary at Washington;

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

There shall be submitted to arbitration pursuant to the Convention for the Pacific Settlement of International Disputes, signed at The Hague, October 18, 1907,<sup>21</sup> and the Arbitration Convention between the United States of America and Sweden, signed at Washington, October 27, 1928,<sup>22</sup> the following questions:

First, Whether the Government of the United States of America detained the Swedish motorship *Kronprins Gustaf Adolf* between June 23, 1917 and July 12, 1918, and the Swedish motorship *Pacific*

<sup>20</sup> Ratification advised by the Senate, February 14 (legislative day of January 26), 1931; ratified by the President, April 17, 1931; ratifications exchanged at Washington, October 1, 1931; proclaimed by the President, October 2, 1931.

<sup>21</sup> *Foreign Relations*, 1907, pt. 2, p. 1181.

<sup>22</sup> *Ibid.*, 1928, vol. III, p. 883.

between July 1, 1917 and July 19, 1918, in contravention of the Swedish-American Treaties of April 3, 1783 and July 4, 1827.

Second, Whether, if the first question be decided in the affirmative, the Government of the United States of America is liable to the Government of Sweden in behalf of the owners of the motorships for damages resulting from such unlawful detention; and,

Third, Should the reply be in the affirmative what pecuniary reparation is due to the Government of Sweden on behalf of the owners of the motorships above mentioned.

#### ARTICLE II

The questions stated in Article I shall be submitted for a decision to a sole arbitrator who shall not be a national of either the United States of America or Sweden. In the event that the two Governments shall be unable to agree upon the selection of a sole arbitrator within two months from the date of the coming into force of this Agreement they shall proceed to the establishment of a Tribunal consisting of three members, one designated by the President of the United States of America, one by His Majesty the King of Sweden, and the third, who shall preside over the Tribunal, selected by mutual agreement of the two Governments. None of the members of the Tribunal shall be a national of the United States of America or of Sweden.

#### ARTICLE III

The procedure in the arbitration shall be as follows:

(1) Within ninety days from the date of the exchange of ratifications of this Agreement, the agent for the Government of Sweden shall present to the Agent for the Government of the United States of America a statement of the facts on which the Government of Sweden rests the claim against the United States of America, and the demand for indemnity. This statement shall be accompanied by the evidence in support of the allegations and of the demand made;

(2) Within a like period of ninety days from the date on which this Agreement becomes effective, as aforesaid, the Agent for the Government of the United States of America shall present to the Agent for the Government of Sweden at Washington a statement of facts relied upon by the Government of the United States of America together with evidence in support.

(3) Within sixty days from the date on which the exchange of statements provided for in paragraphs (1) and (2) of this Article is completed each Agent shall present in the manner prescribed by paragraphs (1) and (2) an answer to the statement of the other together with any additional evidence and such argument as they desire to submit.



## ARTICLE IV

When the development of the record is completed in accordance with Article III hereof, the Government of the United States of America and the Government of Sweden shall forthwith cause to be forwarded to the International Bureau at The Hague, for transmission to the Arbitrator or Arbitrators, as the case may be, three complete sets of the statements, answers, evidence and arguments presented by their respective Agents to each other.

## ARTICLE V

Within thirty days from the delivery of the record to the Arbitrator or Arbitrators in accordance with Article IV, the Tribunal shall convene at Washington for the purpose of hearing oral arguments by Agents or Counsel, or both, for each Government.

## ARTICLE VI

When the Agent for either Government has reason to believe that the other Government possesses or could obtain any document or documents which are relevant to the claim but which have not been incorporated in the record such document or documents shall be submitted to the Tribunal at the request of the Agent for the other Government and shall be available for inspection by the demanding Agent. In agreeing to arbitrate the claim of the Kingdom of Sweden in behalf of Rederiaktiebolaget Nordstjernen the Government of the United States of America does not waive any defense which was available prior to the concluding of the Agreement.

## ARTICLE VII

The decision of the Tribunal shall be made within two months from the date on which the arguments close, unless on the request of the Tribunal the Parties shall agree to extend the period. The decision shall be in writing.

The decision of the majority of the members of the Tribunal, in case a sole Arbitrator is not agreed upon, shall be the decision of the Tribunal.

The language in which the proceedings shall be conducted shall be English.

The decision shall be accepted as final and binding upon the two Governments.

## ARTICLE VIII

Each Government shall pay the expenses of the presentation and conduct of its case before the Tribunal; all other expenses which by

their nature are a charge on both Governments, including the honorarium for the Arbitrator or Arbitrators, shall be borne by the two Governments in equal moieties.

## ARTICLE IX

This Special Agreement shall be ratified in accordance with the constitutional forms of the Contracting Parties and shall take effect immediately upon the exchange of ratifications, which shall take place at Washington as soon as possible.

In witness whereof, the respective plenipotentiaries have signed this Special Agreement and have hereunto affixed their seals.

Done in duplicate at Washington this seventeenth day of December, nineteen hundred and thirty.

HENRY L. STIMSON	[SEAL]
W. BOSTRÖM	[SEAL]

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[In his decision of July 18, 1932, the arbitrator, Eugène Borel, Honorary Professor of International Law at the University of Geneva, decided: "that the Government of the United States did not detain the Swedish motor ship *Kronprins Gustaf Adolf* between June 23, 1917, and July 12, 1918, and the Swedish motor ship *Pacific* between July 1, 1917, and July 19, 1918, in contravention of the Swedish-American treaties of April 3rd, 1783, and July 4th, 1827."—Department of State Arbitration Series No. 5 (6), p. 100.]

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ARRANGEMENT BETWEEN THE UNITED STATES AND SWEDEN  
REGARDING RECIPROCAL EXEMPTION OF PLEASURE YACHTS  
FROM ALL NAVIGATION DUES

858.843/7

*The Secretary of State to the Chargé in Sweden (Crocker)*

No. 127

WASHINGTON, December 12, 1929.

SIR: There are enclosed for your consideration copies of the following correspondence concerning apparently discriminatory charges assessed against American yachts calling at Swedish ports, particularly in the case of the yacht *Cyprus* which arrived at Stockholm on July 3, 1929:—despatch from the American Consul General, Stockholm, September 5, 1929; letters from Department of Commerce, September 27 and November 21, 1929, and letter to Department of Commerce, October 31, 1929.<sup>23</sup>

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<sup>23</sup> None printed.

You are accordingly authorized to invite the attention of the Swedish authorities to the charges assessed against the *Cyprus*, and to state that, pending ratification of the proposed treaty of friendship, commerce and consular rights between the United States and Sweden, this Government would appreciate an agreement on the part of the Swedish Government to accord to American yachts in Swedish ports treatment in the matter of the payment of various port charges reciprocal to that which is now enjoyed by Swedish vessels calling at ports of the United States. If deemed advisable in this connection, the provisions of the statutes of the United States for the collection of tonnage and light dues, (U. S. Code, Title 46, Secs. 121 and 128), as well as for the suspension of these charges in behalf of vessels of foreign countries which accord national treatment to vessels of the United States, may be cited for the information of the Swedish authorities.

I am [etc.]

For the Secretary of State:

WILBUR J. CARR

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858.843/12

*The Chargé in Sweden (Crocker) to the Secretary of State*

No. 155

STOCKHOLM, October 29, 1930.

[Received November 12.]

SIR: In compliance with the Department's instruction No. 127, dated December 12, 1929, enclosing correspondence concerning apparently discriminatory charges assessed against American yachts calling at Swedish ports, particularly in the case of the yacht *Cyprus* which arrived at Stockholm on July 3, 1929, and instructing me to invite the attention of the Swedish authorities to the charges assessed against the *Cyprus* and to state that, pending ratification of the proposed treaty of friendship, commerce and consular rights between the United States and Sweden, the Government of the United States would appreciate an agreement on the part of the Swedish Government to accord to American yachts in Swedish ports treatment in the matter of the payment of various port charges reciprocal to that which is now enjoyed by Swedish vessels calling at ports of the United States, I have the honor to report that on January 3, 1930, I addressed a communication to the Minister for Foreign Affairs, in the sense of the Department's instruction under reference, a copy of which, without its accompanying enclosures, is enclosed. On October 22, 1930, the Legation received a reply thereto from the Minister for Foreign Affairs, a copy and translation of which are enclosed herewith, informing me that, according to the provisions of Section 126 of the Swedish Customs Regulations and of the Royal Decree dated October 7, 1927, yachts belonging to yacht clubs of countries where the same facilities are

accorded to Swedish yachts are exempted in Swedish ports from all navigation dues—except dues of pilotage when they have actually a pilot on board—provided that they be furnished with a certificate delivered by the authorities of the country and on the understanding that they are not equipped for commercial purposes. A copy and translation are enclosed of Section 126 of the Swedish Customs Regulations and of Royal Decree dated October 7, 1927.

The Minister for Foreign Affairs states in conclusion that “if your Government consents to grant upon a basis of reciprocity the same facilities to pleasure yachts belonging to Swedish yacht clubs, I permit myself to propose that the present note and the reply which you may make thereto will serve as an agreement reached between our two countries”.

In view of the form of the agreement proposed by the Minister for Foreign Affairs and in the absence of specific instruction from the Department authorizing me to conclude such an agreement, I have the honor to report that, in order to avoid unnecessary delay, I addressed a reply to the note of the Minister for Foreign Affairs under reference, dated October 29, 1930, a copy of which is enclosed herewith, in which I stated that, inasmuch as the provisions of the Statutes of the United States for the collection of tonnage and light dues (U. S. Code, Title 46, Sections 121 and 128) permitted the suspension of those charges in behalf of vessels of foreign countries which accorded national treatment to vessels of the United States, I was accordingly gratified that there appeared to be no further obstacle to the enjoyment by the pleasure yachts of each country of treatment reciprocal to that enjoyed in the ports of the other.

