



LIBRARIES

UNIVERSITY OF WISCONSIN-MADISON

Papers relating to the foreign relations of the United States, with the annual message of the president transmitted to Congress December 3, 1901. 1901

United States Department of State

Washington, D.C.: U.S. Government Printing Office, 1901

<https://digital.library.wisc.edu/1711.dl/G5OAT7XT7HRHX84>

As a work of the United States government, this material is in the public domain.

For information on re-use see:

<http://digital.library.wisc.edu/1711.dl/Copyright>

The libraries provide public access to a wide range of material, including online exhibits, digitized collections, archival finding aids, our catalog, online articles, and a growing range of materials in many media.

When possible, we provide rights information in catalog records, finding aids, and other metadata that accompanies collections or items. However, it is always the user's obligation to evaluate copyright and rights issues in light of their own use.

W. S. ...
P A P E R S
UNIVERSITY
OF
CHICAGO LIBRARY

FOREIGN RELATIONS

OF

THE UNITED STATES,

WITH

THE ANNUAL MESSAGE OF THE PRESIDENT

TRANSMITTED TO CONGRESS

DECEMBER 3, 1901.



WASHINGTON:
GOVERNMENT PRINTING OFFICE,
1902.

YD 3HT
TO 700
YASRU 00A010

JXas
/s/

9/1/77

~~XXXXXXXXXX~~

7

Post Card

Post Card

TABLE OF CONTENTS.

[For alphabetical index see end of volume.]

	Page.
Message of the President.....	IX
List of papers, with subjects of correspondence.....	LV
Argentine Republic.....	1-6
Passport application of Frank H. Bowers.....	1
Political disturbances—state of seige declared in Buenos Ayres on account of public disorder caused by opposition to bill consolidating public debt.....	2
Condolences on assassination of President McKinley.....	6
Announcement of death of President McKinley, and accession of Pres- ident Roosevelt.....	6
Austria-Hungary.....	7-15
Liability of naturalized citizens of the United States under military and expatriation laws of their native country.....	7
Expulsion of John Richter.....	8
Passport denied to Carl Schimaneck.....	11
Condolences on assassination of President McKinley.....	14
Belgium.....	16-23
Liability of naturalized citizens of the United States under military and expatriation laws of their native country.....	16
Arrest and ill treatment of Thomas de St. Bris.....	17
Condolences on assassination of President McKinley.....	23
Bolivia.....	24-26
Good offices of United States minister in behalf of George Melville, a British subject, imprisoned in Bolivia.....	24
Condolences on assassination of President McKinley.....	26
Massacre of soldiers—punishment of offenders.....	26
Brazil.....	27-31
Visit of Brazilian school-ship <i>Benjamin Constant</i> to the United States.....	27
Missionary troubles—sacking of American Baptist Church at Nichteroy, and payment of indemnity.....	28
Riots in Rio de Janeiro over increase in street-railway fares.....	30
Condolences on assassination of President McKinley.....	31
Chile.....	32-38
Passport application of a Porto Rican.....	32
Courtesies of Chilean officials in connection with removal of remains of late Lieut. S. E. Woodworth, U. S. N.....	33
Visit of Chilean training ship <i>General Baquedano</i> to the United States....	35
Death of President Errázuriz—condolences of the United States.....	36
Condolences on assassination of President McKinley.....	38
China.....	39-133
Foreign settlements—encroachments of various powers at Tientsin.....	39
Exclusion laws—case of alleged Chinese student Yip Wah, and others....	59
Exclusion laws—case of Chinese student Tong Tseng.....	68
Exclusion laws—complaints of alleged harsh and unfair enforcement.....	72
Exclusion laws—representations against reenactment as affecting the United States and territories, and extension to the Philippine Islands..	75
Claims of missionaries—direct settlement with Chinese officials.....	97
Claims of Chinese subjects residing at Butte, Mont., on account of boycott of their business.....	100
Condolences on assassination of President McKinley.....	128
Bond for payment of indemnity demanded of China by the powers.....	129
Citizenship of Lam Chung Wah, a Chinese naturalized in Hawaii prior to August 12, 1898, and subsequently residing in China.....	130
Death of Earl Li Hung Chang.....	132

	Page.
Colombia	134
Condolences on assassination of President McKinley	134
Corea. (<i>See</i> Korea.)	
Costa Rica. (<i>See</i> Nicaragua, Costa Rica, and Salvador.)	
Denmark	135-142
Citizenship of Lars Chris. Jensen	135
Military service case of Sören L. Sörensen	136
Liability of naturalized citizens of the United States under military and expatriation laws of their native country	139
Permission for Mormon missionary to visit Denmark	140
Condolences on assassination of President McKinley	142
Dominican Republic	143
Condolences on assassination of President McKinley	143
Ecuador	144-146
Registry and educational laws	144
International policy of Ecuador	145
Condolences on assassination of President McKinley	146
France	147-157
Claim of Marty & d'Abbadie on account of detention of steamship <i>Sull-</i> <i>berg</i> at Manila	147
Liability of naturalized citizens of the United States under military and expatriation laws of their native country	153
Courtesies to U. S. S. <i>Annapolis</i> by commandant of French naval station at Algiers	154
Courtesies to United States military attaché at French grand autumn maneuvers	154
Condolences on assassination of President McKinley	156
Right of expatriation denied Emile Robin	156
Germany	158-198
Expulsion of Max Friedrich Schaaf	158
Liability of naturalized citizens of the United States under military and expatriation laws of their native country	160
Consular convention (Article XII) of 1871 between the United States and Germany—previous notice to consuls of service on merchant vessels of writ of attachment not required	161
Expulsion of Mormon missionaries from Germany	165
Attempt on German Emperor's life at Bremen	166
Military service cases of Ladislaus Golus, Xaver Sylvester Balz, Michael, Nicholas, and Mathias Gent, Henry Kauffmann, and Alfred Nachtigall	167
Military service cases of Sigmund Meyers (Mayer), Diedrich Ebken, Gus- tav A. Seitz, Louis Wiess, (John) Jacob Häberle, Robert H. Just, Sieg- mund Stern, and Max Kuechlin	168
Military service cases of Nick Britten, Lawrence M. Metzger, Herrmann E. Meisner, Friedrich Koch, and August Meyer	170
Military service case of Karl Kammerer	171
Consular immunities—liability of employees of United States consulates to German compulsory insurance tax	172
Citizenship of a child born in the United States and taken abroad during its minority	174
Restrictions on sojourn in their country of origin of Germans naturalized in the United States	175
Passport applications of persons born in the United States—production of certificate of father's naturalization not to be required	178
Citizenship of a son born of American parents temporarily sojourning in Germany	179
Fine on Paul N. Friedlaender for "unauthorized" emigration	180
Kaiser Wilhelm Canal—passage of United States naval vessels through	184
Death of the Dowager Empress and Queen Frederick	185
Expiatory mission of Prince Tschun	187
Condolences on assassination of President McKinley	189
Opening of the port of Emden	190
Visit of German school-ships <i>Moltke</i> and <i>Stein</i> to United States, Porto Rican, and Cuban ports	190
Efforts to divert German emigration from North America to German colo- nies and South America	191
German Emperor's response to the President's message of good will	191

	Page.
Germany—Continued.	
Courtesies to United States naval attaché in Germany.....	192
Difficulty of Germany with Venezuela.....	192
Anarchists—proposed joint action against.....	196
Great Britain.....	199-246
Filipino seamen held not to be citizens of the United States.....	199
Exclusion of British and Australasian vessels from trade between the United States and Hawaii.....	201
Protection of American interests by British consul in the Kongo Free State.....	205
Passport applications of persons claiming United States citizenship through naturalization of parents.....	206
Death of Queen Victoria.....	208
Accession of Edward VII.....	213
Exclusion of Chinese persons from the Philippine Islands.....	213
Visit of U. S. S. <i>Brooklyn</i> to Australia and New Zealand on occasion of tour of Duke and Duchess of Cornwall and York.....	214
Erection of tablet in memory of Frederick W. Ramsden, late British consul-general at Santiago de Cuba.....	215
Claims of United States citizens <i>v.</i> Great Britain on account of deportation from South Africa.....	216
Supplementary treaty of extradition between the United States and Great Britain.....	222
Protection by United States consul of British interests in the Azores.....	224
Rights of British subjects in Cuba are not governed by treaties, either with the United States or Spain, but by alien law of 1870.....	225
Courtesies shown U. S. S. <i>Hartford</i> in Scotland.....	231
Award by Great Britain of £600 to Charles Lillywhite, a naturalized United States citizen, on account of his arrest, false imprisonment, and deportation from New Zealand to England.....	231
Condolences on assassination of President McKinley.....	237
Interoceanic canal.....	237
Greece.....	247-251
Liability of naturalized citizens of the United States under military and expatriation laws of their native country.....	247
Military service case of Louis (Leonidas) Economopoulos.....	247
Condolences on assassination of President McKinley.....	249
Riot at Athens caused by the translation of the Bible into vulgar Greek.....	250
Guatemala and Honduras.....	252-261
Confiscation of silver coin which Siegfried Koenigsberger attempted to smuggle out of Guatemala.....	252
Condolences on assassination of President McKinley.....	260
Haiti.....	262-281
Claim of John D. Metzger & Co. <i>v.</i> Haiti.....	262
Tonnage dues on American vessels.....	276
Citizenship of Julienne Guilloid, born in Haiti of a mulatto, former resident of Louisiana.....	279
Condolences on assassination of President McKinley.....	280
Honduras. (<i>See</i> Guatemala and Honduras.).....	
Italy.....	282-312
Liability of naturalized citizens of the United States under military and expatriation laws of their native country.....	282
Lynching of persons of Italian origin at Erwin, Miss.....	283
Sovereignty of Italy over Somaliland recognized by Sultan Osman Mahmud.....	299
Diplomatic immunities; testimony of United States diplomatic representatives in foreign courts.....	302
Citizenship of a child born in the United States of alien parents.....	303
Indemnity suit of Mrs. Fenice Ferrara, an Italian subject, in a Colorado court. Remedies in local courts must be exhausted before diplomatic action may properly be taken.....	305
Condolences on assassination of President McKinley.....	311
Japan.....	313-386
Registration of titles to perpetual leases in Japan.....	313
Detention at Seattle, Wash., and deportation of Japanese immigrants.....	366
Alleged discrimination in the United States against Japanese in the matter of quarantine.....	375

	Page.
Japan—Continued.	
Monument erected in Japan in commemoration of the advent of Commodore Perry, United States Navy, in July, 1853.....	378
Condolences on assassination of President McKinley.....	384
Expiatory mission to Japan of Na Tung, special envoy of the Emperor of China.....	384
Assistance rendered U. S. transport <i>Hancock</i> by Japanese Navy.....	385
Korea.....	387-405
Treaty rights of United States citizens in interior of Korea.....	387
Condolences on assassination of President McKinley.....	405
Liberia.....	406
Condolences on assassination of President McKinley.....	406
Mexico.....	407-415
Imprisonment of American citizens, railway employees, in Mexico.....	407
Condolences on assassination of President McKinley.....	415
Netherlands.....	416-419
Marriage of Queen Wilhelmina.....	416
Liability of naturalized citizens of the United States under military and expatriation laws of their native country.....	418
Condolences on assassination of President McKinley.....	419
Nicaragua, Costa Rica, and Salvador.....	420-423
Visit of U. S. S. <i>Iowa</i> and <i>Philadelphia</i> to Salvador.....	420
Citizenship of Rafael F. Hine, born in Costa Rica of an American father.....	420
Condolences on assassination of President McKinley.....	422
Norway. (See Sweden and Norway.)	
Paraguay. (See Uruguay and Paraguay.)	
Persia.....	424-426
Liability of naturalized citizens of the United States under military and expatriation laws of their native country.....	424
Condolences on assassination of President McKinley.....	424
Congratulations of the Shah on the accession of President Roosevelt.....	425
Congratulations on the anniversary of the Shah's birthday.....	425
Peru.....	427-434
Claim of James H. Hayball <i>v.</i> Peru.....	427
Claim of William Fowks <i>v.</i> Peru.....	430
Condolences on assassination of President McKinley.....	434
Portugal.....	435-440
Refusal of permission for sale in Portugal of certain medicines of American manufacture.....	435
Liability of naturalized citizens of the United States under military and expatriation laws of their native country.....	439
Condolences on assassination of President McKinley.....	440
Roumania.....	441
Liability of naturalized citizens of the United States under military and expatriation laws of their native country.....	441
Condolences on assassination of President McKinley.....	441
Russia.....	442-454
Anarchists; proposed joint action against (printed under Germany).....	196
Passport application of Mrs. Louisa Lassonne, widow of a naturalized United States citizen, residing without the United States.....	442
Protection in Russia of a naturalized American citizen of Jewish faith.....	446
Expulsion of George Kennan from Russia.....	451
Liability of naturalized citizens of the United States under military and expatriation laws of their native country.....	453
Condolences on assassination of President McKinley.....	453
Salvador. (See Nicaragua, Costa Rica, and Salvador.)	
Servia.....	455
Liability of naturalized citizens of the United States under military and expatriation laws of their native country.....	455
Condolences on assassination of President McKinley.....	455
Siam.....	456
Condolences on assassination of President McKinley.....	456
Congratulations on occasion of national holiday of Siam.....	456
Spain.....	457-485
Protection by representatives of the United States of Porto Ricans, Cubans, and Filipinos.....	457
Courtesies shown by a Spanish naval officer to United States naval officers at Habana.....	463

	Page.
Spain—Continued.	
Military service case of Benito Llaveria y Pascual	464
Filipino junta at Madrid, and petition of Isabelo de los Reyes, one of its members, for permission to return to the Philippine Islands	471
Royal decree determining questions of nationality in ceded or relinquished territory	473
Consent of Spanish Government to assist the United States Government in procuring evidence to defend claims assumed by the latter under the treaty of peace	477
Registration of Cubans and Porto Ricans in Spain	480
Condolences on assassination of President McKinley	483
Deserters from merchant vessels; no law or regulation in the United States providing for their punishment.	483
Passport application of a native of the island of Guam	484
Sweden and Norway	486-498
Reassumption of Government by King Oscar	486
Liability of naturalized citizens of the United States under military and expatriation laws of their native country	486
Military service case of Johannes P. Hoiland	487
Condolences on assassination of President McKinley	494
Unveiling of monument to John Ericsson at Stockholm	495
First annual award of the Nobel prizes	497
Switzerland	499-513
Liability of naturalized citizens of the United States under military and expatriation laws of their native country	499
Treaty between the United States and Switzerland for the extradition of criminals	500
Protection by United States officials of Swiss citizens in Egypt	504
Passport issued by Department should always be accepted prima facie as proof of citizenship. (Application of Carl F. Kupfer.)	508
Cancellation of passport of Emile Stolz by United States legation at Berne because of Stolz's continued residence without the United States	509
Citizenship of a son born in France of an American father and a French mother prior to their marriage	511
Condolences on assassination of President McKinley	512
Turkey	514-530
Courtesies to U. S. S. <i>Kentucky</i> by Turkish officials	514
Liability of naturalized citizens of the United States under military and expatriation laws of their native country	515
Right of Jews to three months' sojourn in Palestine	516
Indemnity claims of United States citizens; settlement of	518
Passport of Demetrius Chryssanthides; construction of words "resided uninterruptedly" in applications for naturalization	519
Protection of American interests by British consuls in Turkey	521
Refusal by Turkish officials to issue traveling <i>teskéréh</i> to the Rev. R. M. Cole	523
Condolences on assassination of President McKinley	529
Seizure by France of custom-house at Mytilene	529
Uruguay and Paraguay	531-533
Citizenship of minor son of a United States citizen, born and residing without the United States	531
Friendly relations of United States legation with Governments of Uruguay and Paraguay	532
Condolences on assassination of President McKinley	533
Venezuela	534-554
Arrest and release of United States consular agent at Barcelona, and delay in transmission of legation's telegram	534
Visit of the U. S. S. <i>Scorpion</i> to the Orinoco River	541
Visit of the U. S. S. <i>Mayflower</i> to the island of Margarita	547
Claims of foreigners against Venezuela growing out of the Castro revolution. Protection by United States representatives of Colombian interests in Venezuela	551
Condolences on assassination of President McKinley	553
Reception at German legation to German colony at Caracas and officers of German warship <i>Vineta</i>	554

M E S S A G E

To the Senate and House of Representatives:

The Congress assembles this year under the shadow of a great calamity. On the sixth of September, President McKinley was shot by an anarchist while attending the Pan-American Exposition at Buffalo, and died in that city on the fourteenth of that month.

Of the last seven elected Presidents, he is the third who has been murdered, and the bare recital of this fact is sufficient to justify grave alarm among all loyal American citizens. Moreover, the circumstances of this, the third assassination of an American President, have a peculiarly sinister significance. Both President Lincoln and President Garfield were killed by assassins of types unfortunately not uncommon in history; President Lincoln falling a victim to the terrible passions aroused by four years of civil war, and President Garfield to the revengeful vanity of a disappointed office-seeker. President McKinley was killed by an utterly depraved criminal belonging to that body of criminals who object to all governments, good and bad alike, who are against any form of popular liberty if it is guaranteed by even the most just and liberal laws, and who are as hostile to the upright exponent of a free people's sober will as to the tyrannical and irresponsible despot.

It is not too much to say that at the time of President McKinley's death he was the most widely loved man in all the United States; while we have never had any public man of his position who has been so wholly free from the bitter animosities incident to public life. His political opponents were the first to bear the heartiest and most generous tribute to the broad kindliness of nature, the sweetness and gentleness of character which so endeared him to his close associates. To a standard of lofty integrity in public life he united the tender affections and home virtues which are all-important in the make-up of national character. A gallant soldier in the great war for the Union, he also shone as an example to all our people because of his conduct in the most sacred and intimate of home relations. There could be no personal hatred of him, for he never acted

with aught but consideration for the welfare of others. No one could fail to respect him who knew him in public or private life. The defenders of those murderous criminals who seek to excuse their criminality by asserting that it is exercised for political ends, inveigh against wealth and irresponsible power. But for this assassination even this base apology cannot be urged.

President McKinley was a man of moderate means, a man whose stock sprang from the sturdy tillers of the soil, who had himself belonged among the wage-workers, who had entered the Army as a private soldier. Wealth was not struck at when the President was assassinated, but the honest toil which is content with moderate gains after a lifetime of unremitting labor, largely in the service of the public. Still less was power struck at in the sense that power is irresponsible or centered in the hands of any one individual. The blow was not aimed at tyranny or wealth. It was aimed at one of the strongest champions the wage-worker has ever had; at one of the most faithful representatives of the system of public rights and representative government who has ever risen to public office. President McKinley filled that political office for which the entire people vote, and no President—not even Lincoln himself—was ever more earnestly anxious to represent the well thought-out wishes of the people; his one anxiety in every crisis was to keep in closest touch with the people—to find out what they thought and to endeavor to give expression to their thought, after having endeavored to guide that thought aright. He had just been re-elected to the Presidency because the majority of our citizens, the majority of our farmers and wage-workers, believed that he had faithfully upheld their interests for four years. They felt themselves in close and intimate touch with him. They felt that he represented so well and so honorably all their ideals and aspirations that they wished him to continue for another four years to represent them.

And this was the man at whom the assassin struck! That there might be nothing lacking to complete the Judas-like infamy of his act, he took advantage of an occasion when the President was meeting the people generally; and advancing as if to take the hand outstretched to him in kindly and brotherly fellowship, he turned the noble and generous confidence of the victim into an opportunity to strike the fatal blow. There is no baser deed in all the annals of crime.

The shock, the grief of the country, are bitter in the minds of all who saw the dark days, while the President yet hovered between

life and death. At last the light was stilled in the kindly eyes and the breath went from the lips that even in mortal agony uttered no words save of forgiveness to his murderer, of love for his friends, and of unfaltering trust in the will of the Most High. Such a death, crowning the glory of such a life, leaves us with infinite sorrow, but with such pride in what he had accomplished and in his own personal character, that we feel the blow not as struck at him, but as struck at the Nation. We mourn a good and great President who is dead; but while we mourn we are lifted up by the splendid achievements of his life and the grand heroism with which he met his death.

When we turn from the man to the Nation, the harm done is so great as to excite our gravest apprehensions and to demand our wisest and most resolute action. This criminal was a professed anarchist, inflamed by the teachings of professed anarchists, and probably also by the reckless utterances of those who, on the stump and in the public press, appeal to the dark and evil spirits of malice and greed, envy and sullen hatred. The wind is sowed by the men who preach such doctrines, and they cannot escape their share of responsibility for the whirlwind that is reaped. This applies alike to the deliberate demagogue, to the exploiter of sensationalism, and to the crude and foolish visionary who, for whatever reason, apologizes for crime or excites aimless discontent.

The blow was aimed not at this President, but at all Presidents; at every symbol of government. President McKinley was as emphatically the embodiment of the popular will of the Nation expressed through the forms of law as a New England town meeting is in similar fashion the embodiment of the law-abiding purpose and practice of the people of the town. On no conceivable theory could the murder of the President be accepted as due to protest against "inequalities in the social order," save as the murder of all the freemen engaged in a town meeting could be accepted as a protest against that social inequality which puts a malefactor in jail. Anarchy is no more an expression of "social discontent" than picking pockets or wife-beating.

The anarchist, and especially the anarchist in the United States, is merely one type of criminal, more dangerous than any other because he represents the same depravity in a greater degree. The man who advocates anarchy directly or indirectly, in any shape or fashion, or the man who apologizes for anarchists and their deeds, makes himself morally accessory to murder before the fact. The

anarchist is a criminal whose perverted instincts lead him to prefer confusion and chaos to the most beneficent form of social order. His protest of concern for workmen is outrageous in its impudent falsity; for if the political institutions of this country do not afford opportunity to every honest and intelligent son of toil, then the door of hope is forever closed against him. The anarchist is everywhere not merely the enemy of system and of progress, but the deadly foe of liberty. If ever anarchy is triumphant, its triumph will last for but one red moment, to be succeeded for ages by the gloomy night of despotism.

For the anarchist himself, whether he preaches or practices his doctrines, we need not have one particle more concern than for any ordinary murderer. He is not the victim of social or political injustice. There are no wrongs to remedy in his case. The cause of his criminality is to be found in his own evil passions and in the evil conduct of those who urge him on, not in any failure by others or by the State to do justice to him or his. He is a malefactor and nothing else. He is in no sense, in no shape or way, a "product of social conditions," save as a highwayman is "produced" by the fact that an unarmed man happens to have a purse. It is a travesty upon the great and holy names of liberty and freedom to permit them to be invoked in such a cause. No man or body of men preaching anarchistic doctrines should be allowed at large any more than if preaching the murder of some specified private individual. Anarchistic speeches, writings, and meetings are essentially seditious and treasonable.

I earnestly recommend to the Congress that in the exercise of its wise discretion it should take into consideration the coming to this country of anarchists or persons professing principles hostile to all government and justifying the murder of those placed in authority. Such individuals as those who not long ago gathered in open meeting to glorify the murder of King Humbert of Italy perpetrate a crime, and the law should ensure their rigorous punishment. They and those like them should be kept out of this country; and if found here they should be promptly deported to the country whence they came; and far-reaching provision should be made for the punishment of those who stay. No matter calls more urgently for the wisest thought of the Congress.

The Federal courts should be given jurisdiction over any man who kills or attempts to kill the President or any man who by the Constitution or by law is in line of succession for the Presidency,

while the punishment for an unsuccessful attempt should be proportioned to the enormity of the offense against our institutions.

Anarchy is a crime against the whole human race; and all mankind should band against the anarchist. His crime should be made an offense against the law of nations, like piracy and that form of manstealing known as the slave trade; for it is of far blacker infamy than either. It should be so declared by treaties among all civilized powers. Such treaties would give to the Federal Government the power of dealing with the crime.

A grim commentary upon the folly of the anarchist position was afforded by the attitude of the law toward this very criminal who had just taken the life of the President. The people would have torn him limb from limb if it had not been that the law he defied was at once invoked in his behalf. So far from his deed being committed on behalf of the people against the Government, the Government was obliged at once to exert its full police power to save him from instant death at the hands of the people. Moreover, his deed worked not the slightest dislocation in our governmental system, and the danger of a recurrence of such deeds, no matter how great it might grow, would work only in the direction of strengthening and giving harshness to the forces of order. No man will ever be restrained from becoming President by any fear as to his personal safety. If the risk to the President's life became great, it would mean that the office would more and more come to be filled by men of a spirit which would make them resolute and merciless in dealing with every friend of disorder. This great country will not fall into anarchy, and if anarchists should ever become a serious menace to its institutions, they would not merely be stamped out, but would involve in their own ruin every active or passive sympathizer with their doctrines. The American people are slow to wrath, but when their wrath is once kindled it burns like a consuming flame.

During the last five years business confidence has been restored, and the Nation is to be congratulated because of its present abounding prosperity. Such prosperity can never be created by law alone, although it is easy enough to destroy it by mischievous laws. If the hand of the Lord is heavy upon any country, if flood or drought comes, human wisdom is powerless to avert the calamity. Moreover, no law can guard us against the consequences of our own folly. The men who are idle or credulous, the men who seek gains not by genuine work with head or hand but by gambling in any form, are

always a source of menace not only to themselves but to others. If the business world loses its head, it loses what legislation cannot supply. Fundamentally the welfare of each citizen, and therefore the welfare of the aggregate of citizens which makes the Nation, must rest upon individual thrift and energy, resolution and intelligence. Nothing can take the place of this individual capacity; but wise legislation and honest and intelligent administration can give it the fullest scope, the largest opportunity to work to good effect.

The tremendous and highly complex industrial development which went on with ever accelerated rapidity during the latter half of the nineteenth century brings us face to face, at the beginning of the twentieth, with very serious social problems. The old laws, and the old customs which had almost the binding force of law, were once quite sufficient to regulate the accumulation and distribution of wealth. Since the industrial changes which have so enormously increased the productive power of mankind, they are no longer sufficient.

The growth of cities has gone on beyond comparison faster than the growth of the country, and the upbuilding of the great industrial centers has meant a startling increase, not merely in the aggregate of wealth, but in the number of very large individual, and especially of very large corporate, fortunes. The creation of these great corporate fortunes has not been due to the tariff nor to any other governmental action, but to natural causes in the business world, operating in other countries as they operate in our own.

The process has aroused much antagonism, a great part of which is wholly without warrant. It is not true that as the rich have grown richer the poor have grown poorer. On the contrary, never before has the average man, the wage-worker, the farmer, the small trader, been so well off as in this country and at the present time. There have been abuses connected with the accumulation of wealth; yet it remains true that a fortune accumulated in legitimate business can be accumulated by the person specially benefited only on condition of conferring immense incidental benefits upon others. Successful enterprise, of the type which benefits all mankind, can only exist if the conditions are such as to offer great prizes as the rewards of success.

The captains of industry who have driven the railway systems across this continent, who have built up our commerce, who have developed our manufactures, have on the whole done great good

to our people. Without them the material development of which we are so justly proud could never have taken place. Moreover, we should recognize the immense importance to this material development of leaving as unhampered as is compatible with the public good the strong and forceful men upon whom the success of business operations inevitably rests. The slightest study of business conditions will satisfy anyone capable of forming a judgment that the personal equation is the most important factor in a business operation; that the business ability of the man at the head of any business concern, big or little, is usually the factor which fixes the gulf between striking success and hopeless failure.

An additional reason for caution in dealing with corporations is to be found in the international commercial conditions of to-day. The same business conditions which have produced the great aggregations of corporate and individual wealth have made them very potent factors in international commercial competition. Business concerns which have the largest means at their disposal and are managed by the ablest men are naturally those which take the lead in the strife for commercial supremacy among the nations of the world. America has only just begun to assume that commanding position in the international business world which we believe will more and more be hers. It is of the utmost importance that this position be not jeopardized, especially at a time when the overflowing abundance of our own natural resources and the skill, business energy, and mechanical aptitude of our people make foreign markets essential. Under such conditions it would be most unwise to cramp or to fetter the youthful strength of our Nation.

Moreover, it cannot too often be pointed out that to strike with ignorant violence at the interests of one set of men almost inevitably endangers the interests of all. The fundamental rule in our national life—the rule which underlies all others—is that, on the whole, and in the long run, we shall go up or down together. There are exceptions; and in times of prosperity some will prosper far more, and in times of adversity some will suffer far more, than others; but speaking generally, a period of good times means that all share more or less in them, and in a period of hard times all feel the stress to a greater or less degree. It surely ought not to be necessary to enter into any proof of this statement; the memory of the lean years which began in 1893 is still vivid, and we can contrast them with the conditions in this very year which is now closing. Disaster to great business enterprises can never have its effects limited

to the men at the top. It spreads throughout, and while it is bad for everybody, it is worst for those farthest down. The capitalist may be shorn of his luxuries; but the wage-worker may be deprived of even bare necessities.

The mechanism of modern business is so delicate that extreme care must be taken not to interfere with it in a spirit of rashness or ignorance. Many of those who have made it their vocation to denounce the great industrial combinations which are popularly, although with technical inaccuracy, known as "trusts," appeal especially to hatred and fear. These are precisely the two emotions, particularly when combined with ignorance, which unfit men for the exercise of cool and steady judgment. In facing new industrial conditions, the whole history of the world shows that legislation will generally be both unwise and ineffective unless undertaken after calm inquiry and with sober self-restraint. Much of the legislation directed at the trusts would have been exceedingly mischievous had it not also been entirely ineffective. In accordance with a well-known sociological law, the ignorant or reckless agitator has been the really effective friend of the evils which he has been nominally opposing. In dealing with business interests, for the Government to undertake by crude and ill-considered legislation to do what may turn out to be bad, would be to incur the risk of such far-reaching national disaster that it would be preferable to undertake nothing at all. The men who demand the impossible or the undesirable serve as the allies of the forces with which they are nominally at war, for they hamper those who would endeavor to find out in rational fashion what the wrongs really are and to what extent and in what manner it is practicable to apply remedies.

All this is true; and yet it is also true that there are real and grave evils, one of the chief being over-capitalization because of its many baleful consequences; and a resolute and practical effort must be made to correct these evils.

There is a widespread conviction in the minds of the American people that the great corporations known as trusts are in certain of their features and tendencies hurtful to the general welfare. This springs from no spirit of envy or uncharitableness, nor lack of pride in the great industrial achievements that have placed this country at the head of the nations struggling for commercial supremacy. It does not rest upon a lack of intelligent appreciation of the necessity of meeting changing and changed conditions of trade with new methods, nor upon ignorance of the fact that combination of capital

in the effort to accomplish great things is necessary when the world's progress demands that great things be done. It is based upon sincere conviction that combination and concentration should be, not prohibited, but supervised and within reasonable limits controlled; and in my judgment this conviction is right.

It is no limitation upon property rights or freedom of contract to require that when men receive from Government the privilege of doing business under corporate form, which frees them from individual responsibility, and enables them to call into their enterprises the capital of the public, they shall do so upon absolutely truthful representations as to the value of the property in which the capital is to be invested. Corporations engaged in interstate commerce should be regulated if they are found to exercise a license working to the public injury. It should be as much the aim of those who seek for social betterment to rid the business world of crimes of cunning as to rid the entire body politic of crimes of violence. Great corporations exist only because they are created and safeguarded by our institutions; and it is therefore our right and our duty to see that they work in harmony with these institutions.

The first essential in determining how to deal with the great industrial combinations is knowledge of the facts—publicity. In the interest of the public, the Government should have the right to inspect and examine the workings of the great corporations engaged in interstate business. Publicity is the only sure remedy which we can now invoke. What further remedies are needed in the way of governmental regulation, or taxation, can only be determined after publicity has been obtained, by process of law, and in the course of administration. The first requisite is knowledge, full and complete—knowledge which may be made public to the world.

Artificial bodies, such as corporations and joint stock or other associations, depending upon any statutory law for their existence or privileges, should be subject to proper governmental supervision, and full and accurate information as to their operations should be made public regularly at reasonable intervals.

The large corporations, commonly called trusts, though organized in one State, always do business in many States, often doing very little business in the State where they are incorporated. There is utter lack of uniformity in the State laws about them; and as no State has any exclusive interest in or power over their acts, it has in practice proved impossible to get adequate regulation through State action. Therefore, in the interest of the whole people, the Nation

should, without interfering with the power of the States in the matter itself, also assume power of supervision and regulation over all corporations doing an interstate business. This is especially true where the corporation derives a portion of its wealth from the existence of some monopolistic element or tendency in its business. There would be no hardship in such supervision; banks are subject to it, and in their case it is now accepted as a simple matter of course. Indeed, it is probable that supervision of corporations by the National Government need not go so far as is now the case with the supervision exercised over them by so conservative a State as Massachusetts, in order to produce excellent results.

When the Constitution was adopted, at the end of the eighteenth century, no human wisdom could foretell the sweeping changes, alike in industrial and political conditions, which were to take place by the beginning of the twentieth century. At that time it was accepted as a matter of course that the several States were the proper authorities to regulate, so far as was then necessary, the comparatively insignificant and strictly localized corporate bodies of the day. The conditions are now wholly different and wholly different action is called for. I believe that a law can be framed which will enable the National Government to exercise control along the lines above indicated; profiting by the experience gained through the passage and administration of the Interstate-Commerce Act. If, however, the judgment of the Congress is that it lacks the constitutional power to pass such an act, then a constitutional amendment should be submitted to confer the power.

There should be created a Cabinet officer, to be known as Secretary of Commerce and Industries, as provided in the bill introduced at the last session of the Congress. It should be his province to deal with commerce in its broadest sense; including among many other things whatever concerns labor and all matters affecting the great business corporations and our merchant marine.

The course proposed is one phase of what should be a comprehensive and far-reaching scheme of constructive statesmanship for the purpose of broadening our markets, securing our business interests on a safe basis, and making firm our new position in the international industrial world; while scrupulously safeguarding the rights of wage-worker and capitalist, of investor and private citizen, so as to secure equity as between man and man in this Republic.

With the sole exception of the farming interest, no one matter is of such vital moment to our whole people as the welfare of the

wage-workers. If the farmer and the wage-worker are well off, it is absolutely certain that all others will be well off too. It is therefore a matter for hearty congratulation that on the whole wages are higher to-day in the United States than ever before in our history, and far higher than in any other country. The standard of living is also higher than ever before. Every effort of legislator and administrator should be bent to secure the permanency of this condition of things and its improvement wherever possible. Not only must our labor be protected by the tariff, but it should also be protected so far as it is possible from the presence in this country of any laborers brought over by contract, or of those who, coming freely, yet represent a standard of living so depressed that they can undersell our men in the labor market and drag them to a lower level. I regard it as necessary, with this end in view, to re-enact immediately the law excluding Chinese laborers and to strengthen it wherever necessary in order to make its enforcement entirely effective.

The National Government should demand the highest quality of service from its employees; and in return it should be a good employer. If possible legislation should be passed, in connection with the Interstate Commerce Law, which will render effective the efforts of different States to do away with the competition of convict contract labor in the open labor market. So far as practicable under the conditions of Government work, provision should be made to render the enforcement of the eight-hour law easy and certain. In all industries carried on directly or indirectly for the United States Government women and children should be protected from excessive hours of labor, from night work, and from work under unsanitary conditions. The Government should provide in its contracts that all work should be done under "fair" conditions, and in addition to setting a high standard should uphold it by proper inspection, extending if necessary to the subcontractors. The Government should forbid all night work for women and children, as well as excessive overtime. For the District of Columbia a good factory law should be passed; and, as a powerful indirect aid to such laws, provision should be made to turn the inhabited alleys, the existence of which is a reproach to our Capital City, into minor streets, where the inhabitants can live under conditions favorable to health and morals.

American wage-workers work with their heads as well as their hands. Moreover, they take a keen pride in what they are doing;

so that, independent of the reward, they wish to turn out a perfect job. This is the great secret of our success in competition with the labor of foreign countries.

The most vital problem with which this country, and for that matter the whole civilized world, has to deal, is the problem which has for one side the betterment of social conditions, moral and physical, in large cities, and for another side the effort to deal with that tangle of far-reaching questions which we group together when we speak of "labor." The chief factor in the success of each man—wage-worker, farmer, and capitalist alike—must ever be the sum total of his own individual qualities and abilities. Second only to this comes the power of acting in combination or association with others. Very great good has been and will be accomplished by associations or unions of wage-workers, when managed with forethought, and when they combine insistence upon their own rights with law-abiding respect for the rights of others. The display of these qualities in such bodies is a duty to the Nation no less than to the associations themselves. Finally, there must also in many cases be action by the Government in order to safeguard the rights and interests of all. Under our Constitution there is much more scope for such action by the State and the municipality than by the Nation. But on points such as those touched on above the National Government can act.

When all is said and done, the rule of brotherhood remains as the indispensable prerequisite to success in the kind of national life for which we strive. Each man must work for himself, and unless he so works no outside help can avail him; but each man must remember also that he is indeed his brother's keeper, and that while no man who refuses to walk can be carried with advantage to himself or anyone else, yet that each at times stumbles or halts, that each at times needs to have the helping hand outstretched to him. To be permanently effective, aid must always take the form of helping a man to help himself; and we can all best help ourselves by joining together in the work that is of common interest to all.

Our present immigration laws are unsatisfactory. We need every honest and efficient immigrant fitted to become an American citizen, every immigrant who comes here to stay, who brings here a strong body, a stout heart, a good head, and a resolute purpose to do his duty well in every way and to bring up his children as law-abiding and God-fearing members of the community. But there should be a comprehensive law enacted with the object of working

a threefold improvement over our present system. First, we should aim to exclude absolutely not only all persons who are known to be believers in anarchistic principles or members of anarchistic societies, but also all persons who are of a low moral tendency or of unsavory reputation. This means that we should require a more thorough system of inspection abroad and a more rigid system of examination at our immigration ports, the former being especially necessary.

The second object of a proper immigration law ought to be to secure by a careful and not merely perfunctory educational test some intelligent capacity to appreciate American institutions and act sanely as American citizens. This would not keep out all anarchists, for many of them belong to the intelligent criminal class. But it would do what is also in point, that is, tend to decrease the sum of ignorance, so potent in producing the envy, suspicion, malignant passion, and hatred of order, out of which anarchistic sentiment inevitably springs. Finally, all persons should be excluded who are below a certain standard of economic fitness to enter our industrial field as competitors with American labor. There should be proper proof of personal capacity to earn an American living and enough money to insure a decent start under American conditions. This would stop the influx of cheap labor, and the resulting competition which gives rise to so much of bitterness in American industrial life; and it would dry up the springs of the pestilential social conditions in our great cities, where anarchistic organizations have their greatest possibility of growth.

Both the educational and economic tests in a wise immigration law should be designed to protect and elevate the general body politic and social. A very close supervision should be exercised over the steamship companies which mainly bring over the immigrants, and they should be held to a strict accountability for any infraction of the law.

There is general acquiescence in our present tariff system as a national policy. The first requisite to our prosperity is the continuity and stability of this economic policy. Nothing could be more unwise than to disturb the business interests of the country by any general tariff change at this time. Doubt, apprehension, uncertainty are exactly what we most wish to avoid in the interest of our commercial and material well-being. Our experience in the past has shown that sweeping revisions of the tariff are apt to

produce conditions closely approaching panic in the business world. Yet it is not only possible, but eminently desirable, to combine with the stability of our economic system a supplementary system of reciprocal benefit and obligation with other nations. Such reciprocity is an incident and result of the firm establishment and preservation of our present economic policy. It was specially provided for in the present tariff law.

Reciprocity must be treated as the handmaiden of protection. Our first duty is to see that the protection granted by the tariff in every case where it is needed is maintained, and that reciprocity be sought for so far as it can safely be done without injury to our home industries. Just how far this is must be determined according to the individual case, remembering always that every application of our tariff policy to meet our shifting national needs must be conditioned upon the cardinal fact that the duties must never be reduced below the point that will cover the difference between the labor cost here and abroad. The well-being of the wage-worker is a prime consideration of our entire policy of economic legislation.

Subject to this proviso of the proper protection necessary to our industrial well-being at home, the principle of reciprocity must command our hearty support. The phenomenal growth of our export trade emphasizes the urgency of the need for wider markets and for a liberal policy in dealing with foreign nations. Whatever is merely petty and vexatious in the way of trade restrictions should be avoided. The customers to whom we dispose of our surplus products in the long run, directly or indirectly, purchase those surplus products by giving us something in return. Their ability to purchase our products should as far as possible be secured by so arranging our tariff as to enable us to take from them those products which we can use without harm to our own industries and labor, or the use of which will be of marked benefit to us.

It is most important that we should maintain the high level of our present prosperity. We have now reached the point in the development of our interests where we are not only able to supply our own markets but to produce a constantly growing surplus for which we must find markets abroad. To secure these markets we can utilize existing duties in any case where they are no longer needed for the purpose of protection, or in any case where the article is not produced here and the duty is no longer necessary for revenue, as giving us something to offer in exchange for what we

ask. The cordial relations with other nations which are so desirable will naturally be promoted by the course thus required by our own interests.

The natural line of development for a policy of reciprocity will be in connection with those of our productions which no longer require all of the support once needed to establish them upon a sound basis, and with those others where either because of natural or of economic causes we are beyond the reach of successful competition.

I ask the attention of the Senate to the reciprocity treaties laid before it by my predecessor.

The condition of the American merchant marine is such as to call for immediate remedial action by the Congress. It is discreditable to us as a Nation that our merchant marine should be utterly insignificant in comparison to that of other nations which we overtop in other forms of business. We should not longer submit to conditions under which only a trifling portion of our great commerce is carried in our own ships. To remedy this state of things would not merely serve to build up our shipping interests, but it would also result in benefit to all who are interested in the permanent establishment of a wider market for American products, and would provide an auxiliary force for the Navy. Ships work for their own countries just as railroads work for their terminal points. Shipping lines, if established to the principal countries with which we have dealings, would be of political as well as commercial benefit. From every standpoint it is unwise for the United States to continue to rely upon the ships of competing nations for the distribution of our goods. It should be made advantageous to carry American goods in American-built ships.

At present American shipping is under certain great disadvantages when put in competition with the shipping of foreign countries. Many of the fast foreign steamships, at a speed of fourteen knots or above, are subsidized; and all our ships, sailing vessels and steamers alike, cargo carriers of slow speed and mail carriers of high speed, have to meet the fact that the original cost of building American ships is greater than is the case abroad; that the wages paid American officers and seamen are very much higher than those paid the officers and seamen of foreign competing countries; and that the standard of living on our ships is far superior to the standard of living on the ships of our commercial rivals.

Our Government should take such action as will remedy these inequalities. The American merchant marine should be restored to the ocean.

The Act of March 14, 1900, intended unequivocally to establish gold as the standard money and to maintain at a parity therewith all forms of money medium in use with us, has been shown to be timely and judicious. The price of our Government bonds in the world's market, when compared with the price of similar obligations issued by other nations, is a flattering tribute to our public credit. This condition it is evidently desirable to maintain.

In many respects the National Banking Law furnishes sufficient liberty for the proper exercise of the banking function; but there seems to be need of better safeguards against the deranging influence of commercial crises and financial panics. Moreover, the currency of the country should be made responsive to the demands of our domestic trade and commerce.

The collections from duties on imports and internal taxes continue to exceed the ordinary expenditures of the Government, thanks mainly to the reduced army expenditures. The utmost care should be taken not to reduce the revenues so that there will be any possibility of a deficit; but, after providing against any such contingency, means should be adopted which will bring the revenues more nearly within the limit of our actual needs. In his report to the Congress the Secretary of the Treasury considers all these questions at length, and I ask your attention to the report and recommendations.

I call special attention to the need of strict economy in expenditures. The fact that our national needs forbid us to be niggardly in providing whatever is actually necessary to our well-being, should make us doubly careful to husband our national resources, as each of us husbands his private resources, by scrupulous avoidance of anything like wasteful or reckless expenditure. Only by avoidance of spending money on what is needless or unjustifiable can we legitimately keep our income to the point required to meet our needs that are genuine.

In 1887 a measure was enacted for the regulation of interstate railways, commonly known as the Interstate Commerce Act. The cardinal provisions of that act were that railway rates should be just and reasonable and that all shippers, localities, and commodities should be accorded equal treatment. A commission was created

and endowed with what were supposed to be the necessary powers to execute the provisions of this act.

That law was largely an experiment. Experience has shown the wisdom of its purposes, but has also shown, possibly that some of its requirements are wrong, certainly that the means devised for the enforcement of its provisions are defective. Those who complain of the management of the railways allege that established rates are not maintained; that rebates and similar devices are habitually resorted to; that these preferences are usually in favor of the large shipper; that they drive out of business the smaller competitor; that while many rates are too low, many others are excessive; and that gross preferences are made, affecting both localities and commodities. Upon the other hand, the railways assert that the law by its very terms tends to produce many of these illegal practices by depriving carriers of that right of concerted action which they claim is necessary to establish and maintain non-discriminating rates.

The act should be amended. The railway is a public servant. Its rates should be just to and open to all shippers alike. The Government should see to it that within its jurisdiction this is so and should provide a speedy, inexpensive, and effective remedy to that end. At the same time it must not be forgotten that our railways are the arteries through which the commercial lifeblood of this Nation flows. Nothing could be more foolish than the enactment of legislation which would unnecessarily interfere with the development and operation of these commercial agencies. The subject is one of great importance and calls for the earnest attention of the Congress.

The Department of Agriculture during the past fifteen years has steadily broadened its work on economic lines, and has accomplished results of real value in upbuilding domestic and foreign trade. It has gone into new fields until it is now in touch with all sections of our country and with two of the island groups that have lately come under our jurisdiction, whose people must look to agriculture as a livelihood. It is searching the world for grains, grasses, fruits, and vegetables specially fitted for introduction into localities in the several States and Territories where they may add materially to our resources. By scientific attention to soil survey and possible new crops, to breeding of new varieties of plants, to experimental shipments, to animal industry and applied chemistry, very practical aid has been given our farming and stock-growing interests. The

products of the farm have taken an unprecedented place in our export trade during the year that has just closed.

Public opinion throughout the United States has moved steadily toward a just appreciation of the value of forests, whether planted or of natural growth. The great part played by them in the creation and maintenance of the national wealth is now more fully realized than ever before.

Wise forest protection does not mean the withdrawal of forest resources, whether of wood, water, or grass, from contributing their full share to the welfare of the people, but, on the contrary, gives the assurance of larger and more certain supplies. The fundamental idea of forestry is the perpetuation of forests by use. Forest protection is not an end of itself; it is a means to increase and sustain the resources of our country and the industries which depend upon them. The preservation of our forests is an imperative business necessity. We have come to see clearly that whatever destroys the forest, except to make way for agriculture, threatens our well-being.

The practical usefulness of the national forest reserves to the mining, grazing, irrigation, and other interests of the regions in which the reserves lie has led to a widespread demand by the people of the West for their protection and extension. The forest reserves will inevitably be of still greater use in the future than in the past. Additions should be made to them whenever practicable, and their usefulness should be increased by a thoroughly business-like management.

At present the protection of the forest reserves rests with the General Land Office, the mapping and description of their timber with the United States Geological Survey, and the preparation of plans for their conservative use with the Bureau of Forestry, which is also charged with the general advancement of practical forestry in the United States. These various functions should be united in the Bureau of Forestry, to which they properly belong. The present diffusion of responsibility is bad from every standpoint. It prevents that effective cooperation between the Government and the men who utilize the resources of the reserves, without which the interests of both must suffer. The scientific bureaus generally should be put under the Department of Agriculture. The President should have by law the power of transferring lands for use as forest reserves to the Department of Agriculture. He already has such power in the case of lands needed by the Departments of War and the Navy.

The wise administration of the forest reserves will be not less helpful to the interests which depend on water than to those which depend on wood and grass. The water supply itself depends upon the forest. In the arid region it is water, not land, which measures production. The western half of the United States would sustain a population greater than that of our whole country to-day if the waters that now run to waste were saved and used for irrigation. The forest and water problems are perhaps the most vital internal questions of the United States.