For the Department's confidential information, I may state that, in my opinion, upon the conclusion of the reciprocal agreement, there will be no difficulty in obtaining the refund of the discriminatory charges assessed in the past against American yachts calling at Swedish ports and which have been protested.

Respectfully yours,

EDWARD SAVAGE CROCKER

[Enclosure 1]

*The American Chargé (Crocker) to the Swedish Minister for Foreign Affairs (Trygger)*

No. 211

STOCKHOLM, January 3, 1930.

EXCELLENCY: Acting under instructions from my Government, I have the honor to invite the attention of Your Excellency to the apparently discriminatory charges assessed against American yachts calling at Swedish ports, and particularly to the charges assessed against the yacht *Cyprus* which arrived at Stockholm on July 3, 1929. A memorandum of these charges as contained in a report by the Master

of the *Cyprus*, dated August 1, 1929, is appended hereto.<sup>24</sup> I am further instructed to state that, pending ratification of the proposed treaty of friendship, commerce and consular rights between the United States and Sweden, my Government would appreciate an agreement on the part of the Swedish Government to accord to American yachts in Swedish ports treatment in the matter of the payment of various port charges reciprocal to that which is now enjoyed by Swedish vessels calling at ports of the United States.

In this connection I venture to cite for the information of Your Excellency the provisions of the Statutes of the United States for the collection of tonnage and light dues (U. S. Code, Title 46, Secs. 121 and 128), as well as the suspension of those charges in behalf of vessels of foreign countries which accord national treatment to vessels of the United States.

I avail myself [etc.]

EDWARD SAVAGE CROCKER

[Enclosure 2—Translation]

*The Swedish Minister for Foreign Affairs (Ramel) to the American Chargé (Crocker)*

STOCKHOLM, October 22, 1930.

MR. CHARGÉ D'AFFAIRES: By a letter dated January 3, 1930, you kindly informed my predecessor that the United States Government is disposed to conclude an arrangement with the Swedish Government with a view to exempting on a basis of reciprocity the pleasure yachts of the two countries from all navigation dues in their ports.

Referring to this letter, I have the honor to inform you that, according to the provisions of Section 126 of the Swedish Customs Regulations and of the Royal Decree dated October 7, 1927, yachts belonging to yacht clubs of countries where the same facilities are accorded to Swedish yachts are exempted in Swedish ports from all navigation dues—except dues of pilotage when they have actually a pilot on board—provided that they be furnished with a certificate delivered by the authorities of the country and on the understanding that they are not equipped for commercial purposes.

If your Government consents to grant upon a basis of reciprocity the same facilities to pleasure yachts belonging to Swedish yacht clubs, I permit myself to propose that the present note and the reply which you may make thereto will serve as an agreement reached between our two countries.

Please accept [etc.]

RAMEL

<sup>24</sup> Not printed.

[Enclosure 3—Translation]

*Section 126 of the Swedish Customs Regulations*

A master of a vessel belonging to a public yacht club or other similar association and which is not equipped for commercial purposes (pleasure yachts) shall, when the vessel arrives or departs from a port in the customs territory without being used for conveying goods other than foodstuffs and articles necessary for the vessel during the journey, be exempt from the duty to submit to the customs authorities a written report regarding the vessel and from obtaining a permit for it from the customs authorities.

When arriving from a port outside of the customs territory, the master may not visit any other port with the vessel than a customs port or a place where coast-guards are stationed. When arriving from and departing to a place outside of the customs territory, it is the duty of a master to report personally to the nearest customs office or coast-guard station and to submit a certificate, issued by a public authority or the board of the association, showing the name of the vessel, number and tonnage, the name of the owner of the vessel and domicile, as well as the name of the association to which the vessel belongs.

If the owner or master of a pleasure yacht has here in the country been found guilty of illegal import or export of articles, the provisions granted in this section shall not apply to any of the vessels belonging to the association as long as he owns or commands the vessel. However, the advantages shall be discontinued not earlier than fifteen days after the General Customs Board has informed the board of the association of the misdemeanor committed.

The provisions of this section shall not apply to vessels belonging to an association in Sweden, provided His Majesty has not granted the association similar rights for its vessels, and shall not either apply to vessels belonging to a foreign association, unless Swedish pleasure yachts enjoy the same advantages in the respective country.

[Enclosure 4—Translation]

*Royal Decree of the Swedish Government*

No. 394

ROYAL DECREE

REGARDING EXEMPTION IN CERTAIN CASES FOR SALVAGE VESSELS  
AND PLEASURE YACHTS FROM PAYMENT OF MARITIME DUES

Given at the Palace of Stockholm, October 7, 1927

His Royal Majesty has deemed fit to decree that salvage vessels and pleasure yachts referred to in Sections 124 and 126 of the Customs Regulations, under the conditions mentioned in these sections,

shall in Swedish ports be exempt from all those fees which are generally assessed for vessels in such ports, with the exception of pilotage fees where a pilot is employed.

This decree shall enter into force on May 1, 1928, on and from which day the regulations in the letter to the Board of Trade of April 24, 1863, (No. 23), relating to the exemption from certain fees in Swedish ports accorded vessels intended for diving and salvage activities, shall cease to be effective.

Let all concerned duly comply herewith. In faith whereof, We have signed this with Our own hand and have caused it to be confirmed by Our Royal Seal. The Palace of Stockholm, October 7, 1927.

GUSTAF  
(L. S.)

(Department of Commerce)

FELIX HAMRIN

[Enclosure 5]

*The American Chargé (Crocker) to the Swedish Minister for Foreign Affairs (Ramel)*

No. 56

STOCKHOLM, October 29, 1930

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note dated October 22, 1930, in reply to my note dated January 3, 1930, addressed to Your Excellency's predecessor, relating to the desire of my Government to obtain an agreement on the part of the Swedish Government to accord to American yachts in Swedish ports treatment in the matter of the payment of various port charges reciprocal to that which is now enjoyed by Swedish vessels calling at ports of the United States.

Your Excellency is so good as to inform me that, according to the terms of Section 126 of the Swedish Customs Regulations and of the Royal Decree dated October 7, 1927, yachts belonging to yacht clubs of countries where the same facilities are accorded to Swedish yachts are exempted in Swedish ports from all navigation dues—except dues of pilotage when they have actually a pilot on board—provided that they be furnished with a certificate delivered by the authorities of the country and on the understanding that they are not equipped for commercial purposes.

In conclusion Your Excellency states that, if my Government consents to grant upon a basis of reciprocity the same facilities to pleasure yachts belonging to Swedish yacht clubs, Your Excellency proposes that the note under reference and the reply which I may make thereto will serve as an agreement reached between our two countries.

In reply I have the honor to state that, inasmuch as the provisions of the Statutes of the United States for the collection of tonnage and light dues (U. S. Code, Title 46, Sections 121 and 128) permit the suspension of those charges in behalf of vessels of foreign countries which accord national treatment to vessels of the United States, I am accordingly gratified that there appears to be no further obstacle to the enjoyment by the pleasure yachts of each country of treatment reciprocal to that enjoyed in the ports of the other.

I avail myself [etc.]

EDWARD SAVAGE CROCKER



## TURKEY

### PROPOSED TREATY OF ESTABLISHMENT AND SOJOURN BETWEEN THE UNITED STATES AND TURKEY

711.679 Residence and Establishment/1:Telegram

*The Ambassador in Turkey (Grew) to the Secretary of State*

CONSTANTINOPLE, October 2, 1929—noon.

[Received 7 p. m.]

62. If the Department so desires, the Turks will be willing to conclude with us a brief convention of residence and establishment containing a single article along the following lines:

“With reference to the conditions of residence and establishment and judicial competence to which the citizens and companies of the two countries will be submitted, Turkey will accord to the United States of America and the United States of America will accord they [to Turkey] national treatment in cases where the respective laws of the two countries permit national treatment and in all other cases most-favored-nation treatment.”

If the Department does not desire to submit two separate conventions to the Senate for ratification at the same time, namely, the treaty of commerce and navigation,<sup>1</sup> and a convention of residence and establishment, I believe that the Turks will be willing to embody these provisions either in a *modus vivendi* or as an annex to the minutes of the final plenary session of our recent negotiations for a treaty of commerce and navigation.

If the Department would like to have this matter arranged in time to present such a convention to the Senate in December, I will arrange to split my letter [leave] of absence into two parts returning to Angora for the national holiday on October 29. I request provisional telegraphic instructions in care of the Legation at Berne. [Paraphrase.] I believe that, so long as there is maintained the principle in the paragraph in quotation marks above, Turkey will accept any reasonable alterations in phraseology. However, it may be difficult to obtain most-favored-nation treatment for cases where national treatment is accorded, in view of Turkish susceptibilities. [End paraphrase.]

GREW

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<sup>1</sup> See *Foreign Relations*, 1929, vol. III, p. 838.

711.679 Residence and Establishment/2 : Telegram

*The Secretary of State to the Minister in Switzerland (Wilson)*

[Paraphrase]

WASHINGTON, October 21, 1929—4 p. m.

123. For Ambassador Grew: Reference your 62, October 2, noon. Unless some compelling reason is perceived by you for a different course of action, it would be the preference of the Department to postpone the negotiating of a convention of establishment and residence between the United States and Turkey until after the recently signed treaty of commerce and navigation has been ratified.