Certain of the forest reserves should also be made preserves for the wild forest creatures. All of the reserves should be better protected from fires. Many of them need special protection because of the great injury done by live stock, above all by sheep. The increase in deer, elk, and other animals in the Yellowstone Park shows what may be expected when other mountain forests are properly protected by law and properly guarded. Some of these areas have been so denuded of surface vegetation by overgrazing that the ground breeding birds, including grouse and quail, and many mammals, including deer, have been exterminated or driven away. At the same time the water-storing capacity of the surface has been decreased or destroyed, thus promoting floods in times of rain and diminishing the flow of streams between rains.

In cases where natural conditions have been restored for a few years, vegetation has again carpeted the ground, birds and deer are coming back, and hundreds of persons, especially from the immediate neighborhood, come each summer to enjoy the privilege of camping. Some at least of the forest reserves should afford perpetual protection to the native fauna and flora, safe havens of refuge to our rapidly diminishing wild animals of the larger kinds, and free camping grounds for the ever-increasing numbers of men and women who have learned to find rest, health, and recreation in the splendid forests and flower-clad meadows of our mountains. The forest reserves should be set apart forever for the use and benefit of our people as a whole and not sacrificed to the shortsighted greed of a few.

The forests are natural reservoirs. By restraining the streams in flood and replenishing them in drought they make possible the use of waters otherwise wasted. They prevent the soil from washing, and so protect the storage reservoirs from filling up with silt. Forest conservation is therefore an essential condition of water conservation.

The forests alone cannot, however, fully regulate and conserve the waters of the arid region. Great storage works are necessary to equalize the flow of streams and to save the flood waters. Their construction has been conclusively shown to be an undertaking too vast for private effort. Nor can it be best accomplished by the individual States acting alone. Far-reaching interstate problems are involved; and the resources of single States would often be inadequate. It is properly a national function, at least in some of its features. It is as right for the National Government to make the streams and rivers of the arid region useful by engineering works for water storage as to make useful the rivers and harbors of the humid region by engineering works of another kind. The storing of the floods in reservoirs at the headwaters of our rivers is but an enlargement of our present policy of river control, under which levees are built on the lower reaches of the same streams.

The Government should construct and maintain these reservoirs as it does other public works. Where their purpose is to regulate the flow of streams, the water should be turned freely into the channels in the dry season to take the same course under the same laws as the natural flow.

The reclamation of the unsettled arid public lands presents a different problem. Here it is not enough to regulate the flow of streams. The object of the Government is to dispose of the land to settlers who will build homes upon it. To accomplish this object water must be brought within their reach.

The pioneer settlers on the arid public domain chose their homes along streams from which they could themselves divert the water to reclaim their holdings. Such opportunities are practically gone. There remain, however, vast areas of public land which can be made available for homestead settlement, but only by reservoirs and main-line canals impracticable for private enterprise. These irrigation works should be built by the National Government. The lands reclaimed by them should be reserved by the Government for actual settlers, and the cost of construction should so far as possible be repaid by the land reclaimed. The distribution of the water, the division of the streams among irrigators, should be left to the settlers themselves in conformity with State laws and without interference with those laws or with vested rights. The policy of the National Government should be to aid irrigation in the several States and Territories in such manner as will enable the people in the local communities to help themselves, and as will stimulate

needed reforms in the State laws and regulations governing irrigation.

The reclamation and settlement of the arid lands will enrich every portion of our country, just as the settlement of the Ohio and Mississippi valleys brought prosperity to the Atlantic States. The increased demand for manufactured articles will stimulate industrial production, while wider home markets and the trade of Asia will consume the larger food supplies and effectually prevent Western competition with Eastern agriculture. Indeed, the products of irrigation will be consumed chiefly in upbuilding local centers of mining and other industries, which would otherwise not come into existence at all. Our people as a whole will profit, for successful home-making is but another name for the upbuilding of the Nation.

The necessary foundation has already been laid for the inauguration of the policy just described. It would be unwise to begin by doing too much, for a great deal will doubtless be learned, both as to what can and what cannot be safely attempted, by the early efforts, which must of necessity be partly experimental in character. At the very beginning the Government should make clear, beyond shadow of doubt, its intention to pursue this policy on lines of the broadest public interest. No reservoir or canal should ever be built to satisfy selfish personal or local interests; but only in accordance with the advice of trained experts, after long investigation has shown the locality where all the conditions combine to make the work most needed and fraught with the greatest usefulness to the community as a whole. There should be no extravagance, and the believers in the need of irrigation will most benefit their cause by seeing to it that it is free from the least taint of excessive or reckless expenditure of the public moneys.

Whatever the Nation does for the extension of irrigation should harmonize with, and tend to improve, the condition of those now living on irrigated land. We are not at the starting point of this development. Over two hundred millions of private capital has already been expended in the construction of irrigation works, and many million acres of arid land reclaimed. A high degree of enterprise and ability has been shown in the work itself; but as much cannot be said in reference to the laws relating thereto. The security and value of the homes created depend largely on the stability of titles to water; but the majority of these rest on the uncertain foundation of court decisions rendered in ordinary suits at law. With a few creditable exceptions, the arid States have failed to

provide for the certain and just division of streams in times of scarcity. Lax and uncertain laws have made it possible to establish rights to water in excess of actual uses or necessities, and many streams have already passed into private ownership, or a control equivalent to ownership.

Whoever controls a stream practically controls the land it renders productive, and the doctrine of private ownership of water apart from land cannot prevail without causing enduring wrong. The recognition of such ownership, which has been permitted to grow up in the arid regions, should give way to a more enlightened and larger recognition of the rights of the public in the control and disposal of the public water supplies. Laws founded upon conditions obtaining in humid regions, where water is too abundant to justify hoarding it, have no proper application in a dry country.

In the arid States the only right to water which should be recognized is that of use. In irrigation this right should attach to the land reclaimed and be inseparable therefrom. Granting perpetual water rights to others than users, without compensation to the public, is open to all the objections which apply to giving away perpetual franchises to the public utilities of cities. A few of the Western States have already recognized this, and have incorporated in their constitutions the doctrine of perpetual State ownership of water.

The benefits which have followed the unaided development of the past justify the Nation's aid and cooperation in the more difficult and important work yet to be accomplished. Laws so vitally affecting homes as those which control the water supply will only be effective when they have the sanction of the irrigators; reforms can only be final and satisfactory when they come through the enlightenment of the people most concerned. The larger development which national aid insures should, however, awaken in every arid State the determination to make its irrigation system equal in justice and effectiveness that of any country in the civilized world. Nothing could be more unwise than for isolated communities to continue to learn everything experimentally, instead of profiting by what is already known elsewhere. We are dealing with a new and momentous question, in the pregnant years while institutions are forming, and what we do will affect not only the present but future generations.

Our aim should be not simply to reclaim the largest area of land and provide homes for the largest number of people, but to create

for this new industry the best possible social and industrial conditions; and this requires that we not only understand the existing situation, but avail ourselves of the best experience of the time in the solution of its problems. A careful study should be made, both by the Nation and the States, of the irrigation laws and conditions here and abroad. Ultimately it will probably be necessary for the Nation to cooperate with the several arid States in proportion as these States by their legislation and administration show themselves fit to receive it.

In Hawaii our aim must be to develop the Territory on the traditional American lines. We do not wish a region of large estates tilled by cheap labor; we wish a healthy American community of men who themselves till the farms they own. All our legislation for the islands should be shaped with this end in view; the well-being of the average home-maker must afford the true test of the healthy development of the islands. The land policy should as nearly as possible be modeled on our homestead system.

It is a pleasure to say that it is hardly more necessary to report as to Porto Rico than as to any State or Territory within our continental limits. The island is thriving as never before, and it is being administered efficiently and honestly. Its people are now enjoying liberty and order under the protection of the United States, and upon this fact we congratulate them and ourselves. Their material welfare must be as carefully and jealously considered as the welfare of any other portion of our country. We have given them the great gift of free access for their products to the markets of the United States. I ask the attention of the Congress to the need of legislation concerning the public lands of Porto Rico.

In Cuba such progress has been made toward putting the independent government of the island upon a firm footing that before the present session of the Congress closes this will be an accomplished fact. Cuba will then start as her own mistress; and to the beautiful Queen of the Antilles, as she unfolds this new page of her destiny, we extend our heartiest greetings and good wishes. Elsewhere I have discussed the question of reciprocity. In the case of Cuba, however, there are weighty reasons of morality and of national interest why the policy should be held to have a peculiar application, and I most earnestly ask your attention to the wisdom, indeed to the vital need, of providing for a substantial reduction in the tariff duties on Cuban imports into the United States. Cuba has in her constitu-

tion affirmed what we desired, that she should stand, in international matters, in closer and more friendly relations with us than with any other power; and we are bound by every consideration of honor and expediency to pass commercial measures in the interest of her material well-being.

In the Philippines our problem is larger. They are very rich tropical islands, inhabited by many varying tribes, representing widely different stages of progress toward civilization. Our earnest effort is to help these people upward along the stony and difficult path that leads to self-government. We hope to make our administration of the islands honorable to our Nation by making it of the highest benefit to the Filipinos themselves; and as an earnest of what we intend to do, we point to what we have done. Already a greater measure of material prosperity and of governmental honesty and efficiency has been attained in the Philippines than ever before in their history.

It is no light task for a nation to achieve the temperamental qualities without which the institutions of free government are but an empty mockery. Our people are now successfully governing themselves, because for more than a thousand years they have been slowly fitting themselves, sometimes consciously, sometimes unconsciously, toward this end. What has taken us thirty generations to achieve, we cannot expect to see another race accomplish out of hand, especially when large portions of that race start very far behind the point which our ancestors had reached even thirty generations ago. In dealing with the Philippine people we must show both patience and strength, forbearance and steadfast resolution. Our aim is high. We do not desire to do for the islanders merely what has elsewhere been done for tropic peoples by even the best foreign governments. We hope to do for them what has never before been done for any people of the tropics—to make them fit for self-government after the fashion of the really free nations.

History may safely be challenged to show a single instance in which a masterful race such as ours, having been forced by the exigencies of war to take possession of an alien land, has behaved to its inhabitants with the disinterested zeal for their progress that our people have shown in the Philippines. To leave the islands at this time would mean that they would fall into a welter of murderous anarchy. Such desertion of duty on our part would be a crime against humanity. The character of Governor Taft and of his associates and subordinates is a proof, if such be needed, of the sincerity of our effort to give the islanders a constantly increasing

measure of self-government, exactly as fast as they show themselves fit to exercise it. Since the civil government was established not an appointment has been made in the islands with any reference to considerations of political influence, or to aught else save the fitness of the man and the needs of the service.

In our anxiety for the welfare and progress of the Philippines, it may be that here and there we have gone too rapidly in giving them local self-government. It is on this side that our error, if any, has been committed. No competent observer, sincerely desirous of finding out the facts and influenced only by a desire for the welfare of the natives, can assert that we have not gone far enough. We have gone to the very verge of safety in hastening the process. To have taken a single step farther or faster in advance would have been folly and weakness, and might well have been crime. We are extremely anxious that the natives shall show the power of governing themselves. We are anxious, first for their sakes, and next, because it relieves us of a great burden. There need not be the slightest fear of our not continuing to give them all the liberty for which they are fit.

The only fear is lest in our overanxiety we give them a degree of independence for which they are unfit, thereby inviting reaction and disaster. As fast as there is any reasonable hope that in a given district the people can govern themselves, self-government has been given in that district. There is not a locality fitted for self-government which has not received it. But it may well be that in certain cases it will have to be withdrawn because the inhabitants show themselves unfit to exercise it; such instances have already occurred. In other words, there is not the slightest chance of our failing to show a sufficiently humanitarian spirit. The danger comes in the opposite direction.

There are still troubles ahead in the islands. The insurrection has become an affair of local banditti and marauders, who deserve no higher regard than the brigands of portions of the Old World. Encouragement, direct or indirect, to these insurrectos stands on the same footing as encouragement to hostile Indians in the days when we still had Indian wars. Exactly as our aim is to give to the Indian who remains peaceful the fullest and amplest consideration, but to have it understood that we will show no weakness if he goes on the warpath, so we must make it evident, unless we are false to our own traditions and to the demands of civilization and humanity, that while we will do everything in our power for the Filipino who

is peaceful, we will take the sternest measures with the Filipino who follows the path of the insurrecto and the ladrone.

The heartiest praise is due to large numbers of the natives of the islands for their steadfast loyalty. The Macabebes have been conspicuous for their courage and devotion to the flag. I recommend that the Secretary of War be empowered to take some systematic action in the way of aiding those of these men who are crippled in the service and the families of those who are killed.

The time has come when there should be additional legislation for the Philippines. Nothing better can be done for the islands than to introduce industrial enterprises. Nothing would benefit them so much as throwing them open to industrial development. The connection between idleness and mischief is proverbial, and the opportunity to do remunerative work is one of the surest preventives of war. Of course no business man will go into the Philippines unless it is to his interest to do so; and it is immensely to the interest of the islands that he should go in. It is therefore necessary that the Congress should pass laws by which the resources of the islands can be developed; so that franchises (for limited terms of years) can be granted to companies doing business in them, and every encouragement be given to the incoming of business men of every kind.

Not to permit this is to do a wrong to the Philippines. The franchises must be granted and the business permitted only under regulations which will guarantee the islands against any kind of improper exploitation. But the vast natural wealth of the islands must be developed, and the capital willing to develop it must be given the opportunity. The field must be thrown open to individual enterprise, which has been the real factor in the development of every region over which our flag has flown. It is urgently necessary to enact suitable laws dealing with general transportation, mining, banking, currency, homesteads, and the use and ownership of the lands and timber. These laws will give free play to industrial enterprise; and the commercial development which will surely follow will afford to the people of the islands the best proofs of the sincerity of our desire to aid them.

I call your attention most earnestly to the crying need of a cable to Hawaii and the Philippines, to be continued from the Philippines to points in Asia. We should not defer a day longer than necessary the construction of such a cable. It is demanded not merely for commercial but for political and military considerations.

Either the Congress should immediately provide for the construction of a Government cable, or else an arrangement should be made by which like advantages to those accruing from a Government cable may be secured to the Government by contract with a private cable company.

No single great material work which remains to be undertaken on this continent is of such consequence to the American people as the building of a canal across the Isthmus connecting North and South America. Its importance to the Nation is by no means limited merely to its material effects upon our business prosperity; and yet with view to these effects alone it would be to the last degree important for us immediately to begin it. While its beneficial effects would perhaps be most marked upon the Pacific Coast and the Gulf and South Atlantic States, it would also greatly benefit other sections. It is emphatically a work which it is for the interest of the entire country to begin and complete as soon as possible; it is one of those great works which only a great nation can undertake with prospects of success, and which when done are not only permanent assets in the nation's material interests, but standing monuments to its constructive ability.

I am glad to be able to announce to you that our negotiations on this subject with Great Britain, conducted on both sides in a spirit of friendliness and mutual good will and respect, have resulted in my being able to lay before the Senate a treaty which if ratified will enable us to begin preparations for an Isthmian canal at any time, and which guarantees to this Nation every right that it has ever asked in connection with the canal. In this treaty, the old Clayton-Bulwer treaty, so long recognized as inadequate to supply the base for the construction and maintenance of a necessarily American ship canal, is abrogated. It specifically provides that the United States alone shall do the work of building and assume the responsibility of safeguarding the canal and shall regulate its neutral use by all nations on terms of equality without the guaranty or interference of any outside nation from any quarter. The signed treaty will at once be laid before the Senate, and if approved the Congress can then proceed to give effect to the advantages it secures us by providing for the building of the canal.

The true end of every great and free people should be self-respecting peace; and this Nation most earnestly desires sincere and

cordial friendship with all others. Over the entire world, of recent years, wars between the great civilized powers have become less and less frequent. Wars with barbarous or semi-barbarous peoples come in an entirely different category, being merely a most regrettable but necessary international police duty which must be performed for the sake of the welfare of mankind. Peace can only be kept with certainty where both sides wish to keep it; but more and more the civilized peoples are realizing the wicked folly of war and are attaining that condition of just and intelligent regard for the rights of others which will in the end, as we hope and believe, make world-wide peace possible. The peace conference at The Hague gave definite expression to this hope and belief and marked a stride toward their attainment.

This same peace conference acquiesced in our statement of the Monroe Doctrine as compatible with the purposes and aims of the conference.

The Monroe Doctrine should be the cardinal feature of the foreign policy of all the nations of the two Americas, as it is of the United States. Just seventy-eight years have passed since President Monroe in his Annual Message announced that "The American continents are henceforth not to be considered as subjects for future colonization by any European power." In other words, the Monroe Doctrine is a declaration that there must be no territorial aggrandizement by any non-American power at the expense of any American power on American soil. It is in no wise intended as hostile to any nation in the Old World. Still less is it intended to give cover to any aggression by one New World power at the expense of any other. It is simply a step, and a long step, toward assuring the universal peace of the world by securing the possibility of permanent peace on this hemisphere.

During the past century other influences have established the permanence and independence of the smaller states of Europe. Through the Monroe Doctrine we hope to be able to safeguard like independence and secure like permanence for the lesser among the New World nations.

This doctrine has nothing to do with the commercial relations of any American power, save that it in truth allows each of them to form such as it desires. In other words, it is really a guaranty of the commercial independence of the Americas. We do not ask under this doctrine for any exclusive commercial dealings with any other American state. We do not guarantee any state against pun-

ishment if it misconducts itself, provided that punishment does not take the form of the acquisition of territory by any non-American power. .

Our attitude in Cuba is a sufficient guaranty of our own good faith. We have not the slightest desire to secure any territory at the expense of any of our neighbors. We wish to work with them hand in hand, so that all of us may be uplifted together, and we rejoice over the good fortune of any of them, we gladly hail their material prosperity and political stability, and are concerned and alarmed if any of them fall into industrial or political chaos. We do not wish to see any Old World military power grow up on this continent, or to be compelled to become a military power ourselves. The peoples of the Americas can prosper best if left to work out their own salvation in their own way.

The work of upbuilding the Navy must be steadily continued. No one point of our policy, foreign or domestic, is more important than this to the honor and material welfare, and above all to the peace, of our Nation in the future. Whether we desire it or not, we must henceforth recognize that we have international duties no less than international rights. Even if our flag were hauled down in the Philippines and Porto Rico, even if we decided not to build the Isthmian Canal, we should need a thoroughly trained Navy of adequate size, or else be prepared definitely and for all time to abandon the idea that our Nation is among those whose sons go down to the sea in ships. Unless our commerce is always to be carried in foreign bottoms, we must have war craft to protect it.

Inasmuch, however, as the American people have no thought of abandoning the path upon which they have entered, and especially in view of the fact that the building of the Isthmian Canal is fast becoming one of the matters which the whole people are united in demanding, it is imperative that our Navy should be put and kept in the highest state of efficiency, and should be made to answer to our growing needs. So far from being in any way a provocation to war, an adequate and highly trained navy is the best guaranty against war, the cheapest and most effective peace insurance. The cost of building and maintaining such a navy represents the very lightest premium for insuring peace which this Nation can possibly pay.

Probably no other great nation in the world is so anxious for peace as we are. There is not a single civilized power which has

anything whatever to fear from aggressiveness on our part. All we want is peace; and toward this end we wish to be able to secure the same respect for our rights from others which we are eager and anxious to extend to their rights in return, to insure fair treatment to us commercially, and to guarantee the safety of the American people.

Our people intend to abide by the Monroe Doctrine and to insist upon it as the one sure means of securing the peace of the Western Hemisphere. The Navy offers us the only means of making our insistence upon the Monroe Doctrine anything but a subject of derision to whatever nation chooses to disregard it. We desire the peace which comes as of right to the just man armed; not the peace granted on terms of ignominy to the craven and the weakling.

It is not possible to improvise a navy after war breaks out. The ships must be built and the men trained long in advance. Some auxiliary vessels can be turned into makeshifts which will do in default of any better for the minor work, and a proportion of raw men can be mixed with the highly trained, their shortcomings being made good by the skill of their fellows; but the efficient fighting force of the Navy when pitted against an equal opponent will be found almost exclusively in the war ships that have been regularly built and in the officers and men who through years of faithful performance of sea duty have been trained to handle their formidable but complex and delicate weapons with the highest efficiency. In the late war with Spain the ships that dealt the decisive blows at Manila and Santiago had been launched from two to fourteen years, and they were able to do as they did because the men in the conning towers, the gun turrets, and the engine-rooms had through long years of practice at sea learned how to do their duty.

Our present Navy was begun in 1882. At that period our Navy consisted of a collection of antiquated wooden ships, already almost as out of place against modern war vessels as the galleys of Alcibiades and Hamilcar—certainly as the ships of Tromp and Blake. Nor at that time did we have men fit to handle a modern man-of-war. Under the wise legislation of the Congress and the successful administration of a succession of patriotic Secretaries of the Navy, belonging to both political parties, the work of upbuilding the Navy went on, and ships equal to any in the world of their kind were continually added; and what was even more important, these ships were exercised at sea singly and in squadrons until the men aboard them were able to get the best possible service out of them. The result was seen

in the short war with Spain, which was decided with such rapidity because of the infinitely greater preparedness of our Navy than of the Spanish Navy.

While awarding the fullest honor to the men who actually commanded and manned the ships which destroyed the Spanish sea forces in the Philippines and in Cuba, we must not forget that an equal meed of praise belongs to those without whom neither blow could have been struck. The Congressmen who voted years in advance the money to lay down the ships, to build the guns, to buy the armor-plate; the Department officials and the business men and wage-workers who furnished what the Congress had authorized; the Secretaries of the Navy who asked for and expended the appropriations; and finally the officers who, in fair weather and foul, on actual sea service, trained and disciplined the crews of the ships when there was no war in sight—all are entitled to a full share in the glory of Manila and Santiago, and the respect accorded by every true American to those who wrought such signal triumph for our country. It was forethought and preparation which secured us the overwhelming triumph of 1898. If we fail to show forethought and preparation now, there may come a time when disaster will befall us instead of triumph; and should this time come, the fault will rest primarily, not upon those whom the accident of events puts in supreme command at the moment, but upon those who have failed to prepare in advance.

There should be no cessation in the work of completing our Navy. So far ingenuity has been wholly unable to devise a substitute for the great war craft whose hammering guns beat out the mastery of the high seas. It is unsafe and unwise not to provide this year for several additional battle ships and heavy armored cruisers, with auxiliary and lighter craft in proportion; for the exact numbers and character I refer you to the report of the Secretary of the Navy. But there is something we need even more than additional ships, and this is additional officers and men. To provide battle ships and cruisers and then lay them up, with the expectation of leaving them unmanned until they are needed in actual war, would be worse than folly; it would be a crime against the Nation.

To send any war ship against a competent enemy unless those aboard it have been trained by years of actual sea service, including incessant gunnery practice, would be to invite not merely disaster, but the bitterest shame and humiliation. Four thousand additional seamen and one thousand additional marines should be provided;

and an increase in the officers should be provided by making a large addition to the classes at Annapolis. There is one small matter which should be mentioned in connection with Annapolis. The pretentious and unmeaning title of "naval cadet" should be abolished; the title of "midshipman," full of historic association, should be restored.

Even in time of peace a war ship should be used until it wears out, for only so can it be kept fit to respond to any emergency. The officers and men alike should be kept as much as possible on blue water, for it is there only they can learn their duties as they should be learned. The big vessels should be manœuvred in squadrons containing not merely battle ships, but the necessary proportion of cruisers and scouts. The torpedo boats should be handled by the younger officers in such manner as will best fit the latter to take responsibility and meet the emergencies of actual warfare.

Every detail ashore which can be performed by a civilian should be so performed, the officer being kept for his special duty in the sea service. Above all, gunnery practice should be unceasing. It is important to have our Navy of adequate size, but it is even more important that ship for ship it should equal in efficiency any navy in the world. This is possible only with highly drilled crews and officers, and this in turn imperatively demands continuous and progressive instruction in target practice, ship handling, squadron tactics, and general discipline. Our ships must be assembled in squadrons actively cruising away from harbors and never long at anchor. The resulting wear upon engines and hulls must be endured; a battle ship worn out in long training of officers and men is well paid for by the results, while, on the other hand, no matter in how excellent condition, it is useless if the crew be not expert.

We now have seventeen battle ships appropriated for, of which nine are completed and have been commissioned for actual service. The remaining eight will be ready in from two to four years, but it will take at least that time to recruit and train the men to fight them. It is of vast concern that we have trained crews ready for the vessels by the time they are commissioned. Good ships and good guns are simply good weapons, and the best weapons are useless save in the hands of men who know how to fight with them. The men must be trained and drilled under a thorough and well-planned system of progressive instruction, while the recruiting must be carried on with still greater vigor. Every effort must be made to

exalt the main function of the officer—the command of men. The leading graduates of the Naval Academy should be assigned to the combatant branches, the line and marines.

Many of the essentials of success are already recognized by the General Board, which, as the central office of a growing staff, is moving steadily toward a proper war efficiency and a proper efficiency of the whole Navy, under the Secretary. This General Board, by fostering the creation of a general staff, is providing for the official and then the general recognition of our altered conditions as a Nation and of the true meaning of a great war fleet, which meaning is, first, the best men, and, second, the best ships.

The Naval Militia forces are State organizations, and are trained for coast service, and in event of war they will constitute the inner line of defense. They should receive hearty encouragement from the General Government.

But in addition we should at once provide for a National Naval Reserve, organized and trained under the direction of the Navy Department, and subject to the call of the Chief Executive whenever war becomes imminent. It should be a real auxiliary to the naval seagoing peace establishment, and offer material to be drawn on at once for manning our ships in time of war. It should be composed of graduates of the Naval Academy, graduates of the Naval Militia, officers and crews of coast-line steamers, longshore schooners, fishing vessels, and steam yachts, together with the coast population about such centers as life-saving stations and light-houses.

The American people must either build and maintain an adequate navy or else make up their minds definitely to accept a secondary position in international affairs, not merely in political, but in commercial, matters. It has been well said that there is no surer way of courting national disaster than to be "opulent, aggressive, and unarmed."

It is not necessary to increase our Army beyond its present size at this time. But it is necessary to keep it at the highest point of efficiency. The individual units who as officers and enlisted men compose this Army, are, we have good reason to believe, at least as efficient as those of any other army in the entire world. It is our duty to see that their training is of a kind to insure the highest possible expression of power to these units when acting in combination.

The conditions of modern war are such as to make an infinitely heavier demand than ever before upon the individual character and

capacity of the officer and the enlisted man, and to make it far more difficult for men to act together with effect. At present the fighting must be done in extended order, which means that each man must act for himself and at the same time act in combination with others with whom he is no longer in the old-fashioned elbow-to-elbow touch. Under such conditions a few men of the highest excellence are worth more than many men without the special skill which is only found as the result of special training applied to men of exceptional physique and morale. But nowadays the most valuable fighting man and the most difficult to perfect is the rifleman who is also a skillful and daring rider.

The proportion of our cavalry regiments has wisely been increased. The American cavalryman, trained to manœuvre and fight with equal facility on foot and on horseback, is the best type of soldier for general purposes now to be found in the world. The ideal cavalryman of the present day is a man who can fight on foot as effectively as the best infantryman, and who is in addition unsurpassed in the care and management of his horse and in his ability to fight on horseback.

A general staff should be created. As for the present staff and supply departments, they should be filled by details from the line, the men so detailed returning after a while to their line duties. It is very undesirable to have the senior grades of the Army composed of men who have come to fill the positions by the mere fact of seniority. A system should be adopted by which there shall be an elimination grade by grade of those who seem unfit to render the best service in the next grade. Justice to the veterans of the Civil War who are still in the Army would seem to require that in the matter of retirements they be given by law the same privileges accorded to their comrades in the Navy.

The process of elimination of the least fit should be conducted in a manner that would render it practically impossible to apply political or social pressure on behalf of any candidate, so that each man may be judged purely on his own merits. Pressure for the promotion of civil officials for political reasons is bad enough, but it is tenfold worse where applied on behalf of officers of the Army or Navy. Every promotion and every detail under the War Department must be made solely with regard to the good of the service and to the capacity and merit of the man himself. No pressure, political, social, or personal, of any kind, will be permitted to exercise the least effect in any question of promotion or detail; and if

there is reason to believe that such pressure is exercised at the instigation of the officer concerned, it will be held to militate against him. In our Army we cannot afford to have rewards or duties distributed save on the simple ground that those who by their own merits are entitled to the rewards get them, and that those who are peculiarly fit to do the duties are chosen to perform them.

Every effort should be made to bring the Army to a constantly increasing state of efficiency. When on actual service no work save that directly in the line of such service should be required. The paper work in the Army, as in the Navy, should be greatly reduced. What is needed is proved power of command and capacity to work well in the field. Constant care is necessary to prevent dry rot in the transportation and commissary departments.

Our Army is so small and so much scattered that it is very difficult to give the higher officers (as well as the lower officers and the enlisted men) a chance to practice manœuvres in mass and on a comparatively large scale. In time of need no amount of individual excellence would avail against the paralysis which would follow inability to work as a coherent whole, under skillful and daring leadership. The Congress should provide means whereby it will be possible to have field exercises by at least a division of regulars, and if possible also a division of national guardsmen, once a year. These exercises might take the form of field manœuvres; or, if on the Gulf Coast or the Pacific or Atlantic Seaboard, or in the region of the Great Lakes, the army corps when assembled could be marched from some inland point to some point on the water, there embarked, disembarked after a couple of days' journey at some other point, and again marched inland. Only by actual handling and providing for men in masses while they are marching, camping, embarking, and disembarking, will it be possible to train the higher officers to perform their duties well and smoothly.

A great debt is owing from the public to the men of the Army and Navy. They should be so treated as to enable them to reach the highest point of efficiency, so that they may be able to respond instantly to any demand made upon them to sustain the interests of the Nation and the honor of the flag. The individual American enlisted man is probably on the whole a more formidable fighting man than the regular of any other army. Every consideration should be shown him, and in return the highest standard of usefulness should be exacted from him. It is well worth while for the Congress to consider whether the pay of enlisted men upon second

and subsequent enlistments should not be increased to correspond with the increased value of the veteran soldier.

Much good has already come from the act reorganizing the Army, passed early in the present year. The three prime reforms, all of them of literally inestimable value, are, first, the substitution of four-year details from the line for permanent appointments in the so-called staff divisions; second, the establishment of a corps of artillery with a chief at the head; third, the establishment of a maximum and minimum limit for the Army. It would be difficult to overestimate the improvement in the efficiency of our Army which these three reforms are making, and have in part already effected.

The reorganization provided for by the act has been substantially accomplished. The improved conditions in the Philippines have enabled the War Department materially to reduce the military charge upon our revenue and to arrange the number of soldiers so as to bring this number much nearer to the minimum than to the maximum limit established by law. There is, however, need of supplementary legislation. Thorough military education must be provided, and in addition to the regulars the advantages of this education should be given to the officers of the National Guard and others in civil life who desire intelligently to fit themselves for possible military duty. The officers should be given the chance to perfect themselves by study in the higher branches of this art. At West Point the education should be of the kind most apt to turn out men who are good in actual field service; too much stress should not be laid on mathematics, nor should proficiency therein be held to establish the right of entry to a corps d'élite. The typical American officer of the best kind need not be a good mathematician; but he must be able to master himself, to control others, and to show boldness and fertility of resource in every emergency.

Action should be taken in reference to the militia and to the raising of volunteer forces. Our militia law is obsolete and worthless. The organization and armament of the National Guard of the several States, which are treated as militia in the appropriations by the Congress, should be made identical with those provided for the regular forces. The obligations and duties of the Guard in time of war should be carefully defined, and a system established by law under which the method of procedure of raising volunteer forces should be prescribed in advance. It is utterly impossible in the excitement and haste of impending war to do this satisfactorily if the arrangements

have not been made long beforehand. Provision should be made for utilizing in the first volunteer organizations called out the training of those citizens who have already had experience under arms, and especially for the selection in advance of the officers of any force which may be raised; for careful selection of the kind necessary is impossible after the outbreak of war.

That the Army is not at all a mere instrument of destruction has been shown during the last three years. In the Philippines, Cuba, and Porto Rico it has proved itself a great constructive force, a most potent implement for the upbuilding of a peaceful civilization.

No other citizens deserve so well of the Republic as the veterans, the survivors of those who saved the Union. They did the one deed which if left undone would have meant that all else in our history went for nothing. But for their steadfast prowess in the greatest crisis of our history, all our annals would be meaningless, and our great experiment in popular freedom and self-government a gloomy failure. Moreover, they not only left us a united Nation, but they left us also as a heritage the memory of the mighty deeds by which the Nation was kept united. We are now indeed one Nation, one in fact as well as in name; we are united in our devotion to the flag which is the symbol of national greatness and unity; and the very completeness of our union enables us all, in every part of the country, to glory in the valor shown alike by the sons of the North and the sons of the South in the times that tried men's souls.

The men who in the last three years have done so well in the East and the West Indies and on the mainland of Asia have shown that this remembrance is not lost. In any serious crisis the United States must rely for the great mass of its fighting men upon the volunteer soldiery who do not make a permanent profession of the military career; and whenever such a crisis arises the deathless memories of the Civil War will give to Americans the lift of lofty purpose which comes to those whose fathers have stood valiantly in the forefront of the battle.

The merit system of making appointments is in its essence as democratic and American as the common school system itself. It simply means that in clerical and other positions where the duties are entirely non-political, all applicants should have a fair field and no favor, each standing on his merits as he is able to show them by practical test. Written competitive examinations offer the only

available means in many cases for applying this system. In other cases, as where laborers are employed, a system of registration undoubtedly can be widely extended. There are, of course, places where the written competitive examination cannot be applied, and others where it offers by no means an ideal solution, but where under existing political conditions it is, though an imperfect means, yet the best present means of getting satisfactory results.

Wherever the conditions have permitted the application of the merit system in its fullest and widest sense, the gain to the Government has been immense. The navy-yards and postal service illustrate, probably better than any other branches of the Government, the great gain in economy, efficiency, and honesty due to the enforcement of this principle.

I recommend the passage of a law which will extend the classified service to the District of Columbia, or will at least enable the President thus to extend it. In my judgment all laws providing for the temporary employment of clerks should hereafter contain a provision that they be selected under the Civil Service Law.

It is important to have this system obtain at home, but it is even more important to have it applied rigidly in our insular possessions. Not an office should be filled in the Philippines or Porto Rico with any regard to the man's partisan affiliations or services, with any regard to the political, social, or personal influence which he may have at his command; in short, heed should be paid to absolutely nothing save the man's own character and capacity and the needs of the service.

The administration of these islands should be as wholly free from the suspicion of partisan politics as the administration of the Army and Navy. All that we ask from the public servant in the Philippines or Porto Rico is that he reflect honor on his country by the way in which he makes that country's rule a benefit to the peoples who have come under it. This is all that we should ask, and we cannot afford to be content with less.

The merit system is simply one method of securing honest and efficient administration of the Government; and in the long run the sole justification of any type of government lies in its proving itself both honest and efficient.

The consular service is now organized under the provisions of a law passed in 1856, which is entirely inadequate to existing conditions. The interest shown by so many commercial bodies through-

out the country in the reorganization of the service is heartily commended to your attention. Several bills providing for a new consular service have in recent years been submitted to the Congress. They are based upon the just principle that appointments to the service should be made only after a practical test of the applicant's fitness, that promotions should be governed by trustworthiness, adaptability, and zeal in the performance of duty, and that the tenure of office should be unaffected by partisan considerations.

The guardianship and fostering of our rapidly expanding foreign commerce, the protection of American citizens resorting to foreign countries in lawful pursuit of their affairs, and the maintenance of the dignity of the Nation abroad, combine to make it essential that our consuls should be men of character, knowledge, and enterprise. It is true that the service is now, in the main, efficient, but a standard of excellence cannot be permanently maintained until the principles set forth in the bills heretofore submitted to the Congress on this subject are enacted into law.

In my judgment the time has arrived when we should definitely make up our minds to recognize the Indian as an individual and not as a member of a tribe. The General Allotment Act is a mighty pulverizing engine to break up the tribal mass. It acts directly upon the family and the individual. Under its provisions some sixty thousand Indians have already become citizens of the United States. We should now break up the tribal funds, doing for them what allotment does for the tribal lands; that is, they should be divided into individual holdings. There will be a transition period during which the funds will in many cases have to be held in trust. This is the case also with the lands. A stop should be put upon the indiscriminate permission to Indians to lease their allotments. The effort should be steadily to make the Indian work like any other man on his own ground. The marriage laws of the Indians should be made the same as those of the whites.

In the schools the education should be elementary and largely industrial. The need of higher education among the Indians is very, very limited. On the reservations care should be taken to try to suit the teaching to the needs of the particular Indian. There is no use in attempting to induce agriculture in a country suited only for cattle raising, where the Indian should be made a stock grower. The ration system, which is merely the corral and the reservation system, is highly detrimental to the Indians. It promotes beggary,

perpetuates pauperism, and stifles industry. It is an effectual barrier to progress. It must continue to a greater or less degree as long as tribes are herded on reservations and have everything in common. The Indian should be treated as an individual—like the white man. During the change of treatment inevitable hardships will occur; every effort should be made to minimize these hardships; but we should not because of them hesitate to make the change. There should be a continuous reduction in the number of agencies.

In dealing with the aboriginal races few things are more important than to preserve them from the terrible physical and moral degradation resulting from the liquor traffic. We are doing all we can to save our own Indian tribes from this evil. Wherever by international agreement this same end can be attained as regards races where we do not possess exclusive control, every effort should be made to bring it about.

I bespeak the most cordial support from the Congress and the people for the St. Louis Exposition to Commemorate the One Hundredth Anniversary of the Louisiana Purchase. This purchase was the greatest instance of expansion in our history. It definitely decided that we were to become a great continental republic, by far the foremost power in the Western Hemisphere. It is one of three or four great landmarks in our history—the great turning points in our development. It is eminently fitting that all our people should join with heartiest good will in commemorating it, and the citizens of St. Louis, of Missouri, of all the adjacent region, are entitled to every aid in making the celebration a noteworthy event in our annals. We earnestly hope that foreign nations will appreciate the deep interest our country takes in this Exposition, and our view of its importance from every standpoint, and that they will participate in securing its success. The National Government should be represented by a full and complete set of exhibits.

The people of Charleston, with great energy and civic spirit, are carrying on an Exposition which will continue throughout most of the present session of the Congress. I heartily commend this Exposition to the good will of the people. It deserves all the encouragement that can be given it. The managers of the Charleston Exposition have requested the Cabinet officers to place thereat the Government exhibits which have been at Buffalo, promising to pay

the necessary expenses. I have taken the responsibility of directing that this be done, for I feel that it is due to Charleston to help her in her praiseworthy effort. In my opinion the management should not be required to pay all these expenses. I earnestly recommend that the Congress appropriate at once the small sum necessary for this purpose.

The Pan-American Exposition at Buffalo has just closed. Both from the industrial and the artistic standpoint this Exposition has been in a high degree creditable and useful, not merely to Buffalo but to the United States. The terrible tragedy of the President's assassination interfered materially with its being a financial success. The Exposition was peculiarly in harmony with the trend of our public policy, because it represented an effort to bring into closer touch all the peoples of the Western Hemisphere, and give them an increasing sense of unity. Such an effort was a genuine service to the entire American public.

The advancement of the highest interests of national science and learning and the custody of objects of art and of the valuable results of scientific expeditions conducted by the United States have been committed to the Smithsonian Institution. In furtherance of its declared purpose—for the “increase and diffusion of knowledge among men”—the Congress has from time to time given it other important functions. Such trusts have been executed by the Institution with notable fidelity. There should be no halt in the work of the Institution, in accordance with the plans which its Secretary has presented, for the preservation of the vanishing races of great North American animals in the National Zoological Park. The urgent needs of the National Museum are recommended to the favorable consideration of the Congress.

Perhaps the most characteristic educational movement of the past fifty years is that which has created the modern public library and developed it into broad and active service. There are now over five thousand public libraries in the United States, the product of this period. In addition to accumulating material, they are also striving by organization, by improvement in method, and by cooperation, to give greater efficiency to the material they hold, to make it more widely useful, and by avoidance of unnecessary duplication in process to reduce the cost of its administration.

In these efforts they naturally look for assistance to the Federal library, which, though still the Library of Congress, and so entitled, is the one national library of the United States. Already the largest single collection of books on the Western Hemisphere, and certain to increase more rapidly than any other through purchase, exchange, and the operation of the copyright law, this library has a unique opportunity to render to the libraries of this country—to American scholarship—service of the highest importance. It is housed in a building which is the largest and most magnificent yet erected for library uses. Resources are now being provided which will develop the collection properly, equip it with the apparatus and service necessary to its effective use, render its bibliographic work widely available, and enable it to become, not merely a center of research, but the chief factor in great cooperative efforts for the diffusion of knowledge and the advancement of learning.

For the sake of good administration, sound economy, and the advancement of science, the Census Office as now constituted should be made a permanent Government bureau. This would insure better, cheaper, and more satisfactory work, in the interest not only of our business but of statistic, economic, and social science.

The remarkable growth of the postal service is shown in the fact that its revenues have doubled and its expenditures have nearly doubled within twelve years. Its progressive development compels constantly increasing outlay, but in this period of business energy and prosperity its receipts grow so much faster than its expenses that the annual deficit has been steadily reduced from \$11,411,779 in 1897 to \$3,923,727 in 1901. Among recent postal advances the success of rural free delivery wherever established has been so marked, and actual experience has made its benefits so plain, that the demand for its extension is general and urgent.

It is just that the great agricultural population should share in the improvement of the service. The number of rural routes now in operation is 6,009, practically all established within three years, and there are 6,000 applications awaiting action. It is expected that the number in operation at the close of the current fiscal year will reach 8,600. The mail will then be daily carried to the doors of 5,700,000 of our people who have heretofore been dependent upon distant offices, and one-third of all that portion of the country which is adapted to it will be covered by this kind of service.

The full measure of postal progress which might be realized has long been hampered and obstructed by the heavy burden imposed on the Government through the entrenched and well-understood abuses which have grown up in connection with second-class mail matter. The extent of this burden appears when it is stated that while the second-class matter makes nearly three-fifths of the weight of all the mail, it paid for the last fiscal year only \$4,294,445 of the aggregate postal revenue of \$111,631,193. If the pound rate of postage, which produces the large loss thus entailed, and which was fixed by the Congress with the purpose of encouraging the dissemination of public information, were limited to the legitimate newspapers and periodicals actually contemplated by the law, no just exception could be taken. That expense would be the recognized and accepted cost of a liberal public policy deliberately adopted for a justifiable end. But much of the matter which enjoys the privileged rate is wholly outside of the intent of the law, and has secured admission only through an evasion of its requirements or through lax construction. The proportion of such wrongly included matter is estimated by postal experts to be one-half of the whole volume of second-class mail. If it be only one-third or one-quarter, the magnitude of the burden is apparent. The Post-Office Department has now undertaken to remove the abuses so far as is possible by a stricter application of the law; and it should be sustained in its effort.

Owing to the rapid growth of our power and our interests on the Pacific, whatever happens in China must be of the keenest national concern to us.

The general terms of the settlement of the questions growing out of the antforeign uprisings in China of 1900, having been formulated in a joint note addressed to China by the representatives of the injured powers in December last, were promptly accepted by the Chinese Government. After protracted conferences the plenipotentiaries of the several powers were able to sign a final protocol with the Chinese plenipotentiaries on the 7th of last September, setting forth the measures taken by China in compliance with the demands of the joint note, and expressing their satisfaction therewith. It will be laid before the Congress, with a report of the plenipotentiary on behalf of the United States, Mr. William Woodville Rockhill, to whom high praise is due for the tact, good judgment, and energy he has displayed in performing an exceptionally difficult and delicate task.

The agreement reached disposes in a manner satisfactory to the powers of the various grounds of complaint, and will contribute materially to better future relations between China and the powers. Reparation has been made by China for the murder of foreigners during the uprising and punishment has been inflicted on the officials, however high in rank, recognized as responsible for or having participated in the outbreak. Official examinations have been forbidden for a period of five years in all cities in which foreigners have been murdered or cruelly treated, and edicts have been issued making all officials directly responsible for the future safety of foreigners and for the suppression of violence against them.

Provisions have been made for insuring the future safety of the foreign representatives in Peking by setting aside for their exclusive use a quarter of the city which the powers can make defensible and in which they can if necessary maintain permanent military guards; by dismantling the military works between the capital and the sea; and by allowing the temporary maintenance of foreign military posts along this line. An edict has been issued by the Emperor of China prohibiting for two years the importation of arms and ammunition into China. China has agreed to pay adequate indemnities to the states, societies, and individuals for the losses sustained by them and for the expenses of the military expeditions sent by the various powers to protect life and restore order.

Under the provisions of the joint note of December, 1900, China has agreed to revise the treaties of commerce and navigation and to take such other steps for the purpose of facilitating foreign trade as the foreign powers may decide to be needed.

The Chinese Government has agreed to participate financially in the work of bettering the water approaches to Shanghai and to Tientsin, the centers of foreign trade in central and northern China, and an international conservancy board, in which the Chinese Government is largely represented, has been provided for the improvement of the Shanghai River and the control of its navigation. In the same line of commercial advantages a revision of the present tariff on imports has been assented to for the purpose of substituting specific for *ad valorem* duties, and an expert has been sent abroad on the part of the United States to assist in this work. A list of articles to remain free of duty, including flour, cereals, and rice, gold and silver coin and bullion, has also been agreed upon in the settlement.

During these troubles our Government has unswervingly advocated moderation, and has materially aided in bringing about an

adjustment which tends to enhance the welfare of China and to lead to a more beneficial intercourse between the Empire and the modern world; while in the critical period of revolt and massacre we did our full share in safeguarding life and property, restoring order, and vindicating the national interest and honor. It behooves us to continue in these paths, doing what lies in our power to foster feelings of good will, and leaving no effort untried to work out the great policy of full and fair intercourse between China and the nations, on a footing of equal rights and advantages to all. We advocate the "open door" with all that it implies; not merely the procurement of enlarged commercial opportunities on the coasts, but access to the interior by the waterways with which China has been so extraordinarily favored. Only by bringing the people of China into peaceful and friendly community of trade with all the peoples of the earth can the work now auspiciously begun be carried to fruition. In the attainment of this purpose we necessarily claim parity of treatment, under the conventions, throughout the Empire for our trade and our citizens with those of all other powers.

We view with lively interest and keen hopes of beneficial results the proceedings of the Pan-American Congress, convoked at the invitation of Mexico, and now sitting at the Mexican capital. The delegates of the United States are under the most liberal instructions to cooperate with their colleagues in all matters promising advantage to the great family of American commonwealths, as well in their relations among themselves as in their domestic advancement and in their intercourse with the world at large.

My predecessor communicated to the Congress the fact that the Weil and La Abra awards against Mexico have been adjudged by the highest courts of our country to have been obtained through fraud and perjury on the part of the claimants, and that in accordance with the acts of the Congress the money remaining in the hands of the Secretary of State on these awards has been returned to Mexico. A considerable portion of the money received from Mexico on these awards had been paid by this Government to the claimants before the decision of the courts was rendered. My judgment is that the Congress should return to Mexico an amount equal to the sums thus already paid to the claimants.

The death of Queen Victoria caused the people of the United States deep and heartfelt sorrow, to which the Government gave full expression. When President McKinley died, our Nation in turn

received from every quarter of the British Empire expressions of grief and sympathy no less sincere. The death of the Empress Dowager Frederick of Germany also aroused the genuine sympathy of the American people; and this sympathy was cordially reciprocated by Germany when the President was assassinated. Indeed, from every quarter of the civilized world we received, at the time of the President's death, assurances of such grief and regard as to touch the hearts of our people. In the midst of our affliction we reverently thank the Almighty that we are at peace with the nations of mankind; and we firmly intend that our policy shall be such as to continue unbroken these international relations of mutual respect and good will.