STIMSON

711.679 Residence and Establishment/10 : Telegram

*The Acting Secretary of State to the Ambassador in Turkey (Grew)*

[Paraphrase]

WASHINGTON, March 17, 1930—6 p. m.

15. Referring to the Department's 13, March 5, 5 p. m., and your personal letter dated February 26 to the Chief of the Division of Near Eastern Affairs.<sup>2</sup>

(1) Should you think it advisable, the Department has no objection to the Turkish Government's being informed in strict confidence by you that this Government is ready in principle for the negotiating of a brief treaty of residence and establishment which embodies the formula the Turks suggested (see your 62, October 2, 1929, noon).

(2) At the same time, however, you should state that, since it is not practicable to present such a treaty to the United States Senate during its present session, it would be the preference of this Government for the treaty's signature not to occur before the beginning of October, whereupon its presentation could take place immediately after the Senate's reconvening the first week of December.

(3) In view of the paragraph immediately preceding, and because the treaty to be negotiated will be very brief, it is presumed by the Department that it would not be necessary for actual negotiations to begin until the latter part of September.

(4) It is considered by the Department that, if the Turks find the above procedure acceptable, it will serve not only to reassure them regarding the sincerity of this Government's intentions respecting this matter, but also to obviate the risk of organized opposition in the United States to the treaty which might develop were there to intervene a considerable period between the treaty's signature and its presentation to the Senate.

<sup>2</sup> Neither printed.

(5) Before the Turkish Government is informed by you of the sense of paragraphs (1) to (3) above, the Department would welcome receiving from you any comments on the above suggestions you may think it necessary to make.

COTTON

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711.679 Residence and Establishment/11 : Telegram

*The Ambassador in Turkey (Grew) to the Acting Secretary of State*

[Paraphrase]

ISTANBUL, March 18, 1930—1 p. m.

[Received March 18—11:25 a. m.]

19. Department's 15, March 17, 6 p. m. On March 21 I am going to Ankara for a week or so, and I shall be guided by circumstances with regard to the use of the very helpful authorization and instructions which are contained in paragraphs (1) to (3). Probably it will be desirable to do so with a view to reassuring the Turks concerning the sincerity of American intentions respecting the negotiation eventually of a brief treaty of residence and establishment.

GREW.

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711.679 Residence and Establishment/15

*The Ambassador in Turkey (Grew) to the Acting Secretary of State*

No. 994

ISTANBUL, April 7, 1930]

[Received April 23.

SIR: With reference to the Department's telegrams No. 13 of March 5, 5 p. m.,<sup>3</sup> and No. 15 of March 17, 6 p. m., I have the honor to inform the Department that in my last conversation with the Minister for Foreign Affairs on March 23, he said he hoped that we could very shortly commence negotiations for a Treaty of Residence and Establishment and he said that he was anxious to have this done as soon as possible because the conclusion of a Treaty of Arbitration with the United States<sup>4</sup> would be dependent upon an Establishment Convention and that he would be willing to sign the former immediately after the conclusion of the latter.

It therefore became evident that I must explain the situation to the Minister as authorized by the Department's two telegrams mentioned above and that it would be much better to be frank than to try to gloss the matter over which might leave a flavor of suspicion in his mind. I accordingly told him in strict confidence that while we were prepared in principle to negotiate a brief Treaty of Residence

<sup>3</sup> Not printed.

<sup>4</sup> Negotiations for a treaty of arbitration did not result in the signing of a treaty; see *Foreign Relations*, 1928, vol. III, pp. 940 ff.

and Establishment embodying the formula suggested by Zekai Bey on October 1, last, it would be impracticable to present the treaty to the Senate during its present session which will presumably end in June and that we would therefore prefer that the Treaty not be signed before the beginning of October, in which case it could be presented to the Senate immediately upon its reconvening in the autumn. Therefore, as the Treaty to be negotiated is very brief, we felt that it would not be necessary to begin the actual negotiations before September or October. I added confidentially certain other arguments for delaying the negotiations until the autumn. The Minister saw the point at once and agreed that it was the only wise policy to follow and that under these circumstances he was perfectly content to delay the negotiations until September or October.

In the course of the conversation, the Minister remarked that he was aware of the formula which Zekai Bey had proposed to me on October 1, last, and that in principle he approved of it. This formula which I possess in the handwriting of Zekai Bey, President of the Turkish Treaty Delegation, is as follows:

“En ce qui concerne les conditions d'établissement et la compétence judiciaire auxquelles seront soumis les ressortissants et les sociétés des deux Pays, la Turquie accorde aux Etats-Unis d'Amérique et les Etats-Unis d'Amérique accordent à la Turquie le traitement national pour les cas où les lois respectives des deux Pays permettent d'accorder le traitement national et dans tous les autres cas le traitement de la nation la plus favorisée.”

It therefore appears from the foregoing that the matter of negotiating a Treaty of Residence and Establishment need not be further approached until next autumn.

In connection with the reference above to the conclusion of an Arbitration Treaty between the United States and Turkey and with reference to my despatch No. 896 of December 18, 1929,<sup>5</sup> and the Department's reply No. 197, (undated),<sup>6</sup> Tevfik Rüstü Bey stated to me in our recent interview that if and when a Treaty of Arbitration should be concluded he would seriously consider coming to Washington himself in order to sign it.

I have [etc.]

JOSEPH C. GREW

711.679 Residence and Establishment/20 : Telegram

*The Acting Secretary of State to the Ambassador in Turkey (Grew)*  
[Paraphrase]

WASHINGTON, August 30, 1930—2 p. m.

46. Reference your 59, August 25, 4 p. m., and the Department's 45, August 28, 5 p. m.<sup>7</sup> The Department authorizes you to initiate

<sup>5</sup> Not printed.

<sup>6</sup> Dated January 21, 1930; not printed.

<sup>7</sup> Neither printed.

with the Turkish Government, at any time during next October, negotiations to conclude a brief treaty of residence and establishment. The following text (closely following the formula of the Turks as contained in your 62, October 2, 1929, noon) is acceptable to this Government:<sup>8</sup>

“With reference to the conditions of residence and establishment, entry and sojourn and judicial competence which shall be applicable to the nationals and companies of either country in the territories of the other, the United States will accord to Turkey and Turkey will accord to the United States national treatment in cases where national treatment is permitted by the laws of the two countries, respectively, and will in all other cases accord most-favored-nation treatment.”

An early pouch will bring you full powers to sign such a treaty. The formal parts of the treaty may be drafted by you to follow generally the model of the treaty of commerce and navigation signed October 1, 1929.

The words “entry and sojourn” are added solely for the purpose of assuring the continued entry into the United States of Turkish businessmen as enjoyed at present under the Immigration Act of 1924, Section 3 (6).<sup>9</sup>

You are confidentially informed that the procedure above is in line with the present policy of the Department to provide for the extension of the treaty alien privilege to businessmen from such countries as did not have treaties in force in 1924 with the United States granting such privilege.

With reference to your letter dated January 8 to the Chief of the Division of Near Eastern Affairs, page 3, paragraph 3,<sup>10</sup> concerning no mention of consular rights in the Turkish proposal, it is considered to be highly inadvisable for that question to be included in the present negotiations and the Department leaves to your discretion the arguments you may deem it expedient to employ should the question be raised by the Turks. If this eventuates, you may naturally state that it is more in line with the Department's present policy to treat such questions separately in another convention.

You will meanwhile please inform the Department of the present status of the treaty of commerce and navigation, signed March 1 at Ankara, between the British and Turks.<sup>11</sup>

CASTLE

<sup>8</sup> Quotation not paraphrased.

<sup>9</sup> Approved May 26, 1924; 43 Stat. 153.

<sup>10</sup> Not printed.

<sup>11</sup> Telegram No. 61, September 8, 1930, 1 p. m., from the Ambassador in Turkey (711.679 Residence and Establishment/22) states: “Exchange of ratifications took place September 3”. Text printed in League of Nations Treaty Series, vol. cviii, p. 407.

711.679 Residence and Establishment/27 : Telegram

*The Ambassador in Turkey (Grew) to the Secretary of State*

[Paraphrase]

ISTANBUL, September 17, 1930—2 p. m.

[Received September 17—1 p. m.]

68. Department's 46, August 30, 2 p. m.

(1) Having studied the formula to be incorporated in the convention of residence and establishment, I believe it wise to propose to the Turks the omission of the word "other" in the final line of the formula. Without this omission, it is not clear that the United States could, under the most-favored-nation clause, claim a special privilege which is extended to nationals of a foreign power in a field where Turkish law permits national treatment to foreigners. It is true that the Turks assert it is inconceivable for most-favored-nation treatment ever to be more favorable than national treatment, but the possibility should not be disregarded by us that other countries may obtain special privileges in the future from Turkey in response to economic or other reasons. I expect strenuous objection by the Turks to the proposed omission, and I would be willing, in case they prove intransigent, to suggest an appropriate reference in a protocol. On this point I should welcome receiving the comments and instructions of the Department.

(2) The Department's reasons for the addition of the words "entry and sojourn" are not entirely clear to me. Is it the present position of the Department that an unqualified undertaking to give most-favored-nation treatment respecting entry and sojourn will secure the continuance of the treaty alien status, despite a reference in the 1924 Immigration Act to "present existing treaty of commerce and navigation"? In case this is the position of the Department, I should like discreetly to use it as an argument with the Turks to obtain their consent to the omission suggested above in paragraph (1) on the theory that the qualification of most-favored-nation treatment provided by using the word "other" makes it doubtful if the treaty alien status could be continued for Turks.