THEODORE ROOSEVELT.

WHITE HOUSE,

December 3, 1901.

LIST OF PAPERS, WITH SUBJECTS OF CORRESPONDENCE.

ARGENTINE REPUBLIC.

No.	From and to whom.	Date.	Subject.	Page.
89	Mr. Lord to Mr. Hay.....	1901. Jan. 12	Passport application of Frank H. Bowers, born in Buenos Ayres of American parents, declined. Argentine law claims as citizens all persons born in the Republic.	1
34	Mr. Hay to Mr. Lord.....	Feb. 25	Same subject. Conflict of jurisdiction had not taken place and Bowers proposed to return to the United States. Passport should have been issued.	2
	Mr. Lord to Mr. Hay (telegram).	July 5	Political disturbances. Reports that public disorder caused by opposition to bill consolidating public debt has constrained Argentine Government to declare its capital in a state of siege for 6 months.	2
128	Same to same	July 11	Same subject. Confirms above telegram and gives full report of unification scheme and consequent disturbances; the bill has been withdrawn by the President, and resignations in his cabinet have followed.	2
	Same to same (telegram) ..	July 31	Same subject. Reports that state of siege has been raised.	5
131	Same to same.....	....do...	Same subject. Confirms above telegram, giving particulars.	5
	Mr. Hay to Señor del Viso..	Sept. 14	Announcement of death of President McKinley, and accession of President Roosevelt.	6
	President Roca to President Roosevelt (telegram).	....do...	Condolences on assassination of President McKinley.	6
	Mr. Hay to Mr. Lord (telegram).	Sept. 17	Same subject. Instructs to acknowledge above telegram.	6

AUSTRIA-HUNGARY.

	Mr. Hay to Mr. Herdliska...	1900. Dec. 10	Liability of naturalized citizens of the United States under military and expatriation laws of their native country. Asks views and suggestions as to notice which it is proposed to send to such citizens applying for passports.	7
	Circular	1901. Feb. 1	Same subject. Notice to American citizens formerly subjects of Austria-Hungary who contemplate returning to that country.	7
188	Mr. Harris to Mr. Hay	Apr. 26	Expulsion of John Richter. Austrian Government advances its right, under the treaty, of expelling naturalized citizens of Austrian birth without limitation of time of sojourn. Incloses correspondence and requests instructions.	8
7	Mr. Hay to Mr. Herdliska...	July 9	Same subject. Discusses limitations to the right of expulsion under the treaty of naturalization and under the laws of the Empire. As Richter, however, has been allowed to return, his case need not be taken up.	10
10	Mr. Herdliska to Mr. Hay...	July 10	Passport application of Carl Schimaneck, born in the United States, his father merely having declared his intention to become a United States citizen, and he having lived in Bohemia since he was 4 years old. Submits case for instructions.	11

AUSTRIA-HUNGARY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
10	Mr. Hay to Mr. Herdliska...	1901. Aug. 20	Passport application of Carl Schimaneck, born in the United States, his father merely having declared his intention to become a United States citizen, and he having lived in Bohemia since he was 4 years old. States that while Schimaneck is by birth an American citizen, his continued residence abroad since childhood, and especially his failure to carry out his declared intention to return to the United States, deprive him of his right to protection and to a passport.	13
	Mr. Von Callenberg to Mr. Hay (telegram).	Sept. 15	Condolences on assassination of President McKinley.	14
	Mr. Hay to Mr. Von Callenberg (telegram).	Sept. 16	Same subject. United States minister to Vienna has been charged to make acknowledgments.	14
	Mr. Hay to Mr. McCormick (telegram).	....do...	Same subject. Instructs in line with above telegram.	15

BELGIUM.

	Mr. Hay to Mr. Townsend ..	1900. Dec. 10	Liability of naturalized citizens of the United States under military and expatriation laws of their native country. Asks views and suggestions as to notice which it is proposed to send to such citizens applying for passports.	16
	Circular	1901. Feb. 5	Same subject. Notice to American citizens formerly subjects of Belgium who contemplate returning to that country.	16
80	Mr. Hill to Mr. Townsend ..	July 29	Arrest and ill treatment of Thomas de St. Bris. Incloses correspondence, and directs investigation and report.	17
96	Mr. Townsend to Mr. Hay ..	Aug. 16	Same subject. Reports that matter has been presented to Belgian Government. St. Bris relinquished his claim for indemnity when informed that he should obtain it though a civil suit.	19
102	Same to same.....	Sept. 13	Same subject. Reports that police officer who made arrest has been reprimanded, and ministry has expressed regrets. Incloses correspondence.	19
	Mr. Wauters to Mr. Hay (telegram).	Sept. 14	Condolences on assassination of President McKinley.	23
	Mr. Hill to Mr. Wauters.....	Sept. 25	Same subject. Acknowledges above telegram ...	23
	Mr. Hill to Mr. Townsend ..	Sept. 28	Arrest and ill treatment of Thomas de St. Bris. States that the Department is satisfied with the action of the Belgian Government.	22

BOLIVIA.

265	Mr. Bridgman to Mr. Hay..	1901. May 20	Good offices of United States minister in behalf of George Melville, a British subject, imprisoned in Bolivia. Reports in regard to.	24
278	Same to same.....	July 1	Same subject. Reports release of Melville	25
160	Mr. Adee to Mr. Bridgman.	Sept. 7	Same subject. Incloses letter of thanks from British secretary of state for foreign affairs.	25
	President Pando to Mr. Hay (telegram).	Sept. 14	Condolences on assassination of President McKinley.	26
	Mr. Hay to Mr. Bridgman (telegram).	Sept. 16	Same subject. Instructs to acknowledge above telegram.	26
306	Mr. Bridgman to Mr. Hay..	Oct. 28	Massacre of soldiers. Reports punishment of offenders.	26

BRAZIL.

313	Mr. Bryan to Mr. Hay.....	1901. Apr. 2	Visit of Brazilian school-ship <i>Benjamin Constant</i> to the United States. Reports intended.	27
21	Mr. Hay to Senhor Brasil...	Apr. 12	Same subject. States that steps have been taken that the vessel may be received with customary courtesies.	27
22	Same to same	Apr. 27	Same subject and tenor.....	27

BRAZIL—Continued.

No.	From and to whom.	Date.	Subject.	Page.
318	Mr. Bryan to Mr. Hay.....	1901. May 2	Missionary troubles. Reports sacking of American Baptist Church at Nictheroy. Incloses correspondence.	28
323	Same to same	May 20	Same subject. Damages have been made good by the authorities of Rio de Janeiro.	29
241	Mr. Hay to Mr. Bryan.....	May 31	Same subject. Approves course reported in dispatch No. 318.	30
	Mr. Hay to Senhor Brasil...	June 5	Visit of Brazilian school-ship <i>Benjamin Constant</i> to the United States. States that the President will receive the minister and the officers of the vessel.	28
244	Mr. Hay to Mr. Bryan.....	June 19	Missionary troubles. Sacking of American Baptist Church at Nictheroy. Department is gratified at settlement reported in dispatch No. 323.	30
339	Mr. Bryan to Mr. Hay.....	July 3	Riots in Rio de Janeiro over increase in street-railway fares. Reports in regard to.	30
	President Campos Salles to the Vice-President of the United States (telegram).	Sept. 14	Condolences on assassination of President McKinley.	31
	Mr. Hay to Mr. Bryan (telegram).	Sept. 16	Same subject. Instructs to acknowledge above telegram.	31

CHILE.

185	Mr. Lenderink to Mr. Hay .	1901. Mar. 25	Passport application of a Porto Rican. Requests instructions.	32
183	Mr. Hay to Mr. Lenderink .	Mar. 28	Courtesies of Chilean officials in connection with removal of remains of the late Lieut. S. E. Woodworth, U. S. N. Instructs to convey appreciation of the United States Government.	33
188	Mr. Hill to Mr. Lenderink .	Apr. 29	Passport application of a Porto Rican. Passport can not be issued before the status of Porto Ricans is established by the Supreme Court. They are, however, entitled to full protection.	32
191	Mr. Lenderink to Mr. Hay .	May 13	Courtesies of Chilean officials in connection with removal of remains of the late Lieut. S. E. Woodworth, U. S. N. Reports having expressed appreciation of United States Government.	34
	Señor Morla Vicuña to Mr. Hay.	June 26	Visit of Chilean training ship <i>General Baquedano</i> to the United States. Advises of intended.	35
43	Mr. Hay to Señor Morla Vicuña.	July 11	Same subject. States that courtesies will be extended by United States officials.	35
	Mr. Wilson to Mr. Hay (telegram).	July 14	Death of President Errázuriz. Notice of funeral.	36
	Mr. Hay to Mr. Wilson (telegram).	July 15	Same subject. Instructs to convey President's sympathy.	36
203	Mr. Wilson to Mr. Hay.....	July 23	Same subject. Reports particulars, and incloses his note of condolence.	37
207	Same to same	Aug. 15	Same subject. Incloses reply to his note of condolence.	38
	Vice-President Zanartu to the Vice-President of the United States (telegram).	Sept. 14	Condolences on assassination of President McKinley.	38
	Mr. Hay to Mr. Wilson (telegram).	Sept. 17	Same subject. Instructs to acknowledge above telegram.	38
	Señor Infante to Mr. Adee..	Oct. 9	Visit of Chilean training ship <i>General Baquedano</i> to the United States. Desires permission for the officers of the vessel to deposit, on behalf of the people of Chile, a plaque in Washington monument.	35
51	Mr. Hay to Señor Infante ..	1902. Jan. 11	Same subject. Expresses appreciation of action outlined in above note.	36

CHINA.

	Mr. Conger to Mr. Hay (telegram).	1900. Nov. 14	Foreign settlements. Reports occupation by Russian army of large tract near Tientsin; Belgium also claims large settlement. Has protested.	39
	Mr. Hay to Mr. Conger (telegram).	Nov. 16	Same subject. Sets forth Department's views in matter of securing foreign rights at treaty ports. Approves protest reported above.	39

CHINA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
199	Mr. Wu to Mr. Hay.....	1900. Nov. 30	Exclusion laws. Case of alleged Chinese student Yip Wah, and others. Protests against Treasury Department's rulings. Incloses correspondence.	59
163	Mr. Hay to Mr. Wu.....	Dec. 5	Same subject. States that immigration laws do not confer on the President any power to interpose in the matter.	63
200	Mr. Wu to Mr. Hay.....	Dec. 26	Same subject. Refers to his note No. 199, relates new incidents, and insists that it is within the power of the President to see that the treaties, as well as the other laws, are faithfully executed.	64
491	Mr. Conger to Mr. Hay.....	Dec. 31	Foreign settlements. Refers to his telegram of November 14; reports claims advanced by France, Belgium, Austria-Hungary, and Japan to a new or extended concession; incloses correspondence with United States consul at Tientsin and diplomatic representatives at Peking in regard to the protest of the United States against such action; advocates the acquisition by United States of such a concession after re-establishment of Chinese authority.	39
168	Mr. Hay to Mr. Wu.....	1901. Jan. 14	Exclusion laws. Case of alleged Chinese student Yip Wah. Treasury Department declines to modify decisions complained of.	65
	Mr. Conger to Mr. Hay (telegram).	Feb. 26	Foreign settlements. Has instructed United States consul at Tientsin to serve notice that tract formerly conceded to the United States must not be seized by any other power.	48
	Mr. Hay to Mr. Conger (telegram).	Feb. 27	Same subject. Approves action reported in above telegram.	48
551	Mr. Conger to Mr. Hay.....	Feb. 27	Same subject. Incloses correspondence with consul at Tientsin and General Chaffee.	48
169	Mr. Hay to Mr. Wu.....	Mar. 2	Exclusion laws. Refers to Chinese minister's note No. 200, and states that complaint as to delay in hearing cases is denied by the collector at San Francisco. Requests that charges be made more specific.	65
203	Mr. Wu to Mr. Hay.....	Apr. 11	Same subject. Cites several instances, as suggested in above note.	66
172	Mr. Hay to Mr. Wu.....	Apr. 15	Same subject. States that above note has been referred to the Treasury Department.	67
614	Mr. Squiers to Mr. Hay.....	Apr. 22	Foreign settlements. Incloses proclamation of German consul at Tientsin relative to extension of German concession. Interests of United States citizens not being involved, no protest has been made.	52
173	Mr. Hay to Mr. Wu.....	Apr. 23	Exclusion laws. States that acts of officials at San Francisco complained of in Chinese minister's note No. 203 have been sustained by the Treasury Department, and that mistakes can always be corrected by appeal.	68
640	Mr. Squiers to Mr. Hay.....	May 28	Claims of missionaries. Reports direct settlement of certain claims with Chinese authorities, and makes representations against such method.	97
207	Mr. Wu to Mr. Hill.....	July 6	Claims of Chinese subjects residing at Butte, Mont., on account of boycott of their business. Presents claims and documents in support thereof.	100
355	Mr. Hay to Mr. Squiers.....	July 17	Claims of missionaries. While Department does not favor direct settlements such as reported in dispatch No. 640, and has instructed consuls not to encourage them, it can but accept them when agreeable to the claimants.	98
677	Mr. Squiers to Mr. Hay.....	July 25	Foreign settlements. Incloses correspondence in regard to transfer of United States concession to the municipality of the British Extra Concession.	52
	Mr. Conger to Mr. Hay (telegram).	Sept. 9	Same subject. Asks if return of former United States concession at Tientsin shall be demanded of Chinese Government.	54
	Mr. Hay to Mr. Conger (telegram).	Sept. 12	Same subject. States that provisional extension of British municipality to cover former American concession at Tientsin, with complete reservation of American rights, might be arranged.	54
	Mr. Wu to Mr. Hay.....	Sept. 18	Condolences on assassination of President McKinley.	128
	Mr. Adee to Mr. Wu.....	Oct. 4	Same subject. Acknowledges above note, with appreciation.	129

CHINA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
769	Mr. Conger to Mr. Hay.....	1901. Oct. 11	Foreign settlements. Reports that application has been made for revival of former United States concession at Tientsin, and difficulties in the way of carrying out such a plan. Incloses correspondence.	54
776	Same to same.....	Oct. 14	Bond for payment of indemnity demanded of China by the powers.	129
804	Same to same.....	Nov. 4	Citizenship of Lam Chung Wa, a Chinese naturalized in Hawaii prior to August 12, 1898, and subsequently residing in China. Incloses correspondence.	130
	Same to same (telegram) ..	Nov. 6	Death of Earl Li Hung-chang. Reports that it is momentarily expected.	132
	Mr. Hay to Mr. Conger (telegram).	Nov. 6	Same subject. Instructs to express sympathy with China.	132
	Mr. Conger to Mr. Hay (telegram).	Nov. 7	Same subject. Reports that death occurred November 7.	132
407	Mr. Hay to Mr. Conger.....	Nov. 8	Same subject. Expresses sympathy of the United States.	133
	Mr. Wu to Mr. Hay.....	Nov. 8	Same subject. Announces death of Earl Li.....	133
185	Mr. Hay to Mr. Wu.....	Nov. 11	Same subject. Expresses sympathy of the United States.	133
417	Mr. Hay to Mr. Conger.....	Nov. 27	Foreign settlements. Department is disposed not to press at present the revival of the former American concession at Tientsin, provided assurances are given that the United States will receive equal favors and facilities with other powers for military purposes when deemed necessary.	58
214	Mr. Wu to Mr. Hay.....	Nov. 28	Exclusion laws. Case of Tong Tseng. Discusses at length the ruling of the Solicitor of the Treasury that the boy is not a student within the intent of the treaty, and asks that it be set aside as violative of treaty stipulations.	68
187	Mr. Hay to Mr. Wu.....	Dec. 3	Same subject. Above note has been referred to the Treasury.	70
188	Same to same	Dec. 4	Claims of Chinese subjects residing at Butte, Mont., on account of boycott of their business. While admitting the truth of the wrongs recited in Chinese minister's note No. 207, holds that the Government of the United States can not be held responsible for the neglect of the aggrieved parties to seek and obtain redress in the courts.	127
218	Mr. Wu to Mr. Hay.....	Dec. 9	Exclusion laws. Complaints of alleged harsh and unfair enforcement of, and incloses a memorandum to be submitted to the President.	72
219	Same to same	Dec. 10	Same subject. Representations against reenactment as affecting the United States and Territories, and extension to the Philippine Islands.	75
191	Mr. Hay to Mr. Wu.....	Dec. 12	Same subject. The minister's note No. 218 has been laid before the President.	75
192	Same to same	Dec. 14	Same subject. Case of Tong Tseng. The Treasury Department has directed that the boy be permitted to land.	70
220	Mr. Wu to Mr. Hay.....	Dec. 16	Same subject. Expresses appreciation of the course indicated in above note.	71
194	Mr. Hay to Mr. Wu.....	Dec. 18	Same subject. The minister's note of the 10th instant has been referred to Congressional committees.	97
429	Mr. Hay to Mr. Conger.....	Dec. 21	Citizenship of Lam Chung Wa, a Chinese naturalized in Hawaii prior to August 12, 1898, and subsequently residing in China. Approves course reported in dispatch No. 804.	132
196	Mr. Hay to Mr. Wu.....	Dec. 30	Exclusion laws. Case of Tong Tseng. The minister's note No. 220 has been communicated to the Treasury Department.	71

COLOMBIA.

	President Marroquin to President Roosevelt (telegram).	1901. Sept. 23	Condolences on assassination of President McKinley.	134
	President Roosevelt to President Marroquin (telegram).	Sept. 23	Same subject. Cordially acknowledges above telegram.	134

DENMARK.

No.	From and to whom.	Date.	Subject.	Page.
194	Mr. Swenson to Mr. Hay....	1901. Mar. 13	Citizenship of Lars Chris. Jensen. Effect of his naturalization in the United States on his former allegiance to Denmark.	135
197	Same to same	Mar. 26	Military service case of Sören L. Sörensen. Reports on.	136
	Circular	Apr. 10	Liability of naturalized citizens of the United States under military and expatriation laws of their native country. Notice to American citizens formerly subjects of Denmark who contemplate returning to that country.	139
113	Mr. Hay to Mr. Swenson....	Apr. 12	Military service case of Sören L. Sörensen. Approves course reported in dispatch No. 197.	139
204	Mr. Swenson to Mr. Hay....	May 10	Permission for Mormon missionary to visit Denmark. Reports that ministry granted.	140
117	Mr. Hill to Mr. Swenson....	May 23	Same subject. Approves course reported in above dispatch.	141
	Mr. Brun to Mr. Hay (telegram).	Sept. 14	Condolences on assassination of President McKinley.	142
	Mr. Swenson to Mr. Hay (telegram).	Sept. 16	Same subject	142
	Mr. Hay to Mr. Swenson (telegram).	Sept. 17	Same subject. Directs to make proper acknowledgments.	142

DOMINICAN REPUBLIC.

	Señor Vasquez to Mr. Hay (telegram).	1901. Sept. 14	Condolences on assassination of President McKinley.	143
	Mr. Hill to Señor Vasquez..	Sept. 25	Same subject. Acknowledges above telegram with appreciation.	143

ECUADOR.

168	Mr. Hay to Mr. Sampson ...	1901. Apr. 10	Registry and educational laws of Ecuador. Requests information in regard to.	144
249	Mr. Sampson to Mr. Hay ...	May 10	Same subject. Reports passage and provisions of.	144
	Mr. Carbo to Mr. Hay	Sept. 12	International policy of Ecuador. Transmits declaration of.	145
	President Plaza to the Vice-President of the United States (telegram).	Sept. 15	Condolences on assassination of President McKinley.	146
	Mr. Hay to Mr. Sampson (telegram).	Sept. 17	Same subject. Instructs to gratefully acknowledge above.	146
31	Mr. Hay to Señor Carbo	Sept. 20	International policy of Ecuador. Acknowledges declaration in minister's note of 12th instant with pleasure.	145

FRANCE.

	Mr. Cambon to Mr. Hay	1901. Jan. 7	Claim of Marty & D'Abbadie, on account of detention of steamship <i>Sullberg</i> at Manila. Presents claim with documents in support of same.	147
	Circular	Jan. 21	Liability of naturalized citizens of the United States under military and expatriation laws of their native country. Notice to American citizens formerly citizens of France who contemplate returning to that country.	153
879	Mr. Hay to Mr. Porter	Mar. 6	Courtesies to U. S. S. <i>Annapolis</i> by commandant of French naval station at Algiers. Instructs to express thanks for.	154
	Mr. de Margerie to Mr. Hay.	Aug. 3	Courtesies to United States military attaché at French grand autumn maneuvers. Transmits invitation for an officer to attend.	154
417	Mr. Adee to Mr. de Margerie	Aug. 13	Same subject. Accepts above invitation.....	155
	Mr. Declassé to Mr. Hay (telegram).	Sept. 14	Condolences on assassination of President McKinley.	156
	Mr. Hay to Mr. Declassé	Sept. 16	Same subject. Acknowledges above telegram with thanks.	156
938	Mr. Hill to Mr. Vignaud ...	Oct. 14	Courtesies to United States military attaché at French grand autumn maneuvers. Instructs to express thanks for.	155

LIST OF PAPERS.

LXI

FRANCE—Continued.

No.	From and to whom.	Date.	Subject.	Page.
425	Mr. Hay to Mr. de Margerie.	1901. Nov. 2	Claim of Marty & D'Abbadie, on account of detention of steamship <i>Sullberg</i> at Manila. Discusses the claim and, in view of the facts as reported by the proper authorities in the Philippines, declines to entertain it.	151
899	Mr. Vignaud to Mr. Hay.....	.....do.....	Courtesies to United States military attaché at French grand autumn maneuvers. Has conveyed thanks of Government of the United States to that of France.	156
902	Same to same.....	Nov. 5	Right of expatriation denied Emile Robin, who, although he had served his term of active service in the army, became naturalized without the authority of the French Government, which, therefore, refuses to strike his name off the rolls of the reserve.	156

GERMANY.

1510	Mr. White to Mr. Hay.....	1901. Jan. 17	Expulsion of Max Friedrich Schaaf. Reports having secured extension of time.	158
	Circular.....	Jan. 23	Liability of naturalized citizens of the United States under military and expatriation laws of their native country. Notice to American citizens formerly subjects of Germany who contemplate returning to that country.	160
1159	Mr. Hay to Mr. White.....	Feb. 5	Expulsion of Max Friedrich Schaaf. Recites that Schaaf was brought to the United States when 10 years old. The contention that emigration was for the purpose of evading military service may be licit in certain specified cases, but the United States would regret to see it applied to all cases of naturalized citizens who emigrated during minority.	158
	Mr. von Holleben to Mr. Hay.	Feb. 9	Consular convention (Article XII) of 1871 between the United States and Germany. Complains that United States marshal at Philadelphia violated, in libeling German steamer <i>Assyria</i> without previous notice to consul	161
1535	Mr. White to Mr. Hay.....	Feb. 14	Expulsion of Morman missionaries from Germany. Reports that request of embassy that they be allowed to remain on ceasing to proselytize was denied.	165
1542	Same to same.....	Feb. 16	Expulsion of Max Friedrich Schaaf. Reports attitude of German Government in regard to the expulsion of naturalized citizens who have not performed military service.	159
561	Mr. Hay to Mr. von Holleben.	Feb. 23	Consular convention (Article XII) of 1871 between the United States and Germany. States that the minister's note of February 9 has been given to the Department of Justice, which has issued suitable instructions.	162
565	Same to same.....	Mar. 1	Same subject. States that the libeling of vessels and service of writs do not, in the opinion of the Attorney-General, come within the language or intent of Article XII of the convention.	162
	Mr. Hay to Mr. White (telegram).	Mar. 8	Attempt on German Emperor's life at Bremen. Instructs to convey President's sympathy and congratulations on His Majesty's escape.	166
1565	Mr. White to Mr. Hay.....	Mar. 9	Same subject. Reports having complied with above instructions.	166
1574	Mr. Jackson to Mr. Hay.....	Mar. 16	Same subject. Reports that German ambassador at Washington has been instructed to convey appreciation to the United States Government.	166
	Mr. von Holleben to Mr. Hay.	Mar. 29	Same subject. Conveys thanks of Imperial Government for sympathy of United States Government.	167
1589	Mr. Jackson to Mr. Hay.....	Mar. 30	Military-service cases of Ladislaus Golus, Xaver Sylvester Balz, Michael, Nicholas, and Mathias Gent, Henry Kauffmann, and Alfred Nachtigall. Report on.	167
1604	Same to same.....	Apr. 13	Consular immunities. Liability of employees of United States consulates to German compulsory insurance tax. Submits question for instructions.	172
	Memorandum from German embassy.	Apr. 16	Citizenship of a child born in the United States and taken abroad during its minority. Cites precedents and asks concerning a decision of the Treasury Department excluding such children as alien immigrants.	174

GERMANY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1901.		
1189	Mr. Hay to Mr. Jackson.....	Apr. 16	Restrictions on sojourn in their country of origin of Germans naturalized in the United States. Incloses dispatches from consulate-general at Frankfort, and requests report as to whether unrestricted residence is permitted former German subjects naturalized in other countries than the United States.	175
1196	Mr. Hill to Mr. White.....	Apr. 30	Consular immunities. Liability of employees of United States consulates to German compulsory insurance tax. Consuls are exempt, but employees are not. Consuls should be advised to pay, and arrange with employees for reimbursement.	173
1624	Mr. White to Mr. Hay.....	May 4	Restrictions on sojourn in their country of origin of Germans naturalized in the United States. Incloses Secretary Jackson's report stating that order restricting right of sojourn is one of old standing and attention has been merely again called to it; that the United States is the only country with which Germany has a naturalization treaty, and the only one extending protection to naturalized citizens returning to their native country.	177
1205	Mr. Hill to Mr. White.....	May 21	Passport applications of persons born in the United States. Production of certificate of father's naturalization not to be required.	178
	Memorandum to German embassy.	May 27	Citizenship of a child born in the United States and taken abroad during its minority. States that Treasury decision referred to in embassy's memorandum of April 16 has been overruled.	175
1210	Mr. Hill to Mr. White.....	June 14	Citizenship of a son born of American parents temporarily sojourning in Germany. Desires German Government to recognize as American.	179
1660	Mr. White to Mr. Hay.....	July 1	Military-service cases of Sigmund Meyers (Mayer), Diedrich Ebken, Gustav A. Seitz, Louis Wiess, (John) Jacob Häberle, Robert H. Just, Sigmund Stern, and Max Kuechlin. Report on.	168
1665	Same to same	July 10	Fine on Paul N. Friedlaender for "unauthorized" emigration. Reports that Friedlaender was regularly naturalized, and the embassy holds that the fine should be remitted as of right under the treaty and circulars of Prussian ministry of justice. German Government insists that a petition for pardon must first be filed through the embassy.	180
1672	Same to same	July 18	Kaiser Wilhelm Canal. Passage of United States naval vessels through.	184
1230	Mr. Hill to Mr. White.....	July 26	Fine on Paul N. Friedlaender for "unauthorized" emigration. States that in the light of the treaty and of usual law, a foreign government can treat its own subjects according to its own laws, and the judgment referred to in dispatch No. 1665 is not unlawful though it may be erroneous in point of fact. It is for the aggrieved party to produce proof of error and ask that the judgment be set aside, and while the embassy should not be burdened with such cases, it is entirely proper that it should give its good offices.	181
	Mr. White to Mr. Hay (telegram).	Aug. 5	Death of the Dowager Empress Queen Frederick. Announces.	185
	Same to same (telegram)...	Aug. 6	Same subject. Reports that funeral is to be private.	185
	The President to the German Emperor (telegram).	....do...	Same subject. Tenders condolences	186
1690	Mr. White to Mr. Hay.....	Aug. 8	Same subject. Confirms his telegrams noted above.	185
	Count von Quadt to Mr. Hay.	....do...	Same subject. Announces	186
685	Mr. Adee to Count von Quadt.	Aug. 13	Same subject. States that condolences have been sent through United States embassy at Berlin.	186
1703	Mr. White to Mr. Hay.....	Aug. 14	Same subject. Account of funeral, which was attended by the diplomatic corps.	186
1721	Same to same.....	Sept. 5	Expiatory mission of Prince Tschun. Reports, and transmits newspaper account of.	187
	The German Emperor to the Secretary of State (telegram).	Sept. 14	Condolences on assassination of President McKinley.	189
	Mr. Hay to Mr. White (telegrams).	Sept. 16	Same subject. Instructs to acknowledge above..	189

GERMANY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1901.		
1740	Mr. Jackson to Mr. Hay.....	Sept. 25	Opening of the port of Emden. Reports	190
1743	Same to same	Sept. 30	Military-service cases of Nick Britten, Lawrence M. Metzger, Herrmann E. Meisner, Friedrich Koch, and August Meyer. Report on.	170
	Count von Quadt to Mr. Adee.	....do....	Visit of German schoolships Moltke and Stein to United States, Cuban, and Porto Rican ports. Announces intended.	190
565	Mr. Adee to Count von Quadt.	Oct. 8	Same subject. Usual courtesies will be extended to the vessels.	190
1765	Mr. Jackson to Mr. Hay....	Oct. 19	Kaiser Wilhelm Canal. Reports that the canal has been used to advantage by United States war vessels. Suggests that vessels of the highest type be sent.	184
1772	Same to same	Oct. 24	Citizenship of a son born of American parents temporarily sojourning in Germany. There is nothing to prevent the young man making a prolonged stay in Germany.	179
1773	Same to same	Oct. 25	Efforts to divert German emigration from North America to German colonies and South America. Reports.	191
	Count von Quadt to Mr. Hay.	Nov. 8	Consular Convention (Article XII) of 1871. States, in reply to Department's note No. 565, that the opinion of the Attorney-General that an attachment of a merchant vessel does not come within the requirement of previous notice to the German consul can not be accepted by the German Government. Cites precedents and notes from the Department acceding to that position, and explains that notification in urgent cases may be made immediately after entering upon execution of judgment.	163
1791	Mr. White to Mr. Hay.....	Nov. 20	German Emperor's response to the President's message of good will. Reports.	191
1272	Mr. Hay to Mr. Jackson	Dec. 7	Courtesies to United States naval attaché in Germany. Instructs to express thanks.	192
	Promemoria from German embassy.	Dec. 11	Difficulty of Germany with Venezuela. Recites long-standing grievances of German claimants and, while disclaiming acquisition of territory, announces possibility of resort to coercive measures.	192
	Memorandum from German and Russian embassies.	Dec. 12	Anarchists. Suggests concurrent legislation and Executive action to check the progress of propaganda and crimes.	196
	Mr. Hay to Mr. von Holleben.	Dec. 16	Difficulty of Germany with Venezuela. Incloses memorandum reciting the position of the United States on the Monroe doctrine as expressed by the President in his annual message, and upon the assurances of the German Government that no acquisition of territory is contemplated the President does not consider himself called upon to enter into a consideration of the.	195
	Same to same.....	....do....	Anarchists. Incloses memorandum in reply to that of December 12, of the German and Russian ambassadors in regard to restrictive measures, and gives a synopsis of the position of the President and of the Congress on the question.	197
	Promemoria from German embassy.	Dec. 20	Difficulty of Germany with Venezuela. States that, in case coercive measures become necessary, a peace blockade of Venezuelan harbors would have to be instituted without a declaration of war preceding it.	196
1814	Mr. White to Mr. Hay	Dec. 31 1902.	Military-service case of Karl Kammerer. Report on.	171
707	Mr. Hay to Mr. von Holleben.	Jan. 6	Consular Convention (Article XII) of 1871. States that Attorney-General adheres to his predecessor's opinion that attachments of vessels do not require previous notice to consuls. Incloses letter of Department of Justice.	164

GREAT BRITAIN.

	Memorandum from British embassy.	1900, May 26	Filipino seamen. Inquires if they are entitled to claim American citizenship.	199
	Same.....	May 31	Rights of British subjects in Cuba. Inquires as to views of the United States Government in regard to.	225

No.	From and to whom.	Date.	Subject.	Page.
	Memorandum to British embassy.	1900. July 19	Filipino seamen. Attorney-General desires definite information before replying to query propounded in memorandum of May 26 from British embassy.	199
	Memorandum from British embassy.	Aug. 13	Same subject. Cites specific instances on which inquiry above referred to was based.	200
424	Mr. Choate to Mr. Hay	Nov. 10	Exclusion of British and Australasian vessels from trade between the United States and Hawaii. Incloses letter from the agent-general of New South Wales making representations against.	201
	Mr. Hill to Mr. Choate	1901. Jan. 7	Protection of American interests by British consul in the Kongo Free State. Desires that British Government give authority for.	205
527	Same to same	Jan. 8	Exclusion of British and Australasian vessels from trade between the United States and Hawaii. Incloses letter from the Secretary of the Treasury giving reasons for.	202
484	Mr. Choate to Mr. Hay	Jan. 14	Passport applications of persons claiming United States citizenship through naturalization of parents. Cites case of Charles Muchnic, who was unable to produce his father's certificate of naturalization, and requests instructions.	206
22	Lord Pauncefote to Mr. Hay. The President to the King of England (telegram).	Jan. 22	Death of Queen Victoria. Announcement of	208
	Mr. Hay to Mr. Choate (telegram.)	....do....	Same subject. Condolences.....	209
	Same to same (telegram)...	....do....	Same subject. Directs to express condolences ...	209
490	Mr. Choate to Mr. Hay .....	....do....	Same subject. Communicates resolution of sympathy of House of Representatives.	210
2055	Mr. Hay to Lord Pauncefote.	....do....	Same subject. Reports in regard to, and also as to having expressed sympathy of the United States.	210
492	Mr. Choate to Mr. Hay	Jan. 26	Same subject. Acknowledges announcement of, and expresses sympathy, etc.	213
536	Mr. Hay to Mr. Choate	Jan. 29	Accession of Edward VII. Reports.....	211
44	Lord Pauncefote to Mr. Hay.	Feb. 4	Death of Queen Victoria. Transmits Senate resolution relating to.	213
540	Mr. Hay to Mr. Choate	Feb. 5	Exclusion of Chinese persons from the Philippine Islands. Inquires as to decision of the United States in the matter of.	207
496	Mr. Choate to Mr. Hay	Feb. 6	Passport applications of persons claiming United States citizenship through naturalization of parents. States that while certificate of naturalization of parents is generally required in order to prevent fraud and abuses, a passport previously issued by the Department, which always demands production of such certificates, may be accepted as sufficient evidence, and, on rare occasions, even secondary proof may be received.	211
497	Same to same.....	....do....	Death of Queen Victoria. Report in regard to funeral.	212
503	Same to same.....	Feb. 8	Same subject. Incloses Lord Lansdowne's acknowledgment of House resolution.	205
511	Same to same.....	Feb. 16	Protection of American interests by British consul in the Kongo Free State. Reports that British Government will authorize.	212
	Memorandum to British embassy.	Feb. 28	Death of Queen Victoria. Incloses Lord Lansdowne's acknowledgment of Senate resolution.	200
	Memorandum prepared by the premier of New Zealand, left by Lord Pauncefote at the Department of State.	Mar. 1	Filipino seamen. States that Attorney-General holds that they "are not citizens of the United States within the meaning of any statutes concerning seamen or any other statute or law of the United States."	203
	Memorandum to British embassy.	Mar. 2	Exclusion of British and Australasian vessels from trade between the United States and Hawaii. Representations against.	225
2114	Mr. Hay to Lord Pauncefote.	Mar. 20	Rights of British subjects in Cuba. States that the United States Government does not regard existing treaties as embodying, but that such rights are governed by the alien law of 1870. Incloses opinion of the Attorney-General.	204
			Exclusion of British and Australasian vessels from trade between the United States and Hawaii. States that matter complained of in memorandum of March 1 is regulated by law and can not be remedied by the Executive.	

GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
81	Lord Pauncefote to Mr. Hay.	1901. Mar. 26	Visit of U. S. S. <i>Brooklyn</i> to Australia and New Zealand on occasion of tour of Duke and Duchess of Cornwall and York. Communicates invitation.	214
	Mr. Hay to Lord Pauncefote.	....do....	Erection of tablet in memory of Frederick W. Ramsden, late British consul-general at Santiago de Cuba. Advises of.	215
2130	Same to same.....	Apr. 5	Visit of U. S. S. <i>Brooklyn</i> to Australia and New Zealand on occasion of tour of Duke and Duchess of Cornwall and York. Advises of intended.	214
542	Mr. Choate to Mr. Hay.....	Apr. 12	Claims of United States citizens <i>v.</i> Great Britain on account of deportation from South Africa. Incloses announcement of appointment of commission to investigate.	216
	Treaty, supplementary, text of.	Apr. 22	Extradition between the United States and Great Britain.	222
101	Lord Pauncefote to Mr. Hay.	Apr. 24	Erection of tablet in memory of Frederick W. Ramsden, late British consul-general at Santiago de Cuba. Communicates gratitude of British Government.	216
102	Same to same.....	....do....	Visit of U. S. S. <i>Brooklyn</i> to Australia and New Zealand on occasion of tour of Duke and Duchess of Cornwall and York. Expresses gratification at intended, and asks if vessel will visit New Zealand.	215
2148	Mr. Hill to Lord Pauncefote.	May 7	Exclusion of Chinese persons from the Philippine Islands. States that exclusion applies to all Chinese, whether British or Chinese subjects; the measure is a military one, and not a consequence of the United States exclusion laws.	214
2150	Same to same.....	May 9	Visit of U. S. S. <i>Brooklyn</i> to Australia and New Zealand on occasion of tour of Duke and Duchess of Cornwall and York. States that the vessel will visit New Zealand.	215
644	Mr. Hill to Mr. Choate.....	May 29	Protection by United States consul of British interests in the Azores. If agreeable to the British Government, the Department gives its permission.	224
599	Mr. Choate to Mr. Hay.....	June 21	Protection of American interests by British consul in the Kongo Free State. Incloses note from Lord Lansdowne suggesting that the Government of the Kongo Free State be notified of.	205
598	Same to same.....	June 22	Protection by United States consul of British interests in the Azores. Incloses note from Lord Lansdowne conveying thanks for.	224
668	Mr. Hay to Mr. Choate.....	July 9	Protection of American interests by British consul in the Kongo Free State. States that the Government of the Kongo Free State has been notified of.	206
669	Same to same.....	July 10	Courtesies shown U. S. S. <i>Hartford</i> in Scotland. Instructs to convey thanks for.	23.
640	Mr. Choate to Mr. Hay.....	Aug. 14	Award by Great Britain of £600 to Charles Lillywhite, a naturalized United States citizen, on account of his arrest, false imprisonment, and deportation from New Zealand to England. Reports on and incloses correspondence in regard to Lillywhite's petition.	2 ^o
708	Mr. Adee to Mr. Choate....	Aug. 27	Same subject. Instructs to present petition.....	234
	Mr. Lowther to Mr. Hay (telegram).	Sept. 14	Condolences on assassination of President McKinley.	237
	Mr. Hill to Mr. Lowther....	Sept. 25	Same subject. Acknowledges above telegram with appreciation.	237
	Mr. White to Mr. Hay (tele- gram).	Oct. 26	Claims of United States citizens <i>v.</i> Great Britain on account of deportation from South Africa. Reports offer of £8,000 in settlement of.	217
	Mr. Hay to Mr. White (tele- gram).	....do....	Same subject. Directs acceptance of above offer.	217
694	Mr. White to Mr. Hay.....	Oct. 29	Same subject. Reports in regard to acceptance of British offer, and incloses correspondence with Mr. Crane, attorney for United States claimants.	217
712	Same to same.....	Nov. 23	Same subject. Incloses report of Mr. Crane in regard to.	219
714	Same to same.....	Nov. 25	Award by Great Britain of £600 to Charles Lillywhite, a naturalized United States citizen, on account of his arrest, false imprisonment, and deportation from New Zealand to England. Incloses note from Lord Lansdowne offering.	234

GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
721	Mr. White to Mr. Hay.....	1901. Dec. 10	Award by Great Britain of £600 to Charles Lillywhite, a naturalized United States citizen, on account of his arrest, false imprisonment, and deportation from New Zealand to England. Incloses letter from Lillywhite's attorney suggesting that amount of award be increased.	235
	Treaty, interoceanic canal.	Dec. 19	Reprint of Senate Doc. No. 85, Fifty-seventh Congress, first session, containing the Clayton-Bulwer treaty, the Hay-Pauncefote treaty, with amendments thereto by the Senate at the Fifty-sixth session of Congress, and the treaty that was ratified on December 16, 1901.	237
	Mr. White to Mr. Hay (telegram).	Dec. 20	Award by Great Britain of £600 to Charles Lillywhite, a naturalized United States citizen, on account of his arrest, false imprisonment, and deportation from New Zealand to England. States that Lillywhite is willing to accept, and asks instructions.	235
726	Same to same.....	.....do....	Same subject. Confirms above telegram, and incloses letters authorizing acceptance.	236
	Mr. Hay to Mr. White (telegram).	Dec. 21	Same subject. Directs to accept proposed settlement and hand amount over to Lillywhite against full receipt.	236

GREECE.

	Circular	1901. Jan. 31	Liability of naturalized citizens of the United States under military and expatriation laws of their native country. Notice to American citizens formerly subjects of Greece who contemplate returning to that country.	247
26	Mr. Francis to Mr. Hay	July 13	Military-service case of Louis (Leonidas) Economopoulos. Reports that while declining to strike Economopoulos's name from the rolls, Greek Government has ordered his discharge. Incloses text of notes exchanged with minister for foreign affairs.	247
	Same to same	July 18	Same subject. Incloses letter of thanks from Economopoulos.	249
	Minister for foreign affairs to Mr. Hay (telegram).	Sept. 15	Condolences on assassination of President McKinley.	249
	Mr. Hay to the minister for foreign affairs (telegram).	Sept. 16	Same subject. Acknowledges above telegram...	249
39	Mr. Francis to Mr. Hay.....	Nov. 22	Riot at Athens caused by the translation of the Bible into vulgar Greek. Reports.	250
45	Same to same	Dec. 9	Same subject. Reports that reading of the translation is prohibited by the Greek Church on pain of excommunication.	251

GUATEMALA AND HONDURAS.

299	Mr. Hay to Mr. Hunter.....	1900. Nov. 27	Confiscation of silver coin which Siegfried Koenigsberger attempted to smuggle out of Guatemala. Incloses report of consul-general at Guatemala, reviews case, and instructs, if seizure was unlawful, to request prompt restitution.	252
519	Mr. Hunter to Mr. Hay.....	1901 Mar. 16	Same subject. Reports that Koenigsberger was taken in the act of attempting to smuggle the money out of the country and was fortunate to escape punishment. Incloses laws and decrees, and states that German and British ministers declined to interfere in similar cases.	256
333	Mr. Hay to Mr. Hunter.....	Apr. 9	Same subject. Department agrees that seizure was in accordance with Guatemalan law, and has so informed Koenigsberger.	260
	The President of Guatemala to the President of the United States (telegram).	Sept. 14	Condolences on assassination of President McKinley.	260
	Mr. Hay to Mr. Hunter (telegram).	Sept. 17	Same subject. Instructs to appropriately acknowledge.	260
	Mr. Bailey to Mr. Hay (telegram).	Sept. 18	Same subject. Transmits condolences of Government of Honduras.	261
	Mr. Adee to Mr. Bailey.....	Oct. 9	Same subject. Instructs to appropriately acknowledge.	261

HAITI.

No.	From and to whom.	Date.	Subject.	Page.
	Protocol	1899. Oct. 18	Claim of John D. Metzger & Co. <i>v.</i> Haiti. Agreement to submit to arbitration.	262
432	Mr. Adee to Mr. Battiste ...	1900. Sept. 17	Tonnage dues on American vessels. Incloses letter of Treasury Department, and instructs to inquire whether higher tonnage dues will be imposed on American vessels carrying merchandise of French origin than on French vessels; and invites attention to article 10 of the treaty of 1864.	276
822	Award of arbitrator	Sept. 27	Claim of John D. Metzger & Co. <i>v.</i> Haiti.....	264
	Mr. Battiste to Mr. Hay	Oct. 10	Tonnage dues on American vessels. Reports that Haitian Government holds that most-favored-nation clause does not hold as regards reciprocity treaties. Incloses note of minister for foreign relations.	277
860	Mr. Powell to Mr. Hay	1901. Jan. 26	Citizenship of Julienne Guilloid, born in Haiti of a mulatto, former resident of Louisiana. Submits question for Department's ruling.	279
452	Mr. Hill to Mr. Powell	Feb. 8	Tonnage dues on American vessels. States that under Article X of the treaty of 1864 American vessels are entitled to same rates when carrying French goods as French vessels are, and any higher charges will be reclaimed.	278
883	Mr. Powell to Mr. Hay	Feb. 18	Same subject. Incloses copy of note to Haitian foreign office, in accordance with above instruction.	278
455	Mr. Hill to Mr. Powell	Feb. 20	Citizenship of Julienne Guilloid, born in Haiti of a mulatto, former resident of Louisiana. In view of circumstances recited in dispatch No. 860, his refusal to register Guilloid is approved.	280
458	Mr. Hay to Mr. Powell	Mar. 1	Tonnage dues on American vessels. Acknowledges dispatch No. 883, and instructs to continue to press the matter.	279
	Mr. Léger to Mr. Hay	Sept. 14	Condolences on assassination of President McKinley.	280
	Mr. Hill to Mr. Léger	Sept. 25	Same subject. Acknowledges above, with appreciation.	281

ITALY.

	Circular	1901. Mar. 18	Liability of naturalized citizens of the United States under military and expatriation laws of their native country. Notice to citizens formerly subjects of Italy who contemplate returning to that country.	282
	Signor Carignani to Mr. Hay.	July 15	Lynching of persons of Italian origin at Erwin, Miss. Gives names of victims and asks that necessary steps be taken for an official investigation and prosecution of the offenders.	283
687	Mr. Hay to Signor Carignani.	July 17	Same subject. States that case has been referred to the Governor of Mississippi for appropriate action.	283
	Mr. Hill to Mr. Iddings (telegram).	July 20	Same subject. Instructs to inform Italian minister for foreign affairs that the case is under investigation by the Governor of Mississippi, and that all will be done by the United States Government to secure justice.	283
688	Mr. Hill to Signor Carignani.	....do....	Same subject. States that the Governor of Mississippi promises immediate attention and early report. The United States Embassy at Rome has been telegraphed to.	284
	Signor Carignani to Mr. Hill.	July 21	Same subject. Acknowledges the above note, with thanks.	284
	Same to same.....	July 22	Same subject. Asks that detectives be sent by the Federal Government to find the guilty parties. Incloses and deprecates the wording of the verdict of the jury of inquest.	285
62	Mr. Iddings to Mr. Hay....	July 23	Same subject. Reports particulars of interview at which substance of Department's telegram of July 20 was given to the Italian minister for foreign affairs.	286
	Signor Carignani to Mr. Hill.	July 24	Same subject. Transmits information received from Italian consul at New Orleans to the effect that the crime was planned and executed by the people of Glen Allen.	287
691	Mr. Hill to Signor Carignani.	July 25	Same subject. Transmits letter on subject from the governor of Mississippi.	288

ITALY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
693	Mr. Hill to Signor Carignani.	1901. July 27	Lynching of persons of Italian origin at Erwin, Miss. States that Embassy's note of July 24 has been forwarded to the governor of Mississippi.	289
	Signor Carignani to Mr. Hill.	....do....	Same subject. Incloses affidavits and certificate of the clerk of the circuit court of Washington County, Miss., showing that the victims had not been naturalized in the United States.	289
694	Mr. Adeo to Signor Carignani.	July 30	Same subject. States that the United States Government can not employ detectives for the prosecution of the offenders, but only agents for its own information.	292
	Signor Carignani to Mr. Hill.	....do....	Same subject. Transmits results of investigation conducted by agents of the Embassy, and urges that the Mississippi authorities promptly take energetic action.	293
	Mr. Iddings to Mr. Hay (telegram).	July 31	Same subject. Reports interviews at foreign office, where sentiment is expressed that nothing will be done in this as in previous cases.	294
70	Same to same .....	....do....	Same subject and tenor.....	295
32	Mr. Adeo to Mr. Iddings .....	....do....	Sovereignty of Italy over Somaliland recognized by Sultan Osman Mahmud. Instructs to investigate and report.	299
	Mr. Iddings to Mr. Hay (telegram).	Aug. 1	Diplomatic immunities. Inquires if he shall give testimony against a pickpocket which is desired by an Italian court.	302
	Mr. Adeo to Mr. Iddings (telegram).	....do....	Same subject. States that testimony may be given on terms consistent with representative dignity.	302
33	Mr. Adeo to Mr. Iddings ...	Aug. 8	Citizenship of a child born in the United States of alien parents can not, during its minority, be taken from it by any act of the parents.	303
	Signor Carignani to Mr. Adeo.	Aug. 9	Lynching of persons of Italian origin at Erwin, Miss. Asks that governor of Mississippi be called upon for a report as to action taken by him on embassy's notes of July 24 and 30.	296
72	Mr. Iddings to Mr. Hay	Aug. 10	Diplomatic immunities. Confirms telegrams of August 1 to and from Department and states that his deposition is to be taken at the embassy.	303
700	Mr. Adeo to Signor Carignani.	Aug. 12	Lynching of persons of Italian origin at Erwin, Miss. States that embassy's note of July 30 has been communicated to the governor of Mississippi.	296
701	Mr. Hay to Signor Carignani	Aug. 16	Same subject. States that contents of embassy's note of August 9 has been communicated to the governor of Mississippi.	296
	Signor Carignani to Mr. Hay	....do....	Indemnity suit of Mrs. Fenice Ferrara, an Italian subject, in a Colorado court. Incloses proceedings and decision of the district court of Pueblo, Colo., dismissing the suit because of plaintiff's nationality. Submits that it is in contradiction of the treaty of 1871.	305
702	Mr. Hay to Signor Carignani	Aug. 20	Lynching of persons of Italian origin at Erwin, Miss. States that a special term of the circuit court has been called by the governor of Mississippi.	297
704	Same to same	Aug. 24	Indemnity suit of Mrs. Fenice Ferrara is not, at the present stage, as represented in embassy's note of August 16, one for diplomatic intervention. The judicial remedies have not been exhausted by the plaintiff, to whom the United States courts are open under the Constitution.	308
81	Mr. Iddings to Mr. Hay	Aug. 29	Sovereignty of Italy over Somaliland recognized by Sultan Osman Mahmud. Reports in regard to.	299
	Signor Carignani to Mr. Hay (telegram).	Sept. 15	Condolences on assassination of President McKinley.	311
	Cardinal Rampolla to Mr. Hay (telegram).	....do....	Same subject and tenor.....	312
	Mr. Hay to Signor Carignani (telegram).	Sept. 16	Same subject. States that direct acknowledgment has been made to the minister of foreign affairs of Italy.	312
	Mr. Hay to the minister of foreign affairs of Italy (telegram).	....do....	Same subject. Acknowledges condolences, with gratitude.	312
	Mr. Hay to Cardinal Rampolla (telegram).	Sept. 19	Same subject and tenor as above	312
	Signor Carignani to Mr. Hay.	Oct. 3	Indemnity suit of Mrs. Fenice Ferrara. States that in his opinion the claimant has exhausted all legal means of redress, and again submits the case to the Department.	310

ITALY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
708	Mr. Adee to Signor Carignani.	1901. Oct. 10	Indemnity suit of Mrs. Fenice Ferrara. States that Department is unable to alter conclusions expressed in its note No. 704. Explains grounds of decision, which should be considered final.	310
50	Mr. Hay to Mr. Iddings	Oct. 21	Sovereignty of Italy over Somaliland recognized by Sultan Osman Mahmud. Directs to forward copy of convention in regard to.	300
	Signor Carignanito Mr. Hay.	Nov. 14	Lynching of persons of Italian origin at Erwin, Miss. Protests against alleged denial of justice and flagrant violation of treaty obligations, and denounces the systematic impunity enjoyed by crime; and holds the Federal Government responsible therefor.	297
121	Mr. Meyer to Mr. Hay.....	Dec. 11.	Sovereignty of Italy over Somaliland recognized by Sultan Osman Mahmud. Incloses copy of treaty in regard to.	300
122	Same to same	Dec. 23	Lynching of persons of Italian origin at Erwin, Miss. Incloses account of discussion of the affair in the Italian Senate.	298
8	Mr. Hill to Signor Mayor des Planches.	1902. Jan. 2	Same subject. States that note of Italian Embassy of Nov. 14, 1901, will be forwarded to the committees of the Senate and House of Representatives with appropriate recommendation.	299

JAPAN.

338	Mr. Buck to Mr. Hay.....	1899. July 29	Registration of titles to perpetual leases in Japan. Incloses laws in regard to.	313
364	Same to same.....	Oct. 4.	Same subject. Incloses his note to Japanese minister of foreign affairs representing that registration tax on transfers of perpetual leases, and changing title to one of "superficies" are contrary to the treaty and to equity. Requests instructions.	315
365	Same to same.....	Oct. 6.	Same subject. Explains that under Japanese law the land under a lease is not considered to include the structures upon it and that therefore he objected only to the tax on the land itself.	317
260	Mr. Hay to Mr. Buck.....	Nov. 6.	Same subject. States that registration tax on perpetual leases should not, under Article XVII of the treaty, be collected when said leases are simply confirmed as therein provided, but in cases of assignments the same fee, according to Article II, is chargeable to United States citizens as is paid by Japanese subjects.	318
392	Mr. Buck to Mr. Hay.....	Dec. 29.	Same subject. Reports that law has been amended so as to permit registration without charge. Tax of 2½ per cent will be collected on mortgages and other liens, but not on assignments. Incloses ordinance.	318
394	Same to same.....	1900. Jan. 12.	Same subject. Refers to above dispatch and explains that requirement that registration be made in government instead of registration office was to make it possible to omit the charge of 2½ per cent.	319
271	Mr. Hay to Mr. Buck.....	Jan. 24.	Same subject. States that the attitude of the Japanese Government, as reported in dispatch No. 392, is unobjectionable.	320
398	Mr. Buck to Mr. Hay.....	Feb. 5	Same subject. Submits protest of foreign residents in Yokohama against ordinance which allows registration of perpetual leases under the name of superficies and not otherwise, and reply of legation thereto.	320
272	Mr. Hay to Mr. Buck.....	Feb. 17	Same subject. States that the attitude of the Japanese Government, as reported in dispatch No. 394, is unobjectionable.	324
417	Mr. Buck to Mr. Hay.....	Apr. 7	Same subject. Lays before Department complaints of perpetual-lease holders against requirements and operation of various ordinances, and discusses them at length.	324
450	Same to same.....	July 6	Same subject. Refers to above dispatch, and discusses the question further.	337
526	Same to same.....	Dec. 14	Same subject. Refers to his previous dispatches, and incloses note from Japanese foreign office assuring that rights will not be impaired by failure to effect required registration.	339

JAPAN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Buck to Mr. Hay (telegram).	1900. Dec. 26	Registration of titles to perpetual leases in Japan. Reports that final decision of Japanese Government is soon to be announced, and requests instructions.	343
528	Same to same.....	Dec. 28	Same subject. Confirms above telegram, and states that Great Britain, France, and Germany will probably protest.	343
532	Same to same.....	1901. Jan. 7	Same subject. Incloses his note to Japanese minister for foreign affairs reserving rights of United States citizens in the light of ordinance limiting time to Dec. 31, 1900, and of interpretation given to the British legation.	344
	Mr. Hay to Mr. Buck (telegram).	Jan. 28	Same subject. States that registration as superficies of titles to perpetual leases is not acceptable to United States Government, without authoritative interpretation of Japanese Government that title under that style is not inferior to that of perpetual lease; and that, so far as advised, United States Government is not prepared to concede that buildings are subject to taxation not specified in original lease.	345
	Mr. Hay to Mr. Wilson (telegram).	Jan. 31	Same subject. Instructs to request Japanese Government to withhold decision until Department can prepare and forward its views.	345
338	Mr. Hill to Mr. Wilson.....	Feb. 7	Same subject. Discusses question presented in Mr. Buck's dispatches in the light of previous conditions, tenor of leases, former and present treaties of Japan, United States and Japanese laws, in the absence of absolute knowledge of legal and actual conditions, reserves final decision, but directs good offices to secure for Americans exemptions from unfair charges and a clearer act of confirmation of their titles.	345
539	Mr. Wilson to Mr. Hay.....	Feb. 8	Same subject. Incloses notes to and from Japanese minister for foreign affairs; reports attitude of French, German, and British representative, and present status of negotiations.	351
540	Same to same.....	Feb. 19	Same subject. Incloses replies of Japanese Government to notes of the legation, memorandum setting forth previous and present conditions in the light of treaties and laws of Japan, table of comparative value of rents and taxes, etc.	354
	Same to same (telegram)...	Mar. 26	Same subject. Reports passage of a law recognizing perpetual leases as real rights and providing for registration free of charges. States there are no indications of the exemption of houses in any way.	359
550	Same to same.....	Apr. 1	Same subject. Incloses text of law referred to in above telegram, and discusses its bearing on the question.	359
	Note verbale from Japanese legation.	Apr. 30	Detention at Seattle, Wash., and deportation of Japanese immigrants. Recites two cases, represents that there was no justification for the acts, and requests investigation and issuance of proper orders.	366
26	Mr. Hill to Mr. Takahira...	May 9	Same subject. States that matter has been referred to Treasury officials for report.	367
28	Same to same.....	May 27	Same subject. Transmits reports received from Treasury Department.	368
13	Mr. Takahira to Mr. Hay...	June 7	Same subject. Acknowledges above note and regrets that reports therein contained fail to dispose of the complaints made in regard to the unnecessarily harsh treatment of the immigrants.	369
14	Same to same.....	June 13	Alleged discrimination in the United States against Japanese in the matter of quarantine. Incloses instructions of his government which, pointing to the principle of international law and the precedents established by the United States, holds that municipal and State laws can not be opposed to treaty stipulations.	375
30	Mr. Hay to Mr. Takahira...	June 22	Detention at Seattle, Wash., and deportation of Japanese immigrants. States that Treasury Department positively denies discrimination against Japanese immigrants, and will investigate other points presented in legation's note No. 13.	370
	Mr. Buck to Mr. Hay.....	July 20	Monument erected in Japan in commemoration of the advent of Commodore Perry, U. S. N., in July, 1853. Transmits account of ceremonies at the unveiling, and of reception given to Rear-Admiral Rodgers.	378

JAPAN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
31	Mr. Hill to Mr. Takahira ...	1901. July 25	Detention at Seattle, Wash., and deportation of Japanese immigrants. Incloses letter of Treasury Department, with reports of its officials in regard to.	371
358	Mr. Hill to Mr. Buck.....	July 30	Monument erected in Japan in commemoration of the advent of Commodore Perry, U. S. N., in July, 1853. Instructs to express thanks for courtesies of Japanese officials to United States squadron on occasion of the unveiling.	383
362	Mr. Adee to Mr. Buck.....	Aug. 21	Same subject and tenor	383
	Japanese minister for foreign affairs to Japanese minister at Washington (telegram).	Sept. 14	Condolences on assassination of President McKinley. Instructions to convey.	384
	Mr. Hill to Mr. Takahira....	Sept. 25	Same subject. Acknowledges above, with appreciation.	384
586	Mr. Buck to Mr. Hay	Sept. 30	Expiatory mission to Japan of Na Tung, special envoy of the Emperor of China. Reports on.	384
587	Same to same	Oct. 2	Registration of titles to perpetual leases in Japan. Incloses text of laws and regulations, and reports that question of tax on buildings is left open.	360
	Memorandum from Japanese legation.	Nov. 14	Alleged discrimination in the United States against Japanese in the matter of quarantine. Cites precedents and authorities in defense of the protection of foreigners, and suggests legislation by Congress to prevent recurrence of incidents arising from conflict of Federal with municipal legislation.	376
43	Mr. Hay to Mr. Takahira ...	Nov. 26	Same subject. States that prompt and sure redress will always be afforded by the Federal courts, and the Department will endeavor, upon timely notice, to bring about the rescission of obnoxious or illegal local regulations.	377
	Mr. Buck to Mr. Hay .....	....do....	Assistance rendered United States transport Hancock by Japanese navy. Incloses correspondence in regard to.	385
	Same to same	Dec. 9	Same subject and tenor.....	386

KOREA.

318	Mr. Allen to Mr. Hay	1901. Mar. 5	Treaty rights of United States citizens in interior of Korea. Reports incident arising out of arrest of native writer in the house of Revs. Adams and Johnson, and discourteous treatment of the latter. Incloses correspondence.	387
166	Mr. Hay to Mr. Allen	Apr. 18	Same subject. Reviews case reported in above dispatch, and approves Mr. Allen's treatment of it.	396
359	Mr. Allen to Mr. Hay	June 7	Same subject. Reports his action regarding difficulty connected with the building of houses by foreigners. States that right of residence has been secured. Incloses correspondence.	398
175	Mr. Hill to Mr. Allen	July 24	Same subject. States that residence of Americans in the interior should not be encouraged, and each case should be treated on its merits.	404
392	Mr. Allen to Mr. Hay	Aug. 20	Same subject. Incloses letter from Rev. Mr. Adams showing satisfactory settlement of his difficulties.	404
	The Emperor of Korea to the President of the United States (telegram).	Sept. 13	Condolences on assassination of President McKinley.	405
	Mr. Hay to Mr. Allen (telegram).	Sept. 16	Same subject. Instructs to acknowledge above telegram, with appreciation.	405

LIBERIA.

	Mr. Smith to Mr. Hay.....	1901. Oct. 31	Condolences on assassination of President McKinley. Incloses correspondence with Liberian secretary of state.	406
--	---------------------------	------------------	---	-----

MEXICO.

No.	From and to whom.	Date.	Subject.	Page.
509	Mr. Hay to Mr. McCreery...	1901. Apr. 18	Imprisonment of American citizens, railway employees, in Mexico. Incloses petition of El Paso Chamber of Commerce, and directs investigation and report.	407
998	Mr. Clayton to Mr. Hay.....	June 27	Same subject. Transmits exhaustive report on the subject, and states that defect seems to be in the law itself rather than in its execution.	408
540	Mr. Hay to Mr. Clayton.....	July 16	Same subject. Instructs to continue to urge early trial for imprisoned Americans, and suggests that ends of justice would be better served if the railway companies were made to share responsibility for accidents.	410
551	Mr. Adee to Mr. Clayton ...	Aug. 1	Same subject. Incloses letter from El Paso Chamber of Commerce expressing appreciation of the ambassador's efforts, etc.	413
	Señor de Azpiroz to Mr. Hay (telegram).	Sept. 15	Condolences on assassination of President McKinley.	415
	Mr. Hill to Señor de Azpiroz.	Sept. 25	Same subject. Acknowledges above telegram, with appreciation.	415

NETHERLANDS.

263	Mr. Hill to Mr. Newel	1901. Jan. 7	Marriage of Queen Wilhelmina. Instructs to make appropriate congratulations, etc. •	416
	Mr. Newel to Mr. Hay (telegram).	Feb. 7	Same subject. Announces	416
376	Same to same	Feb. 9	Same subject. Reports in detail as to ceremonies, etc.	416
	Circular	Aug. 30	Liability of naturalized citizens of the United States under military and expatriation laws of their native country. Notice to American citizens formerly subjects of the Netherlands who contemplate returning to that country.	418
	Mr. van Roijen to Mr. Hay (telegram).	Sept. 15	Condolences on assassination of President McKinley.	419
	Mr. Adee to Mr. van Roijen.	Sept. 30	Same subject. Acknowledges above telegram, with appreciation.	419

NICARAGUA, COSTA RICA, AND SALVADOR.

519	Mr. Merry to Mr. Hay	1901. Jan. 31	Visit of U. S. S. <i>Iowa</i> and <i>Philadelphia</i> to Salvador. Reports.	420
551	Same to same	Apr. 18	Citizenship of Rafael F. Hine, born in Costa Rica of an American father. Requests decision as to.	420
402	Mr. Hill to Mr. Merry.....	May 7	Same subject. States that Hine is a United States citizen until he becomes of age, when he will be entitled to elect his nationality.	421
	President Iglesias, of Costa Rica, to President Roosevelt (telegram).	Sept. 14	Condolences on assassination of President McKinley.	422
	Minister of foreign relations of Salvador to Mr. Hay (telegram).	Sept. 15	Same subject and tenor.....	423
	Mr. Hay to the minister of foreign relations of Salvador (telegram).	Sept. 16	Same subject. Acknowledges above telegram, with appreciation.	423
	Mr. Hay to Mr. Merry (telegram).	Sept. 17	Same subject. Instructs to acknowledge with appreciation message of President of Costa Rica.	422
	Under secretary of foreign relations of Nicaragua to Mr. Hay (telegram).	Sept. 22	Same subject	422
	Mr. Hill to the minister of foreign relations of Nicaragua (telegram).	Sept. 23	Same subject. Acknowledges above telegram, with appreciation.	422

PERSIA.

	Circular	1901. Feb. 18	Liability of naturalized citizens of the United States under military and expatriation laws of their native country. Notice to American citizens formerly subjects of Persia who contemplate returning to that country.	424
67	Mr. Tyler to Mr. Hay.....	Sept. 16	Condolences on assassination of President McKinley. Transmits.	424
	The Shah of Persia to President Roosevelt (telegram).	Sept. 20	Congratulations on the accession of President Roosevelt.	425

PERSIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1901.		
	President Roosevelt to the Shah of Persia (telegram).	Sept. 23	Congratulations on the accession of President Roosevelt. Acknowledges above telegram, with cordial wishes.	425
70	Mr. Tyler to Mr. Hay.....	Sept. 28	Congratulations on the anniversary of the Shah's birthday. Incloses his note of.	425
72	Same to same.....	Oct. 11	Same subject. Incloses acknowledgment of above-mentioned note.	426

PERU.

68	Mr. Bayard to Mr. Buck....	1886. June 5	Claims of James H. Hayball <i>v.</i> Peru. Incloses report of solicitor of the Department on.	427
152	Mr. Hay to Mr. Dudley.....	1898. Nov. 21	Claim of William Fowks <i>v.</i> Peru. Reviews and instructs to present.	430
	Mr. Dudley to Mr. Hay (telegram).	1901. Mar. 18	Same subject. Reports offer of Peru to settle for 3,000 soles.	431
	Mr. Hay to Mr. Dudley (telegram).	Mar. 18	Same subject. Authorizes acceptance of above offer.	432
466	Mr. Dudley to Mr. Hay.....	Apr. 8	Same subject. Reports in detail as to settlement, and incloses correspondence.	432
	Same to same (telegram)...	May 26	Claims of James H. Hayball <i>v.</i> Peru. Reports offer of Peru to settle for 8,000 soles.	428
	Mr. Hill to Mr. Dudley (telegram).	May 28	Same subject. Authorizes acceptance of above offer.	428
480	Mr. Dudley to Mr. Hay.....	May 28	Same subject. Incloses correspondence in regard to settlement of.	428
496	Same to same.....	July 31	Same subject and tenor.....	429
	President Romana to President Roosevelt (telegram).	Sept. 14	Condolences on assassination of President McKinley.	434
	Mr. Hay to Mr. Dudley (telegram).	Sept. 20	Same subject. Instructs to acknowledge above telegrams, with appreciation.	434

PORTUGAL.

55	Mr. Thieriot to Mr. Hay....	1900. Nov. 26	Refusal of permission for sale in Portugal of certain medicines of American manufacture. Incloses correspondence with Portuguese minister of foreign affairs.	435
29	Mr. Hay to Mr. Thieriot....	Dec. 20	Same subject. Incloses letter from J. C. Ayer Company asking that efforts be made to secure revocation of.	436
30	Same to same	Dec. 21	Same subject and tenor	436
58	Mr. Thieriot to Mr. Hay....	Dec. 24	Same subject. Incloses letter from J. C. Ayer Company on the subject, and requests instructions.	437
62	Same to same	1901. Jan. 14	Same subject. Reports having made representations against.	438
32	Mr. Hay to Mr. Thieriot....	Jan. 19	Same subject. Instructs to make one more effort to obtain revocation of.	438
65	Mr. Thieriot to Mr. Hay....	Feb. 4	Same subject. Reports final confirmation of.....	438
	Circular	Feb. 11	Liability of naturalized citizens of the United States under military and expatriation laws of their native country. Notice to American citizens, former subjects of Portugal, who contemplate returning to that country.	439
	The King of Portugal to the Vice-President of the United States (telegram).	Sept. 15	Condolences on assassination of President McKinley.	440
	Mr. Hay to the minister for foreign affairs of Portugal (telegram).	Sept. 17	Same subject. Acknowledges above telegram with appreciation.	440

ROUMANIA.

	Circular	1901. Feb. 20	Liability of naturalized citizens of the United States under military and expatriation laws of their native country. Notice to American citizens, formerly subjects of Roumania, who contemplate returning to that country.	441
	Mr. Stourdza, President of the Council of Roumania, to Mr. Hay (telegram).	Sept. 15	Condolences on assassination of President McKinley.	441
	Mr. Hay to Mr. Stourdza (telegram).	Sept. 16	Same subject. Acknowledges above telegram with grateful thanks.	441

RUSSIA.

No.	From and to whom.	Date.	Subject.	Page.
489	Mr. Breckinridge to Mr. Olney.	1897. Feb. 23	Passport application of Mrs. Louisa Lassonne, widow of a naturalized United States citizen, residing without the United States. Requests instructions.	442
379	Mr. Sherman to Mr. Breckinridge.	Mar. 15	Same subject. States that under circumstances reported in above dispatch Mrs. Lassonne can be considered but as a Swiss citizen.	443
381	Mr. Tower to Mr. Hay.....	1901. Jan. 10	Protection in Russia of a naturalized American citizen of Jewish faith, who resided in the United States just long enough to acquire citizenship. Submits case and correspondence.	446
216	Mr. Hay to Mr. Tower.....	Jan. 30	Same subject. States that man referred to in above dispatch should give stronger evidence of his intention to conserve his acquired citizenship before intervention of United States Government should be exercised to procure him privilege of continued residence in Russia.	450
454	Mr. Tower to Mr. Hay.....	July 27	Expulsion of George Kennan. Reports.....	451
	Circular.....	Aug. 1	Liability of naturalized citizens of the United States under military and expatriation laws of their native country. Notice to American citizens, formerly subjects of Russia, who contemplate returning to that country.	453
247	Mr. Adee to Mr. Tower.....	Aug. 13	Expulsion of George Kennan. Acknowledges dispatch No. 454.	452
	Mr. de Wollant to Mr. Hay, (telegram).	Sept. 15	Condolences on assassination of President McKinley.	453
	Mr. Hay to Prince Oblen-sky (telegram).	Sept. 16	Same subject. Acknowledges condolences, with thanks.	454
499	Mr. Tower to Mr. Hay.....	Nov. 20	Passport application of Mrs. Louisa Lassonne, widow of a naturalized United States citizen, residing without the United States. Refers to Department's adverse decision in 1897, based on the fact that Mrs. Lassonne reverted to her Swiss nationality on the death of her American husband. Incloses letter from Mrs. Lassonne showing that it has been judicially decided in Switzerland that she lost her Swiss nationality by her marriage with an American citizen, and requests instructions.	443
264	Mr. Hay to Mr. Tower.....	Dec. 6	Same subject. Acknowledges above dispatch and adheres to decision given in instruction No. 379, of March 15, 1897.	446
	Memorandum from Russian and German Embassies.	Dec. 12	Anarchists. Suggests concurrent legislation and executive action to check the progress of propaganda and crimes.	196
	Mr. Hay to Count Cassini..	Dec. 16	Same subject. Incloses memorandum in reply to above, and gives synopsis of the position of the President and of the Congress on the question.	197

SERVIA.

	Circular.....	1901. Apr. 10	Liability of naturalized citizens of the United States under military and expatriation laws of their native country. Notice to American citizens, formerly subjects of Servia, who contemplate returning to that country.	455
14	Mr. Francis to Mr. Hay....	Sept. 25	Condolences of Servia on assassination of President McKinley.	455

SIAM.

	Prince Devawongse, minister for foreign affairs, to Mr. Hay (telegram).	1901. Sept. 16	Condolences on assassination of President McKinley.	456
	Mr. Hay to Prince Devawongse (telegram).	....do....	Same subject. Acknowledges above telegram with appreciation.	456
	The President to the King of Siam (telegram).	Nov. 15	Congratulations on occasion of national holiday of Siam.	456

SPAIN.

363	Mr. Storer to Mr. Hay.....	1900. Dec. 20	Protection by representatives of the United States of Porto Ricans, Cubans, and Filipinos. Goes at length into the question and the embarrassments caused by the conflict of requirements under Spanish and United States laws; and requests positive and clear instructions.	457
-----	----------------------------	------------------	---	-----

SPAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1901.		
283	Mr. Hay to Mr. Storer	Jan. 16	Protection by representatives of the United States of Porto Ricans, Cubans, and Filipinos. States that under existing conditions Department is unable to issue definite and final instructions; in the meanwhile the practice of visaing cedulas may be continued.	462
288	Same to same	Jan. 30	Courtesies shown by a Spanish naval officer to United States naval officers at Habana. Instructs to express thanks for.	463
397	Mr. Storer to Mr. Hay	Feb. 1	Military service case of Benito Llaveria y Pascual. Reports that protest of consul-general at Barcelona, although not answered, has held the matter in abeyance, and action by the legation will be deferred. Incloses communication from the drafting office of Barcelona.	464
297	Mr. Hill to Mr. Storer	Feb. 21	Same subject. States that case appears to come under provisions of circular of May 2, 1899, for the protection of Cubans.	465
432	Mr. Storer to Mr. Hay	Mar. 16	Same subject. Incloses decision of the recruiting commission rejecting Pascual's application for exemption.	466
320	Mr. Hay to Mr. Storer	Apr. 8	Same subject. States that if, as claimed by Spain, the man had incurred military obligations in March, 1898, the view that he was not exempted by subsequent change of nationality seems to be correct.	469
	Mr. Hill to Mr. Storer (telegram).	May 10	Filipino junta at Madrid. Report that five of its members have been sent to the Philippines to continue the war communicated for investigation and report.	471
	Mr. Storer to Mr. Hay (telegram).	May 17	Same subject. Reports that trustworthy information is difficult to obtain; is inclined to think above-mentioned report is an exaggeration.	471
474	Same to same	May 21	Military service case of Benito Llaveria y Pascual. Reports that examination of Spanish law brings the conclusion that the man owed military service in 1898, and that consul-general at Barcelona has been so informed.	470
478	Same to same	May 24	Nationality in ceded or relinquished territory. Incloses report to the Queen, and royal decree determining questions of.	473
485	Same to same	May 28	Filipino junta at Madrid. Reports that it is a mere dependency of that in Paris, and is without influence or funds.	471
337	Mr. Hay to Mr. Storer	June 4	Military service case of Benito Llaveria y Pascual. Approves conclusions reported in dispatch No. 474.	470
343	Same to same	June 10	Consent of Spanish Government to assist the United States Government in procuring evidence to defend claims assumed by the latter under the treaty of peace. Instructs to endeavor to secure.	477
	Mr. Sickles to Mr. Hay (telegram).	June 27	Registration of Cubans and Porto Ricans in Spain. Reports that visé on cédulas of persons born in Cuba and Porto Rico are ignored by the registry office, and that holders of same are not permitted to register as foreigners. Requests instructions.	480
	Mr. Hill to Mr. Sickles (telegram).	June 28	Same subject. Directs the issue of such papers as will be accepted by Spanish authorities.	481
507	Mr. Sickles to Mr. Hay (telegram).	....do....	Same subject. Confirms telegram of June 27, and incloses correspondence.	481
	Same to same	June 30	Same subject. Inquires if Department means by "Cubans and Porto Ricans" resident inhabitants only, or also persons born in those islands but resident since for some years in Spain.	482
	Mr. Hill to Mr. Sickles (telegram).	July 2	Same subject. States that by "Cubans and Porto Ricans" is meant bona fide residents of those islands who are temporarily residing abroad.	482
512	Mr. Sickles to Mr. Hay	July 3	Same subject. Reports that above instructions have been communicated to consul-general at Barcelona.	482
515	Same to same	July 17	Petition of Isabelo de los Reyes, a member of the Filipino junta at Madrid, for permission to return to the Philippine Islands. Incloses, and requests instructions.	472
368	Mr. Adee to Mr. Storer	Aug. 30	Same subject. States that no guarantee can be given to de los Reyes, but if he returns to the Philippine Islands, takes the oath of allegiance, and behaves properly, he will not be prosecuted for past acts.	473
	The Duke de Arcos to Mr. Hay.	Sept. 17	Condolences on assassination of President McKinley.	483

SPAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	The Duke de Arcos to Mr. Hay.	1901. Sept. 25	Deserters from merchant vessels. Cites an incident which occurred at New Orleans, and asks if there is any way in the United States to secure the apprehension of.	483
	Mr. Hill to the Duke de Arcos.	Sept. 26	Condolences on assassination of President McKinley. Acknowledges, with appreciation, note of September 17.	483
233	Mr. Adee to the Duke de Arcos.	Oct. 9	Deserters from merchant vessels. States that there is no law or regulation in the United States providing for the punishment of.	484
583	Mr. Storer to Mr. Hay	Dec. 5	Passport application of a native of the island of Guam. Submits case and requests instructions.	484
590	Same to same	Dec. 14	Consent of Spanish Government to assist the United States Government in procuring evidence to defend claims assumed by the latter under the treaty of peace. Reports conversation with, and incloses note addressed by him to minister of state.	477
594	Same to same.....	Dec. 21	Same subject. Reports conditions under which assistance of Spanish Government will be rendered. Incloses note from minister of state.	479
397	Mr. Hay to Mr. Storer.....	Dec. 24	Passport application of a native of the island of Guam. Instructs to treat as he would an application of an inhabitant of Porto Rico or the Philippine Islands.	485

SWEDEN AND NORWAY.

	Mr. Thomas to Mr. Hay (telegram).	1901. Jan. 21	Reassumption of Government by King Oscar. Reports.	486
	Mr. Hay to Mr. Thomas (telegram).	....do....	Same subject. Instructs to tender the President's congratulations.	486
	Circular.....	Feb. 9	Liability of naturalized citizens of the United States under military and expatriation laws of their native country. Notice to American citizens formerly subjects of Sweden who contemplate returning to that country.	486
	Same.....	....do....	Same subject. Notice to American citizens formerly subjects of Norway who contemplate returning to that country.	487
118	Mr. Hay to Mr. Thomas....	Aug. 20	Military service case of Johannes P. Hoiland. Recites circumstances of the fine, arrest, and imprisonment of Hoiland, and incloses for investigation and report letters from O. J. Vaule on the subject.	487
	Mr. Grip to Mr. Hay (telegram.)	Sept. 14	Condolences on assassination of President McKinley.	494
219	Mr. Thomas to Mr. Hay....	Sept. 18	Unveiling of monument to John Ericsson at Stockholm. Account of ceremonies.	495
	Mr. Hill to Mr. Grip	Sept. 25	Condolences on assassination of President McKinley. Acknowledges, with appreciation, telegram of Sept. 14.	494
233	Mr. Thomas to Mr. Hay.....	Dec. 11	First annual award of the Nobel prizes. Account of.	497
236	Same to same.....	Dec. 31	Military service case of Johannes P. Hoiland. Reports that Hoiland did not claim United States citizenship, and refused to exhibit his naturalization papers until actually arrested; and after giving proof of United States citizenship was immediately released. Incloses correspondence with the foreign office.	490
		1902.		
129	Mr. Hay to Mr. Thomas.....	Jan. 16	Same subject. States that Hoiland's attorney has been informed that the Department saw no ground for further intervention.	494

SWITZERLAND.

	Circular.....	1901. Jan. 8	Liability of naturalized citizens of the United States under military and expatriation laws of their native country. Notice to American citizens formerly citizens of Switzerland who contemplate returning to that country.	499
	Treaty between the United States and Switzerland.	Feb. 28	Extradition of criminals. Text.....	500
291	Mr. Hay to Mr. Pioda.....	Apr. 19	Protection by United States officials of Swiss citizens in Egypt. Will be extended if agreeable to Swiss Government.	504

SWITZERLAND—Continued.

No.	From and to whom.	Date.	Subject.	Page.
7	Mr. Hay to Mr. Hardy.....	1901. Apr. 23	Passport application of Carl F. Kupfer. States that a passport issued by the Department should always be accepted <i>prima facie</i> as proof of citizenship.	508
	Mr. Pioda to Mr. Hay	May 23	Protection by United States officials of Swiss citizens in Egypt. Incloses a circular issued by the Swiss Government in regard to protection of Swiss citizens in countries where they have no representative, and asks whether the circular issued in 1871 by Secretary Fish has been modified.	504
	Same to same.....	May 24	Cancellation of passport of Emile Stolz by United States legation at Berne, because of Stolz's continued residence without the United States. States that Stolz has been denied Swiss naturalization and will be expelled from Fribourg Canton if he can not produce a passport. Asks whether United States legations are authorized to cancel passports; if so, permission to sojourn in the Canton of Fribourg will be denied to American citizens.	509
297	Mr. Hill to Mr. Pioda.....	June 14	Same subject. States that action related in above note is in accordance with the general instructions of the Department.	511
298	Same to same.....	June 15	Protection by United States officials of Swiss citizens in Egypt. Says that the position of the Department remains as stated in Mr. Bayard's note of 1887, and protection will be extended whenever desired by the Swiss Government.	506
	Mr. Lardy to Mr. Hill.....	July 25	Same subject. States that the Swiss Government deems it desirable that Swiss citizens applying for, should be warned that, unlike protection extended by other powers, it is limited to the use of unofficial good offices.	507
	Mr. Lardy to Mr. Adee.....	July 30	Citizenship of a son born in France of an American father and a French mother prior to their marriage. Requests views of Department as to.	511
303	Mr. Adee to Mr. Lardy.....	Aug. 5	Protection by United States officials of Swiss citizens in Egypt. States that United States consul at Cairo has been instructed as suggested in Mr. Lardy's note of July 25.	508
306	Mr. Hay to Mr. Lardy.....	Aug. 23	Citizenship of a son born in France of an American father and a French mother prior to their marriage would be that of the United States after such marriage if the father had conserved his own citizenship. Cites opinion of attorney-general of New York, and sections 1933 and 1992, Revised Statutes.	512
	Mr. Lardy to Mr. Hay (telegram).	Sept. 15	Condolences on assassination of President McKinley.	512
	Mr. Hay to Mr. Lardy (telegram).	Sept. 16	Same subject. States that United States minister has been directed to make appropriate acknowledgment.	513
	Mr. Hay to Mr. Hardy (telegram).	....do...	Same subject. Instructs as indicated in above telegram.	513

TURKEY.

	Mr. Griscom to Mr. Hay (telegram).	1900. Dec. 11	Courtesies to U. S. S <i>Kentucky</i> by Turkish officials. Requests that vessel's stay in Turkish waters be prolonged.	514
	Mr. Hay to Mr. Griscom (telegram).	....do...	Same subject. States that vessel has been ordered by Navy Department to remain.	514
295	Mr. Griscom to Mr. Hay	Dec. 12	Same subject. Reports in detail	514
329	Mr. Hill to Mr. Griscom.....	1901. Jan. 4	Same subject. Instructs to express appreciation of United States Government.	515
	Circular	Jan. 22	Liability of naturalized citizens of the United States under military and expatriation laws of their native country. Notice to American citizens formerly subjects of Turkey who contemplate returning to that country.	515
316	Mr. Griscom to Mr. Hay.....	Jan. 31	Right of Jews to three months' sojourn in Palestine. Reports new regulations compelling Jews to deliver their passports to Turkish authorities and receive therefor a Turkish <i>teskéréh</i> to be returned after three months, and requiring consuls to make them leave after that term. Incloses report from consul at Jerusalem.	516

TURKEY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1901.		
	Mr. Hay to Mr. Griscom (telegram).	Feb. 27	Indemnity claims of United States citizens. States that the President expects fulfillment of Sultan's promises to settle.	518
354	Same to same.....	Feb. 28	Right of Jews to three months' sojourn in Palestine. States that Department's contention for, seems to have been acceded to; as to deposit of passports with local authorities, or assistance to be given to the same by United States consuls, it is a matter in which the consuls are not called upon to interfere, except to protect harshly treated citizens.	517
25	Mr. Leishman to Mr. Hay...	May 17	Passport application of Demetrius Chryssanthides. Reports having refused to issue because, from applicant's own statement, he received letters of naturalization without having continuously resided for the five preceding years in the United States.	519
	Same to same (telegram) ..	June 12	Indemnity claims of United States citizens. Reports settlement of.	518
26	Mr. Hill to Mr. Leishman ...	June 14	Passport application of Demetrius Chryssanthides. Constructions of words "resided uninterruptedly" in application for naturalization. States that interruption of residence for a short period and legitimate purposes does not necessarily vitiate naturalization. Cites authorities.	520
	Mr. Hay to Mr. Leishman (telegram).	June 18	Indemnity claims of United States citizens. Extends congratulations in settlement of, and directs that amount be remitted to the Department.	518
51	Mr. Leishman to Mr. Hay...	July 5	Passport application of Demetrius Chryssanthides. Reports having granted.	521
52	Same to same.....	...do ...	Protection of American interests by British consuls in Turkey. Submits petition of Rev. J. L. Fowle. Reports that British ambassador is quite ready to sanction reciprocal protection of British and American interests in Turkey, and even favors transferring British officers from places where the United States is represented to others where conditions seem to require the presence of a consular officer.	521
53	Same to same.....	...do ...	Refusal by Turkish officials to issue traveling <i>teskéréh</i> to the Rev. R. M. Cole. Reports that if refusal is persisted in, Mr. Cole will be given the escort of a cavass and told to travel on his United States passport, the Turkish Government being held responsible for his safety. Incloses correspondence.	523
56	Same to same	July 8	Same subject. Reports that difficulty related in above dispatch has been satisfactorily arranged. Incloses correspondence.	525
60	Same to same	July 22	Protection of American interests by British consuls in Turkey. Incloses letter from British consul at Broussa reporting opposition on the part of the local authorities.	522
40	Mr. Hill to Mr. Leishman ..	July 25	Same subject. Instructs to confer with the British ambassador on the subject.	522
42	Mr. Adee to Mr. Leishman.	Aug. 1	Refusal by Turkish officials to issue traveling <i>teskéréh</i> to the Rev. R. M. Cole. Approves action reported in dispatches Nos. 53 and 56.	527
47	Same to same.....	Aug. 7	Protection of American interests by British consuls in Turkey. States that the temporary acting of an official does not involve the issuance of an <i>exequatur</i> , but merely the usual courteous acquiescence of the Government of the country.	523
71	Mr. Leishman to Mr. Hay..	Sept. 6	Refusal by Turkish officials to issue traveling <i>teskéréh</i> to the Rev. R. M. Cole. Reports that traveling <i>teskéréh</i> has not been furnished to Mr. Cole as promised. Incloses correspondence.	527
	The Sultan of Turkey to Mr. Hay (telegram).	Sept. 14	Condolences on assassination of President McKinley.	529
	Mr. Hay to the Sultan of Turkey (telegram).	Sept. 16	Same subject. Acknowledges above telegram, with thanks.	529
66	Mr. Adee to Mr. Eddy.....	Oct. 8	Refusal by Turkish officials to issue traveling <i>teskéréh</i> to the Rev. R. M. Cole. Incloses letter from secretary of the American Board of Commissioners for Foreign Missions expressing satisfaction with Mr. Leishman's note to the Porte in regard to.	528
107	Mr. Eddy to Mr. Hay.....	Nov. 26	Seizure by France of custom-house at Mytilene. Reports.	529

URUGUAY AND PARAGUAY.

No.	From and to whom.	Date.	Subject.	Page.
442	Mr. Finch to Mr. Hay.....	1901. May 21	Citizenship of minor son of a United States citizen, born and residing without the United States. Submits question to Department.	531
444	Same to same.....	June 4	Friendly relations of United States legation with Government of Uruguay. Incloses official newspaper article in regard to.	532
188	Mr. Hill to Mr. Finch.....	June 28	Citizenship of minor son of a United States citizen, born and residing without the United States. States that the boy is entitled to protection until he shall become of age and elect his nationality, and that he should be given a passport.	532
457	Mr. Finch to Mr. Hay.....	Aug. 5	Friendly relations of United States legation with Government of Paraguay. Incloses extract from message of minister of foreign affairs to Congress of Paraguay in regard to.	533
	The President of Paraguay to the President of the United States (telegram).	Sept. 14	Condolences on assassination of President McKinley.	533
	Mr. Hay to the President of Paraguay (telegram).	Sept. 16	Same subject. Acknowledges above telegram, with thanks.	533
	The minister for foreign affairs of Uruguay to Mr. Hay (telegram).	....do....	Same subject.....	533
	Mr. Hay to the minister for foreign affairs of Uruguay (telegram).	....do....	Same subject. Acknowledges above telegram, with appreciation.	533

VENEZUELA.

538	Mr. Loomis to Mr. Hay.....	1900. Dec. 29	Arrest and release of United States Consular Agent Baiz at Barcelona, and delay in transmission of legation's telegram. Reports in regard to.	534
379	Mr. Hay to Mr. Loomis.....	1901. Jan. 16	Same subject. Instructs to insist on adequate apologies and measures to prevent recurrence.	534
	Mr. Loomis to Mr. Hay (telegram).	Feb. 12	Visit of U. S. S. <i>Scorpion</i> to the Orinoco River. Reports protest of Venezuelan Government against.	541
	Mr. Hill to Mr. Loomis (telegram).	Feb. 13	Same subject. States that visit was in accordance with numerous precedents.	541
394	Same to same.....	Feb. 14	Same subject. Confirms above telegram, and incloses letter from Navy Department citing precedents.	542
563	Mr. Loomis to Mr. Hay.....	Feb. 23	Arrest and release of United States Consular Agent Baiz at Barcelona, and delay in transmission of legation's telegram. Reports that Venezuelan Government holds that consular officers are not entitled to personal immunities. Incloses notes to and from minister for foreign affairs.	535
564	Same to same.....	....do....	Visit of U. S. S. <i>Scorpion</i> to the Orinoco River. Incloses protest from minister for foreign affairs and reply thereto.	542
572	Same to same.....	Mar. 1	Same subject. Incloses further note from minister for foreign affairs citing Venezuelan law, which requires special permit of the Executive for war vessels to visit nonopen ports.	544
574	Same to same.....	Mar. 9	Arrest and release of United States Consular Agent Baiz at Barcelona, and delay in transmission of legation's telegram. Reports that no apology has yet been made.	536
402	Mr. Hay to Mr. Loomis.....	Mar. 18	Visit of U. S. S. <i>Scorpion</i> to Orinoco River. Incloses letter from Navy Department pointing out distinction between an ordinary visit and a visit for "scientific purposes."	545
599	Mr. Loomis to Mr. Hay.....	Apr. 7	Arrest and release of United States Consular Agent Baiz at Barcelona, and delay in transmission of legation's telegram. Reports that satisfactory apology will be made to Mr. Baiz.	537
604	Mr. Russell to Mr. Hay.....	Apr. 20	Same subject. Reports that satisfactory apologies have been made to Mr. Baiz.	538
605	Same to same.....	May 3	Same subject. Incloses text of letter of regret addressed to Mr. Baiz by the President of the State of Barcelona and Mr. Baiz's reply.	538
414	Mr. Hill to Mr. Russell.....	May 4	Same subject. Expresses gratification at apologies reported, and states that explanations may be asked of the Government of Venezuela concerning the nondelivery of the legation's telegram to the consular agent.	539
610	Mr. Russell to Mr. Hay.....	....do....	Visit of U. S. S. <i>Scorpion</i> to the Orinoco River. Incloses law of 1882 regulating the visits of war vessels to Venezuelan waters.	546

VENEZUELA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
415	Mr. Hill to Mr. Russell.....	1901, May 22	Arrest and release of United States Consular Agent Baiz at Barcelona, and delay in transmission of legation's telegram. States that Department still awaits an explanation of the interception of legation's telegram to Mr. Baiz.	539
625	Mr. Russell to Mr. Hay.....	June 15	Same subject. Reports that explanation referred to above has not been received.	540
	Same to same (telegram) ..	....do ...	Visit of U. S. S. <i>Mayflower</i> to the island of Margarita. Reports that the President of Venezuela has cabled for details.	547
629	Same to same .....	....do ...	Same subject. Confirms above telegram.....	547
	Same to same (telegram)...	June 19	Same subject. Reports that Venezuelan Government has asked an explanation, and inquires what reply he shall make.	547
	Same to same (telegram) ..	June 22	Same subject. Reports that Venezuelan Government repeats request for explanation of <i>Mayflower's</i> entrance of closed port, and holds that United States officials were aware of law on subject.	547
	Mr. Hay to Mr. Russell (telegram).	....do ...	Same subject. States that visit was made in accordance with custom, and that list of closed ports has not yet been received.	548
634	Mr. Russell to Mr. Hay	June 30	Arrest and release of United States Consular Agent Baiz at Barcelona, and delay in transmission of legation's telegram. Reports that loss of telegram is explained by interruptions caused by heavy rains and destruction by the subsequent earthquake. Incloses note of minister of fomento.	540
637	Same to same .....	....do ...	Claims of foreigners against Venezuela growing out of the Castro revolution. Transmits summary of awards of the Venezuelan commission appointed to examine, and reports that concerted action has been suggested by the diplomatic representatives.	550
426	Mr. Hill to Mr. Russell.....	July 3	Visit of U. S. S. <i>Mayflower</i> to the island of Margarita. States that inasmuch as Porlamar is open to foreign trade it is not understood how treaty stipulations were violated.	548
429	Mr. Hay to Mr. Russell	July 12	Arrest and release of United States Consular Agent Baiz at Barcelona, and delay in transmission of legation's telegram. States that explanations as to interception of telegram, as reported in dispatch No. 634, are satisfactory.	541
643	Mr. Russell to Mr. Hay	July 14	Visit of U. S. S. <i>Mayflower</i> to the island of Margarita. Incloses notes to and from the minister for foreign affairs in regard to.	548
646	Same to same .....	....do ...	Claims of foreigners against Venezuela growing out of the Castro revolution. Reports that Venezuelan Government has issued a decree that payment of claims adjudicated by the claims commission will have to be provided for by the Venezuelan Congress.	550
431	Mr. Hay to Mr. Russell.....	July 17	Same subject. States that it is not the policy of the United States to act jointly with foreign powers, but the right to intervene in behalf of American claimants barred by the commission is reserved.	551
432	Mr. Hill to Mr. Russell	July 27	Visit of U. S. S. <i>Mayflower</i> to the island of Margarita. States that the incident seems to be satisfactorily closed.	549
655	Mr. Russell to Mr. Hay.....	July 28	Same subject. Reports that Venezuelan Government complained of visit to Pampatar, a closed port. Gives list of open ports.	549
	Same to same (telegram)...	July 31	Protection by United States representatives of Colombian interests in Venezuela. Reports invasion of Venezuela by Colombian force.	551
	Same to same (telegram)...	Aug. 3	Same subject. Inquires if he may extend, if Colombian minister is given his passport.	552
	Mr. Adee to Mr. Russell (telegram).	Aug. 5	Same subject. Authorizes to take charge by way of good offices.	552
	Mr. Russell to Mr. Hay (telegram).	Aug. 16	Same subject. Reports having assumed charge of Colombian legation.	552
6	Mr. Bowen to Mr. Hay.....	Aug. 24	Same subject. Reports departure of Colombian minister and agreement with him as to custody of property.	552
	The President of Venezuela to the President of the United States (telegram).	Sept. 21	Condolences on assassination of President McKinley.	553
	The President of the United States to the President of Venezuela (telegram).	....do ...	Same subject. Acknowledges above telegram, with appreciation.	553
34	Mr. Bower to Mr. Hay.....	Oct. 19	Reception at German legation to German colony at Caracas and officers of German war ship <i>Vincta</i> .	554

CORRESPONDENCE.