(3) I should be pleased to have the Department's views respecting the term of the convention. The British treaty has five years.

(4) I propose taking to Ankara, as members of the American delegation, the Counselor of Embassy (Shaw) and Commercial Attaché (Gillespie).

(5) The Turkish delegation is beginning negotiations immediately after October 15.

GREW

711.679 Residence and Establishment/29:Telegram

*The Acting Secretary of State to the Ambassador in Turkey (Grew)*

[Paraphrase]

WASHINGTON, September 22, 1930—noon.

55. Your 68, September 17, 2 p. m.

(1) The Department, upon further consideration, has decided that it would not be advisable at this time to raise the question of granting most-favored-nation treatment to the Turks in matters of entry and sojourn. However, before you are definitely instructed in the matter, your observations are desired by the Department on the considerations hereunder:

(2) Turkey might take the granting of most-favored-nation treatment to its nationals in matters of entry and sojourn to mean that the United States Government is willing to accord them in such matters the treatment now enjoyed by nationals of other countries of the Western Hemisphere under the Immigration Act of 1924, Section 4 (c). This is, of course, out of the question.

(3) The United States Government would find acceptable the granting, in matters of entry and sojourn, of most-favored-nation treatment limited to the merchants only of either country, but the Department questions whether, if the Turks understood the implication of such an arrangement, they would be willing to accept it, in view of the probable invocation of the arrangement by naturalized American citizens of Ottoman Turk-Armenian origin to secure permission as American merchants to enter and sojourn in Turkey.

(4) The Department, in weighing the considerations set forth above in paragraphs (1) to (3), would be glad to receive from you, your views regarding the possibility, if any, that omitting any reference in the treaty to the rights of entry and sojourn might compromise the rights which American representatives in Turkey of American or other business concerns already enjoy.

(5) The Department concurs with your belief that it would be most advisable to obtain, if possible, the consent of the Turks to omission of the word "other" in the final line of the formula as it stands now; and such modification of the text you are authorized to effect through the use of any arguments you may think it appropriate to employ. Should your efforts in the above connection not prove successful, the Department hopes that the same end may be attained by you through an appropriate reference either in a protocol or in some other subsidiary document which the high contracting parties will sign.

(6) In case the Turks should reject both of the procedures suggested above in paragraph (5), do you believe that the difficulty might be obviated through modification of the second part of the

formula to read as follows: <sup>12</sup> "the United States will accord to Turkey and Turkey will accord to the United States most-favored-nation treatment and in cases where national treatment is permitted by the laws of the two countries, respectively, each will accord the other national treatment."

(7) It is desired by the Department that you obtain the consent, if possible, of the Turks to a five-year term for the proposed treaty, and it is presumed that there will be no objection to our desires in this connection in view of the term of the Anglo-Turk treaty. It would be desirable also to provide for extending the validity of the treaty beyond the five-year term until one year from the date upon which either high contracting party shall have notified the other of its intention to terminate it.

(8) Your proposal to take Shaw and Gillespie to Ankara as delegation members is approved.

(9) You may begin negotiations as soon after October 1 as is feasible.

COTTON

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A1.679 Residence and Establishment/30 : Telegram

*The Ambassador in Turkey (Grew) to the Secretary of State*

[Paraphrase]

ISTANBUL, September 26, 1930—10 a. m.

[Received 11:56 a. m.]

74. Department's 55, September 22, noon.

(1) It had always been my understanding that the words "conditions of residence and establishment" (as they were used in the formula quoted in my 62, October 2, 1929, noon) covered entry and sojourn, this interpretation having been commonly, if not universally, accepted since the negotiation of the 1923 establishment convention at Lausanne.<sup>13</sup> And it appears that the words "entry and sojourn" (used in the Department's revised formula) would seem, therefore, to be merely making explicit and specific what the original formula contains by implication and general usage. Should such be the case, the omission of the words "entry and sojourn" would not effectively cure the difficulty described in the Department's 55, paragraph (2). It is my sincere hope that after further consideration the Department will find it possible to hold this difficulty to be not of so serious and practical a character as would require omission of the words "entry and sojourn". The assumption under any phraseology that a treaty of

<sup>12</sup> Quotation not paraphrased.

<sup>13</sup> Signed July 24, 1923; League of Nations Treaty Series, vol. xxviii, p. 151; cf. *ibid.*, vol. xxxvi, p. 179.



establishment does not envisage entry and sojourn, in my opinion, would be open to most serious question.

(2) Whatever the phraseology of the treaty of establishment, I fear that naturalized American citizens of Ottoman Turk-Armenian origin would meet with great difficulty in entering Turkey, on account of the well-known attitude of the Turkish Government regarding the expatriation and naturalization of Turkish citizens.

(3) If omitting from the proposed treaty the words "entry and sojourn" means a denial to Turkey of treaty alien status, which now is being granted under the Department's new policy to nationals of countries concluding treaties with the United States, the Turks may quite possibly resort to retaliatory measures against American businessmen who seek to enter Turkey.

GREW

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711.679 Residence and Establishment/31 : Telegram

*The Secretary of State to the Ambassador in Turkey (Grew)*

[Paraphrase]

WASHINGTON, September 29, 1930—7 p. m.

58. Your 74, September 26, 10 a. m.

(1) The Department does not and in the present instance is not prepared (for reasons which were set forth in the Department's 55, September 22, noon, paragraph (2)) to regard the expression "conditions of residence and establishment" as covering necessarily the entry of aliens.

(2) However, regarding your 74, paragraph (1), last sentence, you will realize that the already existing right of Turks to enter the United States, subject to the provisions of the 1924 Immigration Act, would, of course, not be affected in any way by the absence of any mention in the present proposed treaty of the matter of entry.

(3) In order to obviate any possible misunderstanding, however, regarding the Department's position, as set forth above in paragraph (1), the Department would have no objection to having the matter of entry specifically covered by the following additional clause, which if acceptable would form the first sentence of the formula (in view of the word "residence" in the second sentence, the word "sojourn" has been omitted as superfluous):<sup>14</sup>

"With respect to matters affecting the entry of nationals of the High Contracting Parties into the territories of the other Party, the United States will accord to Turkey and Turkey will accord to the United States most-favored-nation treatment subject to the immigration laws in force in the respective countries".

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<sup>14</sup> Quotation not paraphrased.

(4) If the above method of overcoming the present difficulty meets with your approval, and if the Turks should inquire regarding the reason for insertion of the reference to immigration laws, you can, if necessary, reassure the Turks concerning the necessity of this reference as far as the United States Government is concerned and point with force to the fact of the reciprocal nature of the clause.

(5) You are confidentially informed that the above additional clause, in the view of the Department, would invoke, instead of override, the Immigration Act's reference to "present existing treaties". This is unavoidable, however, unless the treaty-merchants question is covered by a detailed article which is designed to override the act's section 3 (6), and this might in turn lead the Turks to suggest further detailed provisions. In order to overcome such a difficulty, the Department is ready to continue according to Turkish merchants the treaty-merchant privilege on the principle that the 1830 treaty provision<sup>15</sup> according such privilege has neither been covered nor superseded in our new treaties with Turkey by any subsequent provision.

Your views on the above suggestions will be appreciated by the Department.

STIMSON

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711.679 Residence and Establishment/33 : Telegram

*The Ambassador in Turkey (Grew) to the Secretary of State*

[Paraphrase]

ISTANBUL, October 1, 1930—3 p. m.

[Received 4 p. m.]

78. Department's 58, September 29, 7 p. m. While not impossible, the negotiation of the formula quoted in the Department's 58, paragraph (3), would, I fear, at best involve elaborate explanations to Turkey and at worst a serious obstacle. Would the Department approve the following proposal to the Turks as a substitute: (a) The formula quoted in the Department's 46, August 30, 2 p. m., but omitting the words "entry and sojourn" in the second line and the word "other" in the final line; and (b) additional to the foregoing, a paragraph in the treaty or, in case of objection from the Turks, a provision in a protocol reproducing the first of the reservations by the United States Senate to the treaty signed December 8, 1923, with Germany.<sup>16</sup>

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<sup>15</sup> Treaty of commerce and navigation, signed at Constantinople May 7, 1830; Miller, *Treaties*, vol. 3, pp. 541, 542.

<sup>16</sup> For text of treaty, see *Foreign Relations*, 1923, vol. II, p. 29; for text of reservation, see *ibid.*, p. 45.

I have taken into consideration the following points in framing the suggestions above:

(1) It is desirable that the original Turkish formula be modified as little as possible.

(2) Acceptance by Turkey of a formula already accepted by Germany and by Hungary <sup>17</sup> is far more likely than acceptance of a new formula.

(3) A ready explanation can be made to the Turks of the reservation to the German treaty in terms of American susceptibility in the matter of regulating immigration, and no explanation need be volunteered concerning either of the sections, 3 (6) or 4 (c), of the Immigration Act of 1924.

(4) If the reservation to the German treaty allays the Department's fears as to section 4 (c), it is presumed that the Department would not any longer object to the view that the words "conditions of residence and establishment" do cover the matter of entry.

(5) If, as the Department envisages in its No. 58, penultimate sentence, the treaty-merchant status for Turkey can be continued, there seems to be no reason to add the word "entry" to the original formula.

GREW

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711.679 Residence and Establishment/34 : Telegram

*The Secretary of State to the Ambassador in Turkey (Grew)*

[Paraphrase]

WASHINGTON, October 3, 1930—2 p. m.