ARGENTINE REPUBLIC.

PASSPORT APPLICATION OF FRANK H. BOWERS.

Mr. Lord to Mr. Hay.

No. 89.]

LEGATION OF THE UNITED STATES,

Buenos Ayres, January 12, 1901.

SIR: I have the honor to inform you that I rejected the application of one Mr. Frank H. Bowers for a passport on the following facts which are respectfully submitted for your approval or revision as the case may require:

Mr. Bowers was born of American parents in the city of Buenos Ayres, Argentine Republic, on the 17th day of February, 1880, in which city he has since resided, with the exception of some two years while absent at school. Being nearly 21 years of age he now proposes to go to the United States with the intention of making his permanent residence in the city of Boston, Mass., where he intends to engage in business—probably as the other end of the business here—and where his mother now resides, having recently removed from this city to that place. As Mr. Bowers desired to spend a few weeks traveling in Europe before proceeding to his destination in the United States, he made application to this legation for a passport as an American citizen under the provision of section 1993, Revised Statutes of the United States; but, in view of the provision of section 1 of Article I of the Argentine law, No. 346, of October 8, 1869, declaring all persons born within the territory of the Argentine Republic, though of foreign parentage, to be Argentine citizens, I did not feel warranted in granting his application for a passport.

I deem it proper to say, upon the facts as stated, that I was first inclined to grant Mr. Bowers's application for a passport, intending to inform him that it furnished him no security against any claim that the Argentine Government might assert to his allegiance or service while he remained within the Argentine jurisdiction; but a subsequent reading of the opinion of Mr. Attorney-General Hoar to Mr. Secretary of State Fish, dated the 12th of June, 1869, led me to the conclusion that persons born of American parents in the Argentine Republic, which declares them to be citizens thereof, could not avail themselves of the provisions of section 1993 to obtain a certificate of their American citizenship while they continue within the Argentine territory, nor, possibly, until they should come within the sovereignty and jurisdiction of the United States.

I have, etc.,

WM. P. LORD.

Mr. Hay to Mr. Lord.

No. 34.]

DEPARTMENT OF STATE,
Washington, February 25, 1901.

SIR: I have to acknowledge the receipt of your No. 89, of the 12th ultimo, reporting that you had rejected the application of Mr. Frank H. Bowers for a passport.

It appears that Mr. Bowers was born of American parents in Buenos Ayres on February 17, 1880, in which city he has since resided with an exception of two years' absence at school. He desired the passport to use in Europe while en route to the United States, where he expects to reside.

In reply I have to say that the Department is of opinion that you should have issued the passport, as Mr. Bowers was clearly an American citizen, under section 1993, Revised Statutes, being born abroad of American parents.

You need not have concerned yourself with the conflict between the United States and Argentine laws, as it does not appear that the Argentine Government had made any claim to Mr. Bowers's allegiance, and he was, moreover, about to leave the Republic finally, and to come to the United States.

I am, etc.,

JOHN HAY.

POLITICAL DISTURBANCES—STATE OF SIEGE DECLARED IN BUENOS AYRES ON ACCOUNT OF PUBLIC DISORDER CAUSED BY OPPOSITION TO BILL CONSOLIDATING PUBLIC DEBT.

Mr. Lord to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, July 5, 1901.

Mr. Lord reports that the Argentine Government has been constrained to declare its capital in a state of siege for a period of six months, owing to public disorder caused by opposition to the bill consolidating the public debt, pending in Congress.

Mr. Lord to Mr. Hay.

No. 128.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, July 11, 1901.

SIR: Referring to my cablegram of the 5th instant, relative to the state of siege in this capital, I beg to say that the street disturbances or public disorders which caused the executive power, with the sanction of Congress, to issue a decree declaring this capital to be in a state of siege for six months, grew out of opposition to a bill for unifying the public debt.

During the present year there has been considerable discussion in the press as to the advisability of consolidating the public debt, which consists of some thirty loans bearing different rates of interest, into one loan with a uniform interest. In the progress of this discussion, it was not apparent that there was any serious objection to the adop-

tion of a financial measure which should accomplish this object without increasing the public debt or pledging the customs revenue for its payment. While it was not positively known that a proposition was on foot looking to the unification of these loans having the approval of the Government, it was surmised—and it was intimated—that Dr. Carlos Pellegrini, a leading senator, and Mr. Ernesto Tornquist, a prominent financier of this city, who were then in Europe, had been authorized by the Government to treat with its creditors and ascertain the terms on which a unification of the public debt could be effected. This supposition led to much talk and discussion concerning the terms and conditions which should form the basis of a measure of this character and also to some apprehension, quite freely expressed, that the opportunity afforded in dealing with such measure would be used for speculation to the detriment of the Government's credit and interests.

When Congress opened its session in May last, there was a good deal of curiosity exhibited to know what the President would say in his message about consolidating the public debt and a good deal of surprise expressed that he should have made no mention nor reference to that subject. But, as Dr. Pellegrini had not returned from Europe to resume his seat in the senate, it was surmised that he was delayed on account of not having been able to arrange satisfactory terms, and to this fact the public attributed the President's reticence to unification in his message. So the discussion went on growing more intense, but not heated.

About a month after the opening of Congress, Dr. Pellegrini returned to Buenos Ayres, resumed his seat in the Senate, and took part in its discussions, giving no intimation of nor making any reference to the subject of unification. As the finances were known to be in desperate straits and some remedy for their improvement considered to be of paramount importance, the belief still prevailed that some sort of scheme for the unification of the public debt would be proposed, notwithstanding the silence of Dr. Pelligrini and the reticence of Government officials. The consequence was that the press became more vigorous in its comments and criticisms on the action of the Government and the people more expectant and agitated.

At last the President sent a message to Congress recommending a bill for consolidating the public debt, the chief features of which bill were to be as stated: (1) The decrease of the service of the debt by \$5,000,000; (2) the consolidation of the thirty existing loans into one, with a uniform rate of interest and an amortization, and (3) the payment of the balance of the floating debt, maturing in this year and next, amounting to \$18,000,000 gold. The public debt is about \$385,000,000 and the unification bill included it and some other items, making the whole sum of \$435,000,000. The bill provided that 70 per cent of the customs receipts should be turned over daily, not into the national treasury, but a certain bank designated by the creditors, to be applied to the obligations incurred. It will be seen, therefore, that the scheme for consolidating the public debt increased its amount and pledged a portion of the only gold revenue of the nation to meet its obligations. The bill was presented by Dr. Pelligrini in the Senate with a short speech in support of it. Without further discussion it passed the Senate with only two dissentient votes, and was sent to the House of Deputies, where it was referred to a committee, who reported favorably upon it.

The bill was bitterly opposed by the press, and the hostility of the people began to manifest itself. The object of the bill was to improve the public credit. It was declared that no logic could demonstrate that an increase of the public debt combined with the mortgage of the public revenues could be a betterment of the public credit, nor, on the other hand, that the recovery of a lost credit could be achieved by mortgaging its revenues. * * *

The public mind was greatly agitated, and a spirit of discontentment began to manifest itself among the people. Some meetings were called for purposes of protest. The university students, numbering over 1,000, marched to Congress and presented a petition and protest, which was evidently written by some older head, and on their return were joined by a great crowd of the discontented, crying out "Down with the President," "Down with the unification bill," etc. This was the initiation of the disturbances. The President's house was attacked, and it was rumored that he and his family took refuge in the Royal Hotel. The mob attacked Dr. Pellegrini, whom they met in the street, but he was rescued by friends, and then passed down Florida street, until they reached the office of El País, when they proceeded to smash its windows, not, however, without meeting with some resistance from the inmates of the building. Turbulence and disorder began now to spread and affect the peace and business of the city. The office of the Tribuna was also attacked, but without much damage. In the meantime the police were reenforced, and their efforts to disperse the crowd and restore order partially succeeded. The next day, however, a large and menacing crowd gathered on the plaza in front of the Government building, and, not dispersing at the command of the police, a charge was ordered of mounted police to clear the plaza and streets adjoining, and a collision took place in which shots were freely exchanged, wounding several and killing a few. The mob finally began to give way and, being hard pressed, to break into several bodies, and the police, being at the same time reenforced by firemen with Mauser rifles, succeeded in dispersing them and in partially restoring order, though the spirit of rebellion and resistance against the constituted authorities was not entirely subdued.

At this crisis the President asked and Congress granted him authority to declare the city in a state of siege. Troops from the provinces were quietly brought into the city, quartered in barracks, and reviewed, ostensibly as a preparation for the usual ninth of July parade (independence day), but actually to preserve public order in the event their services should be needed. Sunday morning (July 7) opened on a comparatively quiet day. There were no large gatherings of crowds nor acts of turbulence.

The President is an able and conciliatory man. He had been popular with the people, who had shown him frequent manifestations of their favor and good will. He undoubtedly felt that popular sentiment against the unification bill must be appeased. On the 8th instant he sent a message to the Chamber of Deputies withdrawing the unification bill, which was awaiting its consideration. The Chamber immediately passed a resolution adjourning sine die the further consideration of the bill. This action is supposed to signify an entire change of the financial policy of the Government.

Still, there were those who thought that a hostile demonstration would be liable to occur on independence day, and great precautions

were taken to forestall it and preserve the public peace. The President gave his customary banquet to the diplomatic corps and prominent officials of his Government on Monday evening, and on Tuesday (independence day) the same officials attended the Te Deum at the cathedral by his invitation and witnessed the review of troops from the balconies of the Government building. Everything passed off quietly, peaceably, and in the usual manner, except that the crowd of citizens was smaller as compared with former occasions and few cheers greeted the President.

As a consequence of the withdrawal of the unification bill, the minister of finance, Señor Enrique Berduc, tendered his resignation which was accepted by the President. The minister of agriculture, Señor Ezequiel Ramos Mexía, also resigned in consequence, it is said, of party ties connecting him with Dr. Pellegrini. The ministers of war and marine also tendered their resignations in order to give the President an opportunity to reorganize his cabinet, but they were requested to retain their respective posts.

The act of withdrawing the bill seems to have given satisfaction to public opinion. The state of siege still exists, but all evidences of turbulence and discontent have disappeared. The city wears its wonted aspect of peace, business is pursuing its accustomed channels, and public order and quiet prevail.

With regard to the unification bill, I have never doubted but that the President was animated by an honest purpose and laudable zeal to better the condition of finances and maintain the public credit in his support of that measure, conceding that the bill itself was liable to serious objection. To sum up, it appears that the recent street disturbances and acts of violence in this city were caused by the press inveighing against the unification bill, and producing in the public mind the belief that it boded evil to the good name and financial credit of the nation, and that the action of the President in withdrawing such unification bill had the effect to allay popular passion * * *

I have, etc.,

WM. P. LORD.

Mr. Lord to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, July 31, 1901.

Mr. Lord reports that the state of siege has been raised.

Mr. Lord to Mr. Hay.

No. 131.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, July 31, 1901.

SIR: Since the withdrawal of the unification bill, referred to in my No. 128, of the 11th instant, there have been no street tumults disturbing the public peace or menacing official authority. Public order and quiet prevail throughout the city. The press generally approves the action of the President in withdrawing the bill, as well as some recent public utterances in which he declares it to be his intention to give due consideration to public opinion in matters of public concern. In view of

this condition of things, Congress passed a law yesterday, which the President approved on the same day, raising the state of siege in this capital.

I have, etc.,

Wm. P. LORD.

CONDOLENCES ON ASSASSINATION OF PRESIDENT MCKINLEY.

President Roca to President Roosevelt.

[Telegram.]

BUENOS AYRES, *September 14, 1901.*

The Argentine people and Government have been profoundly and grievously moved by the death of President McKinley, and while denouncing the infamous crime, which deprives the great sister Republic of the North of its Chief Magistrate and one of its most illustrious and impressive personalities, sends to President Roosevelt and to the American people the expressions of its most sincere condolences.

JULIO A. ROCA,

President of the Argentine Republic.

Mr. Hay to Mr. Lord.

[Telegram.]

DEPARTMENT OF STATE,

Washington, September 17, 1901.

In the name of the President and his sorrowing countrymen, you will express to President Roca sincere acknowledgment of his touching message of sympathy, which voices the affectionate regard of a sister Republic.

HAY.

**ANNOUNCEMENT OF DEATH OF PRESIDENT MCKINLEY, AND
ACCESSION OF PRESIDENT ROOSEVELT.^a**

Mr. Hay to Señor del Viso, Chargé d' Affaires.^a

DEPARTMENT OF STATE,

Washington, September 14, 1901.

SIR: It is my painful duty to announce to you the death of William McKinley, President of the United States, in the city of Buffalo, at fifteen minutes past 2 in the morning of to-day, September 14.

Laid low by the act of an assassin, the week-long struggle to save his life has been watched with keen solicitude, not alone by the people of this country, who raised him from their own ranks to the high office he filled, but by the people of all friendly nations, whose messages of sympathy and of hope while hope was possible have been most consolatory in this time of sore trial.

Now that the end has come, I request you, sir, to be the medium of communicating the sad tidings to the Government of the honored nation you so worthily represent, and to announce that in obedience to the prescriptions of the Constitution, the office of President has devolved upon Theodore Roosevelt, Vice-President of the United States.

Accept, etc.,

JOHN HAY.

^aSame announcement to all foreign representatives in the United States.

AUSTRIA-HUNGARY.

LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES UNDER MILITARY AND EXPATRIATION LAWS OF THEIR NATIVE COUNTRY. ^a

Mr. Hay to Mr. Herdliska.

DEPARTMENT OF STATE,
Washington, December 10, 1900.

SIR: The Department is frequently in receipt of information that naturalized citizens who receive passports suppose themselves to be thereby rendered exempt from the operation of the military laws and laws relating to expatriation of the country of their origin upon their return, and occasionally they complain that they were not informed by the Department when they received the passport of the limits of the protection it would afford. Of course, whenever information has been asked, the Department has given such as it possessed, but it has not heretofore furnished this information in advance of a request for it. It has been determined to inaugurate a new system by which no American citizen of foreign birth shall receive passports without being informed of those general provisions of law of the land of his birth which it is important for him to know before he returns to it. He will therefore receive with his passport a brief and easily comprehended statement applicable to his case. Inclosed is the draft ^b of the notice designed for those of our citizens who were born in Austria-Hungary. You are instructed to examine it and return it with such suggestions as to its correctness and sufficiency as your knowledge and experience may prompt you to make.

It should be borne in mind that the notice must be couched in terms simple enough for a person of imperfect education and limited knowledge to easily comprehend, and that the introduction of unnecessary details and discussions must be avoided.

I am, etc.,

JOHN HAY.

NOTICE TO AMERICAN CITIZENS FORMERLY SUBJECTS OF AUSTRIA- HUNGARY WHO CONTEMPLATE RETURNING TO THAT COUNTRY.

DEPARTMENT OF STATE,
Washington, February 1, 1901.

The information given below is believed to be correct, yet is not to be considered as official, as it relates to the laws and regulations of a foreign country.

^aSee also under Denmark, France, Germany, Greece, Italy, Russia, Sweden, Switzerland, and Turkey.

^bNot printed.

All male subjects of Austria-Hungary are liable to the performance of military service between the ages of nineteen and forty-two years.

Under the terms of the treaty between the United States and Austria-Hungary a former subject of that country now a naturalized citizen of the United States is treated upon his return as a citizen of the United States. If he violated any of the criminal laws of Austria-Hungary before the date of emigration he remains liable to trial and punishment, unless the right to punish has been lost by lapse of time as provided by law. A naturalized American citizen formerly a subject of Austria-Hungary may be arrested and punished under the military laws only in the following cases: (1) If he was accepted and enrolled as a recruit in the army before the date of emigration, although he had not been put in service; (2) if he was a soldier when he emigrated, either in active service or on leave of absence; (3) if he was summoned by notice or by proclamation before his emigration to serve in the reserve or militia, and failed to obey the call; (4) if he emigrated after war had broken out.

A naturalized American citizen of Austro-Hungarian origin on arriving in that country should at once show his passport to the proper authorities; and if, on inquiry, it is found that his name is on the military rolls, he should request it to be struck off, calling attention to the treaty of September 20, 1870, between this country and Austria-Hungary.

The laws of Austria-Hungary require every stranger to produce a passport on entering. This provision is not usually enforced, but may be at any time. Travelers are usually called upon to establish their identity and are advised to provide themselves with passports. They do not ordinarily require to be visaed.

EXPULSION OF JOHN RICHTER.

Mr. Harris to Mr. Hay.

No. 188.]

UNITED STATES LEGATION,
Vienna, April 26, 1901.

SIR: On the 18th day of January, 1901, the consul at Reichenberg informed me that John Richter, an Austrian-born naturalized citizen of the United States, bearing a passport, had been expelled from his native country, where he was sojourning.

I sent the consul a copy of the treaty of 1870, with directions to send it to the bezirkshauptmann at Schluckenau, and to invite his attention to the fact that Richter was not subject to arrest or expulsion. I also addressed a note to the foreign office, a copy whereof is inclosed.

In a few days I had a letter from the consul stating that the bezirkshauptmann had notified Richter that he might return. A letter lately received from the consul is to the effect that Richter had made no further complaint, and it is thought he has returned to America.

In the meantime a carefully prepared note came down from the foreign office, a translation whereof is inclosed.

I would not report the case except for the fact that it will be noticed the authorities for the first time put a new interpretation on the treaty

of 1870, to the effect that there is no fixed time during which an American may sojourn in Austria-Hungary, and therefore His Majesty's Government may expel any American at pleasure.

I do not entertain this view; but I have felt that it was better to lay the matter before you for instructions. If you do not consent to this construction of the treaty, I recommend that a clear and firm protest be made to the foreign office, so that the case may not be taken as a precedent.

I have, etc.,

ADDISON C. HARRIS.

[Inclosure 1.]

Mr. Harris to Count Soluchowski.

UNITED STATES LEGATION,
Vienna, January 23, 1901.

YOUR EXCELLENCY: I regret that I am compelled to invite the attention of your excellency to the following case, reported to this legation from the United States consul at Reichenberg. He reports:

That John Richter was born in Bohemia in 1873. That at the age of 14½ years he was taken by his mother as an emigrant to the United States, where he resided continuously until about the month of October, 1900, when he returned to Schluckenau, the place of his nativity. He was naturalized as a citizen of the United States on October 12, 1896, in the circuit court of Cook County, State of Illinois (Chicago). He holds a passport issued to him by Col. John Hay, Secretary of State of the United States, dated September 26, 1900.

The consul reports that the bezirkshauptmann at Schluckenau refused to recognize the treaty rights of Mr. Richter, although shown the said passport, and ordered him to leave the bezirk within eight days or he would be expelled by force. Thereupon the consul addressed a letter to the bezirkshauptmann calling attention to the fact that Mr. Richter was a citizen of the United States and had a right to sojourn in this country, and also instructed Mr. Richter to explain to the bezirkshauptmann the fact that he was lawfully at Schluckenau, which he did. Whereupon the bezirkshauptmann declared "the American representatives in this country could do nothing in the case," and required a gendarme to drive him out of the bezirk, and said to Mr. Richter that he would be arrested if he returned. Mr. Richter, to avoid further trouble, under protest obeyed the commands of the bezirkshauptmann and is temporarily elsewhere.

I respectfully ask that your excellency will cause the facts to be inquired into, and if found substantially as herein stated, to direct the bezirkshauptmann to revoke his order of expulsion, and to inform Mr. Richter, through the consul or otherwise, that his conduct was in violation of the treaty of 1870, and that he has the right to return to and sojourn in Schluckenau, and to be treated as a citizen of the United States.

I avail myself, etc.,

ADDISON C. HARRIS.

[Inclosure 2.—Translation.]

The foreign office to Mr. Harris.

VIENNA, March 15, 1901.

The imperial and royal ministry for foreign affairs did not fail to communicate, in due course of time, the contents of the esteemed note of the 23d of January of this year, concerning the matter of the expulsion of the naturalized American citizen John Richter, to the imperial and royal ministry of the interior, in order that the case might be treated accordingly.

The ministry of the interior at once caused the necessary investigations to be made with reference thereto, which, when examined, result in the following:

John Richter, who, while still an Austrian subject, emigrated in the year 1887 without authorization (according to the provision of paragraph 54 of the law of October 2, 1882, Imperial and Royal Law Bulletin No. 153, then in force), thereby made himself guilty of a transgression (according to paragraph 35 of the military law

of the 11th of April, 1889, Imperial and Royal Law Bulletin No. 41, and to paragraph 23 of the Military Regulations, first part, respectively), by his failure to report for conscription, and of the crime, eventually transgression, of desertion (according to paragraphs 44 and 45 of the law referred to, and to paragraph 80 of the Military Regulations, first part, respectively). Therefore, if Richter had remained an Austrian subject, he would have to be called to account for the said punishable actions, and, moreover (according to paragraph 38, last item, of the military law), would have to be held to perform his neglected liability of presenting himself for military examination, with the eventual consequences of removal from the age class and conscription number and increased service in the sense of paragraph 44 of the military law.

But in view of the fact that Richter is—according to article I of the treaty concluded with the United States of America on the 20th of September, 1870 (Imperial and Royal Law Bulletin No. 74, ex 1871)—to be treated as an American citizen, he can not be held liable to trial and punishment under Article II of that treaty, for the nonfulfillment of his military duty, nor be held subsequently to perform this duty.

The provisions of this treaty were in no way violated by the imperial and royal Bezirkshauptmannschaft at Schluckenau.

It is true that the imperial and royal Bezirkshauptmannschaft did order John Richter to leave the district within eight days; but this procedure can not be regarded as in contradiction to the treaty referred to, as the latter contains no provision with reference to the right of stay in Austria of American citizens, and in particular does not grant them the right of indefinite stay. This right of stay is therefore subjected to all those limitations which have been established by the general binding laws of this country, and by those which public considerations may require; to this applies in particular item 5 of paragraph 2 of the law of the 27th of July, 1871, Imperial and Royal Law Bulletin No. 88, according to which persons who are not Austrian subjects may be expelled either from the entire territory in which that law has jurisdiction, or from a certain part of it, if their stay in it becomes inadmissible for reasons of public order or safety.

According to the investigations made, the ostentatious manner in which Richter evaded his legal duty to do military service is causing public scandal, and may very easily give others an impetus to similar demoralizing acts. This apprehension is strengthened by the fact that more than thirty persons from the district of Schluckenau, who are liable to military presentation, are in America.

In consideration of this fact the procedure of the imperial and royal Bezirkshauptmannschaft in Schluckenau appears to be legally based, and in view of the protection required by public interests also appears to be fully justified; and the imperial and royal ministry of the interior is therefore, to its regret, not in a position to issue any order in behalf of John Richter.

The undersigned avails himself, etc.,

SZSCEN.

For the Minister.

Mr. Hay to Mr. Herdliska.

No. 7.]

DEPARTMENT OF STATE,
Washington, July 9, 1901.

SIR: I have to acknowledge the receipt of dispatch No. 188, of April 26, 1901, reporting the expulsion case of John Richter, a naturalized American citizen of Austrian birth.

Mr. Harris states that the Austro-Hungarian authorities claim that under the naturalization treaty between the two countries there is no fixed time during which a naturalized American of Austrian origin may sojourn in that country, and that they may "expel him at pleasure." Mr. Harris dissents from this view, but refers the matter to the Department.

The treaty contemplates that persons of Austrian origin naturalized in the United States may resort to their native country. It does not, however, fix the period of their sojourn there.

Whether such persons may be expelled from Austria, and when, would seem to depend upon the particular circumstances of each case.

Undoubtedly the Austro-Hungarian Government has the right to expel from its territory persons injurious to peace and good order, but it is the reasonable contention of the United States Government that the pernicious character of the returning person should be affirmatively shown in justification of the extreme resort to expulsion, and that the right so claimed should not rest on a vague and general theory of inconvenient example which might be stretched to cover the cases of all Austro-Hungarians naturalized here and returning to their original jurisdiction. The treaty undoubtedly gives the right of inoffensive return, and that stipulation is not to be impaired by any construction which would virtually annul the treaty in an important particular. The Austrian law provides for the expulsion of aliens whose presence is inadmissible for reasons of public order and safety. The reason given by the Austrian foreign office for considering Richter's stay there undesirable is that "the ostentatious manner in which he evaded his legal duty to do military service is causing public scandal, and may very easily give others an impetus to similar demoralizing acts."

As Richter was only 14 years of age when his mother took him to the United States, and would not have been subject to military service until he reached the age of 19, it might be questioned whether he left for the purpose of evading military duty. However, as Mr. Harris states that Richter was informed by the Austrian authorities that he might return to the place from which he was expelled and has made no further complaint, it would not seem desirable to take up this case with the Austrian Government.

I am, etc.,

JOHN HAY.

PASSPORT DENIED TO CARL SCHIMANECK.

Mr. Herdliska to Mr. Hay.

No. 10.]

UNITED STATES LEGATION,
Vienna, July 10, 1901.

SIR: I have the honor to lay before the Department for instructions the following case:

On the 2d instant, Consul Donzelmann, at Prague, sent to this legation the application for passport of one Carl Schimaneck, with the following report:

I have the honor to transmit to you, herewith inclosed, a passport application by one Carl Schimaneck, together with an old passport, a declaration of intention made by one Anton Schimaneck, who is claimed as having been the father of this applicant, a certificate of marriage establishing the fact of the applicant's parents having been married in the United States, and a certificate of birth of this applicant. The facts in the case of this applicant, as he has stated in this consulate this day, are these, viz:

His father emigrated to the United States in 1876, and shortly after his arrival there declared his intention to become an American citizen, as evidenced by the certificate herewith inclosed. The father died before completing his American citizenship, and having married between the time of declaring his intention to become an American citizen and his death, as the issue of this marriage was this applicant who was born in the United States. The mother of this applicant returned to her and her deceased husband's native country, which was Bohemia, belonging to the

Emperor of Austria as the sovereign, taking with her this applicant, her child. The mother never perfected her American citizenship, as provided by law, and has remained ever since her return to Bohemia, which was in the year 1881, an Austrian subject, and the child so brought over here never left Bohemia, never knew a word of the American language, and has married here in Bohemia another subject of Austria, thus evincing every desire to forever remain here in Austria. The facts, then, are that the applicant was born of foreign parents while they were sojourning in the United States of America, and under the facts stated heretofore this applicant did not become an American citizen simply because he happened to be born in the United States. Indeed, the declaration of intention made by the applicant's deceased father is not valid in law, as it states that he declared himself to have been a subject of the Emperor of Germany, when in fact he never had been any other than a subject of the Emperor of Austria. But admitting for the sake of argument that this certificate is in conformity with the law governing the same, yet the applicant is not an American citizen because his mother, as well as himself, never complied with the law of the United States governing such cases. I do not think that our Government ought to be charged with the protection of this applicant, the law not permitting it.

As section 1992, Revised Statutes of the United States, expressly declares that "All persons born in the United States and not subject to any foreign power * * * are declared to be citizens of the United States," Mr. Carl Schimaneck would appear to be a native citizen of the United States. It is true that he left the United States when but 4 years of age and has resided in Bohemia, the native country of his parents, ever since. It is also true that he has married an Austrian subject, and he does not appear to have any interests in the United States. And while he declares it to be his intention to return to the United States within two years, Consul Donzelmann says Mr. Schimaneck's real purpose in applying for a new passport is to enable him to obtain a license from the Bohemian authorities to engage in business in Bohemia. In the application for passport made before this legation on the 2d of August, 1894, Mr. Schimaneck also declared his intention to return to the United States within two years. This intention he did not carry out. But he has not applied for a passport since and it does not appear that his case is one where trouble is to be feared from the military authorities. He appears to desire the new passport solely for the purpose of obtaining a new concession to enter into business, and I have therefore the honor to lay the case before the Department with the respectful request that full instructions may be sent to me in the matter. Copies of the documents in the case as transmitted to me by Consul Donzelmann are respectfully inclosed herewith.

I have, etc.,

CHARLES V. HERDLISKA.

[Inclosure 1.—Translation.]

CERTIFICATE OF BIRTH.

ST. JOSEPH'S CHURCH, *Tremont, N. Y.*

Carl Schimaneck, son of Anton and Fanny Schimaneck, born on the 25th of February, 1877, was baptized on the 25th of July, 1877.

Witnesses: Franziska Heisler and Joseph and Maria Lauzansky.

Pastor: Rev. H. J. S. Tanner.

[SEAL.]

[Inclosure 2.—Translation.]

Anton Schimaneck, of Mirovitz, and Francisca Simek, of Ledenitz, Bohemia, were married in St. Nicholas Church, on the 2d of June, 1876, in the presence of the two

witnesses, Joseph Tanzer and Joseph Boder, by the Rev. H. L. Fuchs, according to the Catholic rite. This is shown by the register of marriages on file in this church.

[SEAL.]

J. P. HOFFMANN,
Rector of St. Nicholas Church.

BROOKLYN, N. Y., June 18, 1881.

[Inclosure 3.]

1876. STATE OF NEW YORK,

In the Superior Court of the City of New York.

I, Anton Schimaney, do declare on oath that it is bona fide my intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty whatever, and particularly to the Emperor of Germany, of whom I am now a subject.

Sworn this 5th day of June, 1876.

ANTON SCHIMANEY.
THOMAS BOESE, Clerk.

CLERK'S OFFICE OF THE SUPERIOR COURT OF THE CITY OF NEW YORK.

I certify that the foregoing is a true copy of an original declaration of intention remaining on record in my office.

In witness whereof I have hereunto subscribed my name and affixed the seal of said court this 5th day of June, 1876.

[SEAL.]

THOMAS BOESE, Clerk.

Mr. Hay to Mr. Herdliska.

No. 10.]

DEPARTMENT OF STATE,
Washington, August 20, 1901.

SIR: The Department has received your No. 10 of July 10, 1901, submitting the application for a passport of Carl Schimaneck, and a presentation of his case by Consul Donzelman at Prague, who thinks the applicant is not entitled to protection as a citizen of the United States. It appears that he was born here; that his father had declared his intention of becoming a citizen of the United States before the son's birth, but died before he secured naturalization; that the mother never secured naturalization as a citizen of the United States, and returned to Bohemia with the applicant when he was four years of age, and that he has himself never been in the United States since. He does not speak English, has married a Bohemian, is engaged in local business, and, as it would seem, is permanently settled in Bohemia. In considering the case, the question of the citizenship of the applicant's parents is not material, as Consul Donzelman seems to think it is, because birth in the United States of itself confers United States citizenship under the provisions of our laws. In construing these provisions the legation has correctly followed the numerous rulings on the subject by this Department (see *The American Passport*, pp. 102, 104, 105), and the rulings are themselves in full consonance with the decisions of the Federal courts. (See notably 35 Fed. Rep., 354, and 169 U. S., 649.) If, therefore, the applicant were still in his minority, or were only temporarily abroad, there would be no doubt of his being entitled to the protection of a passport as a native citizen of the United States. The question really involved, however, is whether or not he has abandoned his right to that protection. The Department's circular instruction of March 27, 1899, on the subject of "Passports for persons residing or sojourning abroad," contained the following quotation from Secretary Fish:

When a person *who has attained his majority* removes to another country and settles himself there, he is stamped with the national character of his new domicile; and

this is so, notwithstanding he may entertain a floating intention of returning to his original residence or citizenship at some future period, and the presumption of law with respect to residence in a foreign country, especially if it be protracted, is that the party is there *animo manendi*, and it lies with him to explain it.

Obviously, these remarks apply with equal force to one who remains in a foreign country after he has attained his majority. The circular further says:

When an applicant has completely severed his relations with the United States; has neither kindred nor property here; has married and established a home in a foreign land; has engaged in business or professional pursuits wholly in foreign countries; has so shaped his plans as to make it impossible or improbable that they will ever include a domicile in this country—these and similar circumstances should exercise an adverse influence in determining the question whether or not a passport should issue.

Each circumstance quoted above appears to be applicable to Mr. Schimaneck, with the additional fact that in applying for the passport issued him by your legation August 4, 1894, he swore that he intended to return to the United States, which he has not done, and in his pending application he makes the same promise, which there is strong reason for believing he will not keep. The circular also says:

If, in making application for a passport, he (the applicant) swears that he intends to return to the United States within a given period, and afterwards, in applying for a renewal of his passport, it appears that he did not fulfill his intention, this circumstance awakens a doubt as to his real purpose which he must dispel.

So far from the doubt having been dispelled in this case, it appears to have been confirmed. The Department is therefore of the opinion that, there being no additional facts to change the aspect of the case, Mr. Schimaneck's application for a passport should not be granted and the applicant informed that he must renew his residence in the United States which was abandoned in his infancy, before he can expect to receive the protection of this Government while he is abroad.

I am, etc.,

JOHN HAY.

CONDOLENCES ON ASSASSINATION OF PRESIDENT MCKINLEY.

Mr. Von Callenberg, Chargé d'Affaires, to Mr. Hay.

[Telegram.]

MANCHESTER, MASS., *September 15, 1901.*

I am charged, on the occasion of the tragic death of President McKinley, to convey to the Federal Government the warmest sympathy of His Imperial and Royal Apostolic Majesty.

VON CALLENBERG,
Austro-Hungarian Chargé d'Affaires.

Mr. Hay to Mr. Von Callenberg,

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1901.

I have charged the United States minister at Vienna to make on behalf of the President suitable acknowledgment of the sympathetic

message of His Imperial and Royal Majesty which you conveyed by your telegram of the 15th instant.

JOHN HAY.

Mr. Hay to Mr. McCormick.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1901.

I am charged to request you to convey, in the name of the President and Government of the United States, through the appropriate channel, grateful acknowledgment of the message of condolence sent through Mr. Callenberg by His Imperial and Royal Majesty.

JOHN HAY.

BELGIUM.

LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES UNDER MILITARY AND EXPATRIATION LAWS OF THEIR NATIVE COUNTRY.^a

Mr. Hay to Mr. Townsend.

DEPARTMENT OF STATE,
Washington, December 10, 1900.

SIR: The Department is frequently in receipt of information that naturalized citizens who receive its passports suppose themselves to be thereby rendered exempt from the operation of the military laws and laws relating to expatriation of the country of their origin on their return. It has, therefore, been determined to send to each person of foreign birth who receives a passport from this Department a brief and easily comprehended statement, showing what treatment he may expect to encounter if he returns to the country of his origin.

The Department has no information concerning the military or other laws of Belgium as they may affect a Belgian subject who secures naturalization in this country and returns, and you are instructed to furnish a report on the subject at the earliest practicable date.

I am, etc.,

JOHN HAY.

NOTICE TO AMERICAN CITIZENS FORMERLY SUBJECTS OF BELGIUM WHO CONTEMPLATE RETURNING TO THAT COUNTRY.

DEPARTMENT OF STATE,
Washington, February 5, 1901.

The information given below is believed to be correct, yet it is not to be considered as official, as it relates to the laws and regulations of a foreign country.

Every male Belgian must register during the calendar year in which he reaches the age of 19 years to take part in the drawing of lots for the raising of the necessary military contingent.

Anyone who has drawn a number which designates him for military service, or in case of his absence has had a number drawn for him by the proper authority, is punishable if he does not answer the call for service.

Under the terms of the convention between the United States and Belgium a Belgian naturalized as a citizen of the United States is considered by Belgium as a citizen of the United States; but upon return to Belgium he may be prosecuted for crime or misdemeanor commit-

^aSee also under Netherlands, Persia, Portugal, Roumania, and Servia.

ted before naturalization, saving such limitations as are established by the laws of Belgium.

A naturalized American formerly a Belgian, who has resided five years in this country, can not be held to military service in Belgium or to incidental obligation resulting therefrom, in the event of his return, except in cases of desertion from organized or embodied military or naval service.

Passports are not usually required in Belgium, but people who contemplate sojourning in that country are recommended to carry them in order to establish their identity. They do not require to be viséed or indorsed.

ARREST AND ILL TREATMENT OF THOMAS DE ST. BRIS.

Mr. Hill to Mr. Townsend.

No. 80.]

DEPARTMENT OF STATE,
Washington, July 29, 1901.

SIR: I inclose herewith for your information a copy of a letter from Hon. B. R. Tillman, bringing to the Department's attention the case of Mr. Thomas de St. Bris, an American citizen, who was arrested and assaulted by the police of Middelkerke, Belgium, on suspicion of having stolen some jewelry.

You will make an immediate investigation of the case, and if the grossly discourteous treatment of this respectable American citizen by the police is substantiated, proper reprimand and regrets will be expected.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

[Inclosure.]

Mr. Tillman to Mr. Hay.

TRENTON, S. C., *July 20, 1901.*

SIR: I inclose a letter and some newspaper clippings, which you will please return after reading them. It seems to me that Americans traveling abroad are entitled to decent treatment as long as they behave themselves, and to secure redress through their Government when they are wronged or imposed upon.

Since we have become a "world power" it would appear that the national influence might be carried in this direction, as well as in others, and I shall be glad if you will offer any suggestions as to how this man shall proceed in order to make his case one that you can prosecute vigorously.

Yours, truly,

B. R. TILLMAN, *U. S. S.*

[Subinclosure 1.]

Mr. de St. Bris to Mr. Tillman.

HOTEL DE FLANDRE, *Bunkerque, France, June 26, 1901.*

DEAR SIR: I am over in Europe making historical researches for a new work on American history, and had a nervous attack from overwork, whereon the doctor ordered me to go to Middelkerke, a quiet seaside place, to spend a month. The in-

closed extract from an English and French newspaper will tell you what happened to me, and as my father was a South Carolina man, I think I ought to let you know. I sent a claim for damages to the Hon. Lawrence Townsend, United States minister plenipotentiary at Brussels. He was out of town when I called, but the secretary told me that the Belgian Government decline all responsibility for the acts of their village chiefs. The vice-consul at Ghent said that they would give nothing for slapping me in the face after taking me falsely into custody, and that the consular rules order all consuls to keep on as good terms as possible with foreign governments.

In consequence of this United States citizens are constantly arrested, as they only give a letter of apology for it. These police have thousands of photographs of thieves for whose capture high rewards are offered, and if there is any resemblance they try to find some excuse for searching all your papers. Some time ago a New Yorker (well known) was arrested for sketching a tree in the country, under the laws ordering arrest for sketching fortifications. These arrests when known to one's enemies do tremendous damage, as they only tell half the story.

There ought to be a law (if our Government do not wish to enforce it) holding foreign governments responsible for illegal acts of their police chiefs, and also for unjustified arrests. Of course I would not get large damages, as I only make \$1,500 a year, but I have an income of \$1,500 from United States securities.

I don't want to go to expense about this claim, but if a lawyer could get a payment I would divide with him half of what I got as compensation for his trouble.

I believe we are no worse off than any other nation, but it seems outrageous that we can be so damaged and treated without compensation.

The police only arrest people in moderate circumstances, as it is more difficult to enforce a claim. I have been so upset by this outrage that I can not write a decent letter yet.

Perhaps you can lend me a hand in this matter.

Believe me, etc.,

THOS. DE ST. BRIS.

[Subinclosure 2.—Newspaper clipping.]

AN AMERICAN WRONGLY ARRESTED IN BELGIUM.

A singular incident has just occurred at Middelkerke, in Belgium, where, owing to a mistake of a landlady and over officiousness on the part of the police, an American gentleman, vice-president of a bank, has been subjected to considerable annoyance and vexation.

It appears that he rented a room with the intention of passing the season at Middelkerke. He had hardly taken possession of the room when the landlady of the house sent men to remove a wardrobe which had been forgotten. In shifting this wardrobe head downward some jewelry, valued at 500 francs, slipped out of the top drawer and fell into the body of the wardrobe.

The landlady, on finding the drawer empty, ran to the village police office and brought the chief officer. This functionary rushed violently at the new occupant of the room, pointed a revolver at his head, and demanded, "Where have you hidden the stolen jewels?" Of course, he denied all knowledge of the matter, but he was dragged downstairs and handed over to a policeman, after being slapped in the face by the chief. He was then conducted to various shops in the place and asked where he had sold the jewels. The next step was to take him to the police station, where he was stripped and all his luggage searched; his private note book was scrutinized and various indignities perpetrated.

His passport, photograph, and various papers of identification were utterly disregarded by these village officials and the American banker made to feel very uncomfortable.

At last it began to dawn upon the mind of the police that a mistake had been made, and the chief said: "Well, if I am wrong I beg your pardon."

Then the landlady herself came upon the scene and apologized, for she had found the missing jewels in the body of the wardrobe.

The American consul then arrived, and the dénouement was the discovery of a mare's nest.

The American gentleman is naturally very indignant and is lodging a claim with the Belgian Government. The moral of the story is that travelers should make themselves acquainted with the furniture and its contents when they occupy strange rooms in strange places.

Mr. Townsend to Mr. Hay.

No. 96.]

LEGATION OF THE UNITED STATES,
Brussels, August 16, 1901.

SIR: In conformity with instructions contained in Department's dispatch No. 80, of July 29 last, I have transmitted the facts of the case of Mr. Thomas de St. Bris to the minister of foreign affairs of Belgium, to the end that if, after investigation, the facts prove to be as represented, "proper reprimand and regrets" may be expressed for the false arrest of said Mr. de St. Bris at Middelkerke, Belgium, on June 7 last.

Awaiting the reply of the Belgian Government in this affair, I may add, for the information of the Department, that when Mr. de St. Bris called at the legation and stated his case he was informed that his claim would be submitted to the proper authorities to the end that the policeman might be reprimanded for his error and that proper regrets might be expressed by the chief police for the false arrest.

He replied that he did not care whether the policeman was reprimanded or not, nor did he desire to receive any expressions of regrets.

He wanted money compensation only and desired to institute a claim against the Belgian Government for heavy damages.

It was pointed out to him that, as a traveler in Belgium, he was obliged to conform to the laws of the country, and that as a citizen of a friendly power he had the right to claim and to receive the same treatment at the hands of the authorities as a citizen of Belgium.

His arrest appeared to be either due to a case of mistaken identity or an error in judgment on the part of the local policeman, and did not seem to be in any way due to the fact of his being an American citizen.

Under these circumstances, and with the view of obtaining damages in the form of a money compensation, his proper course would be to institute a suit against the local police authorities in the civil court of Belgium, in which event it would be necessary for him to employ a lawyer. As he did not appear to have received any bodily injury or be incapacitated in any way, it was further pointed out to him that it was extremely doubtful if he would be able to obtain monetary damages in such a suit, and, furthermore, that the claim for such damages, which he desired to institute against the Government, would probably only result, if the facts proved to be as represented, in a reprimand to the policeman and an expression of regrets to him. Mr. de St. Bris replied that as he did not care for regrets, and as it was only money he was after, he would not press his claim.

A few days later, i. e., June 25, Mr. de St. Bris wrote a letter addressed to my secretary confirming this determination of his.

I have, etc.,

LAWRENCE TOWNSEND.

Mr. Townsend to Mr. Hay.

No. 102.]

LEGATION OF THE UNITED STATES,
Brussels, September 13, 1901.

SIR: Referring to Department's instructions No. 80 of July 29 last and to my dispatch in reply thereto, No. 96 of August 18 last,

I have now the honor to transmit herewith a copy and translation of the reply of the minister for foreign affairs to my request that the case of M. de St. Bris, falsely arrested at Middelkerke, Belgium, might be investigated and that, if the facts proved as represented, due apologies might be offered and reprimand administered by the proper authorities.

The Department will observe that in compliance with my request the minister of foreign affairs has conveyed to me the expressions of regrets of the minister of justice, and furthermore, that the officer or police, who made the arrest in question, was reprimanded by the minister of justice on July 26 last, before my request that such reprimand should be administered reached the ministry of foreign affairs.

I have, etc.,

LAWRENCE TOWNSEND.

[Inclosure 1.—Translation.]

Mr. de Favereau to Mr. Townsend.

MINISTRY OF FOREIGN AFFAIRS,
Brussels, September 4, 1901.

MR. MINISTER: By letter of August 11 last, your excellency has kindly brought to my notice "the ill treatment and arbitrary arrest" to which M. de St. Bris has been subjected at Middelkerke on June 7 last.

As soon as I had learned of the incident in question, by means of the newspapers of the time, I had on June 19 last requested my colleague, the minister of justice, to collect immediately official information.

I have the honor to transmit herewith to your excellency copies of the reports of chief of police of Middelkerke and of the attorney-general of the court of appeals at Ghent.

The satisfaction which the Government of the United States to-day solicits has been anticipated by a reprimand which, on July 26 last, my colleague, the minister of justice, caused to be addressed, through the official channel, to the chief of police (Pattyn) on account of the lack of tact and perspicacity which the latter evinced at the time the incident occurred.

Mr. Vanden Heuvel, the minister of justice, moreover requested me to convey to your excellency the regrets which the facts of the case have caused him and which necessitated the steps your excellency has taken.

I avail myself, etc.,

DE FAVERAU.

[Inclosure 2.—Translation.]

Report of the Attorney-General.

COURT OF APPEALS AT GHENT,
Ghent, July 9, 1901.

MR. MINISTER OF JUSTICE: Pursuant to your note of June 12, and returning the inclosures thereof, I have the honor to forward to you copy of the explanations furnished by the chief of police at Middelkerke in reference to the facts brought to notice by the minister of foreign affairs.

The attorney of the king at Furnes esteems that there are reasons to acknowledge the veracity of these explanations; they concord with the report of the policeman, who certifies that no ill treatment has been inflicted on M. de St. Bris. On the other part, the latter has left Middelkerke without making complaint; his present residence is unknown.

One may reproach the chief of police because he penetrated into the apartment of M. de St. Bris, holding a revolver in the hand. It can only be owing to a wrong appreciation of the circumstances and to a lack of judgment that this officer of police thought it necessary to take an attitude which appears unjustifiable.

P. VAN ISEGHEM, *Attorney-General.*

[Inclosure 3.—Translation.]

*Report of the Chief of Police.*COMMUNE OF MIDDELKERKE, POLICE STATION,
Middelkerke, June 27, 1901.

MR. ATTORNEY OF THE KING: By his letter No. 13933, dated the 18th instant, Mr. Director of the Public Security, has transmitted to me the same article of the same newspaper, requesting also detailed information in reference to the incident therein published. This is exactly what I have answered thereto.

The 7th instant, at 10.30 o'clock a. m., was introduced into my office the named Proot, Remilde, aged 20, living with her parents, who in a few words, which she, in a halting manner, as she was very excited, made known to me that a foreigner had just rented a room at her parents' house and that some moments before her mother had just noticed the disappearance of all her jewelry. She was unable to furnish more detailed information.

A few minutes later I was at the house of the baker Proot, Henry, from whose wife I received the following statement in Flemish:

"Yesterday evening about half past 8, this person (a man), who is still in that room"—saying this she pointed to the door of the latter—"came to rent the same at 30 francs per month, which sum he paid in advance and for which a receipt was delivered him by my husband. This room is the one my husband and myself still occupied last night. Yesterday evening about 9, when we went to bed, I took off my golden wedding ring, the value of which is 15 francs, and placed it in the drawer of that wardrobe together with my other jewelry, composed of a lady's watch and chain in gold, worth 150 francs; of a necklace in gold to which was attached a cross of silver adorned with diamonds, worth 100 francs; a pair of earrings in silver adorned with diamonds, worth 150 francs, and also three rings of which two in gold and one in silver adorned with diamonds, the two former worth together 35 francs and the latter 40 francs. I shut the drawer and put the key in my pocket. This morning, at half past 8, this foreigner of yesterday evening, whom I regret to have accepted owing to his uncleanness, presented himself in view of taking possession of his room from which we had not yet had time to remove the piece of furniture containing the jewelry above referred to. We gave him possession. About half past 9 this man, in whose room the wardrobe was still, came downstairs and went out for one hour. At his return my sons Lewis and Henry, aged 18 and 16, respectively, entered the room of this foreigner who helped them to remove the wardrobe, which was carried to a small room located on the ground floor.

"A few moments later I opened the drawer and noticed that my jewelry, which was inside the drawer in an uncovered cardboard case, had disappeared. I am certain that since 9 o'clock yesterday—when I still saw them—until now, nobody else but this foreigner entered the house."

Proot, Henry, 52 years old, baker, his daughter Remilde and his sons Lewis and Henry above referred to, being all persons perfectly honorable and all of them testifying most decidedly on the point that nobody else had entered their house; besides, having verified the lock which could not have been opened except by means of a false key, accompanied by Proot, Henry, I entered the room of this foreigner. It was then half past 11 in the morning. The latter was sitting on the wooden floor, busy with warming on a small spirit lamp a small portion of milk to which were added some parcels of breadstuff. Not knowing with whom I might have to deal, I had, on entering the room, a revolver in hand, which, after seeing with whom I had to deal, I instantly replaced it in its scabbard. Having brought to his knowledge the statement of Muyle, Clamence, the wife of Proot, Henry, and on my interpellation this foreigner said:

"My name is de St. Bris, Thomas; I am a literary man, son of Thomas and Xeres Mary, born in 1847 at Onondaga, in the State of New York, North America. I have arrived here yesterday evening from Ostend, where I had arrived the same day coming from Dunkirk. I have not seen any jewelry in this room. The piece of furniture which has been taken out this room sometime ago and which I have helped to bring down stairs I have not seen inside. During the time I have been absent from here I have been to a store which I can indicate, in view of procuring some milk and spirits of wine to prepare my breakfast. My papers are in my luggage."

This foreigner, dressed like a real beggar and of a repulsing uncleanness, was in possession of such a great deal of old dusty papers that I judged it advisable—as the room which he occupied was so small—to have his baggage transported to the police station. In going out the residence of Proot, to walk over to the communal house (police station) he pointed out to me the store where he had bought the spirits of

wine and the milk and, as it was located only a few meters from there, I went in with him. There I was told that he had really been in at the moment indicated, about 9.30, to buy milk and spirits of wine.

I conducted the foreigner to the police station, accompanied by the policeman whom I had sent for by one of the children Proot, and who had arrived at the latter's house while the baggage of the foreigner was being taken down stairs; this was at 11.30 o'clock.

I telephoned the matter to the parquet (tribunal) of Furnes. Some minutes later Mr. Judge of Instruction Feys, of Furnes, asked for news about the case. This magistrate informed me, while instructing me to continue the investigations, that he would come up to Middelkerke at 1.50 in the afternoon and that I had to keep the foreigner in custody.

At my office and with his consent, Mr. de St. Bris was bodily searched.

In the presence of the policeman I continued the verification of the papers and the investigation of his baggage, when the steam tramway arrived bringing the members of the tribunal, i. e., the judge of instruction, Feys, the aid attorney of the King, De Haene, and the secretary, Huyghe.

At the request of the judge of instruction, I conducted the members of the tribunal to the house where the offense had been committed.

After interrogating the inmates of the house, and especially the wife of Proot, all of them confirming the statements made to me.

Referring to the wardrobe in question, after having carefully examined the book, the judge of instruction instructed me to have the drawer entirely taken out, whereupon I found between the exterior panel and the drawer the jewelry which was claimed had been stolen.

The members of the tribunal, who were then on their route homeward, continued their way without seeing the foreigner.

I, accompanied by the plaintiff, Clemence Muyle, hastened to communicate to St. Bris the news that the jewelry had been found, and while shaking hands with him I expressed to him my regrets.

The wife of Proot acted in the same manner.

The 12th of the present month Mr. Consul of the United States of North America at Ghent, in view of a letter relating the substance of the newspaper article herewith inclosed, came to Middelkerke for inquiry. The policeman that I had sent for also protested against the false insinuations contained in said letter. The persons at whose house De St. Bris had been purchasing milk and spirits of wine, at whose residence the consul had obtained information, have told me that Mr. Consul had said to them: "I believe that this man has not full possession of his brains."

In reference to the slap he claims I had given him, this assertion is as false as is his statement that an ovation was made him by the inhabitants of Middelkerke.

When entering the town hall he was entirely alone with the policeman, who walked near him, without holding him. Nobody would have supposed that he was being conducted there. During that time I was watching the transportation of his baggage which, at my request, was brought in by the son of Proot.

Leaving the town hall, at about 2.30 p. m., nobody was standing there.

Vandeworen, Hubert, a mason residing in the commune, who at my request has effected the transportation of St. Bris's baggage to the Tourists' Hotel and who was then just passing by, can certify to this. The named Schefer, Adolphe, the keeper of the Tourists' Hotel, at whose house de St. Bris has had his lodgings until Saturday the 15th instant, can tell you much about the habits and manners of this peculiar personage.

Mr. Hill to Mr. Townsend.

No. 86.]

DEPARTMENT OF STATE,
Washington, September 28, 1901.

SIR: With reference to the Department's No. 83, of the 3d instant, I have to acknowledge the receipt of your No. 102, of the 13th idem, with inclosures, reporting that the Government of Belgium expressed its regret over the arrest of Mr. de St. Bris, an American citizen, and that the officer who made the arrest has been reprimanded.

The Department is satisfied with the action of the Belgian Government in the matter.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

CONDOLENCES ON ASSASSINATION OF PRESIDENT MCKINLEY.

Mr. Wauters, chargé d'affaires, to Mr. Hay.

[Telegram.]

NAHANT, MASS., *September 14, 1901.*

I beg your excellency to present, on behalf of the King and Belgian Government and in my own name, the deepest sympathy and condolence to the family of President McKinley and to the United States Government.

WAUTERS.

Mr. Hill to Mr. Wauters.

DEPARTMENT OF STATE,
Washington, September 25, 1901.

SIR: I have the honor to acknowledge the receipt of your telegram conveying the grief and sympathy of His Majesty the King of the Belgians and of the Belgian Government and people, as well as of yourself, with Mrs. McKinley, this Government, and the people of the United States in their recent affliction.

In reply I assure you, in the name of Mrs. McKinley and of this Government and people, of their deep appreciation of these delicate tokens of friendly and sincere sorrow, and request you to convey these assurances to His Majesty the King and to the Government and people of Belgium.

Accept, etc.,

DAVID J. HILL,
Acting Secretary.

BOLIVIA.

GOOD OFFICES OF UNITED STATES MINISTER IN BEHALF OF GEORGE MELVILLE, A BRITISH SUBJECT, IMPRISONED IN BOLIVIA.

Mr. Bridgman to Mr. Hay.

No. 265.]

LEGATION OF THE UNITED STATES,
La Paz, Bolivia, May 20, 1901.

SIR: I have the honor to inclose herewith copy of a letter from George Melville, an Englishman who has been imprisoned at Corocoro for more than two months, accused of robbery.

As illustrating the delays mentioned in another dispatch, this case is a good example. Several letters of the character inclosed have been sent to this legation, and official and personal appeals made to bring Melville to trial.

One main trouble is disregard of commands from the foreign office by the local authorities at Corocoro. I can not determine as to the probability of this man's guilt or innocence, but believe he states the facts in his letter as existing.

Similar cases are not infrequent here, and as no provision exists for relief are quite distressing.

I am sending to-day a second request to his accuser, asking his influence to bring Melville to trial.

Trusting I may be able to report definitely before long,

I have, etc.,

GEORGE H. BRIDGMAN.

[Inclosure.]

Mr. Melville to Mr. Bridgman.

COROCORO JAIL, *May 6, 1901.*

DEAR SIR: I received your letter, and I am very grateful for what you are doing. I am now here fifty-four days.

Will you do me an act of charity, sir, which I will endeavor to pay when I get out? I get here 10 cents a day to live on; I am sick, and half starving; kindly give me a little help. Sir, will you see if any Englishman in La Paz (Mr. Bowman) will help me?

God only knows when I will be out of here. I have eight more witnesses to call up on my behalf, but can not do so, because I have no money. The actuary charges to make the orders calling them; he also charges for receiving their declarations, and the alguacil I have to pay for notifying the witnesses.

For pity's sake, sir, help me if you can, so as to enable me to get my witnesses up, and so as to be able to get some food.

Again thanking you for all, I am, etc.,

GEORGE MELVILLE.

Mr. Bridgman to Mr. Hay.

No. 278.]

LEGATION OF THE UNITED STATES,
La Paz, Bolivia, July 1, 1901.

SIR: I have the honor to state that the British subject, George Melville, who was imprisoned in Corocoro, charged with theft, has been set at liberty after repeated requests made by me to the minister of foreign relations.

Melville wrote various pitiful letters, saying he was starving, etc., and begging money. Quite an amount was sent him, and since then nothing has come directly from him. I know, however, he has been discharged.

I have, etc.,

GEORGE H. BRIDGMAN.

Mr. Adee to Mr. Bridgman.

No. 160.]

DEPARTMENT OF STATE,
Washington, September 7, 1901.

SIR: Referring to your No. 278, of July 1 last, I have now to inclose a copy of a note from the chargé d'affaires of Great Britain at this capital, of the 1st instant, transmitting a copy of a dispatch addressed by His Majesty's principal secretary of state for foreign affairs to you, thanking you for your good offices in obtaining the release of George Melville, a British subject, lately imprisoned at Corocoro on a charge of theft.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

Mr. Lowther to Mr. Adee.

No. 240.]

BRITISH EMBASSY,
Newport, R. I., September 1, 1901.

SIR: With reference to your note No. 2223 of the 1st ultimo, I have the honor to transmit to you herewith a copy of a dispatch addressed by His Majesty's principal secretary of state for foreign affairs to the United States minister at La Paz, thanking him for his good offices in obtaining the release of George Melville, a British subject, lately imprisoned at Corocoro, in Bolivia, on a charge of theft.

I have, etc.,

GERARD LOWTHER.

[Subinclosure.]

Mr. Villiers to Mr. Bridgman.

FOREIGN OFFICE, *August 19, 1901.*

SIR: I have received through His Majesty's chargé d'affaires at Washington a copy of your dispatch No. 278 to Mr. Secretary Hay of July 1 last, in which you report the release of George Melville, a British subject, imprisoned in Corocoro on a charge of theft.

I have to thank you for your good offices and for all the trouble you have taken on Melville's behalf.

I am, etc. (in the absence of the Marquis of Lansdowne),

F. H. VILLIERS.

CONDOLENCES ON ASSASSINATION OF PRESIDENT MCKINLEY.*President Pando to Mr. Hay.*

[Telegram.]

LA PAZ, BOLIVIA, *September 14, 1901.*

The sad death of the illustrious President of your great Republic is sincerely deplored by Bolivia. May the Government and the American people be pleased to accept my keenest condolences.

GENERAL PANDO, *President.**Mr. Hay to Mr. Bridgman.*

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1901.

Make through proper channel acknowledgment of President Pando's condolence. Thank Minister Relaciones for sympathy. Such tributes highly esteemed by American people and Government.

JOHN HAY.

MASSACRE OF SOLDIERS—PUNISHMENT OF OFFENDERS.*Mr. Bridgman to Mr. Hay.*

No. 306.]

LEGATION OF THE UNITED STATES,
La Paz, Bolivia, October 28, 1901.

SIR: Referring to despatch No. 111,^a of March 28, 1899, in which I described in brief the murder outside of Cochabamba of inoffensive soldiers in a church by savage Indians at the instigation of a wicked priest, I have to add this most gratifying news of the exhibition of justice under the rule of President Pando.

Every Indian who was captured, and when proof could be maintained of guilt, was executed. The number thus punished was more than 300. The priest was immediately arrested and has been in prison for two years. Sentence of death has just been pronounced against him.

This retribution, exhibited in a country so isolated and so thoroughly under the influence of the priesthood as is Bolivia, is a most decided and encouraging symptom of liberal government, and consistent with what I believe to be the honest purpose of President Pando. The influence of this particular priest is very great and his merited judgment has required the utmost firmness on the part of the Government.

I have, etc.,

GEORGE H. BRIDGMAN.

^a See Foreign Relations, 1899, page 105.

BRAZIL.

VISIT OF BRAZILIAN SCHOOL-SHIP BENJAMIN CONSTANT TO THE UNITED STATES.

Mr. Bryan to Mr. Hay.

No. 313.] LEGATION OF THE UNITED STATES OF AMERICA,
Petropolis, Brazil, April 2, 1901.

SIR: I have the honor to inform you of the departure on the 28th of March of the *Benjamin Constant*, a school-ship of the Brazilian navy, from Rio de Janeiro en route for the United States. She goes under sail and will make two stops, Pernambuco and Barbadoes, before reaching Newport News, her first port in the United States. Her commander is Capt. José Martins de Toledo, who is accompanied by a complement of officers and a large number of midshipmen.

I visited the ship shortly before her departure to wish Captain Toledo, his officers, and young men a happy voyage to the United States.

It is a long time since any Brazilian naval officers have had an opportunity to visit the United States and I am sincerely hopeful that they will bring back impressions that will be of mutual advantage to both countries.

I have, etc.,

CHARLES PAGE BRYAN.

Mr. Hay to Senhor Brasil.

No. 21.] DEPARTMENT OF STATE,
Washington, April 12, 1901.

SIR: Referring to your interview of yesterday, announcing the approaching arrival at Baltimore of the Brazilian cruiser *Benjamin Constant*, I have the honor to state that I have addressed the Secretaries of the Treasury, War, and Navy, and the governor of Maryland, requesting that the vessel may be received with the customary courtesies.

Accept, etc.,

JOHN HAY.

Mr. Hay to Senhor Brasil.

No. 22.] DEPARTMENT OF STATE,
Washington, April 27, 1901.

SIR: Referring to your recent interview with the Assistant Secretary of State, I have the honor to say that the Secretaries of the Treasury, War, and the Navy, and the governor of New York have

been advised of the expected arrival of the *Benjamin Constant* at New York, and requested to direct the authorities there to extend the customary courtesies to the vessel.

Accept, etc.,

JOHN HAY.

Mr. Hay to Senhor Brasil.

DEPARTMENT OF STATE,
Washington, June 5, 1901.

DEAR MR. MINISTER: The President will be pleased to receive you and the officers of the Brazilian man-of-war *Benjamin Constant* on Friday morning, June 7, at 10 o'clock.

Very sincerely, yours,

JOHN HAY.

MISSIONARY TROUBLES, SACKING OF AMERICAN BAPTIST CHURCH AT NICTHEROY, AND PAYMENT OF INDEMNITY.

Mr. Bryan to Mr. Hay.

No. 318.]

LEGATION OF THE UNITED STATES,
Petropolis, Brazil, May 2, 1901.

SIR: I have the honor to report that on the night of April 14, at Nictheroy, a suburb of the Federal capital opposite the city and on the harbor of Rio de Janeiro, a mob sacked a Baptist Mission Church. The organ, chairs, and Bibles belonging to the American Baptist Missionary Association were carried into the street and there covered with kerosene, which the populace ignited, making a bonfire of the association's property. This and other violence against the Protestant missions is said to have been occasioned by the bitterness aroused against an ex-priest whose denunciation and exposé of former clerical associates greatly incensed the Catholics of Nictheroy. They attributed to the effects of the ex-priest's arraignment some alleged sacrilege of an altar in one of their chapels. Then, in revenge, followed attacks by a Roman Catholic mob on the Protestant missions, culminating in the violence already referred to. The American pastor, Rev. W. E. Entzinger, called on me to solicit my official aid in his efforts to recover damages for the property destroyed. I told him that before making any statement to Washington or diplomatic representations here I would have an unofficial talk with Gen. Quintino Bocayuva, President of the State in which Nictheroy lies. I first exacted a promise from the missionary that no publicity through the press be given by him or his associates prior to my intervention with the State authorities.

The President assured me that he had ordered the Protestant missions well guarded and that they would continue under police protection. He promptly asked that I direct my countryman to make a statement to him personally of the losses incurred by this American Missionary Society, and promised that after careful examination full redress would be made. President Bocayuva expressed thankfulness that this legation had endeavored to allay further excitement in this religious conflict by the quiet procedure of an unofficial appeal to him, who had always advocated entire religious liberty in Brazil.

I have the honor to inclose herewith, with a copy of his answer, a copy of my letter to Rev. Mr. Entzminger exhorting him and his religious coworkers to avoid intemperate language against those who differ with them in religious belief.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure 1.]

Mr. Bryan to Rev. Entzminger.

LEGATION OF THE UNITED STATES OF AMERICA,
Petropolis, Brazil, April 26, 1901.

DEAR SIR: Complying with my promise to you, I called yesterday on Gen. Quintino Bocayuva and I believe accomplished what we desire. Reviewing the facts related in your written and verbal communications regarding the attack on your church and the destruction of the property of the American Baptist Society, I stated that I had come unofficially to him as President of the State of Rio de Janeiro before making any diplomatic representations on behalf of my country people. He expressed gratification at this considerate method of procedure and promised that, if you would send him a statement of the losses incurred by your society, he would give the same careful attention. President Bocayuva said that he had ordered prompt police protection for the other missions, and I inferred that he wishes that full atonement be made for the outrageous attack on your church. He, however, expressed indignation at the tone of the ex-priest's utterances in regard to his former religious associates. This violent talk the President regarded as having provoked the lamentable attack of which you and your congregation were the innocent victims.

I can not too strongly exhort my countrymen in Brazil to use moderation of speech regarding the religion and institutions of the land where they are living. They likewise would do well to counsel their collaborators of other nationalities to pursue a like course of Christian charity. I feel sure this is the policy you yourself have been following.

Hoping all will come right for you, I am, etc.,

CHARLES PAGE BRYAN.

[Inclosure 2.]

Mr. Entzminger to Mr. Bryan.

RIO DE JANEIRO, *April 27, 1901.*

MY VERY DEAR SIR: Your kind and considerate favor of the 26th instant received and contents carefully noted. Please accept my hearty thanks for the service rendered, which promises to end well. I am glad to say that I am in full agreement with your observations about prudence in attacking the religion and institutions of the country. So far as I am acquainted with the work in general this is the policy in vogue, with possibly some exceptions. The list you request to be sent to the President of the State will be attended to promptly. For the present our services are entirely suspended in Nitheroy from the lack of a house and the necessary furniture. I can do nothing toward the equipment of another hall until remunerated for the property destroyed.

Wishing you every happiness, etc.,

W. E. ENTZMINGER.

Mr. Bryan to Mr. Hay.

No. 323.] LEGATION OF THE UNITED STATES OF AMERICA,
Petropolis, Brazil, May 20, 1901.

SIR: Referring to the subject of my No. 318, of the 2d instant—the attack upon the Baptist mission church in Nitheroy—I have the honor to report the gratifying information that, as promised me by General Bocayuva, the president of the state, the authorities of Rio de Janeiro promptly paid the amount of damages demanded by the American Baptist Society for the destruction of their property by the mob. In

confirmation hereof I inclose a copy of a letter from Rev. W. E. Entzinger.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure.]

Mr. Entzinger to Mr. Bryan.

Rio, Box 252, May 17, 1901.

MY DEAR SIR: It becomes my delightful duty to inform you that the matter between myself and the president of the State of Rio, His Excellency Gen. Quintino Bocayuva, was promptly and satisfactorily dispatched by his excellency.

I take occasion to once more express my hearty appreciation, and to return thanks for your very kind offices.

Very respectfully,

W. E. ENTZINGER.

Mr. Hay to Mr. Bryan.

No. 241.]

DEPARTMENT OF STATE,

Washington, May 31, 1901.

SIR: I have to acknowledge the receipt of your No. 318, of the 2d instant, reporting the sack of an American Baptist church by a Catholic mob at Nictheroy and your unofficial conference with the president of the State, during which you discussed the case.

In reply I have to say that the Department approves your course thus far, and will be glad to learn of the further developments of the case.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Bryan.

No. 244.]

DEPARTMENT OF STATE,

Washington, June 19, 1901.

SIR: The Department has been gratified to receive your No. 323, of the 20th ultimo, reporting that the government of the State of Rio de Janeiro has promptly settled for the damages done by the mob to the American Baptist mission at Nictheroy.

The course pursued by you in the matter is commended.

I am, etc.,

JOHN HAY.

RIOTS IN RIO DE JANEIRO OVER INCREASE IN STREET RAILWAY FARES.

Mr. Bryan to Mr. Hay.

No. 339.]

LEGATION OF THE UNITED STATES OF AMERICA,

Petropolis, Brazil, July 3, 1901.

SIR: I have the honor to report that serious disturbances occurred in Rio de Janeiro on the night of Saturday, June 18, and thereafter almost continuously until the night of Wednesday, June 22, when quiet was at last completely restored.

Under the terms of its contract recently concluded with the Government the São Christovão Street Railroad Company, one of three large companies operating street-car lines in the city and suburbs of Rio de Janeiro, raised its fares. Its lines serve the commercial and the poorest residential portions of the city, and this increase of fares met with

determined and forcible resistance. Attacks were made on the cars on the night of the 18th, and some of them were burned. A large body of police succeeded in dispersing the crowd of rioters, but on Sunday the disturbance continued, and on Monday six cars were burned in the Largo de São Francisco, which was finally cleared by the police only after several persons were wounded. On Tuesday, the 22d, barricades were built in the Ouvidor and other important business streets in the vicinity of the Largo de São Francisco, which is an important square in the heart of the city, and the streets were kept clear only by repeated charges of both cavalry and infantry. On Wednesday much the same sort of occurrences took place as on the preceding day, but before nightfall quiet had been restored by the company's announcement of a return to the old schedule of fares.

During the five days' disturbance at least five people were killed and the number of wounded is variously estimated at from one hundred to over two hundred. In spite, however, of the serious nature of the disturbances, any attempts that may have been made by disaffected elements in the community to swell them into a revolutionary movement were entirely abortive. Popular indignation against the company limited itself to sporadic attacks on the company's property and seemed not to concern itself with the Government's connection with the matter. The police roused almost universal protest by their recklessness and severity, but the only demonstrations against them were entirely unorganized and almost puerile. They were apparently directed, too, against the police as individuals rather than as constituted Government authorities, and the only legal questions as yet growing out of the disturbances have been suits instituted against individual police officers and men for undue violence. The fact that order was completely reestablished immediately upon the reinstatement of the old fare schedule is sufficient proof that the disturbances had no political significance whatever.

I have, etc.,

CHARLES PAGE BRYAN.

CONDOLENCES ON ASSASSINATION OF PRESIDENT MCKINLEY.

President Campos Salles to the Vice-President of the United States.

[Telegram.]

RIO DE JANEIRO, *September 14, 1901.*

I desire to extend to your excellency expression of my profound sorrow at the loss which the American nation has just suffered in the death of its First Magistrate.

M. FERRAZ DE CAMPOS SALLES,
President of the United States of Brazil.

Mr. Hay to Mr. Bryan.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1901.

Please express in the name of President Roosevelt heartfelt thanks for condolence of President Campos. Our people greatly esteem Brazilian sympathy.

HAY.

CHILE.

PASSPORT APPLICATION OF A PORTO RICAN.

Mr. Lenderink to Mr. Hay.

No. 185.]

LEGATION OF THE UNITED STATES,
Santiago, March 25, 1901.

SIR: I am in receipt of an application for a passport from Isodoro Solis Marrero, a native of Porto Rico, who claims to be a loyal citizen of the United States. The applicant has resided in Chile since the year 1884, and now proposes to return to Porto Rico, within two years, to perform the duties of a citizen there.

As section 7 of the act to provide revenues and a civil government for Porto Rico, approved April 12, 1900, provides "that all inhabitants continuing to reside therein, who were Spanish subjects on the 11th day of April, 1899, and then resided in Porto Rico, and their children born subsequent thereto, shall be deemed and held to be citizens of Porto Rico, and as such entitled to the protection of the United States," I am rather doubtful whether I am authorized to issue a passport to this applicant, he not residing on the island at the time specified in the law. For that reason I beg to refer the matter to the Department for its instruction.

I have, etc.,

HENRY J. LENDERINK.

Mr. Hill to Mr. Lenderink.

No. 188.]

DEPARTMENT OF STATE,
Washington, April 29, 1901.

SIR: I have to acknowledge the receipt of your No. 185, of the 25th ultimo, reporting the application for a passport of Mr. Isodoro Solis Marrero, a native of Porto Rico, who has resided in Chile since 1884, and who proposes to return to Porto Rico within two years.

You ask for instructions from the Department. In reply I have to say that the language of the Porto Rican law is to be construed in its general legal sense, in which continual personal presence is not necessary to constitute continuous residence. A native of Porto Rico who makes it the place of his permanent domicile does not, therefore, lose the benefits of the act because he was temporarily abiding elsewhere when it went into effect.

As regards the protection which you should accord, a Porto Rican is entitled under the law to the fullest protection. The legation should see that the applicant enjoys every right and that no obstacle be placed in the way of his contemplated departure from Chile for Porto Rico. It is deemed wise, at this time, to defer issuing passports to Porto

Ricans until the Supreme Court of the United States shall have rendered its decision defining their status. In explanation of the Department's attitude on this subject, I inclose a copy of a letter to Messrs. Mulholland and Hickcox, of New York, dated April 24, 1901.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

[Inclosure.]

Mr. Hay to Messrs. Mulholland and Hickcox.

DEPARTMENT OF STATE,
Washington, April 24, 1901.

GENTLEMEN: The Department has received your letter of April 23, resubmitting the application for a passport of Mr. Pedro A. Fernandez with corroborative testimony of two witnesses, who state that he is, as he alleges, a native of Porto Rico and now resident in the United States, this testimony being in reply to the Department's request therefor of April 20.

The truth of Mr. Fernandez's allegations thus appears to be established, and he is under the law entitled to the protection of the United States as a citizen of Porto Rico. The precise status of citizens of that island is, however, now awaiting judicial definition by the Supreme Court of the United States, and the form of the passport which this Department might issue in Mr. Fernandez's favor would be materially affected by the decision of the court, which is daily expected. It is not, therefore, deemed advisable, at this time, to issue a passport in Mr. Fernandez's favor, but you are advised that he may proceed upon his travels, and in case of his requiring such protection as a diplomatic or consular officer of the United States may properly render, he is authorized to apply to the nearest one and present this letter as his authorization for so doing.

I am, etc.,

JOHN HAY.

**COURTESIES OF CHILEAN OFFICIALS IN CONNECTION WITH
REMOVAL OF REMAINS OF THE LATE LIEUT. S. E. WOOD-
WORTH, U. S. N.**

Mr. Hay to Mr. Lenderink.

No. 183.]

DEPARTMENT OF STATE,
Washington, March 28, 1901.

SIR: I inclose copy of a portion of the report made by the commanding officer of the U. S. S. *Philadelphia*, relative to the courtesies and aid extended to him by the Chilean authorities in removing the remains of Lieut. Selim E. Woodworth, United States Navy, from the cemetery at Valparaiso.

You will advise the Chilean foreign office that this Government sincerely appreciates the courtesies extended.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Long to Mr. Hay.

NAVY DEPARTMENT,
Washington, March 23, 1901.

SIR: The Department transmits herewith for the information of the State Department a copy of a report from the commanding officer of the U. S. S. *Philadelphia* in regard to the exhumation at Valparaiso, Chile, of the remains of the late Lieut. Selim E. Woodworth, United States Navy, and their subsequent burial at sea.

The Department invites particular attention to the eighth paragraph of the report, and would be gratified if it should meet with the view of the State Department to communicate to the Chilean Government its appreciation of the courtesies rendered by Chilean officials in connection with this matter.

Very respectfully,

JOHN D. LONG,
Secretary.

[Subinclosure.]

Captain Mead to Commander in Chief.

U. S. S. PHILADELPHIA, *At Sea, February 18, 1901.*

SIR: I have the honor to report that in obedience to Navy Department's order to the commander in chief, United States naval force, Pacific Station, directing that when a vessel of his command visits Valparaiso the remains of the late Lieut. Selim E. Woodworth, United States Navy, be exhumed and buried, I have this day buried at sea, in position indicated by latitude and longitude given above, and about 15 miles off the coast of Chile, the remains of the late Selim E. Woodworth, United States Navy.

On arrival at Valparaiso it was learned, through the United States consul, that a law of the country prohibited the exhumation of a body before the expiration of one year from the date of burial. As Lieutenant Woodworth died only about six months previous, there might be some difficulty in obtaining the necessary authority.

Application was, however, at once made to the intendente of Valparaiso and by him referred to the minister of interior of Santiago, who immediately granted my request for the removal of the remains.

Lieut. G. H. Burrage, United States Navy, attached to this vessel, was placed in charge to make all arrangements for the disinterment and embarkation of the body, having as an assistant Dr. McCullough, United States Navy. These officials engaged the same undertaker who officiated at the original burial, and were thus assured as to the correct location of the body, which had been placed in the Protestant cemetery in a numbered cemented niche, as is the custom in Chile.

On the morning of February 18, 1901, Lieutenant Burrage and Dr. McCullough witnessed and attended the removal and embarkation of the body. A municipal regulation required the casket to be inclosed in a zinc-lined case before removal from the cemetery, and this was attended to by the undertakers.

When the body was placed in the boat our flag was half-masted, in which mark of respect we were joined by the Chilean squadron of five vessels at anchor in the bay.

After the reception of the body on board, this vessel proceeded to sea, and at 2.45 p. m. the remains of the late Lieut. Selim E. Woodworth were committed to the deep with the burial service of the Episcopal church, read by Chaplain Boorum, United States Navy, all hands being called, and the ceremonies observed as prescribed in the United States Navy Regulations. The body was left in the original casket, this being inclosed in the zinc-lined case, and all sunk by a heavy weight lashed securely.

In concluding I wish to call special attention to the courtesy of the Chilean officials in connection with this matter. It was necessary to waive the law governing disinterment, yet I everywhere met with the most cordial and friendly assistance, and experienced no difficulty in obtaining the necessary permit, which I herewith inclose, as it may be of interest to the family of the late Lieutenant Woodworth.

Very respectfully,

W. W. MEAD,
Captain, United States Navy, Commanding.

Mr. Lenderink to Mr. Hay.

No. 191.]

LEGATION OF THE UNITED STATES,
Santiago, May 13, 1901.

SIR: I have the honor to acknowledge receipt of the Department's No. 183, instructing me to express to the Chilean foreign office the sincere appreciation of the Government of the United States for the courtesies and aid extended by the Chilean authorities to the officers

of the U. S. S. *Philadelphia* in the removal of the remains of Lieut. Selim E. Woodworth, United States Navy, from the cemetery at Valparaiso.

In compliance with your instructions I have addressed a note to the minister of foreign relations expressing the sincere appreciation of the Government of the United States for the courtesies extended to the officers aforesaid.

I have, etc.,

HENRY J. LENDERINK.

VISIT OF CHILEAN TRAINING SHIP GENERAL BAQUEDANO TO THE UNITED STATES.

Señor Morla Vicuña to Mr. Hay.

LEGATION DE CHILE,
Washington, June 26, 1901.

SIR: The Chilean training ship *General Baquedano*, recently returned to Chile from a voyage of instruction along the west coast of South and North America and over the eastern seas of Japan, China, and Australia, is being sent out again on a similar voyage along the coasts of America on the Atlantic Ocean. In the course of her voyage the *General Baquedano* will visit the port of New York on the first days of September next, and shortly afterwards that of Philadelphia, and my Government instructs me to request from the Government of the United States, through the State Department, the permission necessary for the commander, officers, and naval cadets belonging to the said training ship to visit the naval establishments existing in the two above-mentioned ports.

With renewed assurances, etc.,

C. MORLA VICUÑA.

Mr. Hay to Señor Morla Vicuña.

No. 43.]

DEPARTMENT OF STATE,
Washington, July 11, 1901.

SIR: In reply to your note of the 26th ultimo, I have the honor to say that I am advised by the Secretary of the Navy that he has instructed the commandants at the New York and Philadelphia naval stations to offer all possible facilities for their inspection by the commander, officers, and naval cadets of the Chilean training ship *General Baquedano*.

Accept, etc.,

JOHN HAY.

Señor Infante to Mr. Adee.

[Translation.]

LEGATION OF CHILE,
Washington, October 9, 1901.

MR. SECRETARY: I am in receipt of instructions from the Government of Chile directing me to take such steps as may be required to obtain for the commander and officers of the training ship *General*

Baquedano, at present anchored in the bay of New York, permission to deposit in the Washington Monument, on behalf of the people of Chile, a plaque commemorative of that illustrious leader of the American independence and founder of the Republic of the United States of America.

I shall be thankful if your excellency will kindly apply to appropriate authorities for the permission to place the said plaque, provided there should be no objection on your part.

It is for me a pleasure, etc.,

E. INFANTE.

Mr. Hay to Señor Infante.

No. 51.]

DEPARTMENT OF STATE,
Washington, January 11, 1902.

SIR: In further reply to your note of October 9 last, stating that the commander and officers of the Chilean training ship *General Baquedano* desired to place in the Washington Monument a plate presented by the Government and people of Chile, I have the honor to say that I have just received a letter from the Assistant Secretary of War, stating that the Secretary of War has approved the recommendation of the Chief of Engineers that the tablet shall be accepted, and the Superintendent of Public Buildings and Grounds has been instructed to give it an appropriate place within the Monument.

It gives me pleasure to assure you that the Government of the United States deeply appreciates the cordial spirit of friendship manifested by the Government and people of Chile in the presentation of this tablet, and that it accepts it in the same spirit in which it is offered.

Accept, etc.,

JOHN HAY.

DEATH OF PRESIDENT ERRÁZURIZ—CONDOLENCES OF THE UNITED STATES.

Mr. Wilson to Mr. Hay.

[Telegram.]

LEGATION OF THE UNITED STATES,
Santiago, Chile, July 14, 1901.

Funeral of President Tuesday.

WILSON.

Mr. Hay to Mr. Wilson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 15, 1901.

The President of the United States conveys through you to the Government and the family of the late President Errázuriz his sincere sympathy.

HAY.

Mr. Wilson to Mr. Hay.

No. 203.]

LEGATION OF THE UNITED STATES,
Santiago, July 23, 1901.

SIR: I have the honor to confirm my telegram^a of the 14th instant. The President expired on Friday evening, July 12, but as the intelligence of his death was immediately communicated to the Chilean legation in Washington I did not deem it necessary to do more than advise the Department of the date of the funeral ceremonies, which date was afterwards changed to Wednesday, the 17th.

I beg also to confirm the receipt of the Department's telegram^a of the 15th instant.

This telegram was immediately communicated to the Chilean foreign office, together with a note, copy of which is inclosed.

Messages similar to that of the Department were received by all diplomatic representatives here and in most cases these messages of condolence were accompanied by instructions to send floral tributes in the name of the executive heads of their Governments. Under the circumstances it seemed to me proper to send some floral offering, and I therefore assumed the responsibility of purchasing a large artificial wreath, which I sent in the name of the President.

The death of the President was not unexpected. For the latter part of the year he has been considered in an extremely precarious condition; fully one-half of this time he has been incapable of attending to his executive duties, and during the last three months he lost control completely of his mental faculties. His death being anticipated for so long a time rendered easy the transition of the executive power into the hands of the Vice-President. The acting President, Señor Zanartu, will retain the executive powers, which are in all respects equal to those of the deceased President, until the newly elected President, Señor Riesco, shall be inaugurated, September 18, 1901.

I have, etc.,

HENRY L. WILSON.

[Inclosure.]

Mr. Wilson to Señor Rodriguez.

No. 172.]

LEGATION OF THE UNITED STATES,
Santiago, July 16, 1901.

MR. MINISTER: I have the honor to inform your excellency that I received last evening, from the Department of State at Washington, the following cablegram:

"The President of the United States conveys through you to the Government and the family of the late President Errázuriz his sincere sympathy."

The above reached my hands at 6 o'clock p. m., but as I found it impossible to communicate with your excellency's department last night it is only at this moment that I am able to transmit the message.

I beg to assure your excellency that the deplorable loss which the Government of Chile has just suffered in the death of its Chief Executive, His Excellency Don Federico Errázuriz Echaurren, has called forth the deep sympathy of the President of the United States and of the Government and people thereof.

My sad duty in expressing these sentiments would remain incomplete did I not in response to the desire of the President of the United States convey through your excellency's department to the Señora Jertrudis Echenique, viuda de Errázuriz his

sincere condolences for the irreparable misfortune which she has just sustained in the death of her distinguished husband, and express the hope that in the hour of her deep tribulation she may find Divine consolation.

I gladly avail myself of this occasion to renew, etc.,

HENRY L. WILSON.

Mr. Wilson to Mr. Hay.

No. 207.]

LEGATION OF THE UNITED STATES,
Santiago, August 15, 1901.

SIR: I have the honor to inclose herewith copy and translation of the reply of the Chilean minister of foreign relations to my note of condolence on the death of President Errázuriz. By an oversight my note was forwarded to the Department before the reply was received.

I have, etc.,

HENRY L. WILSON.

Señor Rodriguez to Mr. Wilson.

[Inclosure.—Translation.]

No. 703.]

REPUBLIC OF CHILE,
MINISTRY OF FOREIGN RELATIONS,
Santiago, July 22, 1901.

MR. MINISTER: The Chilean foreign office has received with genuine satisfaction your attentive note of the 16th instant, conveying the cablegram addressed to your legation by the Secretary of State of the United States of America, in which, in the name of the President, he sends to my Government his sincere sympathy for the death of His Excellency Federico Errázuriz.

It is very satisfactory to Chile that the great Republic of the North should take such cordial participation in this most lamentable national misfortune, and for that reason you will permit the undersigned, through your excellency, to express to His Excellency the President and the worthy Government of the United States of America the appreciation with which this Republic has received this delicate manifestation of condolence.

I renew, etc.,

LUIS M. RODRIGUEZ.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.

Vice-President Zanartu to the Vice-President of the United States.

[Telegram.]

SANTIAGO, CHILE, *September 14, 1901.*

The people of Chile and its Government are astounded by the apprehended issue of the abominable attempt at Buffalo. May Your Excellency and the American people be pleased to accept the most heartfelt condolences.

ANIBAL ZANARTU,
Vice-President of Chile.

Mr. Hay to Mr. Wilson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 17, 1901.

Please convey in the name of the American people and Government earnest appreciation of sympathy cabled by Vice-President Zanartu.

HAY.

CHINA.

FOREIGN SETTLEMENTS—ENCROACHMENTS OF VARIOUS POWERS AT TIENTSIN.

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Pekin, November 14, 1900.

(Mr. Conger reports that the consular officers at Tientsin have been informed by the Russian general that he has taken absolute possession of a large tract facing the foreign settlement, as property of the Russian army by conquest.

Mr. Conger regards this as a dangerous precedent, as all extensions of foreign settlements should be international. He has directed the United States consul to enter a protest and will himself protest to the Russian minister.

Belgium is also claiming a large tract adjoining that claimed by Russia.

Suggests the probable desirability of further action by the Department.)

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 16, 1900.

(Mr. Hay states that the United States Government favor securing foreign rights at treaty ports by adequate foreign concessions, either as an international settlement or as separate concessions to the interested nations, but that forcible appropriation under claim of conquest is in conflict with the declared purpose of the powers and disturbs their harmonious action. The United States Government think the question should be adjusted as part of the general arrangement, in which the right of the United States to an impartial share should be reserved.

Mr. Conger's protest is approved.)

Mr. Conger to Mr. Hay.

No. 491.]

LEGATION OF THE UNITED STATES,
Pekin, December 31, 1900.

SIR: Confirming my telegrams of the 14th ultimo and your reply^a of the 16th ultimo, concerning the seizure and appropriation of a large

^a Printed ante.

tract of property as a conquest of war by the Russian military forces at Tientsin, I have the honor to inclose herewith the correspondence between the respective legations and consulates of Russia and the United States concerning it.

The Belgian consul, by direction of his minister, has also pretended to occupy another large tract there. The French and Japanese have extended the boundaries of their concessions, and the Austrian and Italian ministers have served notice that they, too, will soon demand settlements.

The Belgian minister informs me that they have no intention of a settlement, but only wish a site for a consulate.

I have made the protest evidenced by inclosures herewith, because I believe the action, especially of the Russians, is in violation of their publicly declared intentions, and because I believe all settlements at the treaty ports should be international.

The several armies came here, as they have all declared, for a general purpose, and not to gain any special advantage for individual governments. This "grab game," therefore, in which they are indulging, is neither fair nor consistent.

Since there are so many regularly established concessions at Tientsin an international one is hardly to be expected, but all action in relation to securing new or extending old concessions should be deferred until order is restored, the Chinese Government reestablished, and the rights and interests of all can be considered.

The notice of the Japanese consul has only just arrived, but I have instructed Mr. Ragsdale to make like protest in this case.

It would be advantageous to us in many ways to have an American concession at Tientsin, but we have learned by experience that it takes both money and citizens to own and operate a concession. We have not enough there of either. The Department is familiar with our former efforts to sustain the desirable concession which had to be abandoned in 1896. If, however, the United States Government can in any way take upon itself part of the burden, as the other governments do, it may be advisable for us to demand consideration of our rights to a concession while the others are taking and dividing up all available territory. If, upon receipt of this, the Department desires any action taken in this direction, I will thank you to instruct me by telegraph.

I inclose map^a showing British, Russian, Japanese, German, and French concessions; also land recently seized by the Russians.

I have, etc.,

E. H. CONGER.

[Inclosure 1]

Mr. Ragsdale, United States Consul at Tientsin, to Mr. Conger.

CONSULATE OF THE UNITED STATES,
Tientsin, November 8, 1900.

SIR: I have the honor to inform you that on yesterday the Russian consul here gave notice to the consuls of the different countries that the land fronting on the Bund, or east bank of the Peiho, extending from (and including) the railroad station to Meyers' godown, a distance of nearly 2 miles, would be reserved for the use and benefit of the Russian Government.

^aNot printed.

To-day a like notice was given by the Belgian consul that his Government would reserve the land on the east bank of the river for a distance of about 1 mile below that already claimed by the Russians. The distance back from the river is not given by either claimant. I have asked for a map showing the exact area claimed. If given, I will forward you a copy.

I am, etc.,

JAMES W. RAGSDALE, *Consul.*

[Subinclosure.]

RUSSIAN CIRCULAR ANNOUNCING OCCUPATION OF LEFT BANK OF THE PEIHO, OPPOSITE FOREIGN CONCESSIONS AT TIENTSIN.

[Translation.]

TIENTSIN, *November 6, 1900.*

My DEAR COLLEAGUE: His Excellency Lieutenant-General Linevitch, commander in chief of the Russian expeditionary force in Chihli, has directed me to inform you that since the 17th of June last the Imperial Chinese troops have joined the rioters (Boxers) who attacked the foreign concessions and the railway station occupied by the Russian troops, and that on the 23d of June the Russian reinforcements, which came to raise the blockade, swept the left bank of the Peiho from below the railway station up to the petroleum godown of Messrs. Meyers & Co., and have established themselves there by right of conquest in having taken possession by force of arms and at the price of Russian blood spilled, in order to prevent the Chinese from returning to resume the firing. His excellency considers all this tract of land included in that from above the railway station to the petroleum go-down as having become the property of the Russian troops on the 23d of June by act of war.

The Russian flags have been planted, and notice posted upon boards in many places within this territory, which has been occupied and protected by the Russian military authorities. Therefore his excellency can not and will not recognize, except by his special authorization, any cession whatever of this territory of which he has taken entire and complete possession.

It is understood that the rights of those landowners (other than Chinese) whose titles have been duly registered in foreign names before June 17 will be safeguarded.

I avail myself, etc.,

N. POPPÉ, *Consul-General of Russia.*

[Inclosure 2.]

Mr. Conger to Mr. Ragsdale.

LEGATION OF THE UNITED STATES,
Pekin, November 13, 1900.

SIR: I beg to acknowledge receipt of your dispatch of the 8th instant, with reference to the taking over of certain lands at Tientsin by the Russian and Belgian consuls for the use of their respective Governments. I will be much pleased to have a map showing exact locations and area of same, as well as any other information you may have obtained on the subject. In the meantime you are instructed to make a vigorous protest against this action of the consuls, and demand that no American interests or rights be in anyway infringed upon. I shall at the same time bring the matter to the attention of the Russian and Belgian ministers here.

I am, etc.,

E. H. CONGER.

[Inclosure 3.]

Mr. Ragsdale to Mr. Conger.

CONSULATE OF THE UNITED STATES,
Tientsin, November 24, 1900.

SIR: I have the honor to inclose herewith printed circular, or express, issued by Comte du Chaylard, consul-general of France, which reached me yesterday. The proclamation being arbitrary and extraordinary I have thought it was best to send

you this copy before investigating the fact that it may be important to American ownership. Up to this time no official communication has been sent to the consuls of the various nationalities, but I shall at once investigate the extent to which American interests are involved and report to you later.

I am, etc.,

JAMES W. RAGSDALE, *Consul.*

[Subinclosure.]

FRENCH CIRCULAR ANNOUNCING THE OCCUPATION OF CERTAIN TERRITORY AT TIENTSIN IN ADDITION TO ITS FORMER CONCESSION.

TIENTSIN, *November 20, 1900.*

The consul-general of France, president of the municipal council, wishing to warn foreign residents against the consequences they would expose themselves to by buying ground in the quarter presently annexed to the French concession, has the honor to inform them that the municipal council will not recognize as valid any contract subsequent to June 17, the date on which hostilities began.

All land holders, bearers of regular titles issued before the 17th of June, are requested to exhibit them at the French consulate, where they shall be duly verified and registered.

The extension of the concession includes all the grounds as follows:

First. Between the Rue de Paris, the Taku road, the Quai de France, extended as far as the old building of the London Mission in the Chinese city.

Second. The zone situated west of the French concession and limited by the Taku road, the extra British concession, the mud wall, and a line running from the said wall and abutting on the river in front of the London Mission building.

G. DU CHAYLARD,
Consul-General of France.

[Inclosure 4.]

Mr. Ragsdale to Mr. Conger.

CONSULATE OF THE UNITED STATES,
Tientsin, November 26, 1900.

SIR: I have the honor to transmit herewith copy of the circular letter sent to the members of the consular body in re claim of territory by the Belgian consul. So far as I have been able to find out, the rights of American citizens are not involved.

In this connection I have also to report that the territory claimed by the Russians does not include property belonging to American citizens. In this event, is it desirable that I file a protest against their action in acquiring territory?

I am, etc.,

JAMES W. RAGSDALE, *Consul.*

[Subinclosure.]

NOTICE ADDRESSED BY BELGIAN CONSUL TO CONSULS OF OTHER NATIONS AT TIENTSIN.

TIENTSIN, *November 7, 1900.*

MY DEAR COLLEAGUE: I have the honor to inform you that in accordance with instructions from His Belgian Majesty's legation at Pekin, I have this day occupied the territory situated opposite the foot of the German concession and extending along the river to a point about 50 meters below the petroleum godown of Messrs. H. Meyer & Co., thence to another point about a kilometer lower down. The ground is bounded on the sides by two straight lines, is limited on the inside by the railway, beginning from the railway crossing, about 1 $\frac{3}{4}$ kilometers from the mud wall up to another point distant about 1 $\frac{1}{4}$ kilometers, equally distant from the point of intersection of the road and the above railroad.

The Belgian flag has been planted upon the territory and its limits marked.