60. Your telegram No. 78, October 1, 3 p. m.

(1) The Department approves of suggestion (a) in your telegram No. 78, regarding the phraseology of the formula to be proposed to Turkey and will be prepared to hold that the expression "conditions of residence and establishment" covers the matter of entry, but only on condition that the Senate's first reservation to the treaty with Germany of December 8, 1923, shall appear in either the treaty text itself or in a protocol to be signed simultaneously with the treaty.

(2) On the foregoing understanding the Department authorizes you to proceed with treaty negotiations.

STIMSON

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<sup>17</sup> Treaty signed at Washington, June 24, 1925; *Foreign Relations*, 1925, vol. II, p. 341.

711.679 Residence and Establishment/39: Telegram

*The Ambassador in Turkey (Grew) to the Secretary of State*

[Paraphrase]

ANKARA, October 19, 1930—3 p. m.

[Received October 19—2:30 p. m.]

6. Yesterday at the first meeting with the Turkish delegation three points were discussed, regarding which I desire to receive instructions from the Department:

(1) Exemption from security (*judicatum solvi*) is, under Turkish law, conditional upon reciprocity. There is, I understand, no such exemption of aliens in the United States; I should like, however, full information concerning this point.

(2) Omission of the word "other" in the final line of the formula is seriously objected to by the Turks on the theory that they would not be able, after omitting this word, to grant both national and most-favored-nation treatment. The Turks suggest omitting all mention of national treatment, thereby having the formula provide only most-favored-nation treatment. This would, they point out, in practice give the United States national treatment wherever it has been stipulated in any of Turkey's treaties.

(3) The Turks seem to be willing to accept in the treaty a paragraph which shall reproduce the Senate's first reservation to the 1923 treaty with Germany, but they inquire if I would state in a *procès-verbal* that the United States applies the same legal immigration control to all European countries as it applies to Turkey. Such a statement possibly might be made in a letter in case the Department finds a *procès-verbal* objectionable.

GREW

711.679 Residence and Establishment/40: Telegram

*The Secretary of State to the Ambassador in Turkey (Grew)*

[Paraphrase]

WASHINGTON, October 21, 1930—4 p. m.

1. Your 6, October 19, 3 p. m.

(1) There exists in the District of Columbia, and perhaps in other jurisdictions of the United States, provision for exemption from *cautio judicatum solvi* as regards alien paupers. In this respect the Turks, of course, would enjoy the same treatment as is accorded in all such jurisdictions to nationals of the most favored nation. If you do not see any objection at this time to raising the question of local laws, you may in an appropriate manner assure the Turks that the United States Government would not invoke, in cases of its citizens

in Turkey from American States which do not accord exemption from *cautio judicatum solvi* to aliens, the most-favored-nation treatment in this respect.

The Department assumes, in view of the Turkish inquiry regarding the above matter, that they consider the phrase "most-favored-nation treatment" in the formula to imply unconditional most-favored-nation treatment, which is not the case under judicial decisions in the United States. The Department considers that, strictly speaking, American citizens of the category mentioned above could not, under simple most-favored-nation treatment, claim exemption from *cautio judicatum solvi*, but it is considered undesirable for you to point this out to the Turkish delegation.

(2) The Department has no objection to omitting all mention from the formula of national treatment, whereupon the latter half of the formula would read:<sup>18</sup> "The United States will accord to Turkey and Turkey will accord to the United States most-favored-nation treatment in all cases."

(3) The Department has no objection to a statement by you, preferably in a letter to the Turks, that <sup>18</sup> "The United States applies the same immigration laws and regulations to aliens coming from all European countries as are applied to aliens coming to the United States from Turkey."

STIMSON

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711.679 Residence and Establishment/44 : Telegram

*The Ambassador in Turkey (Grew) to the Secretary of State*

ANKARA, November 6, 1930—11 a. m.

[Received 2:55 p. m.]

9. Turkish delegation have proposed modified text in French for treaty of establishment of which following is translation:

"Treaty of establishment between Turkey and the United States. Turkey, on the one part, and the United States of America, on the other part, desirous of regulating the conditions of establishment and sojourn of Turkish nationals and corporations in the United States of America and of nationals and corporations of the United States of America in Turkey and having in mind that there exists between the two countries no provisions regulating the said conditions, have resolved to conclude a treaty of establishment and have appointed to this end their plenipotentiaries:

The President of the Turkish Republic, and

The President of the United States of America,

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

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<sup>18</sup> Quotation not paraphrased.

Article 1. With reference to the conditions of establishment and sojourn which shall be applicable to the nationals and corporations of either country in the territories of the other, as well as to fiscal charges and judicial competence, the United States of America will accord to Turkey and Turkey will accord to the United States of America the same treatment as that which is accorded or shall be accorded to the most-favored third country, it being understood that the said nationals and corporations of each of the two countries conform, respectively, in the territories of the other to all local laws and regulations which are or shall be in force.

Nothing contained in this article shall be construed to affect existing statutes and regulations of either country in relation to the immigration of aliens or the right of either country to enact such statutes.

Article 2. The present treaty shall be ratified and the ratifications thereof shall be exchanged at Washington as soon as possible.

It shall take effect one month after the date of the exchange of the ratifications and shall remain in effect for three years. After this date it shall remain in effect as long as it shall not have been denounced by either of the high contracting parties with a delay of six months.

In witness whereof the plenipotentiaries have signed the present treaty and have affixed their seals thereto.

Done in duplicate in (blank) at Ankara this (blank) day of (blank) month 1930."

[Paraphrase.] (1) The Turks, and particularly their Foreign Office legal department, still are concerned over the treaty of 1830 and the capitulations. They acknowledge freely that their anxiety is more legalistic than practical. Owing to the arguments and persuasion I brought to bear, the matter was referred finally for decision to the Cabinet. The latter insisted upon including some protective clause and in this regard proposed the words<sup>19</sup> "having in mind that there exist between the two countries no provisions regulating the said conditions". There is every reason to expect Turkish insistence upon this or some similar clause, at the risk even of causing the failure of the negotiations or the treaty.

(2) In article I, paragraph 1, there has been proposed a modification which begins with the words "it being understood" and ends with the paragraph. The Turks might be induced to place this clause in a procès-verbal or to drop it entirely if the Department should find it to be wholly objectionable and if the preamble proposed by the Turks should be accepted.

(3) Though the Turks proposed a three-year term, I believe they could be induced to accept the five-year term we originally proposed.

(4) In article I the words "fiscal charges" refer to matters which are covered by the fiscal clauses of the Allied establishment convention of Lausanne.

Please instruct me. [End paraphrase.]

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<sup>19</sup> Quotation not paraphrased.

711.679 Residence and Establishment/45 : Telegram

*The Secretary of State to the Ambassador in Turkey (Grew)*

[Paraphrase]

WASHINGTON, November 10, 1930—4 p. m.

4. Your 9, November 6, 11 a. m.

(1) The Department is not prepared to agree to include in the proposed treaty a statement to the effect that <sup>20</sup> "there exist between the two countries no provisions regulating the said conditions (of establishment and sojourn)", if for no other reason than that the *modus vivendi* of February 17, 1927, with Turkey <sup>21</sup> does, in fact, contain such provisions.

(2) The statement above is not acceptable to the Department, furthermore, because it might imply acceptance by the United States Government of the abolition of the capitulations as of October 1, 1914, the date on which they were declared by the Turks to be abolished.<sup>22</sup> This might place the Department in a most difficult position eventually in presenting claims which arose against the Turkish Government in the period of the World War and the period thereafter prior to the negotiating of the American-Turkish treaty at Lausanne.<sup>23</sup>

(3) While it is considered by the Department that the preamble which the Turks suggested should, without the statement above quoted in paragraph (1), set at rest Turkey's misgivings over the treaty of 1830, the Department would have no objection to the preamble being strengthened along the following lines:

"The United States of America and the Republic of Turkey, being desirous of prescribing, in accordance with modern international law, the conditions under which the nationals and corporations of each of the High Contracting Parties may settle and carry on business in the territory of the other Party, and with a view to regulating accordingly questions relating to jurisdiction and fiscal charges, have decided to conclude a treaty for that purpose and have appointed their plenipotentiaries:"

(4) If disposal of the 1830 treaty in the manner above is unacceptable to the Turks, the Department would be ready, if you deem it advisable, to add to the present draft's second article a third paragraph to read as follows:

"The present treaty shall supersede, as between the High Contracting Parties, all treaties concluded between the United States of America and the former Ottoman Empire".

You will note that the phrase "as between the High Contracting Parties" is necessary because of the fact that the treaty of 1830 still

<sup>20</sup> This and the other quotations in this telegram are not paraphrased.

<sup>21</sup> *Foreign Relations*, 1927, vol. III, pp. 794-797.

<sup>22</sup> See *ibid.*, 1914, pp. 1090 ff.

<sup>23</sup> See general treaty of August 6, 1923, *ibid.*, 1923, vol. II, p. 1153.

is partially in force as between the United States and certain countries which were formerly part of the Ottoman Empire.

(5) The procedure set forth above in paragraph (3) would be greatly preferred by the Department for obvious reasons, and it trusts that you may be able to have it accepted by the Turks. In the opinion of the Department, this procedure would dispose effectually of the treaty of 1830.

(6) It will naturally be realized that, upon termination in its entirety of the treaty of 1830, the Turks cannot continue to enjoy the treaty alien privilege under the provisions of the Immigration Act of 1924, section 3 (6). Consul Allen may be able to inform you of the number of Turks requesting and receiving visas since 1924 under the section cited, but the Department is of the belief that there have been few, if any, Turkish Moslems. The Department finds it difficult to believe, in view of the above situation, that the Turks would seriously resent the loss of this privilege (which later may be restored through American legislation) in view of the simultaneous advantage gained by the Turks through this Government's final recognition of the 1830 treaty's termination. The only procedure by which this privilege could be reacquired at this time by the Turks would be by a specific provision in the proposed treaty, and this procedure is considered by the Department to be inadvisable.

(7) The Department would prefer to see inserted in the new draft of article I, paragraph 1, before "the same treatment" the words "in all cases".

(8) The Department perceives no need in the same paragraph for the phrase "it being understood, etc." which would seem to be covered by the undertaking mutually to accord "the same treatment as that which is accorded or shall be accorded to the most-favored third nation". Therefore, the Department would prefer the omission of the above phrase and hopes you may be able to persuade the Turks to agree to this.

(9) The Department is ready to accept a three-year period of validity for the present treaty provided, however, the treaty comes into force immediately upon exchange of ratifications and that 12 months' notice is given of intention to terminate it.

(10) The Department would appreciate having your views regarding the possible effect upon the *modus vivendi* on general relations of 1927 which the coming into force of the proposed treaty might have. In view particularly of the provisions in the 1927 agreement with respect to negotiating a naturalization convention and establishing a claims commission, the Department would not be ready to regard the as yet unexecuted or superseded parts of the 1927 agreement as affected by the coming into force of the proposed treaty. If you believe that an



exchange of notes is necessary to clarify the above matter, the Department authorizes you to follow such procedure.

Although the Department entertains the hope that the proposed treaty may come up for consideration at the forthcoming short session of the Senate, there can not be any certainty of this. You may accordingly wish to bear in mind, as regards the authorization given you in paragraph (4) above, the considerations which were set forth in the Department's No. 15, March 17, 6 p. m., paragraph (4).

STIMSON

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711.679 Residence and Establishment/48: Telegram

*The Secretary of State to the Ambassador in Turkey (Grew)*

[Paraphrase]

WASHINGTON, November 17, 1930—2 p. m.

5. Your 11, November 14, noon.<sup>24</sup> Concurring in your belief that delaying further negotiations with the Turks would be desirable, the Department believes that the Turks may by such action be put in a more receptive frame of mind at the time of resumption of formal negotiations.

In view of the Turks' apparent eagerness to negotiate this treaty (which they believe will enable them to sign the arbitration and conciliation treaties without modification), it is presumed by the Department that you may, by suspending the present negotiations, be able meanwhile to induce the Turks to go back to the simple formula originally suggested by them and accepted by the Department in principle as the basis of an establishment convention.

If you bear in mind that any considerable suspension of these negotiations probably would mean that the treaty could not come up for Senate consideration during the forthcoming short session of Congress, it would probably be desirable for formal negotiations not to be resumed until September or October, 1931, in case the Turks persist in their proposal now to modify the original formula radically. Any observations you may have to make concerning the latter suggestion would be welcomed by the Department.

STIMSON

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711.679 Residence and Establishment/49: Telegram

*The Ambassador in Turkey (Grew) to the Secretary of State*

[Paraphrase]

ANKARA, November 19, 1930—9 p. m.

[Received 9:42 p. m.]

13. Department's 5, November 17, 2 p. m. Conversing privately today with the Turkish treaty delegation representative Zekai Bey,

<sup>24</sup> Not printed.

I informed him of the unacceptability of the Turkish suggestion for the preamble and I proposed adjournment of the negotiations. It is still maintained by Zekai Bey that the Turkish Cabinet will not, and cannot, cede the point at issue, but personally he appears to be very anxious that some solution be found, and he made a number of proposals of alternative formulas, of which I found none acceptable. The Turks might possibly be persuaded to accept the suggested preamble quoted in the Department's 4, November 10, 4 p. m., paragraph (3); but this formula I hesitate to propose if it would do away with applying the treaty alien status to the Turks, thereby making unavoidable both complicated and embarrassing explanations concerning the treaty of 1830. Should the Department consider that the term "in accordance with modern international law" might be held properly to apply as regards the 1830 treaty only to those portions which have become obsolete through non-usage, though not necessarily to the entire treaty, Turkish susceptibilities perhaps might thus be tacitly allayed without the continuance of the treaty alien status being affected. Would this interpretation be possible? If it is not, is the Department able to suggest any similar addition which, while not of a controversial character, would tend to meet both purposes? In this connection please consider the Department's 58, September 29, 7 p. m., paragraph (5). If the foregoing suggestions do not prove successful, I am still prepared for adjournment of the negotiations.

GREW

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711.679 Residence and Establishment/51 : Telegram

*The Secretary of State to the Ambassador in Turkey (Grew)*

[Paraphrase]

WASHINGTON, November 21, 1930—5 p. m.

6. Your No. 13, November 19, 9 p. m.

(1) The Department would be willing to regard the suggested preamble quoted in its No. 4, November 10, 4 p. m., paragraph (3), as disposing of all capitulatory provisions in the treaty of 1830 but without disturbing the treaty alien privilege which article I of this treaty accords to Turkish merchants. While the interpretation above would obviate the necessity for you to raise the treaty alien status with the Turks, it is not clear to the Department how the "complicated and embarrassing explanations" can be avoided if the Turks inquire concerning the preamble's effect in effectually disposing of the 1830 treaty as a whole.

(2) In this connection the Department wishes to refer to your reference (see page 1950 of your diary<sup>25</sup>) to Zekai Bey's proposal to include in the proposed treaty a second article<sup>26</sup> "to the effect that

<sup>25</sup> Not printed.

<sup>26</sup> Quotation not paraphrased.

with the entering into force of this treaty all previous treaties between Turkey and the United States of a similar nature would thereby terminate." The apparent Turkish willingness to regard the old treaties' technical validity as extended pending operation of the proposed treaty agreeably surprised the Department. Such a Turkish interpretation would be of great assistance to the United States Government eventually in the presentation of claims against Turkey, because it would prevent the Turks from claiming then that American capitulatory rights in Turkey ended in 1914. Therefore, it is deemed most desirable that you refrain, in your further conversations with the Turks, from arguing against the above interpretation and that you bear in mind that the treaty of 1830 must be disposed of eventually and sooner or later the date of its termination must be agreed upon definitely.

(3) With reference to the Department's No. 5, November 17, 2 p. m., final paragraph, it is considered by the Department that no useful purpose would be served in proceeding with the negotiations at this time unless signature of the present treaty can be effected with little further delay.

STIMSON

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711.679 Residence and Establishment/52 : Telegram

*The Ambassador in Turkey (Grew) to the Secretary of State*

[Paraphrase]

ANKARA, November 25, 1930—noon.

[Received 10:44 p. m.]

15. I presented to Zekai Bey on November 22, as a final proposal, the formula quoted in the Department's No. 4, November 10, 4 p. m., paragraph (3). He consulted Mustapha Cherif Bey and then proposed a slightly more accentuated formula, which he undertook to submit to the Turkish Cabinet and which, after study, I told him I would recommend to my Government if the Turkish Cabinet approved it. The formula follows:<sup>27</sup>

"The United States of America and the Turkish Republic, taking note of the fact (*constatant que*) that the conditions under which the nationals and corporations of each of the high contracting parties may settle and carry on their activities in the territory of the other party should be prescribed in accordance with modern international law and that questions relating to judicial competence and fiscal charges should manifestly be regulated by this same principle, have decided to conclude a treaty to this effect and purpose."

After the matter was discussed by the Turkish Cabinet, Zekai Bey suggested adding to the above formula, which he had revised, a

<sup>27</sup> Quotation not paraphrased.

unilateral declaration to be made in a protocol or procès-verbal by the Turkish delegation to the effect that a void is filled by the establishment treaty, since no treaty relations exist between Turkey and the United States respecting establishment, residence, and judicial competence. Although this formula perhaps may be considered less objectionable than the one in the preamble which was set forth in my No. 9, November 6, 11 a. m., because the expression "treaty relations" presumably would not apply to the February 17, 1927, exchange of notes, I felt that, in view of the Department's 4, November 10, 4 p. m., paragraph (2), I had no choice except to reject it and to decline to submit it to the Department. Also I had in mind the Department's 6, November 21, 5 p. m., paragraph (3). Accordingly the negotiations are adjourned.

These negotiations with Turkey unquestionably have revived somewhat the always latent Turkish fears regarding the American attitude and intentions respecting the capitulations. I feel confident that, with time and a little tact at the present juncture, there will subside such irritations as may have been created. I recommend strongly that I be given authority to seek an immediate interview with Prime Minister Ismet Pasha in order to inform him, under my Government's specific instructions, as follows: <sup>28</sup>

That the Department is fully alive to the changes which have taken place in Turkey in recent years; that its sole desire is that the development of treaty relations between the two countries should proceed upon the basis of these changed conditions; that it was with such considerations in mind that the Department negotiated the exchange of notes of February 27 [17], 1927, and the commercial treaty of October [1,] 1929, and has been prepared to negotiate arbitration and conciliation treaties as well as a treaty of establishment and residence; and finally that it is a matter of sincere regret to the Department that the anxiety of the Turkish Government with respect to the past should have on more than one occasion delayed the complete regularization of the treaty relations between the two countries.

Should the Department feel that this statement can be strengthened, so much the better.