I have, therefore, the honor to inform you that every sale, cession, or transfer of property within these limits can not and will not be recognized as legal. It is under-

stood that titles in the names of Europeans (other than Chinese) which have been duly registered prior to taking over of this territory will be safeguarded.

I avail myself, etc.,

CHEVALIER DE MELOTE.

[Inclosure 5.]

Mr. Conger to Mr. Ragsdale.

LEGATION OF THE UNITED STATES,
Pekin, November 30, 1900.

SIR: I beg to acknowledge receipt of your dispatch of November 26 with inclosure, with reference to land recently taken over by the Belgian consul.

I note that you have not yet protested against similar action on the part of the Russians for the reason that no property belonging to Americans is included. It is to be regretted that you did not at once protest against the action of the Russian consul, as instructed in dispatch of the 13th instant. It is rather late now, but the protest should still be made (sending copy to the legation), not only on behalf of any private or particular American interests, but against the rights of any power to forcibly seize and hold to its sole use property in an open treaty port which may be needed for the use of all the powers.

If Russia, or any other power, desires a new concession, or an extension of an old one, consent of the Chinese Government should first be obtained, and all the public or international rights of the other powers should be respected.

In this same dispatch you were requested to furnish a map showing the exact location and area of these lands, which I will be pleased to have as soon as possible.

I am, etc.,

E. H. CONGER.

[Inclosure 6.]

Mr. Conger to Mr. Ragsdale.

LEGATION OF THE UNITED STATES,
Pekin, November 30, 1900.

SIR: I beg to acknowledge receipt of your dispatch of November 24 inclosing circular published by the French consul-general with reference to extension of French settlement, a copy of which reached me from another source some days ago, and to say that I hope soon to hear from you the result of your investigations as to what American interests, if any, are involved.

I can not understand by what right the French forcibly seize and annex property to their settlement in an open treaty port, when all nationalities have rights which must be respected, without obtaining either the consent of the Chinese or other Governments interested. I am not yet advised what individual American rights are affected, but whatever they may be, you will not overlook them.

We can not agree that either the French consul or municipality can pass upon the validity of any American title to property outside of the legally constituted French settlement. If the French desire to extend their concession, they should wait until order is restored and it can be legitimately accomplished.

You are authorized to make due protest against this action, in behalf of all American interests, whether private, public, or international, sending me a copy of your protest.

I am, etc.,

E. H. CONGER.

[Inclosure 7.]

Mr. Ragsdale to Mr. Conger.

CONSULATE OF THE UNITED STATES,
Tientsin, December 4, 1900.

SIR: I have the honor to acknowledge receipt of your dispatches of November 30, and to report that I have complied with the instructions therein required. I also inclose copies of the protest sent by me to the consul-general of France and the consul of Russia.

In this connection I desire to say that I have not yet been able to procure an intelligent map of the concessions proposed, although they were promised to me. I will make another effort.

I am, etc.,

JAMES W. RAGSDALE, *Consul.*

[Subinclosure 1.]

Mr. Ragsdale to the Russian Consul at Tientsin.

CONSULATE OF THE UNITED STATES,
Tientsin, December 4, 1900.

SIR: Having reference to the circular letter sent to the members of the consular body by you some days ago announcing the annexation by your Government of the east bank of the Peiho, opposite the present foreign concessions, I have the honor to file my earnest protest. I hold that no power has the right to forcibly seize and hold to its sole use any property in an open treaty port which may be needed for the use of all the powers. I maintain, further, that if any power desires a new concession, the consent of the Chinese or other governments should first be obtained, and that all public or international rights of the other powers should be respected.

I am, etc.,

JAMES W. RAGSDALE, *Consul.*

[Subinclosure 2.]

Mr. Ragsdale to the French Consul-General at Tientsin.

CONSULATE OF THE UNITED STATES,
Tientsin, December 4, 1900.

SIR: I have the honor to acknowledge receipt of your printed circular, dated November 22, 1900, with reference to the extension of the French concession. Inasmuch as the proceeding is so irregular and at variance with the usual and legitimate method of acquiring concession rights, I am compelled to file an earnest protest against any such arbitrary action, and I now do so on behalf of all American interests, whether private, public, or international. I can not understand by what right you forcibly seize and annex property to your settlement in this port (where all nationalities have rights which must be protected) without first obtaining the consent of either the Chinese or other governments interested. I can not agree that either yourself or the French municipality has the right to pass upon the validity of any American title to property outside of the legally constituted French settlement. If you desire to extend your concession, I hold that you should wait until order is restored, and then proceed legitimately, keeping in mind the rights acquired by other nationalities.

I am, etc.,

JAMES W. RAGSDALE, *Consul.*

[Inclosure 8.]

Mr. Ragsdale to Mr. Conger.

CONSULATE OF THE UNITED STATES,
Tientsin, December 6, 1900.

SIR: I have the honor to transmit herewith copy of a letter just received from the acting consul for Russia in reply to my letter protesting against the annexation of territory at Tientsin. Shall I take any further action?

I am, etc.,

JAMES W. RAGSDALE, *Consul.*

[Subinclosure.]

The Russian Acting Consul at Tientsin to Mr. Ragsdale.

RUSSIAN IMPERIAL CONSULATE,
Tientsin, December 5, 1900.

SIR AND DEAR COLLEAGUE: In reply to your note of yesterday, with reference to my circular letter announcing the occupation by the Russian military authorities of

the eastern bank of the Peiho opposite the present foreign concessions, I have the honor to inform you that all questions concerning this matter are to be addressed to the said military authorities.

I am, etc.,

N. POPPÉ.

[Inclosure 9.]

Mr. Conger to the Russian Minister at Peking.

LEGATION OF THE UNITED STATES,
Pekin, November 14, 1900.

SIR: The United States consul at Tientsin has just informed me that on the 7th instant the Russian consul gave him notice that the land fronting on the "Bund" or east bank of the Peiho River, extending from and including the railroad station, to Meyer's godown, a distance of nearly 2 miles, had been taken by the Russian military forces and would be reserved for the use and benefit of the Russian Government.

In view of the frank declarations of the Russian Government that it had no designs of territorial acquisition in China, I can not believe that such action has been seriously taken, or that it will receive the approval of the Russian Government.

Tientsin is an open port, and the property under consideration is needed by, and should be reserved for the use of, all the powers. Even in ordinary peaceful times, if foreign occupation of it were necessary, it should be occupied as an international settlement, such as was recently insisted upon and secured in the extension of the Shanghai settlement. But now, under the present movement of the allied forces in China, there are still stronger reasons why this large tract of land, including, as it does, an important public railway station and other property necessary for international use, should not be appropriated by a single power.

I therefore take this opportunity to protest against such appropriation of this property and beg your excellency to have the matter investigated; and if the reported action is found true, to request instructions from the imperial Russian Government which will prevent any such appropriation of territory.

I improve this occasion, etc.,

E. H. CONGER.

[Inclosure 10.]

The Russian Minister at Peking to Mr. Conger.

PEKIN, November 16, 1900.

MY DEAR COLLEAGUE: In response to your excellency's letter of the 14th instant in reference to a communication sent by the gerant of the Russian consulate at Tientsin to the United States consul there, I beg to inform you that there is no question whatever of acquiring territory by conquest on the part of Russia nor of the taking possession of the railway station at Tientsin by the Russian Government, and if the communication of Mr. Poppé, above referred to, contains any expressions which could be so construed they have certainly been erroneously used by him.

I beg to add that in this matter the object of the Russian military authorities has been to prevent the seizure of and speculation in land by certain parties within the radius occupied by the Russian troops for military purposes since last June.

I avail myself, etc.,

M. DE GIERS.

[Inclosure 11.]

Mr. Conger to the Russian Minister at Peking.

LEGATION OF THE UNITED STATES,
Pekin, November 22, 1900.

MY DEAR COLLEAGUE: I have the honor to acknowledge receipt of your excellency's note of the 16th instant, replying to mine of the 14th instant, in which, referring to the occupancy by the Russian military of the railway station and other property at Tientsin, you say:

"That it can be in no way a question of territorial conquest of any sort whatever on the part of Russia, nor of the taking possession of the Tientsin railway station by the Russian Government, and if the aforesaid communication from Mr. Poppé contains any expressions which could give rise to any such interpretation, they certainly have been employed by him only as the result of an error."

I inclose herewith a copy of Mr. Poppé's communication,^a from which you will see that it is unequivocally declared that the Russian troops have seized this property and established themselves therein by right of conquest, and claim that it has become their property by act of war, and that in consequence the commander in chief of the Russian expeditionary force has taken full and entire possession thereof.

I am very glad to receive this disclaimer from your excellency, and I beg that you will instruct the Russian consul at Tientsin to correct the evident error he has made in his notice to the consuls.

I also hope that the Russian military will receive instructions to carry out the declared policy of the Imperial Russian Government in this regard.

May I ask you to kindly return the copy of Mr. Poppé's communication.

I improve this occasion, etc.,

E. H. CONGER.

[Inclosure 12.]

Mr. Conger to the Belgian Minister at Peking.

LEGATION OF THE UNITED STATES,
Peking, November 14, 1900.

MY DEAR COLLEAGUE: The United States consul at Tientsin has just informed me that on the 8th instant the Belgian consul formally notified him that the Belgian Government proposed to appropriate to its sole use and benefit a considerable tract of land on the east bank of the Peiho River in Tientsin.

Under the present disturbed conditions, and while this part of the Empire is under military occupation, it is difficult to understand how the Belgian Government can rightfully appropriate this property; and believing that international settlements will better serve general commerce and trade, and more adequately assure the rights and interests of all foreigners than separate settlements, I am constrained to protest against the appropriation and occupancy reported, and beg your excellency to have the Belgian consul instructed to desist from the proposed seizure or occupancy of said property until order is restored and the rightful possession of the land be acquired, or its necessity for international use be determined.

I improve the occasion, etc.,

E. H. CONGER.

[Inclosure 13.]

The Belgian Minister at Peking to Mr. Conger.

BELGIAN LEGATION,
Peking, November 18, 1900.

MY DEAR COLLEAGUE: I have the honor to acknowledge your excellency's letter of the 14th instant. In reply I hasten to inform your excellency that, in marking off the limits of a piece of ground at Tientsin, and in raising the Belgian flag over it, it was my intention to take a purely conservative measure destined to reserve such portion of said ground as might be required for the future building of a Belgian consulate and the required dependencies.

I avail myself, etc.,

JOOSTENS.

[Inclosure 14.]

The Austrian Minister at Peking to Mr. Conger.

THE IMPERIAL AND ROYAL LEGATION OF AUSTRIA-HUNGARY,
Peking, November 28, 1900.

The imperial and royal ministry of foreign affairs has been informed that several powers have recently occupied tracts of land at Tientsin upon which to establish settlements or to increase those which they already possess, and has directed me to

communicate the following declaration to the plenipotentiaries of the foreign powers at Peking:

In order to be able to effectually protect our interests in commerce and navigation, the Imperial and Royal Government considers it necessary, after the restoration of order in China, to establish a consulate at Tientsin, and it will require for this purpose a settlement like the others already have.

For this purpose the Imperial and Royal Government has decided to exact from the Chinese Government, in the course of the next negotiations, a suitable tract.

In view of the recent occupations of Tientsin, the Imperial and Royal Government desires now to advise in advance the foreign representatives at Peking of this intention, in order to preserve an equity of rights with the other powers and to secure itself against any prejudice in the question of settlements or concessions of land.

M. CZIKANN.

[Inclosure 15.]

The Italian Minister at Peking to Mr. Conger.

PEKIN, December 1, 1900.

Having been informed that several of the powers have recently occupied at Tientsin territory for either establishing settlements or extending those already established, and in accordance with orders of the minister for foreign affairs, I beg to bring to the notice of the foreign representatives at Peking the following:

In order to effectually protect our commercial and shipping interests, the Royal Government may consider it necessary to establish a consulate at Tientsin, and consequently a settlement, such as the other powers already have.

In order to do so, the Royal Government may consider it necessary to demand of the Chinese Government, in the course of future negotiations, a suitable location.

With reference to the recent occupations at Tientsin, I beg to inform the foreign representatives of this contingency, in order to reserve to the Royal Government equal rights, without prejudice, with the other powers, in the matter of settlements or concessions.

SALVAGO RAGGI.

[Inclosure 16.]

Mr. Ragsdale to Mr. Conger.

CONSULATE OF THE UNITED STATES,
Tientsin, December 28, 1900.

SIR: I have the honor to inclose herewith an express just circulated by the Japanese consul. It speaks for itself.

I am, etc.,

JAMES W. RAGSDALE, *Consul.*

[Subinclosure.]

NOTICE PROMULGATED BY THE JAPANESE CONSUL AT TIENTSIN.

HIS IMPERIAL JAPANESE MAJESTY'S CONSULATE,
Tientsin, December 28, 1900.

His Imperial Japanese Majesty's consul, being desirous to prevent the possible confounding of the right of ownership of land and premises within the limit of the Japanese settlement, has the honor to notify that he will not recognize the validity of any transfer of right of ownership of land or premises within the following limits, made after the 17th of June, the day of opening of hostilities, or those transfers which, although made before the above date, have not been duly verified by the Chinese authorities at the time of such transfers:

LIMITS OF THE JAPANESE SETTLEMENT.

North: From a point 600 feet westward of the Nanmen (the south gate) to Chia-kao, along the ditch outside the Tientsin city wall.

Northeast: From Chiakao to the northeastern boundary of the French settlement along the Peiho.

East: The boundary line between the French and Japanese concessions.

South: The mud wall.

West: The straight line drawn from the point 600 feet westward of the Nanmen (the south gate) to the point 450 feet westward of the Haikwanmen (mud-wall gate near the Haikwansu).

NAGAMASA TEI,
His Imperial Japanese Majesty's Consul.

[Inclosure 17.]

Mr. Conger to Mr. Ragsdale.

LEGATION OF THE UNITED STATES,
Pekin, December 31, 1900.

SIR: I have to acknowledge receipt of your dispatch of the 28th instant, inclosing notice published by the Japanese consul in the matter of extending their concession.

You will make a respectful protest against this action, urging that in the present disturbed condition of affairs, with the absence of the Chinese Government, and during the actual military occupation by foreign troops, such appropriation of territory by a single power can not be made with a due consideration for the rights of all others interested. All extensions of existing settlements or locations of new ones should be delayed until the restoration of order and upon a conference of all concerned, in order that the interests of all the powers may be respected and conserved.

I am, etc.,

E. H. CONGER.

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Pekin, February 26, 1901.

(Mr. Conger reports that notwithstanding his protests all territory at Tientsin available for concessions, except a small tract formerly the United States concession, has been seized by other powers, and that he has instructed the United States consul to serve notice that that tract must be left for part of an international settlement or a United States concession, which will be demanded when order is restored, and that the United States will not recognize seizure or adverse occupation.)

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 27, 1901.

(Mr. Hay approves action respecting Tientsin settlement reported in Mr. Conger's preceding telegram.)

Mr. Conger to Mr. Hay.

No. 551.]

LEGATION OF THE UNITED STATES,
Pekin, China, February 27, 1901.

SIR: I have the honor to confirm on the overleaf my telegram^a of the 26th instant and Department's reply^a of to-day with reference to former United States concession at Tientsin.

^a Printed ante.

I inclose copy of my correspondence with Consul Ragsdale and General Chaffee which fully explains the necessity for the action I deemed proper to take in the matter.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

General Chaffee to Mr. Conger.

HEADQUARTERS CHINA RELIEF EXPEDITION,
Pekin, China, February 21, 1901.

SIR: I have the honor to hand you herewith papers which are self-explanatory.

Owing to recent events in this section of China and with a view to the future expansion of trade by the United States at Tientsin and adjacent country, I think it not improbable our Government would be willing to recover, if it can be done without friction, its old concession at Tientsin. Further, it might wish or consent to do so for a few years at least, as a military necessity, in order to afford undisputed footing for its troops and stores in case of renewal of disturbance pending a few years of trial of the Chinese Government to restore and maintain public order.

The papers do not disclose cost of maintenance, police, etc., which I recognize is always an important element when questions of this sort are up for consideration at Washington. I am not posted as to the methods adopted by other nations for exploiting their holdings into self-supporting condition, but I presume you are informed.

It is my opinion that our Government should recover this concession if it can do so at once and without serious difficulty. I leave the subject with you, however, to represent to Washington. As the matter is now in such condition that delay may bring about the threatened absorption before report could be made and received by mail, the disposition of the Government might be obtained by using the cable.

ADNA R. CHAFFEE,

Major-General, U. S. A., Commanding United States Troops in China.

[Subinclosure 1.]

Major Foote to Adjutant-General, China Relief Expedition.

HEADQUARTERS LISCOM BARRACKS,
Tientsin, China, February 17, 1901.

SIR: Referring to the matter of retaking the old United States concession, I would state that all the land on both banks of the river is now taken for a distance extending on the right bank, from the lower or south limit of the German concession, north, to a point within a few hundred yards of the south wall of the Chinese City, or less than a mile from the junction of the Grand Canal and the river, the Japanese having extended their concession, north of the French, to the point mentioned.

The Italians, Austrians, and Belgians have taken territory on the left bank, extending north of the Russian concession to the Shui-Shih-Yeng, or Black Fort. This leaves only a space on the right bank of about 1,300 feet in the old United States concession available for our use.

We are now simply occupying a portion of that temporarily. It seems to me important, if not necessary, that we at least definitely establish the north and south line of the old concession and declare our intention to hold and occupy it as long as we have troops in this province. I am informed that no opposition will be made to this action on our part, and such action will give us a fixed right to a part of the river front that is most convenient for us and will probably be very necessary when the river is open for navigation.

The pontoon bridge on the river connecting our depot quartermaster's office with the corral is about the center of the concession. This bridge was transferred by the Russians to the provisional government of Tientsin, and I have obtained it for our use with the understanding that we will guard and maintain it, the provisional government to furnish boats and material that may be necessary for repairs.

I inclose map showing in red dotted lines the limits of the old United States concession, also some data furnished me by the United States consul here in regard to the original status of the concession.

Mr. Denby informs me that the Chinese wish the United States to retake the concession, and that he has reason to believe that it can be maintained in connection with that of the British, as the Anglo-American concession is at Shanghai, thus reducing expenses for police, etc.; also, if we do not take it, the British will.

Steps are now being taken to continue the river improvements that were in progress here when the troubles commenced. The completion of that work will increase the value of the land on the river front.

MORRIS C. FOOTE,
Major, Ninth Infantry, Commanding.

[Subinclosure 2.]

Mr. Ragsdale to Major Foote.

CONSULAR SERVICE, UNITED STATES OF AMERICA,
Tientsin, China, February 15, 1901.

SIR: With reference to the old American concession in Tientsin, and in compliance with your request, I have the honor to submit that in the year 1869 there was laid out at Tientsin three tracts of land for English, French, and American residents, and that for some years our Government exercised in a way jurisdiction over the same.

On October 12, 1880, the concession was relegated to its former status "with the understanding that if at some future time it shall become desirable to establish suitable municipal regulations therein it shall be competent for the consular authorities to do so."

Under date of October 14, 1880, the Taotai Cheng acknowledged receipt of the dispatch sent to him by the consul two days before, and stated that if any American consul in future should "desire to have the settlement revert to the present system of administration he must first arrange with the customs taotai as to the mode of administration, and if there be nothing objectionable in same there should be nothing to prevent the settlement from reverting to the original government."

Sometime in the year 1896 a movement was on foot to cede this territory to the Germans, against which action a protest was filed and correspondence in relation thereto with the State Department followed, and finally on April 2, 1896, the minister advised that all jurisdiction over the property be abandoned, and on June 25 instructed the United States consul at Tientsin to advise the taotai to that effect.

It has never been the policy of our Government to acquire territory abroad, and that policy may be a wise one in most instances, but at Tientsin I think it would be wise for our Government to have some place over which they could exercise some control. The trouble in North China is not over, and final settlement day is a long ways off. I am glad, therefore, to learn that steps in the right direction are contemplated.

I inclose you a quotation from a letter from the State Department to Minister Denby in relation to the concession.

I am, etc.

JAMES W. RAGSDALE, *Consul.*

[Subinclosure 3.]

State Department to United States Minister.—Letter dated October 18, 1896.

[Extract.]

As there is no record showing that any concession was ever actually made to the United States, and in view of the further fact that we, many years ago, relinquished whatever control we may have been allowed to exercise over the land, it would seem that we are not in a position to maintain that we are entitled to resume jurisdiction over the tract, even if it is considered desirable to do so.

The preceding remarks are simply intended to give you the Department's understanding of this case, and it is not necessary that you should do anything in the matter, at least while awaiting the reply of the Chinese Government to your protest and until you ascertain what the attitude of that Government will be in the matter.

[Inclosure 2.]

*Mr. Conger to Mr. Ragsdale.*LEGATION OF THE UNITED STATES,
Pekin, February 24, 1901.

SIR: As you are already fully aware, it is against the declared policy of our Government to in any way make the present military movement in China a pretext for seizing or obtaining territory; and it is for this reason that I have instructed you to make the protests which you have made against the seizures by other powers.

But in order that we may prevent every possible place being occupied by others, so that if the Government desires to apply for a concession after order is restored, we may be able to reoccupy at least the small tract that was formerly the United States concession, or, preferably, have it included in an international settlement, and still be consistent with the position we have already taken, you may send the inclosed, in the form of a note from yourself, to each of your colleagues.

If there is likely to be any doubt about the limits of the tract, you might, if necessary, set out the boundaries in addition to saying it is "known as the United States concession."

Yours, very truly,

E. H. CONGER.

[Inclosure 3.]

COPY OF NOTICE TO BE SERVED ON FOREIGN CONSULS BY UNITED STATES CONSUL AT TIENTSIN RELATIVE TO PRESERVATION OF THE TRACT OF LAND KNOWN AS THE UNITED STATES CONCESSION IN TIENTSIN.

For the purpose of preserving the tract of land known as the United States concession in Tientsin, to be with other tracts organized into an international settlement if possible, but, if not, then at the proper time whenever it may legally be done, to be reoccupied as a United States concession, the undersigned, by direction of the United States legation at Peking, hereby serves this formal notice of such intention on the part of his Government, and requests that it be in every way respected. No adverse seizure or occupancy of any part of this tract can be recognized or allowed.

JAMES W. RAGSDALE,
United States Consul.

[Inclosure 4.]

*Mr. Conger to General Chaffee.*LEGATION OF THE UNITED STATES,
Pekin, February 25, 1901.

SIR: I have the honor to acknowledge receipt of your communication of the 21st instant, recommending that some measure be taken to recover for the use of the United States the former United States concession in Tientsin and setting forth its necessity in a military point of view.

I agree with you that as long as United States troops are to be kept in this province you should hold militarily whatever tracts of land, river front, etc., you now occupy or may find necessary in the future, and I see no reason why upon these grounds you should not take and retain temporarily all or such portion of this old concession as is necessary, and so notify your military colleagues.

The emphatically declared policy of the United States is that it would not make the present military movement in China a pretext for securing possession of Chinese territory, and most of the other Governments made the same sort of declaration, but, notwithstanding this, nearly all of them have taken advantage of the situation to seize large tracts or make considerable additions to their present concessions at Tientsin.

I have in accordance with my instructions directed the consul at Tientsin to protest strongly against all these seizures, insisting that under their declared policies they could not take territory as military conquest, and that during the disorder resulting from military occupation, absence of Chinese Government, etc., regular concessions could not be legally obtained, and that efforts in that direction should be deferred until order was restored and lawful proceedings could be had with a due consideration

of the rights of all the powers. Our Government also favors international settlements where possible.

I have, therefore, in order to prevent the seizure of this only tract left on the river and to preserve it, to be with others organized into an international settlement or to be reoccupied as a United States concession, directed our consul at Tientsin to serve on his colleagues the formal notice, a copy of which I inclose.

I have, etc.,

E. H. CONGER.

Mr. Squiers to Mr. Hay.

No. 614.]

LEGATION OF THE UNITED STATES,
Pekin, April 22, 1901.

SIR: I have the honor to inclose a copy of a proclamation, dated April 18, issued by the German consul-general of Tientsin, by which notification is given that the German concession there has been, by the consent of the Chinese authorities, extended as indicated on the map^a inclosed herewith.

I have not instructed Mr. Ragsdale to enter a protest against this action, as it does not appear that the interests of any of our nationals are involved or in any way prejudiced.

The inclosed map also shows the extensions of old concessions, as well as new concessions up to date.

I have, etc.,

H. G. SQUIERS.

[Inclosure.]

PROCLAMATION OF GERMAN CONSUL-GENERAL AT TIENTSIN.

GERMAN CONSULATE-GENERAL,
Tientsin, April 18, 1901.

MY DEAR COLLEAGUE: By order of the Imperial German legation at Peking, I have the honor to inform you that, with the consent of the Chinese authorities, the German concession at Tientsin has been enlarged on the west to the Taku road, on the south to the boundary within the limits which are marked in green on the plan herewith.

I beg to add that it is well understood that foreigners who hold prior regular titles are safeguarded.

I assure you, etc.,

ZIMMERMAN, *Consul-General.*

Mr. Squiers to Mr. Hay.

No. 677.]

LEGATION OF THE UNITED STATES,
Pekin, July 25, 1901.

SIR: I have the honor to inclose to you copy of correspondence regarding provisional transfer of old United States concession at Tientsin to the municipality of the British extra concession.

As reported in Mr. Conger's dispatch No. 491, of December 31, 1900, and No. 551, February 27, 1901, this concession was temporarily occupied by us with the hope that by doing so the powers might be induced to joining in an international settlement, but there now appears to be no possibility of such action, at least for the present.

^a Not printed.

Mr. Ragsdale's representations that this property is an "eyesore" to Tientsin, as there is no sanitary or police control, are supported by reports from other sources.

As the object in taking over control of the concession will be in no way prejudiced, I recommend the acceptance of the British proposals, with the exception of paragraph 2, which should provide for mooring of all United States vessels.

I beg to request a telegraphic reply.

I have, etc.,

H. G. SQUIERS.

[Inclosure 1.]

Mr. Ragsdale to Mr. Squiers.

No. 182.]

UNITED STATES CONSULATE,
Tientsin, China, July 13, 1901.

SIR: I have the honor to submit that the territory in what is known as the old United States concession, Tientsin, and to which we have given notice of probable reoccupation, is now really "no man's land" in so far as sanitary or police control is concerned, and is rapidly filling up with bad characters, making some control absolutely necessary. The municipality of the British extra concession is willing to assume such control and have asked, through the British consul-general, what conditions would be exacted in this event. With the approval of the legation I shall reply offering the said municipality control on the following conditions:

1. The right of occupancy by our military forces at any time shall not be interfered with.
2. The right to use the bund for mooring purposes will be reserved.
3. The right of representation on the municipal council by at least one American citizen.
4. All transfers of property within the concession shall be registered at the United States consulate.
5. No regulations shall be made exclusively applying to the concession without the approval of the United States consul.
6. If for any reason control is desired by the United States the same shall be turned over after twelve months' notice.

I am, etc.,

JAMES W. RAGSDALE, *Consul.*

[Inclosure 2.]

Mr. Satow to Mr. Squiers.

BRITISH LEGATION, *July 24, 1901.*

MY DEAR COLLEAGUE: In reply to your inquiry of the 16th instant relating to the provisional transfer of the old United States concession to the municipality of the British extra concession, I beg herewith to inclose copy of the terms on which I understand the above-mentioned municipality are willing to agree. You will see that there is little or no difference between these and the conditions forwarded to you by Mr. Ragsdale, and I trust that an agreement may be come to which will prove beneficial to both parties.

Believe me, etc.,

ERNEST SATOW.

[Subinclosure.]

CONDITIONS OF HANDING OVER THE UNITED STATES CONCESSION AT TIENSIN.

1. The United States Government to reserve the right to exercise exclusive military control over the concession in case of necessity.
2. The United States Government reserve the right to moor a gunboat or gunboats at the bund of the United States concession in case of necessity.
3. At least one American citizen to be on the extra concession council. In the event of there being no American citizen on the extra concession council in the ordi-

nary way, the United States consul should have the right to nominate one by virtue of this arrangement.

4. All transfers of land in the United States concession to be registered at the United States consulate.

5. No special regulations which apply to the United States concession and not to other parts of the British extra concession to be made without the approval of the United States consul.

6. The United States Government to reserve the right to terminate the arrangement with the British extra concession on giving one year's notice and assuming any financial liabilities which may have been incurred for the development of the concession with the consent of the United States consul.

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Pekin, September 9, 1901.

(Mr. Conger asks if the return of the former United States concession at Tientsin shall be demanded from the Chinese Government. He states that its only value is in the remote contingency of a point to land troops being required; that it is very small; that no Americans are residing or are likely to reside there, and that a general international settlement is impossible.

Refers to dispatches Nos. 491, 551, and 677.)

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, September 12, 1901.

(Mr. Hay states that provisional extension of British municipality to cover former American concession at Tientsin, with complete reservation of American residence and commerce therein and eventual right of reentry, might be arranged; that it is very desirable to keep open the right of eventual recovery of American interest in the concession.

Refers to Mr. Ragsdale's letter inclosed in dispatch No. 677 from Mr. Squiers.)

Mr. Conger to Mr. Hay.

No. 769.]

LEGATION OF THE UNITED STATES,
Pekin, October 11, 1901.

SIR: Confirming my telegram ^a of the 9th ultimo and Department's reply ^a of the 12th ultimo, I have the honor to report that on the 14th ultimo I made formal application for the re-cession to the United States of the old United States concession at Tientsin, having previously received verbal assurance of a willingness on the part of Prince Ching and Li Hung-chang to grant it. The matter was referred to Li Hung-chang, the viceroy of this province, by the foreign office, but because

of his illness, or for some other reason, he did not reply. However, in the meantime his secretary had informed me that he was giving it his attention. On the 7th instant I wrote him again and received reply that he had instructed the taotai at Tientsin to consult the English and German consuls and report. I immediately wrote him that as this was a matter which concerned only China and the United States it was wholly unnecessary to consult any other governments, and that such consultation on his part was, in fact, only an invitation for them to interfere, and that the United States Government could not allow such interference. I also called and had a personal conference the 9th instant, in which he said that after the concession was surrendered by the United States it was then divided between Germany and England. I knew this could not have been possible and so told him, but added that if it were so that was the end of it, as we were not asking a concession from England or Germany, but only from China. My Government, however, would not be satisfied except upon conclusive proof that such was the case. He said, of course their records were all destroyed, and he only had an indistinct recollection of the matter, as it was done during the viceroyalty of Wang Wen-shao; but the German and English consuls must have a record of it, and that was why he wished to consult them.

To-day he sent his secretary and the customs taotai of Tientsin to tell me that he was mistaken; that the matter had been talked about, but was not in fact given to the Germans and English, because of the opposition of the China Merchants' Steam Navigation Company and the Chinese Engineering and Mining Company, who were the owners of practically all the land in the tract. I told them, as I had also told Li Hung Chang before, that if it was not given to the United States the Germans or English would take it, and therefore it was not a question whether or not these companies should be under foreign jurisdiction, but under what foreign jurisdiction. They replied that the English and Germans, soon after our giving it back, had agreed in writing that they would not ask for it, but would leave it in control of these two companies. I said that the affairs of last year had changed all this, and that had it not been for the notice which I served in February last the tract would have been seized before this as they have seized other property. But they still urge the opposition of these two companies as an excuse, and add, further, that the Chinese Engineering and Mining Company has been sold out to Belgian, Russian, and French interests, and they can not understand what we can want of a concession where the land is all occupied, leaving no place for American merchants or business, and they say that these companies will strongly suspect a design to dispossess them. I insisted that all rights of property in Chinese or others would always be respected under the jurisdiction of the United States. They then said the taxes would necessarily be very high, and as these two companies owned practically all the land, they would have all the taxes to pay. I replied that even now the roads had to be kept up, policed, and lighted and it would probably cost them no more than now. They answered that now the Chinese board of works improved the streets and that they paid no taxes, etc.

Instead of this tract they offer and beg us to accept a much larger and unoccupied tract a long way down the river, outside of all the other concessions. I replied that this would not satisfy us, but that this

tract, even with its present occupants, exactly suited our purpose and was the only tract we desired.

They then asked if we would be willing to agree that a representative of one of these companies should always have a place on the council of municipal government. I replied that we desired the concession on the same terms as to jurisdiction and control as concessions had been given to other powers, and could take it with no other restrictions.

They finally said that the viceroy was very anxious to please the United States, and would consent to giving the concession if I insisted upon it, but he had sent them to explain to me all the difficulties in the way and the troubles and complications which would probably arise out of it. I replied that I understood it all, and if the concession was properly granted to the United States we would have to meet the difficulties as they arose, and at any rate they should not invite difficulties and opposition by consulting these companies or anybody else.

The fact is, these companies represent some of the foremost and wealthiest Chinese in the Empire, and they do not wish to be turned over, together with their property, to foreign jurisdiction, and the viceroy does not like to brook their opposition. It is possible that before the affair is concluded we shall hear of some strenuous German opposition. In fact, I am not certain that they will not resurrect some documentary evidence giving Germany title, because in the correspondence transmitted to the Department with Colonel Denby's dispatch No. 2559, of July 10, 1896, there is a letter from the taotai, saying that he would take the concession back and would then turn it over to the Germans.

I inclose the correspondence had thus far concerning the matter, and have, etc.,

E. H. CONGER.

[Inclosure 1.]

Mr. Conger to the Board of Foreign Affairs.

F. O. No. 280.]

LEGATION OF THE UNITED STATES,
Pekin, September 14, 1901.

YOUR HIGHNESS AND YOUR EXCELLENCIES: During the occupancy of Tientsin by the allied forces many of the foreign powers have taken advantage of the situation to possess themselves of large tracts of territory in that vicinity for separate national settlements or for other purposes. The United States has taken no part in such appropriations of property, preferring to organize international settlements where possible. But since this seems impossible at Tientsin at the present time, and since normal relations have been reestablished between the powers and China, so that it may properly be done, my Government has instructed me to request the recession to the United States of the very small tract in Tientsin well known as the United States concession. This tract comprises all the land lying between the British and German concessions and extending from the Peiho River back to the Taku road. The boundaries are well known and established, but at a later date they can be more accurately surveyed and marked.

This concession was set apart for and granted to the United States in 1860 at the same time that the English and French concessions were granted to them. For many years jurisdiction was exercised over it by the United States consul, but on June 27, 1896, it was, for what then seemed sufficient reasons, surrendered back to the Chinese Government; but now conditions have so changed as to make it necessary and desirable for the United States to again take it under its jurisdiction. It will also be an advantage to China to have the United States exercising jurisdiction along with the other governments at Tientsin.

I beg to add that during a recent conversation with his excellency, the Chinese plenipotentiary, Li Hung-chang, before the signing of the protocol, he assured me that the act of recession should have his approval and cooperation.

Trusting that this request will meet with the hearty approval of your highness and that the proper local officials will be immediately given the necessary instructions to carry it out, I improve this first occasion to congratulate you upon the reorganization of the foreign office, and to assure your highness, etc.

E. H. CONGER.

[Inclosure 2.]

Prince Ch'ing to Mr. Conger.

F. O. No. 261.]

Ch'ing, prince of the first order, president of the board of foreign affairs, etc., sends this reply:

A few days since I received your excellency's dispatch concerning the former American concession at Tientsin, which was restored to China, requesting that it might be retroceded to the United States, etc.

The contents of the dispatch have been carefully noted and I have issued instructions to the superintendent of trade for the north to take the matter into consideration and report.

As in duty bound I send this reply for your excellency's information.

Kuanghsu XXVII year, eighth moon, 7th day (September 19).

[Inclosure 3.]

Mr. Conger to Earl Li.

F. O. No. 292.]

LEGATION OF THE UNITED STATES,
Pekin, October 7, 1901.

YOUR EXCELLENCY: On the 14th ultimo I had the honor to send to his highness, Prince Ch'ing, president of the foreign office, a request on behalf of my Government for the recession of the former United States concession in Tientsin. His highness, acknowledging receipt, informed me that the matter had been referred to your excellency to be arranged. This was done in pursuance of previous personal conference, in which both his highness and your excellency had expressed a willingness to make the recession.

It would seem, therefore, that it was only necessary to formally confirm your verbal assurance and issue the proper instructions to the local officials, so that I might instruct the consul of the United States to again assume jurisdiction of the concession. For nearly a month I have been waiting for this, and I regret that I am constrained to again call the attention of your excellency to the matter and request its early determination.

I improve the opportunity, etc.,

E. H. CONGER.

[Inclosure 4.]

Earl Li to Mr. Conger.

F. O. No. 272.]

I have the honor to acknowledge the receipt just now of your excellency's note concerning the desire of your Government to have the concession at Tientsin which was surrendered restored to them and to have the local officials instructed to make the transfer, etc.

With regard to this case, we some time since received the instructions of the board of foreign affairs, and already on the 17th and 20th (September 29 and October 2) wrote to the taotai appointed to inquire into concession affairs at Tientsin, Mr. Chien Jung, directing him to investigate, deliberate, and decide upon the matter and to send a reply. We also clearly stated to him that the concession in question is situated between the English and German concessions, covering the whole plot of ground situated there and extending from the Peiho to the Taku road, and that since your Government was anxious to have the transfer made quickly, he ought to

consult with the English and German consuls, and then, according to the old boundaries, turn the territory over to the control of your honorable country, all of which would be perfectly just, which is a matter of record.

Up to the present there has been no reply from Ch'ien, taot'ai, as to his compliance with these orders, and I have sent further instructions, urging him to make haste in dealing with the matter and send reply. Aside from this, as in duty bound, I send you excellency this reply, and have the honor to wish your excellency all prosperity.

Card inclosed.

Eighth moon, 26th day (October 8, 1901).

[Inclosure 5.]

Mr. Conger to Earl Li.

F. O. No. 294.]

LEGATION OF THE UNITED STATES,
Pekin, October 9, 1901.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of yesterday, concerning the recession to the United States of its former concession in Tientsin, in which your excellency says you have instructed the taot'ai, Mr. Ch'ien, to consult with the English and German consuls before acting in the matter.

I am greatly surprised at this, for it is entirely a matter between China and the United States, in which other governments have no concern, and should be settled without reference to them. Your excellency has not deemed it necessary to consult the United States in regard to concessions granted to other powers in Tientsin, and I fail to see why an exception should be made in this case, by inviting interference, which is wholly unnecessary, can not be allowed by the United States, and may lead to annoying complications.

I avail, etc.,

E. H. CONGER.

[Inclosure 6.]

Earl Li to Mr. Conger.

I have just seen the customs taot'ai, Huang Chien-hang, who tells me that the old American concession at Tientsin was really not divided and given to the British and Germans, but in fact was bought by the China Merchants' Steam Navigation Company and the Chinese Engineering and Mining Company for the use of their respective companies. I have directed the taot'ai, Huang, to have personal interview and come to some satisfactory arrangement.

In sending this I have the honor to wish your excellency all prosperity.

Card inclosed.

Eighth moon, 28th day (October 10, 1901).

Mr. Hay to Mr. Conger.

No. 417.]

DEPARTMENT OF STATE,
Washington, November 27, 1901.

SIR: I have to acknowledge the receipt of your dispatch, No. 769, of the 11th ultimo, confirming telegrams from and to you on the subject of the recession to the United States of the former American concession at Tientsin, and reporting your negotiations with the Chinese Government in the matter.

In view of the unfitness of the alternatively offered tract for either commercial or military use by the United States, and recognizing the difficulties in the way of the restoration to us of the former concession,

by reason of the tenancies which have been established therein since its abandonment by us, it seems undesirable to press the matter further at present. The Government of the United States will, however, expect to have equal favors and facilities with other powers for military purposes at Tientsin, should it at any future time become necessary to carry out the purposes of the protocol with respect to keeping open communication between Peking and the sea; and if effective assurance in this regard be given we may leave the question of a commercial concession in abeyance until the development of commerce in that quarter shall make it necessary to claim privileges and facilities on the same footing as other powers. We would feel it a duty to reserve our right in such a case.

It is to be remembered that circumstances have materially changed since the United States relinquished its holding at Tientsin, and that we have entered into conventional arrangements, and engaged in contingent obligations which may make it not only expedient, but necessary to secure a position of equality at Tientsin in matters of commerce and international policy, if our purposes in the direction of enlarged intercourse and the maintenance of close relations of good will with China as well as with the powers are to be effectively carried out, and, consequently, that we can not neglect any step conducive to those beneficial ends.

I am, etc.,

JOHN HAY.

EXCLUSION LAWS—CASE OF ALLEGED CHINESE STUDENT, YIP WAH, AND OTHERS.

Mr. Wu to Mr. Hay.

No. 199.]

CHINESE LEGATION,
Washington, November 30, 1900.

SIR: It is again my unpleasant duty to bring to your attention what seems to me to be another effort on the part of the subordinate authorities of the Treasury Department of the United States to distort the language and defeat the plain intent of the solemn treaty stipulations entered into between the United States and China. The present case is of such a character that I feel sure you will agree with me that it demands the attention of the President of the United States, and the exercise of his supreme authority to bring about a proper observation of these international stipulations.

The present case is one which involves the construction of Article II of the treaty of 1880, which became Article III of the treaty of 1894, and of section 6 of the act of Congress of July 5, 1884, passed to give effect to the treaty. The treaty guarantees to Chinese subjects, being students, the right of coming to the United States and residing therein. To establish the right of the Chinese student to enter the United States, section 6 of the act of Congress requires that he should produce the certificate described therein, giving in detail his history and status, issued by the Chinese Government, and viséd or indorsed by the United States consul at the port of departure of the student; and the act makes it the duty of the United States consul, "before indorsing such certificate, to examine into the truth of the statement set forth in such certificate, and if he shall find upon exami-

nation that said or any of the statements therein contained are untrue, it shall be his duty to refuse to indorse the same."

In accordance with the treaty and act of Congress, Yip Wah, a Chinese subject, arrived at San Francisco, and produced the student certificate above described. No allegation is made that the certificate was not in due form according to the act of Congress. But the student was refused admission into the United States by the collector of the port of San Francisco, and, upon appeal had to the Commissioner of Immigration, the decision of the collector was sustained, and unless the President shall interpose his authority Yip Wah will be compelled to return to China.

The grounds of the decision refusing the admission of this student are set forth in the letter of the Assistant Secretary of the Treasury to the collector of San Francisco, a copy of which has by the courtesy of the honorable Commissioner of Immigration been furnished me, and which I inclose for the information of the President and yourself. It appears from this decision that a Chinese subject can not establish his character as a student by showing, as an applicant for admission into the United States, that he "was simply an attendant upon the native schools of China," and that he "intends to continue his studies here." I have to confess, Mr. Secretary, that such a decision sounds strange to me, in view of the treaty and the law. I can not conceive of any other way in which a Chinese young man can establish his right of admission into the United States. But the decision makes clear what is the position of the Treasury Department on this point. It appears that the only evidence, other than the certificate, upon which the collector based his action was the statement of the applicant himself to the effect that he had been an attendant on the native schools of China and that he came to the United States to continue his studies, avowedly to acquire a profession, "for which he has thus far not even established a foundation, being entirely ignorant of the English language." The construction thus given to the treaty and the law is that a Chinese subject in order to gain admission to the United States as a student must first acquire a knowledge of the English language. The further declaration of the applicant "that upon his return to China he does not intend to practice as a physician, but to work with his father," who is engaged in business in Canton, can not properly be held to affect his right of admission. This statement was made by a youth undergoing an inquisition by an official of whom he stood in awe, and even if taken in its fullest future application can not militate against his treaty right of entrance. No suspicion is thrown upon the sincerity of his intention to pursue his studies. Neither the treaty nor the law has to do with his pursuit after he leaves the United States and returns to China. The object of the law was to restrict the immigration of laborers, and plainly the facts show that the applicant does not belong to the laboring, but to an exempt, class.

I beg you, sir, to consider what effect this decision will have, if the President allows it to remain as the proper construction of the treaty and the law. It is in effect a requirement that all Chinese subjects, coming to the United States to pursue their studies or prepare for a profession must show that they possess a knowledge of the English language. You are well aware of the fact that for many centuries the Chinese Government has maintained an extensive system of general instruction and made it the basis and test of admission to the public

service, so that the youth have great facilities for acquiring an education. But up to the present there are few schools in which the English language is taught. To acquire this knowledge most of the young Chinese would have to resort to some school established by the missionaries, which would be repugnant to the ideas of the great mass of the inhabitants, and, even if this prejudice could be overcome, the places where such schools are to be found are very few compared to the vast population of China. One of the leading objects of Chinese students in taking advantage of the treaty right to come to the United States is to acquire a knowledge of the language. In the past many hundreds of Chinese young men have been sent to this country, some of them by the Government, and it was understood with the cordial approval of the Government of the United States, and placed in school at private or Government expense, the great majority of whom had no knowledge of the English language. The law of the United States was the same then as now.

We read in the history of the human race that once a powerful sovereign made himself infamous by requiring a foreign people to make bricks without straw; that is, he ordered them to accomplish a certain task without affording them the proper facilities to execute his decree. The United States, it is understood, is now concerting with other great powers certain measures whereby the people of China may be induced to adopt such principles and methods of government society, as will make them more in harmony with the Western nations. And yet, if the decision which has given occasion for the present note is to be confirmed by the President, it effectually closes the doors of the institutions of learning in America to the great mass of Chinese students who desire to come to this country to learn its language and thereby study its governmental and social system, in order that on their return to their own country they may profit by this education.

I inclose with the letter of the Assistant Secretary a copy of a letter from the attorney in San Francisco of Yip Wah, containing an argument on his part to sustain the appeal, and to which also I ask your attention. With the foregoing statement I submit the case to you, feeling confident that the President, with the spirit of justice which has so distinguished his public life, will not allow this illiberal and unreasonable decision to stand.

Accept, etc.,

WU TING-FANG.

[Inclosure 1.]

The Assistant Secretary of the Treasury to the Collector of Customs at San Francisco.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER-GENERAL OF IMMIGRATION,
Washington, November 21, 1900.

SIR: Under cover of your letter of 16th instant the Department is in receipt of the papers on appeal in the case of Yip Wah, a Chinese person who sought admission at your port with a section 6 certificate as a "student," and whom you denied on November 12, 1900.

You will note by reference thereto that the act approved July 5, 1884, section 6, provides among other things that the certificate therein mentioned "shall be the sole evidence permissible on the part of the person so producing the same to establish a right of entry into the United States; but said certificate may be controverted and the facts therein stated disproved by the United States authorities."

It is noted in this case, and in others of a similar character, that evidence is sought to be produced to verify the claims made in such certificate in behalf of the appellant, a practice which is reprehensible as being in direct contravention of the above-quoted language. The certificate itself is but prima facie evidence of the right of the alien to land, and it is the duty of Government officers to scan the statements contained therein with a view to determining whether in fact the claim of the applicant is true. The only part of the examination conducted in this case by the Chinese inspectors which seemed to have this end in view, rather than a purpose of confirming the statements in the certificate, was the examination by Inspector Lynch of the applicant himself. In the opinion of the Department this examination shows that applicant was simply an attendant upon the native schools of China, as any other young person of that country might naturally be, but fails to show that he was a student in the sense of the law. If the act is to be construed as meaning that all young persons who have attended schools in China are students, and therefore, upon their declaration only to that effect, are to be admitted to this country upon the ground that they intend to continue their studies here, it would appear that the possession of such a certificate as that presented by the applicant in this case would not be prima facie but conclusive evidence of his right to admission.

This view of the case the Department is not prepared to entertain. The applicant upon his own showing has followed the ordinary course of study of young persons, and comes here professedly to acquire a profession for which he has thus far not even established a foundation, being entirely ignorant of the English language, and asserting, moreover, that upon his return to China he does not intend to practice as a physician, but to work with his father, whom he states to be the proprietor of a grocery business in Canton. The statement of counsel in applicant's behalf to the effect that his client is "coming here to commence and finish his education" agrees with the view of the Department that applicant's status as a student in his native country is not established.