I should like to leave with Ismet Pasha, at the same time I make the above declaration, a copy of the proposed treaty in the form in which my Government would have been ready to sign it. In order to do this with the maximum effect, I should welcome receiving from the Department its approval of the preamble as set forth above in the first part of this telegram. The first and second articles of the text to be left with the Prime Minister would be in accordance with the Department's No. 4, November 10, 4 p. m., paragraphs (7) to (9).

I should greatly appreciate an early reply.

GREW

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<sup>28</sup> Statement not paraphrased.

711.679 Residence and Establishment/53 : Telegram

*The Secretary of State to the Ambassador in Turkey (Grew)*

[Paraphrase]

WASHINGTON, November 26, 1930—6 p. m.

7. Your No. 15, November 25, noon. The Department authorizes you to seek an immediate interview with the Turkish Prime Minister and inform him in the sense you suggested in your No. 15. However, the Department would prefer modifying the first clause of your statement as follows:<sup>29</sup> "The Department is fully alive to the changes which have taken place in Turkey since the establishment of the Republic." The reason for this modification is that the Turks might take the expression "in recent years" to imply that among the changes to which the United States is "fully alive" is the abolition of the capitulations in 1914.

At the same time you may leave with the Prime Minister a copy of the proposed treaty, opening with the preamble as modified and quoted in your No. 15 and containing the modified first and second articles in accordance with the Department's No. 4, November 10, 4 p. m., paragraphs (7) to (9).

STIMSON

711.679 Residence and Establishment/54 : Telegram

*The Ambassador in Turkey (Grew) to the Secretary of State*

[Paraphrase]

ANKARA, November 28, 1930—10 a. m.

[Received November 28—7:07 a. m.]

16. Department's No. 7, November 26, 6 p. m. Yesterday afternoon I saw the Prime Minister to whom I made the declaration which the Department had authorized. Ismet Pasha appeared pleased; and he remarked that the difference between the American and Turkish treaty delegations appeared to be largely a matter of form, which he hoped might be straightened out when the time was more propitious. In the meantime, he assumed, Turkish nationals in the United States could continue receiving most-favored-nation treatment, while Americans in Turkey, he assured me, would continue receiving the same treatment. Ismet Pasha felt relations between Turkey and the United States could continue upon the same satisfactory basis as they had prior to beginning our recent negotiations.

This interview, I believe, will have served in overcoming any temporary irritation which the adjournment of negotiations may have created.

GREW

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<sup>29</sup> Quotation not paraphrased.

INFORMAL REPRESENTATIONS AGAINST TAXATION UPON THE  
INCOME OF AMERICAN EDUCATIONAL AND PHILANTHROPIC  
INSTITUTIONS IN TURKEY

367.1164/126

*The American Ambassador in Turkey (Grew) to the Turkish Minister  
for Foreign Affairs (Tevfik Rüştü)*<sup>30</sup>

[Translation]

STAMBOUL, December 24, 1929.

MY DEAR MINISTER: A matter of serious import having arisen, I venture to bring it first to Your Excellency's attention in this informal way—as you have been good enough to invite me to do from time to time—rather than to make formal representations, and I do so in full confidence that even a brief examination of the matter will convince you of the soundness of the point of view which I herein present.

The Turkish tax officials in Stamboul have recently conducted a survey of the revenue of the various American educational and philanthropic institutions in this city, including the colleges and schools. They have inquired as to the amount of the deficits and from what sources these deficits are covered and by whom. There is therefore apprehension that the purpose of this survey may envisage the assessment on these revenues of the so-called Inheritance and Bequest Tax.

The moneys received by these institutions from their parent organizations in the United States, which control and operate them, can in no sense be considered as gifts or bequests. These moneys represent the income derived from funds invested in America, being received on the basis of a continual running account with the parent organizations, and they are applied to American educational institutions in Turkey not as free gifts or bequests in the meaning of the Turkish law but simply as operating expenses to meet the deficits and to balance the budgets of the subsidiary institutions abroad. Without this income the American educational institutions in Turkey could not continue to exist as they are not self-supporting.

American colleges and schools, eager to serve the New Turkey, are accepting at partial or total reductions of tuition Turkish pupils to a total of many thousands of liras each year. To claim a tax on such sums expended for the education of worthy Turkish students, and to increase the tax in proportion to the increased expenditures for Turkish youth, would be difficult to understand or explain.

Americans interested in Turkey's remarkable new birth, sympathetic with her national ideals, have placed in Turkey a group of

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<sup>30</sup> Copy transmitted to the Department by the Ambassador in Turkey in his despatch No. 910, January 8, 1930; received January 30.

friendly Americans who today constitute the most sympathetic interpreters of the Turkish people before the American public. To them in substantial measure is due the changing attitude in America toward the New Turkey. They bring large moral and material assets to Turkey every year. They should not be penalized for this service.

I do not wish to bother Your Excellency with more detail. The issue appears quite simple but it also appears of the greatest importance because an insistence by the Turkish authorities on the levying of this tax, contrary I am sure to the spirit of the law, would undoubtedly result in the closing of the doors of the American institutions in question for they could not continue to operate under such a heavy burden. I express the hope, still in this informal manner, that Your Excellency may find it possible to reassure me that the apprehensions of our educational institutions in Turkey that this tax is to be levied against them are unfounded. Should there be any doubt about the matter, I trust that you will find it desirable to lay the case before His Excellency Ismet Pasha<sup>31</sup> in order that he may be apprised, before it is too late, of the potential seriousness of this situation.

I avail myself [etc.]

JOSEPH C. GREW

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367.1164/127 : Telegram

*The Acting Secretary of State to the Ambassador in Turkey (Grew)*

[Paraphrase]

WASHINGTON, February 3, 1930—6 p. m.

6. Reference your despatch No. 910, January 8, 1930.<sup>32</sup>

(1) The steps you have already taken to prevent the levying by Turkish fiscal authorities of the so-called inheritance and bequest tax upon the income of American educational institutions located in Turkey are approved by the Department.

(2) Should the Turkish fiscal authorities actually proceed to collect the tax mentioned above, thereby forcing all American institutions of educational and philanthropic nature to close, the effect upon American-Turkish relations, in the view of the Department, could not fail to be most unfortunate.

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<sup>31</sup> Turkish Prime Minister.

<sup>32</sup> Not printed; for its enclosure, see *supra*.

(3) In case you deem it wise, the Department approves your seeking to interview Prime Minister Ismet Pasha with a view to informally laying before him the facts of the case and in order to acquaint him with the concern felt by this Government in this regard, as set forth under paragraph (2).

(4) If and when you consider it advisable to lay this matter before the Turkish Prime Minister, please telegraph the Department whether you think simultaneous representations here to the Turkish Ambassador would be helpful to you.

(5) Meanwhile, the Department would be interested to hear whether other foreign institutions of similar nature are threatened with the same tax and, if they are, what preventive steps the representatives in Turkey of the governments concerned are taking.

COTTON

367.1164/128

*The Ambassador in Turkey (Grew) to the Acting Secretary of State*

No. 947

ISTANBUL, February 12, 1930.

[Received February 27.]

SIR: With reference to Paragraph 5 of the Department's telegram No. 6 of February 3, 6 p. m., answering my despatch No. 910 of January 8, 1930,<sup>33</sup> regarding the prospect of the possible levying of the so-called Inheritance and Bequest Tax on the income of American educational and philanthropic institutions in Turkey, I have the honor to inform the Department that inquiries of the British, French, German and Italian Embassies have not revealed any steps on the part of the Turkish fiscal authorities to impose this tax on the educational and philanthropic institutions of their respective nationals. No preventative steps are therefore being taken by these Embassies.

As no developments in this matter, so far as the American institutions are concerned, have occurred since my last despatch was written, I have not felt it necessary to take further steps and am hoping that my letter to Tevfik Rüstü Bey may have resulted in the whole matter having been quietly dropped. I am, however, prepared to act at any moment in case of further adverse developments and I appreciate the Department's approval of the steps already taken as well [as?] of my provisional recommendations for possible future action.

I have [etc.]

JOSEPH C. GREW

<sup>33</sup> Despatch not printed.



367.1164/130

*The Ambassador in Turkey (Grew) to the Acting Secretary of State*

No. 1006

ISTANBUL, April 17, 1930.

[Received May 8.]

SIR: With reference to my despatch No. 910 of January 8, 1930,<sup>35</sup> and to the Department's telegraphic reply, No. 6 of February 3, 6 p. m., and also to my despatch No. 947 of February 12, 1930, I have the honor to inform the Department that on April 2 it was brought to my attention that the local fiscal authorities had called upon Constantinople Woman's College to pay the sum of 109,000 Turkish pounds under the provisions of the law relating to the so-called tax on donations and bequests. Application of the law is made retroactive on a three year period. I understand that one representative of the tax office in Istanbul, after examining the books of the college, had drawn up and signed a report to the effect that the income of the college was not liable to taxation under the terms of the law in question and this report appears also to have been signed by the tax officer at Arnavutkoy, the seat of the College (see enclosure No. 5).<sup>35</sup> Another and presumably superior officer, however, appears to have taken a different view of the matter because, shortly after the original report was drawn up, the tax was assessed.

After a conference with Dr. Gates, President of Robert College, who is equally interested in the matter, it seemed to me that the time had come to lay the whole question before Ismet Pasha and accordingly, after presenting the case to the Minister for Foreign Affairs on April 8, I made similar informal representations to the Prime Minister on the following day. From the enclosed memoranda of these two conversations<sup>35</sup> it will be seen that as a result of my talk with Tefik Rüştü Bey, Ismet Pasha on the following morning and prior to my interview with him, discussed the question with the Ministers for Foreign Affairs, Finance, and Public Instruction and that, according to the Prime Minister, while Saraçoğlu Şükrü Bey considers that the law is applicable to the funds received by the foreign colleges and schools, Cemal Hüsnü Bey takes a contrary view and will support his contention when the matter comes up for appeal before the Council of State. Ismet Pasha implied that he himself would see that full justice is given and he is now aware of the potential seriousness of the situation.

The matter is not likely to come before the Council of State for some little time but, in view of Ismet Pasha's statement to me that instructions will be sent to the local tax officials to avoid pressing the matter until such a decision is rendered, I am hopeful that the college may succeed for the time being in avoiding the payment of the full tax by making at most a nominal deposit.

<sup>35</sup> Not printed.

I have given careful consideration to paragraph 4 of the Department's telegram No. 6 of February 3, 6 p. m., inquiring whether in my opinion representations by the Department to the Turkish Ambassador in Washington would be helpful and I have come to the conclusion that it would be preferable not to make such representations to Muhtar Bey. Ever since coming to Turkey I have realized the extreme susceptibilities of the Turks respecting diplomatic representations which might be held to savor of the old capitulatory régime and it has been clear to me that whatever may be the juridical standing of our American educational and philanthropical institutions in Turkey derived from the *modus vivendi* by which the relations of the two countries are based upon the provisions of the unratified Turco-American Treaty of Lausanne,<sup>36</sup> these institutions could not well continue to function without the good will of the Turkish Government. Their position, if the Government desired to be rid of them, could readily be made untenable through mere administrative regulations. I have therefore consistently avoided making official representations on their behalf and have encouraged the Presidents and Directors of these institutions to maintain their own contacts with the Government and to work out their own problems directly with the competent Ministers, it being understood that I would intervene only when some impasse was reached and then only in an informal manner, appealing to the good will of the Turkish Government rather than to actual rights conferred. This policy appears to have been justified for not only has it received the commendation of the Turkish Government itself, thereby contributing to the standing of our institutions in Turkey and the friendly attitude of the Government towards them, but it has also been repeatedly approved by Dr. Gates, the President of Robert College, and by Mr. Fowle,<sup>37</sup> the local representative of the Board of Foreign Missions.

Under these circumstances I should hesitate to advise the Department to make representations to the Turkish Ambassador, for however informally such representations might be made by the Department there would be no assurance as to the manner in which these representations might be reported by Muhtar Bey to his Government. In other words, a mere friendly talk with the Ambassador might by the manner of its communication to Ankara convey to the Turkish Government the impression that a formal and official protest had been made by the United States Government and if such an impression should be made there would be risk of these representations defeating their own purpose by antagonizing rather than ameliorating the attitude of the Turkish officials.

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<sup>36</sup> General treaty between the United States and Turkey, signed August 6, 1923; *Foreign Relations*, 1923, vol. II, p. 1153.

<sup>37</sup> Treasurer of the American Board of Missions in the Near East, Turkey section.

I have told Ismet Pasha frankly of the unfortunate effect which the closing of these institutions would have upon American-Turkish relations and there can be no doubt that he now fully appreciates the potential seriousness of the situation. I am furthermore fully convinced and have been specifically so informed by the Turkish Government that our colleges and schools are welcome in Turkey and I believe that the Prime Minister is aware that their withdrawal from the country would mean not only a very great loss to Turkish education but also a rupture of an important bond with the United States, whose friendship Turkey values and certainly does not desire to see impaired.

The enclosures listed below <sup>38</sup> will give the Department complete information as to the present status of the matter which forms the subject of this despatch. I think that for the moment no further action by the Embassy is called for but I am always ready to take into consideration any recommendations on the part of Dr. Gates, Miss Adams,<sup>39</sup> or Mr. Fowle knowing that they are desirous of working out their own problems so far as is possible and that they are not inclined to press the Embassy into action until a definite impasse has been reached.

I have [etc.]

JOSEPH C. GREW

367.1164/132

*The Secretary of State to the Chargé in Turkey (Patterson)*

No. 233

WASHINGTON, June 2, 1930.

SIR: The Department has received and has read with interest the Ambassador's despatch No. 1006 of April 17, 1930, with regard to the assessment by the Turkish authorities of a tax of 109,000 Turkish pounds on the Constantinople Woman's College.

The Department approves of the informal representations which the Ambassador made in this matter to the Turkish Prime Minister and to the Minister for Foreign Affairs and observes with satisfaction that both of these officials are giving sympathetic consideration to the Ambassador's viewpoint.

For the information of the Embassy it may be added that the Department concurs in the Ambassador's opinion that it would not be desirable, for the present at least, to discuss with the Turkish Ambassador at Washington the question of the assessment of donation and bequest taxes on American educational institutions in Turkey.

The Embassy will, of course, continue to report upon developments in this case which will be followed by the Department with interest.

I am [etc.]

For the Secretary of State:  
FRANCIS WHITE

<sup>38</sup> Not printed.

<sup>39</sup> President of Constantinople Woman's College.

367.1164/133

*The Ambassador in Turkey (Grew) to the Secretary of State*

No. 1091

ISTANBUL, July 25, 1930.

[Received August 14.]

SIR: With reference to my despatch No. 1006 of April 17, 1930, regarding attempts to tax American institutions under the provisions of the law relating to the so-called tax on donations and bequests, I have the honor to enclose herewith, in translation, the text of a decision of the Council of State of July 2,<sup>40</sup> to the effect that the American School at Göz Tepe is not subject to taxation under the law in question. I have no doubt that this decision will serve as a most useful precedent for the future and I believe that the dangers described in my despatch No. 1006, may now be considered as no longer imminent.

I have [etc.]

JOSEPH C. GREW

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<sup>40</sup> Not printed.

## VENEZUELA

### REPRESENTATIONS BY THE GOVERNMENT OF VENEZUELA AGAINST THE ACTIVITIES AND PUBLIC UTTERANCES OF MEMBERS OF THE UNITED STATES CONGRESS CONCERNING THE WELCH CASE<sup>1</sup>

331.1121 Welch, James E./86

*The Venezuelan Minister (Arcaya) to the Secretary of State*

[Translation]

No. 468

WASHINGTON, August 6, 1930.

EXCELLENCY: When I assumed charge of the diplomatic representation of the Government of my country in the United States of America, there had already been introduced, some time before, in the Senate and the House of Representatives of this country, resolutions, the object of each of which was, as they themselves state, to investigate the political conditions of Venezuela in connection with the claim which the American citizen, Welch, undertook to make against my Government but to which the Department of State, now in Your Excellency's worthy charge, denied its support, and, when such denial occurred, the Honorable Mr. Cotton was Acting Secretary.

Those resolutions and the publications previously issued by their authors in various newspapers, especially by Representative Gasque, are, as Your Excellency may note by simply reading them, extremely aggressive against my Government and in the highest degree injurious to the dignity of the Republic which I have the honor to represent. My predecessor, the Chargé d'Affaires Doctor Luis Churión, called the attention of the Department of State to the matter at the conference held on the 30th of June last with Mr. Dana Munro.

In regard to this unpleasant matter, the undersigned thought that its promoters would not any more engage in fresh aggressions; but much to his surprise he saw in the *La Prensa* of New York of the 5th instant that Mr. Gasque is resuming his gratuitous attacks on my Government and threatens to turn the *Congressional Record* into an organ of agitation and civil war against the present political Venezuelan situation by giving access to its pages to everything that the enemies thereof may think of writing.

Venezuela, Excellency, complies with all its international duties. If there should be any claim to be lodged against it on any concrete

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<sup>1</sup> For an account of the Welch case, see press release of June 15, 1931, Department of State, *Press Releases*, June 20, 1931 (Publication No. 202), p. 465.

act, by which, it is claimed, any particular [foreigner] has been injured, the law prescribes formulas for its introduction and for a discussion as to its admissibility or propriety; but it is unusual and inadmissible that such procedure, against a sovereign and independent country, should be employed as that which in this case has been put into practice and a continuation of which, with even worse aggressiveness, if possible, is already announced in advance.

My Government and I are aware, Excellency, of the constitutional system of separation and reciprocal independence of the powers which constitute the political organization of this country; for that system is the same as that of our Constitution. We are, therefore, aware that it is not for the Executive Power to intervene in what the Members of Congress may see fit to say in the Houses or in the press. But as it is to the Executive Power and not to the Legislative Power that access is given to the Representation of Venezuela and as my Government is bound to express in some way the painful impression caused it by the procedure above referred to, I have been authorized by it to put that impression on record before Your Excellency. Another reason in support of my addressing Your Excellency on the subject is the fact, which cannot escape consideration, Your Excellency, that the Venezuelan revolutionists, small as their numbers may be, on finding the official journal of the American Legislative Power turned into an outlet for their complaints, will, no doubt, make bold to launch adventures which may disturb the peace of Venezuela. It is my duty to point out to Your Excellency the very imminent probability that this may happen as a consequence of the attitude of Mr. Gasque, who is in close connection with a group of the aforesaid revolutionists.

I avail myself [etc.]

PEDRO M. ARCAJA

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331.1121 Welch, James E./86

*The Acting Secretary of State to the Venezuelan Minister (Arcaya)*

WASHINGTON, August 23, 1930.

SIR: I have the honor to acknowledge the receipt of your courteous note No. 468 of August 6, 1930, setting forth, under instructions of your Government, certain views with respect to resolutions introduced in the Senate and House of Representatives and articles appearing in various publications, in connection with the claims advanced by James Welch, a citizen of the United States.

Accept [etc.]

GREEN H. HACKWORTH



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