In view of the foregoing consideration the Department is of opinion that your action, based upon the belief that the bona fides of the applicant as a student is not established, was well taken, and the appeal is therefore dismissed.

Respectfully,

H. A. TAYLOR, *Assistant Secretary.*

[Inclosure 2.]

Mr. Pippy to Mr. Wu.

SAN FRANCISCO, *November 14, 1900.*

SIR: Inclosed please find a copy of a brief I have this day sent to the Treasury Department in a section 6 student case.

It appears from the action of the collector here that he does not desire to land any students at all, there being a number of cases held pending a decision in this matter. It seems to me that this is a direct contravention of the rights of the Chinese granted under the treaty.

This matter is of vital importance to quite a number of your countrymen, and I would respectfully submit that some influence be brought to bear upon the Department in Washington, in order that the collector at this port may be taught his duty and be prevented from overriding the treaty between the United States and China.

I am, etc.,

GEO. H. PIPPY.

[Subinclosure.]

Brief in behalf of Yip Wah—Mr. Pippy to the Secretary of the Treasury.

SAN FRANCISCO, *November 13, 1900.*

SIR: I most respectfully submit that the application of Yip Wah, ticket No. 87 "ex Gaelic," October 28, 1900, for permission to land as a student, should be granted.

In support of my position I contend that every requirement of section 6 of the treaty between the United States and China, as amended July 5, 1884, has been complied with. The certificate of the applicant is made out in due form and contains everything required, not only under the treaty, but also under the regulations of the Treasury Department.

The applicant's statement is uncontradicted and bears out all the statements set forth in the certificate.

I most respectfully refer to a letter of the honorable Mr. Spaulding to the collector at this port under date of December 12, 1899, in the case Wong Hay, a Chinese student 14 years of age, in which the following language is used: "In view of the youth of the applicant, which would undoubtedly disqualify him for laboring work, it is deemed advisable to authorize his admission, notwithstanding the discrepancies referred to, and the appeal is therefore sustained. As has heretofore been stated to you, the admission of adult Chinese as students is not favorably regarded by the Department, but the admission of Chinese youths upon section 6 certificates describing them as students is more readily justifiable."

I beg leave to quote from an opinion of Mr. M. D. O'Connell, Solicitor of the Treasury, to the Secretary of the Treasury, dated July 10, 1900, in the case of Li Ip, a student, in which the following language is used: "The object itself challenges a general spirit on the part of all who are interested in the encouragement of young men who are aspiring to a higher education, especially to a knowledge of our language, and so far as the ambition of the student is honest and bona fide he should be freely granted all the rights that the statute affords to him."

The act of September 13, 1888 (25 Stat., p. 476), section 2, certainly establishes the right beyond question of the applicant herein to a landing, he having complied with the requirements of the Treasury Department as set forth in pages 17 and 18 of the laws issued by your Department July 10, 1899.

There is no question but what under the existing treaty between the United States and China, and under all the acts of Congress, as well as the regulations of the Treasury Department, the applicant herein having proven beyond a doubt that he is a bona fide student, taking not only the primary but the higher courses, is certainly entitled to be landed, and I challenge the production of any good reason to the contrary.

Respectfully submitted.

GEO. H. PIPPY,
Attorney for Yip Wah.

Mr. Hay to Mr. Wu.

No. 163.]

DEPARTMENT OF STATE,
December 5, 1900.

SIR: I have the honor to acknowledge the receipt of your note, No. 199, of the 30th ultimo, calling attention to the case of Yip Wah, a Chinese subject, claiming to be a student, whose right to remain in the United States is denied by the collector of customs at San Francisco.

The case having been appealed to the Treasury Department, the action of the collector has been sustained by that Department.

You state that the case seems to you to be another effort on the part of the subordinate officials of the Treasury Department of the United States to distort the language and defeat the plain intent of the solemn treaty stipulations entered into between the United States and China, and you suggest that the present case is of such a character as to demand the attention of the President of the United States and the exercise of his supreme authority to bring about a proper observance of these international stipulations.

In reply I beg to say that in the Department's view the immigration acts do not confer upon the President any power to interpose in the matter. The act of August 18, 1894, provides that "in every case where an alien is excluded from admission into the United States under any law or treaty now existing or hereafter made, the decision of the appropriate immigration or customs officers, if adverse to the admission of such alien, shall be final, unless reversed on appeal to the Secretary of the Treasury."

The substance of your note has been communicated to the Secretary of the Treasury for his consideration.

Accept, etc.,

JOHN HAY.

Mr. Wu to Mr. Hay.

No. 200.]

CHINESE LEGATION,
Washington, December 26, 1900.

SIR: Since my note of the 30th ultimo, in which I called your attention to the case of the student Yip Wah, I have received from the imperial consul-general and from reputable Chinese merchants in San Francisco such urgent complaints that I feel it my regrettable duty to again address you on the subject of the manner in which the immigration laws of Congress are being enforced against Chinese subjects.

They represent, what I set forth in my note of the 30th ultimo, that under the rulings of the authorities of the port of San Francisco Chinese students holding certificates in conformity to the treaty and law of Congress are virtually debarred from entering the United States, it being held by the said authorities that such students must come here with a knowledge of the English language and with an education that will permit them to forthwith enter a college or take up an advanced professional course of study.

They further represent that under the act of November 3, 1893, the Government of the United States issued certificates of residence to a large number of Chinese persons, not laborers—merchants and others—and that the rights acquired under these certificates are being entirely ignored. Holders of such certificates desiring to make a temporary visit to China are denied the privilege, and persons who have departed holding such certificates are denied the privilege of reentering the United States.

They state that merchants returning to San Francisco after a temporary visit to China are often imprisoned in the detention dock for weeks and months pending their landing. Their Caucasian witnesses are put to all sorts of inconveniences and annoyances and treated with suspicion and discourtesy. When present to sign identification papers they are compelled to await the pleasure of the Chinese bureau for examination, and are plied with all sorts of immaterial questions from an inspector, who assumes the character of an inquisitor. The result of this is that it is now very difficult for Chinese desiring to visit their native land to obtain the necessary signatures for their identification papers, thus causing them untold mental and financial suffering.

They report that it has been heretofore the custom in San Francisco for years to allow the attorney for the persons desiring to enter the United States to be present at the Chinese bureau pending the taking of evidence on their behalf, thus affording a protection to the Chinese applicants and operating as a restraint upon overzealous subordinate officials. It has just been ordered by the port authorities that henceforth no attorneys shall be allowed to be present at the taking of such testimony, or of any testimony on behalf of Chinese desiring to enter that port. They assert that this action makes the immigration inspector, whose avowed policy is to cause the return to China of every Chinese he possibly can, the master of the situation and throws all Chinese applicants at his feet.

Your note of the 8th instant contains the reasons of the Treasury Department for its actions. But it does not seem to me to be just that these Chinese subjects, who are ignorant of the law, of the language, and the customs of this country, should be deprived of the benefit of counsel and placed entirely at the mercy of inquisitors, who, I regret to say, are generally unfriendly if not positively hostile to them.

I beg to say that I was aware of the law which is quoted in your note of the 5th instant, when I suggested the interposition of the President of the United States, but I am advised that it can hardly be interpreted as a prohibition against the exercise by that supreme official of the nation of his influence with one of his own Secretaries, if he was convinced, upon examination of the facts, that a solemn treaty guaranty was being violated and a great wrong being done to subjects of a friendly Government. I am further advised that it was not the intent of Congress, by the act cited, to take from the President the duty, which I have understood was imposed on him by your great and wise Constitution, to "take care that the laws be faithfully executed," and by the same instrument the treaties with foreign nations are declared to be "the supreme law of the land." I feel persuaded that if you will lay the questions presented in the present note and that of the 30th ultimo before the President he will be inspired by his high sense of justice to induce the honorable Secretary of the Treasury to revise the decisions which have been made by the official of his Department, or that he will at least submit the questions to the Attorney-General for a construction of the treaty and the laws depending thereon.

Accept, etc.,

WU TING-FANG.

Mr. Hay to Mr. Wu.

No. 168.]

DEPARTMENT OF STATE,
Washington, January 14, 1901.

SIR: Referring to your note, No. 199, of November 30 last, calling attention to the case of Yip Wah, a Chinese subject, claiming to be a student, whose right to remain in the United States is denied by the collector of customs at San Francisco, and referring also to that part of the Department's note in reply, No. 163, of the 5th ultimo, in which you were informed that the substance of your note had been communicated to the Secretary of the Treasury for his consideration, I have the honor to inform you that the Department is in receipt of a letter from the Secretary of the Treasury dated the 10th ultimo, in which, after expressing his regret, in which regret this Department shares, that the action of the Treasury Department in the case does not meet with your views, he says that that Department does not feel that it could with propriety or in accordance with law modify or reverse the decisions complained of.

Accept, etc.,

JOHN HAY.

Mr. Hay to Mr. Wu.

No. 169.]

DEPARTMENT OF STATE,
Washington, March 2, 1901.

SIR: Referring to your note, No. 200, of December 26 last, complaining of the manner in which the Chinese-exclusion laws are enforced at San Francisco, I have the honor to inform you that the Department is in receipt of a letter from the Secretary of the Treasury, dated the 12th ultimo, inclosing for the Department's information a copy of a report received from the collector of customs at San Fran-

cisco on the subject, together with a copy of a report from the Chinese inspector in charge at that place.

The collector says:

I do not understand that there is now any basis for the contention that unreasonable delay is occasioned in the hearing of these cases. Heretofore, where the evidence was presented through attorneys, in many instances the continuances have been granted at the request of such attorneys. Now, however, the Government proceeds upon its own initiative, and through the Chinese bureau, to inquire into the status of each particular case as it presents itself. All reasonable efforts are made to expedite these hearings, and I believe that you will find that at the present time (February 1, 1901), and in the future, there has been and will be no unreasonable postponement in deciding any of these cases.

As to the complaint of discourtesy, etc., the Chinese inspector in charge asks that you be requested to prefer the charge in form so specific that a thorough investigation will be required, and that his office may be relieved of any officer found guilty upon such charges, a request which I now have the honor to make.

Accept, etc.,

JOHN HAY.

Mr. Wu to Mr. Hay.

No. 203.]

CHINESE LEGATION,
Washington, April 11, 1901.

SIR: In your note of the 2d ultimo, in which you did me the honor to reply to my notes respecting the conduct of the customs inspectors and other officials of your Government at San Francisco in the enforcement of the Chinese immigration treaty and laws, you ask for more specific information on the subject, in order that their conduct may be investigated.

The charge in my note of December 26 last was that the inspectors were generally unfriendly, if not positively hostile, to all Chinese subjects applying for admission to the United States. In my note of November 30 last I alleged that the subordinate Treasury officials distort the language and defeat the plain intent of the treaty. I respectfully submit that the facts communicated in the notes cited, as well as others of previous dates, fully sustain the charges made, and afford sufficient data to enable the Treasury Department to correct the conduct of the officials mentioned. However, in order to comply with the request contained in your note of the 2d ultimo, I asked of the imperial consul-general in San Francisco further details, and I copy herewith from his report:

Tang Shi Tak, who arrived here on the steamer *America Maru* December 22, 1900, ticket No. 34, applied for landing at this port as a teacher, presenting a section 6 certificate issued by the Government at Hongkong. He was denied landing. It appears that he stated that he came here for the purpose of engaging in his profession as a teacher; that a certain firm in this city, giving its name, had secured for him a number of pupils. The Chinese inspector interviewed the firm referred to and they stated that they had secured for this applicant a number of pupils, giving their names and the names of their parents. The inspector interviewed the various persons named and found the statement to be true, excepting that the name of one person could not be found at the address given, and the inspector so reported. He did not, however, report that as regards the other names mentioned the statements were correct. For that reason the case was denied.

Yee Sang, a returning Salinas merchant, arriving here on the steamer *Doric*, February 1, ticket No. 81, applied for admission at this port after an absence of about

one year. He was denied landing. It appeared from his statement that he had been engaged in mercantile business for a number of years and that his business had been closed out; that he thereupon took an office and conducted the business of the defunct firm, collecting their debts and settling up their liabilities for a period of about a year. He then reengaged in business and continued in the second business for about nine months prior to his leaving for China. Proof was introduced by white witnesses that the man had been a merchant for a great many years prior to his departure for China, and the testimony of the white witnesses complied in all respects with the requirements of the Department.

In the case of Cheong In, No. 5, steamer *Nippon Maru*, November 12, 1900, the applicants presented two section 6 certificates, which certificates were issued by the Government in Hongkong, in due form of law and properly viséed. They presented these certificates at this port and demanded to be landed by reason thereof. The cases were investigated by the customs officials and no statements contained in the certificates were in any way controverted. It appears that the inspector reported that neither of these parties had any money about their person, and for that reason they were denied landing at this port. It did, however, appear from the investigation of the case and the report of the customs officials that certain responsible firms in this city were indebted to the firms of which these applicants were members in China, and that upon the landing of these applicants they would collect this money and would use it, among other purposes, for engaging in business in this city. The amount was considerable, and the stores, upon being interrogated by the Chinese inspectors, corroborated the statements in every particular. The law does not require that a Chinese person seeking admission at this port should be supplied with any particular amount of money, and while it might be argued that a person arriving here without means of any kind could not well be called a merchant, that does not appear in this case, as these applicants had a credit here, or, in other words, responsible firms in this city were indebted to them in various amounts of money.

In the case of Woo Chung, No. 10, steamer *Coptic*, December 14, 1900, this applicant also presented a section 6 certificate duly issued by the Government at Hongkong and claimed to be a merchant and a member of the exempt class. No fact in his certificate was controverted by the Government officials. In his statement he claimed that what money he needed in this country for the purpose of going into business would be furnished him by a certain firm in this city. That firm was interrogated and corroborated the statement of the applicant, and at the request of the then acting collector of this port the amount of money which the applicant claimed he needed was by the firm placed in the form of a certificate of deposit and exhibited to the collector, who expressed himself as fully satisfied with the case and that the applicant was what he claimed to be. This was a day or two before the expiration of the term of office of the then acting collector, and when the matter was brought up again before the present collector upon a recommendation of Mr. Dunn in this case it was denied, following the recommendations of Mr. Dunn in all cases, good, bad, and indifferent.

Cases similar to these could be repeated as long as one had patience to listen to them; but these seem to me fair examples of returning merchants and section 6 cases merchants who have been unlawfully denied admission at this port.

I trust that the foregoing additional facts may be brought to the attention of the honorable Secretary of the Treasury, in the hope that he will issue such instructions as will bring about a more rational and exact compliance with the letter and spirit of the treaty stipulations entered into between the two Governments.

Accept, etc.,

WU TING-FANG.

Mr. Hay to Mr. Wu.

No. 172.]

DEPARTMENT OF STATE,
Washington, April 15, 1901.

SIR: I have the honor to acknowledge the receipt of your note No. 203, of the 11th instant, in further relation to your complaint concerning the enforcement of the Chinese exclusion laws at San Francisco and giving details of cases of discourtesy, etc., on the part of the office of the Chinese inspector at that place.

In reply I have the honor to inform you that a copy of your note has been sent to the Secretary of the Treasury for his information.

Accept, etc.,

JOHN HAY.

Mr. Hay to Mr. Wu.

No. 173.]

DEPARTMENT OF STATE,
Washington, April 23, 1901.

SIR: Referring to your note No. 203, of the 11th instant, in which you quote from a communication of the Chinese consul-general at San Francisco reports of certain cases in which it is charged that the United States officials at that place, upon whom devolves the duty of enforcing the Chinese exclusion laws, have been guilty of improperly refusing admission to Chinese immigrants, I have the honor to inform you that the Department is in receipt of a letter from the Secretary of the Treasury, dated the 17th instant, in which he says:

The Department finds, upon reference to its files, that each and all of the cases cited by the Imperial consul-general to sustain the charges referred to were appealed to this Department, and, after a careful review of the evidence transmitted therewith, the action of the said officers was sustained, except in one instance, that of Tang Shai Tak, whose claim to be a teacher, and therefore within the exceptions provided for by the convention of December 8, 1894, was duly allowed, and he was therefore permitted to land.

The Department is of course not aware of what information the Imperial consul-general may have in his possession bearing upon the charge of impropriety on the part of the officials at San Francisco, but inasmuch as his letter, extracts from which are contained in the note of the Chinese minister, shows simply that in his judgment they had acted in disregard of the preponderance of evidence, and charges nothing against them other than that, their action in that respect does not appear to require further investigation, since it was ratified as above stated. Mistake or prejudice on the part of the said officials, if such is shown, may always be corrected by appeal, when each case will be reviewed and decided upon its merits.

Accept, etc.,

JOHN HAY.

EXCLUSION LAWS—CASE OF CHINESE STUDENT TONG TSENG.

Mr. Wu to Mr. Hay.

No. 214.]

CHINESE LEGATION,
Washington, November 28, 1901.

SIR: I am informed by the Chinese consul at Honolulu that the collector of customs at that port has refused permission to a Chinese student to land for the purpose of pursuing an education. The person so refused is reported to me to be a boy aged 15 years, Tong Tseng, who arrived at Honolulu by the steamer *Gaelic* on October 21, bearing with him a proper certificate, issued to him by the British Government of Hongkong and viséed by the United States consul-general at that port. His application for permission to land was rejected by the collector of Honolulu, as I am informed, not because his certificate was not properly made out or that he was not a student, but because when questioned the boy answered that his purpose in coming to Honolulu was to pursue his studies at the Chinese-American school. His friends and the American principal of the school interested themselves on his

behalf and offered to give a guaranty or bond for the good faith of the boy, but their offer was refused by the collector, who stated that his instructions from the Treasury Department were that only those Chinese who intend to pursue some of the higher branches of study or for some particular profession could be admitted.

I am advised that an appeal has been taken to the Secretary of the Treasury, and that the boy is detained at the quarantine station awaiting the Secretary's decision. In view of this action it becomes my duty to ask your kind intervention with your honorable colleague, the Secretary of the Treasury, to the end that the treaty between the two Governments may not be violated in this case.

In examining the opinion of the Solicitor of the Treasury upon which the ruling of the collector is based I find that he defines a student to be "a person who (1) intends to pursue some of the higher branches of study, or one who (2) seeks to be fitted for some particular profession or occupation for which facilities of study are not afforded in his own country; one (3) for whose support and maintenance in this country, as a student, provision has been made, and who (4), upon completion of his studies, expects to return to China." (Regulations relating to exclusion of Chinese, 1900, p. 35.)

May I venture the assertion that this definition with its various conditions reads very strangely in contrast with the simple phrase of the treaty? Suppose such a clause as that just quoted had been proposed for insertion in the treaty, can you, Mr. Secretary, for a moment believe that the Chinese negotiator would have accepted? I think you will agree with me that the officials of one of the parties to a treaty can not attach conditions to its stipulations which that party would not have proposed in the negotiations and which the other party would not have entertained.

If the construction given by the Treasury officials is to be maintained by your Government, you must admit that it is a virtual nullification of the treaty. Under this ruling a Chinese student can only be admitted to the United States to pursue a course of study for a profession or occupation "for which facilities of study are not afforded in his own country." Any one at all familiar with China must know that there were in existence in that Empire when the treaty was made institutions of learning where instruction is given in English and Chinese in almost every branch of education—in medicine, in divinity, in international law and the science of government, in civil and mining engineering, in the science of navigation, in the military art, and in the other various branches of sciences and belles-lettres.

It is not a sufficient reason to give to the application of a Chinese student who comes to the United States to make himself more perfect in English to say that there are facilities in the place of his home, in China, or Hongkong, where he can learn this language. There are throughout the United States, in every city and town, teachers of the French and German languages, but I understand that it is a common practice among the well-to-do American families to send their children to France or Germany, at great expense, to acquire a more perfect knowledge of the tongue there spoken.

It would be just as proper and well founded a reason upon which to base the rejection of a Chinese student to enter the United States for the study of medicine or theology to say that there are institutions in China for such study.

The Solicitor of the Treasury must know that many centuries before the nations of northern Europe began to give attention to education the Chinese Empire was the seat of learning, with a literature and art which is even to-day the admiration of the western countries. And it is because of the thirst of the Chinese youth for knowledge that, with the modern facilities for travel and exchange of ideas, they seek admittance to the schools of this enlightened nation. It is the same spirit which has taken so many American youths to Paris, Berlin, and other seats of learning. No such line is drawn upon the young men of this country when they land in France or Germany.

Anyone at all conversant with the social conditions of China must know that there is a broad and well-marked distinction between the student and the laboring classes. The authorities who give the certificate and the consul who visés it can readily discriminate between them. But in the present case there is no question as to the genuineness of the certificate or the status of the applicant. The boy is to be rejected and sent back on his long journey because he could find the same facilities for education at his home that he seeks in Honolulu. Certainly, Mr. Secretary, you and your enlightened colleague, the Secretary of the Treasury, must admit that the reason for this decision is unjustifiable and in violation of the treaty. I hope, therefore, that, actuated by the spirit of fairness which has so distinguished your official conduct, you will lay the present case before your colleague and urge him to give to the appeal his personal attention, in the full assurance on my part that he will overrule the unreasonable decision of the collector at Honolulu.

Accept, etc.,

WU TING-FANG.

Mr. Hay to Mr. Wu.

No. 187.]

DEPARTMENT OF STATE,
Washington, December 3, 1901.

SIR: I have the honor to acknowledge the receipt of your note No. 214, of the 28th ultimo, requesting that permission be granted to the Chinese student, Tong Tseng, whose case is described in your note, to land at Honolulu, to which place he goes for the purpose of pursuing an educational course.

In reply I have the honor to inform you that I have sent a copy of your note to the Secretary of the Treasury for his information, and have commended the case to his consideration.

Accept, etc.,

JOHN HAY.

Mr. Hay to Mr. Wu.

No. 192.]

DEPARTMENT OF STATE,
Washington, December 14, 1901.

SIR: Referring to your note No. 214, of the 28th ultimo, requesting that permission be granted to the Chinese student, Tong Tseng, to land at Honolulu, whither he has gone for the purpose of pursuing an educational course, I have the honor to inform you that the Depart-

ment is in receipt of a letter from the Secretary of the Treasury, dated the 10th instant, in which he says that papers on appeal have been received from the collector of customs at Honolulu in the case of a Chinese boy named Tong Chong, who arrived at that place by the steamship *Gaelic* on October 22 last; and that the Treasury Department, in a decision given on the 10th instant, has directed that the said Tong Chong be permitted to land.

The Secretary of the Treasury adds that it is assumed that the boy Tong Chong is identical with the one named in your note as Tong Tseng, who, you state, arrived by the *Gaelic* on October 21, inasmuch as all the other circumstances of Tong Chong's case agree practically with those stated in your note.

Accept, etc.,

JOHN HAY.

Mr. Wu to Mr. Hay.

No. 220.]

CHINESE LEGATION,
Washington, December 16, 1901.

SIR: I have the honor to acknowledge the receipt of your note No. 192, of the 14th instant, informing me that the Treasury Department has directed that Tong Tseng, or Tong Chong, a Chinese student, who arrived at Honolulu by the steamship *Gaelic* in last October, be permitted to land, in a decision given on the 10th instant on his appeal. I beg to express my appreciation of the justice of the course pursued by the Treasury Department in this case, and to request that you will kindly convey my thanks to the Secretary of the Treasury.

As to the slight confusion caused by the different spelling of the boy's name, referred to by the Secretary of the Treasury, this is due partly to the dialectic variation in the Chinese pronunciation of the name and partly to the imperfect representation of the Chinese sounds by English letters. The Secretary of the Treasury is right in assuming that it is one and the same boy, whether his name is given as Tong Tseng or Tong Chong.

Accept, etc.,

WU TING-FANG.

Mr. Hay to Mr. Wu.

No. 196.]

DEPARTMENT OF STATE,
Washington, December 30, 1901.

SIR: I have the honor to acknowledge the receipt of your note No. 220, of the 16th instant, expressing your appreciation of the justness of the course pursued by the Treasury Department in the case of the Chinese student Tong Tseng.

In reply, I have the honor to inform you that a copy of your note has been sent to the Secretary of the Treasury for his information.

Accept, etc.,

JOHN HAY.

EXCLUSION LAWS—COMPLAINTS OF ALLEGED HARSH AND UNFAIR ENFORCEMENT.

Mr. Wu to Mr. Hay.

No. 218.]

CHINESE LEGATION,
Washington, December 9, 1901.

SIR: The President having signified to me in the private audience with which he honored me the other day his desire that I should furnish him with certain specific cases of injustice and hardship suffered by the subjects of China by reason of the rigid enforcement of the Chinese exclusion laws, I have the honor to inclose a memorandum which I have prepared for this purpose and to request that you will kindly lay it before the President for his consideration and for such action as he may deem proper.

Accept, etc.,

WU TING-FANG.

[Inclosure.]

MEMORANDUM.

Attorney-General Griggs, in an opinion addressed to the Secretary of the Treasury, dated the 15th of July, 1898, says:

"It may be stated, comprehensively, that the result of the whole body of these laws and decisions thereon is to determine that the true theory is not that all Chinese persons may enter this country who are not forbidden, but that only those are entitled to enter who are expressly allowed."

In pursuance of this opinion, the Treasury Department issued instructions to collectors of customs in the following terms:

"Collectors of customs are directed to admit only Chinese whose occupation or station clearly indicates that they are members of the exempt class of Chinese named in Article III of the treaty with China, viz, 'Chinese subjects, being officials, teachers, students, merchants, or travelers for curiosity or pleasure,' and to deny admission to Chinese persons described as salesmen, clerks, buyers, bookkeepers, accountants, managers, storekeepers, apprentices, agents, cashiers, physicians, proprietors of restaurants, etc."

To deny admission to other classes of Chinese than laborers is clearly contrary to the letter and spirit of the laws and treaties respecting the immigration of Chinese to the United States and to the uninterrupted practice of the Executive Departments of the United States for a period of sixteen years from 1882 to 1898.

Since the issuance of the instructions by the Treasury Department, in pursuance of Attorney-General Griggs's opinion above referred to, the rights of even the so-called exempt classes of Chinese have been constantly ignored and denied by officers of the United States Government charged with the execution of the laws, as may be seen in the following cases:

CASE I.

Mr. Lew Yuk Lin, acting consul-general of China at Singapore, in the Straits Settlements, and Commander Chen En Tao, naval attaché to the Chinese legation at London, were proceeding via Vancouver, Montreal, and New York to London, England, on the business of the Imperial Government. They arrived at Malone, N. Y., on the evening of December 26, 1899, and were met on the train by Mr. J. Gibbs and Mr. F. G. Shufelt, deputy collectors at Malone. These officers informed them that they had received telegraphic instructions from the collector at Plattsburg, N. Y., to detain them at Malone until instructions could be obtained from the Treasury Department at Washington. The two Chinese officials endeavored to satisfy the deputy collectors of their status as officials of the Chinese Government by exhibiting to them their credentials and, in addition, certificates issued to them by the British authorities at Hongkong and Shanghai, and by the United States consul-general at Hongkong, showing conclusively their official character and their right to exemption from the operation of the exclusion laws. To their great surprise and in spite of their protest,

the deputy collectors insisted upon detaining them, and they were forced to get off the train and pass the night in a hotel. For over twenty-four hours they were kept under surveillance and were not allowed to continue their journey until remonstrance had been made by this legation and telegraphic instructions received from Washington. Even then no satisfaction was tendered them for the inconvenience and extra expense they had been thus put to by reason of their detention and for the great humiliation and indignity to which they had been subjected.

CASE II.

Fei Chi Ho and Kung Hsiang Hsi, two Chinese students, arrived at San Francisco September 12, 1901, by the steamer *Doric*, in the charge of Miss Luella Miner, a teacher in the North China College of the American Board of Foreign Missions at Tungchow, near Peking. They had passports certifying to their status as students, issued by Earl Li Hung Chang, viceroy of the province of Chihli, and viséd by Mr. Ragsdale, United States consul at Tientsin. According to Miss Miner's statement, Fei Chi Ho studied first in the primary schools and then for eight years in the North China College and Academy, where he graduated in May, 1898. From that time until the Boxer outbreak in the summer of 1900, he taught in the Boys' Boarding Schools at Taiku and Fenchow, in the province of Shansi. Kung Hsiang Hsi is a native of Taiku, in Shansi, and studied many years in the mission school there. In 1896 he entered the North China College and Academy, and had completed the junior year when he returned to his home in Shansi in June, 1900, expecting to return and finish his college course the following year. Both these young men were in Shansi at the time of the general outbreak against foreigners in that province, and were conspicuous for their devotion and faithfulness to their American friends, whom they refused to desert, though for weeks they were repeatedly surrounded by Boxer mobs. When the last of the missionary bands was killed on August 14, 1900, Fei Chi Ho escaped, and, after unspeakable hardships, made his way to Tientsin, bringing the first authentic tidings of the fate that had befallen the Shansi missionaries. His father, mother, and other relatives were killed by the Boxers. The other young man, Kung Hsiang Hsi, was intrusted by the two American ladies, Miss Bird and Miss Partridge, a few days before their death, with letters to their friends. These he concealed for twelve months, at the risk of his life, before it was possible for him to carry them over the borders of the province of Shansi. He had with him also a few articles from the personal effects of Miss Bird for her mother.

To these young men the collector of customs at San Francisco refused admission on the ground that their passports were not in proper form. The entreaties of Miss Miner and the intercession of the Chinese consul-general at San Francisco in their behalf were of no avail. They were ordered to be deported. The case was appealed to the Treasury Department, which confirmed the decision of the collector. As they were in imminent danger of being sent back to China, it was arranged, at the last moment, through the intercession of an influential friend, that the young men should be permitted to land on the bond of the Chinese consul-general at San Francisco, pending their sending to China for the proper certificates.

CASE III.

Tong Tseng,^a a boy 15 years old, arrived at Honolulu, by the steamer *Gaelic*, on October 21, 1901, bearing a proper certificate, issued by the British authorities at Hongkong and viséd by the United States consul-general at that port. His application for admission was rejected by the collector of customs at Honolulu, not because of any defect in his certificate or any doubt as to his character as student, but because when questioned he answered that the purpose of his coming to Honolulu was to pursue his studies at the Chinese-American school. His friends and the American principal of the school exerted themselves in his behalf, and offered to give a guaranty or bond for the good faith of the boy, but their offer was refused by the collector, who stated that his instructions from the Treasury Department were that only those Chinese who intend to pursue some of the higher branches of study or prepare themselves for some particular profession could be admitted.

CASE IV.

Yee Ah Lum and some thirty Chinese merchants of Canton came to the United States in August, 1899, for the purpose of buying American goods. Their applications

^aComplete report of this case printed, p. 68.

for admission into the country were rejected by the collector of customs at San Francisco on the ground that their certificates were defective. The alleged defect was simply the omission of the particulars respecting the nature and character of their business in the English portion of the certificates, though such particulars were plainly stated in the Chinese portion. Thereupon Yee Ah Lum and the other Chinese merchants appealed to the Secretary of the Treasury, but the Secretary sustained the decision of the collector. They were accordingly deported. It was afterwards learned that they went to Europe to make their purchases.

CASE V.

Tom Kem Poy and Wong Sun Chune were two Chinese merchants who had been in business a number of years at Mazatlan, Mexico, as members of the firm of Simon Ley & Co. Armed with certificates from the Mexican Government, properly viséed by the American consul at the port of departure, and also with a certificate from the registrar of commerce of Mazatlan showing that they were merchants of good standing, they came to Los Angeles, Cal., in February, 1899. On their arrival the Chinese inspector arrested them, and threw them in jail, because, as he testified at the preliminary examination of these men, he had felt their hands, and therefore knew that they were not merchants. They were in jail from February 6 to June 1, when their attorney wrote to this legation, and in all probability had to remain there to the day of their deportation, which was not ordered till August. Thus they were kept in jail for seven months for no crime or fault whatever.

CASE VI.

Lei Yok,^a a member of the Chinese firm of Tuck Chung Yuen, of Habana, Cuba, left that port on the 11th of November, 1898, by the steamer *Whitney* for New Orleans with the intention of proceeding to San Francisco, where he had an interest in the firm of Tai Seng Tong, doing business at 929 Dupont street, San Francisco. Upon his arrival at New Orleans the customs authorities refused to let him continue his journey. His passport was in due form, issued by the Chinese consul-general at Habana, and viséed by the British consul acting in behalf of the United States Government as well as by the Spanish governor of the province at that time. His detention was due to a new regulation of the Treasury Department, issued in pursuance of an opinion of the Acting Attorney-General, withdrawing the official recognition up to that time accorded to Chinese consular certificates.

CASE VII.

Ho Mun, a native of the Portuguese city of Macao, born of Chinese parentage and a merchant of good standing, arrived at San Francisco by the steamer *Coptic* on September 17, 1899, and applied for admission to the United States by presenting a certificate issued by the proper Portuguese authorities at Macao and viséed by the United States consul-general at Hongkong. His application was rejected on the ground that his certificate failed to state the length of time for which he was engaged as a merchant in Macao before his departure for the United States. Accordingly, he was removed to a place of detention on the steamship company's dock in the custody of the customs authorities to await orders for his deportation. Almost immediately afterwards he fell sick. Every effort was made by his friends and relatives to give him the necessary medical care and attention, but the customs authorities and particularly Inspector Dunn, who was in charge of the Chinese bureau, refused all entreaties that a regular physician should be allowed to examine and attend the sick man. For two months Ho Mun remained in the place of detention, and his condition grew worse and worse from day to day. As a last resort, an application was made to the district court of the United States in and for the northern district of California for a writ of habeas corpus, which was granted on the 16th of November, 1899, and Ho Mun was taken from the custody of the custom authorities, and removed to the county jail, where he died on the 21st of November.

The foregoing are typical cases taken from a large number. They serve to show the nature of the hardships entailed upon even the members of the exempt classes of Chinese by the harsh enforcement of the exclusion laws. These certainly do not seek the American shore for the purpose of wresting the daily bread from the mouths of American wage earners, but for the purpose of promoting a friendly under-

^a See Foreign Relations, 1899, p. 200.

standing and improving the commercial relations between the two countries. It is true that instances of fraudulent attempts to enter the country are not wanting. But innocent Chinese who have every right to come to the United States should not be treated as suspicious characters and sent back to China as lawbreakers on the least pretext.

Mr. Hay to Mr. Wu.

No. 191.]

DEPARTMENT OF STATE,
Washington, December 12, 1901.

SIR: I have the honor to acknowledge the receipt of your note No. 218, of the 9th instant, and to inform you in reply that I have laid before the President for his consideration and for such action as he may deem proper in the matter, a copy of the memorandum inclosed with your note, giving specific cases of alleged injustice and hardship suffered by subjects of China by reason of the rigid enforcement of the Chinese-exclusion laws.

Accept, etc.,

JOHN HAY.

**EXCLUSION LAWS—REPRESENTATIONS AGAINST REENACTMENT
AS AFFECTING THE UNITED STATES AND TERRITORIES, AND
EXTENSION TO THE PHILIPPINE ISLANDS.**

Mr. Wu to Mr. Hay.

No. 219.]

CHINESE LEGATION,
Washington, December 10, 1901.

SIR: In view of the fact that the law of the Congress of the United States which went into force May 6, 1882, based upon the treaty of 1880 between China and the United States, regulating Chinese immigration, and which was reenacted May 5, 1892, for ten years, is about to expire by limitation, and as the treaty now in force relating to Chinese immigration will terminate in 1904, I have been instructed by the Imperial Chinese Government to bring the subject of this law and the treaties to the attention of the United States, and to urge an adjustment of the questions involved more in harmony with the friendly relations of the two Governments and with the interests of their respective peoples.

The treaty of 1880 (Article IV) provides that if the laws of the Congress of the United States to carry out the treaty "are found to work hardship upon the subjects of China, the Chinese minister at Washington may bring the matter to the notice of the Secretary of State of the United States, who will consider the subject with him * * * to the end that mutual and unqualified benefit may result." The matter which now presses itself upon our consideration is whether the laws now in force "are found to work hardship upon the subjects of China," and whether they ought to be renewed or modified by the Congress. As the subject is one of the utmost importance to my Government and my people, I must entreat your patience while I attempt to review it at some length and in detail. In doing so it will be necessary to repeat some of the facts and arguments which have already been submitted to you, in order that a full and connected presentation of the subject may be made for the consideration of the

legislative branch of your Government, and I respectfully request that a copy of this note be transmitted to the honorable Congress.

In seeking to discharge this duty I shall ask your attention, first, to the diplomatic history of the treaties upon which the laws of the Congress are based; second, to an inquiry somewhat in detail whether these laws have worked hardships to the subjects of China; third, whether they have proved to be for the best interests of the United States in an economic aspect and in its commercial relations with China; and, fourth, whether, in view of their early expiration, they should be reenacted; and, if so, to what extent of territory they should be applied and what modifications are called for by experience in their enforcement.

I.—DIPLOMATIC HISTORY OF THE CHINESE IMMIGRATION TREATIES.

In 1868 the governments of China and the United States celebrated a treaty which guaranteed to the Chinese subjects visiting or residing in the United States the same privileges, immunities, and exemptions as were enjoyed by the citizens of the most favored nation. It was a treaty negotiated by the great American statesman, Secretary Seward. It was announced by the President of the United States to Congress to be a "liberal and auspicious treaty" (*Dip. Cor. U. S.*, 1868, p. 16), and it was welcomed by the people of the United States as a great advance in their international relations. It also has the double significance of having been negotiated by a Chinese special embassy, of which a distinguished American diplomat, Hon. Anson Burlingame, was the head, and who was familiar with the wishes and interests of the American people.

Some delay was occasioned in its ratification by the Chinese Government, and upon the advent of a new President, General Grant, his Secretary of State, Mr. Fish, manifested a marked zeal and anxiety to secure its ratification, with a full knowledge on the part of the Government that it was to secure the free entrance of Chinese laborers into the United States, whose coming by "thousands" he welcomed. In urging the minister of the United States to hasten final and favorable action, he wrote: "Already they (the Chinese immigrants) have crossed the great mountains and are beginning to be found in the interior of the continent. By their assiduity, patience, and fidelity, and by their intelligence, they earn the good will and confidence of those that employ them. We have good reason to think that this thing will continue and increase." (*Wharton's International Digest*, I, p. 457.)

Under such circumstances the Imperial Chinese Government was pleased to meet the wishes of the Government of the United States, and it put the treaty into full force and operation with the expectation that it would be the means of unrestricted commercial and industrial intercourse and a bond of union and friendship between the two great peoples for many generations to come. But within a few years the labor unions on the Pacific coast began to object to the coming of Chinese laborers to that region to compete with them. Soon afterwards the Chinese Government was surprised to be informed that the President of the United States had delegated a commission of its citizens to go to Peking and solicit an abrogation of the treaty clause, to which reference has been made. Although the Imperial Government was resolutely opposed to its abrogation, it received the American

commission with all the respect due to their Government and to their high station, and listened patiently to their representations. The commissioners admitted that the treaty of 1868 gave the Chinese the absolute unrestricted right of immigration to the United States in any numbers, but they represented that the conditions had so changed since the treaty was negotiated, or that its operation had been so unexpected in its results, that the interests of the American people demanded that the treaty clause in question should be annulled.

The Chinese Government was still unwilling to abrogate a treaty which had been urged with so much zeal by the United States and which had so lately been entered upon on both sides with such high hopes. Thereupon the commissioners proposed that in view of the disturbances created in the United States by the operation of the treaty, permission be given the Government of the United States, in its discretion, "to limit, suspend, or prohibit" the immigration of Chinese laborers. To this proposition the Chinese Government objected as a virtual abrogation of the treaty, but it did indicate a disposition to intrust to the Government of the United States the power "to regulate, limit, or suspend" such immigration, if the power to "prohibit" was stricken out, and if assurance could be given by the commissioners that the discretion to be granted to the United States would be judiciously and reasonably exercised.

The American commissioners accepted the proposal of the Chinese Government as fair and adapted to the situation of affairs, and they proceeded to give the assurance requested by the Chinese Government in the following terms:

It would be as difficult to say what would be the special character of any act of Congress as it would be to say what would be the words of an edict of the Emperor of China to execute a treaty power. That the great nations discussing such a subject must always assume that they will both act in good faith and with due consideration for the interests and friendship of each other. That the United States Government might never deem it necessary to exercise this power. It would depend upon circumstances. If Chinese immigration concentrated in cities where it threatened public order, or if it confined itself to localities where it was an injury to the interests of the American people, the Government of the United States would undoubtedly take steps to prevent such accumulations of Chinese. If, on the contrary, there was no large immigration, or if there were sections of the country where such immigration was clearly beneficial, then the legislation of the United States under this power would be adapted to such circumstances. For example, there might be a demand for Chinese labor in the South and a surplus of such labor in California, and Congress might legislate in accordance with these facts. In general, the legislation would be in view of and depend upon the circumstances of the situation at the moment such legislation became necessary. * * * They further remarked that they were satisfied that if any special legislation worked unanticipated hardships the Government of the United States would listen in the most just and friendly spirit to the representations of the Chinese Government through their minister in Washington. (U. S. Foreign Relations, 1881, p. 185.)

These assurances were accepted by the Chinese Government as satisfactory and, at its request, they were reduced to writing. That Government was not, however, satisfied that the word "prohibit" should be merely stricken out of the treaty draft prepared by the American commissioners; but to the words "regulate, limit, or suspend" it required that there should be added the words "but not absolutely prohibit it" (Chinese immigration). The further words were also added, "the limitation or suspension shall be reasonable." By such friendly explanations and language was it sought to make clear what was the intent and scope of the new and amended treaty.

A further incident of this negotiation is proper to be noted. In the American project of the treaty it was provided that "the words 'Chinese laborers' are herein used to signify all immigrations other than that for teaching, trade, travel, study, and curiosity." Such a clause would have excluded from the United States a large class of Chinese not enumerated, and it was wisely stricken out and not included in the treaty as accepted.

In transmitting the immigration treaty of 1880, as finally adopted, to the Secretary of State, the commissioners say:

We are satisfied that in yielding to the request of the United States they (the Chinese negotiators) have been actuated by a sincere friendship and an honorable confidence that the large powers as recognized by them as belonging to the United States, and bearing directly upon their own people, will be exercised by our Government with a wise discretion, in a spirit of reciprocal and sincere friendship, and with entire justice. (U. S. Foreign Relations, 1881, pp. 171-198.)

It would seem reasonable to expect that in yielding so fully to the wishes of the United States in this second negotiation, the Chinese Government would not again be called upon for further concessions in the interest of and at the demand of the labor unions on the Pacific coast, but such was not the case.

Within a period of less than ten years an urgent application was made by the Secretary of State for a new treaty amendment so as to enable the Congress of the United States to still further restrict the privileges of the Chinese laborers who had come to the United States under the solemn pledge of treaty guaranties. And when the Chinese Government hesitated to consent to the withdrawal of rights granted by the United States to the subjects of all other Governments the Congress of the United States passed the Scott Act of 1888, in plain violation of the treaty. In order to save the Executive of the United States from embarrassment, the Chinese Government, contrary to its own sense of justice and of international comity, for a third time yielded to the wishes of the United States, and celebrated with it the amended treaty of 1894, which gave to Congress additional power of legislation respecting Chinese laborers.

How far Congress has complied with the letter and spirit of the treaties and of the assurances given by the American commissioners who went to Peking, may be seen by an examination of the various laws which have been passed ostensibly to carry out the stipulations of the treaties, and the rulings of the Departments in the enforcement of these laws. They have been made the subject of many communications of this legation to you, Mr. Secretary, and the archives of your Department will show how futile have been the representations of the Chinese Government.

I beg to inclose for reference a copy of the treaty^a of 1868 and also one of the treaty^a of 1880. (See inclosures, Nos. 1 and 2.)

II.—HAVE THE LAWS OF CONGRESS WORKED HARDSHIPS TO THE SUBJECTS OF CHINA?

I have shown that when the Chinese plenipotentiaries were induced to agree to the exclusion of Chinese laborers from the United States the American commissioners held out the hope that possibly it might not be exercised at all, or, at most, under certain limitations and as to

^a Not printed.

specified localities. But immediately after the treaty went into effect a law was passed making the exclusion of Chinese laborers complete as to the entire territory of the United States and without exception.

Let us now examine in some detail whether the assurance given by the American commissioners who negotiated the treaty of 1880 that the power to enact laws under the treaty would be "exercised with a wise discretion, in a spirit of reciprocal and sincere friendship, and with entire justice" has been realized.

It is an undeniable fact that the treaties of 1880 and 1894 had for their sole object the exclusion of Chinese laborers, but the laws and Treasury regulations have included in this category classes of skilled artisans and traders. Restrictions and definitions are thrown around the term "merchant," "student," and others not laborers, which, as I shall show, make it very difficult for these classes to enter the United States. The Treasury Department, in accordance with an opinion of the Attorney-General, excludes from the United States all persons who are not expressly described in Article III of the treaty of 1894. This action I claim to be in direct opposition to the treaties, to the laws of Congress, and to the whole history of the events which gave rise to them.

The preamble to the treaty of 1880 shows that it was entered into at the request of the United States, and the reason therefor is stated to be "because of the constantly increasing immigration of Chinese laborers." In the first article authority is given to the Government of the United States whenever, in its opinion, "the coming of Chinese laborers * * * affects or threatens to affect the interests of that country, to regulate, limit, or suspend such coming or residence;" but it provides that "the limitation * * * shall apply only to Chinese who may go to the United States as laborers, other classes being not included in the limitations." Then follows in the next article the enumeration, which substantially appears in the treaty of 1894, as to "officials, teachers, students, merchants, or travelers for curiosity or pleasure." The treaty of 1894, in its preamble, recites the object of the treaty of 1880 and gives as the reason for its amendment "the antagonism and much deprecated and serious disorders to which the presence of Chinese laborers has given rise." Thereupon it amends Article I of the treaty of 1880, under which the immigration of Chinese laborers could be suspended, but not absolutely prohibited, by authorizing their absolute prohibition for ten years, and it amends Article II as to Chinese laborers, under which they were "allowed to go and come of their own free will and accord," by restricting their return to the United States by the terms set forth in Article II of the new treaty. A provision not found in the treaty of 1880 is added as to registration of "Chinese laborers;" but in no other respects is the treaty of 1880 modified or affected by the treaty of 1894, except as already stated respecting the certificate to be given to Chinese subjects residing in foreign lands. It repeats in Article III the recital of "officials, teachers, students, merchants, or travelers for curiosity or pleasure," but expressly states that their right of coming to the United States is under the status "at present enjoyed"—that is, under the treaty of 1880. In the Chinese text of Article II of the treaty of 1880 and of Article III of 1894 the words "officials, teachers, students, merchants, or travelers for curiosity or pleasure" are followed by the words "et cetera," which clearly shows the intention of the negotiators and confirms my argument on this point.

Not only does the treaty and all the correspondence leading up to it show that the intention was to exclude Chinese laborers only, but the various laws of the Congress of the United States are in absolute confirmation of this intent. Section 6 of the acts of 1882 and 1884 refers to those who must produce the required certificate as "every Chinese person other than a laborer;" the penalty in section 2 of these acts imposed upon vessels only applied to the bringing of "Chinese laborers;" under the act of May 5, 1892, registration is only made obligatory as to "Chinese laborers;" and the act of October 1, 1888, known as the Scott Act, the most drastic legislation ever passed by Congress, was expressly limited to "Chinese laborers." Under these acts it never was held by the United States authorities that admission of the exempt classes was confined to those only who are recited in Article II of the treaty of 1880, and the present exclusion can not justly be based upon the fact of the recital of Article III of the treaty of 1894, for the same recital appears in the treaty of 1880. The force and effect of the legislation of Congress is well stated by the Supreme Court of the United States in its opinion in the case of *Wan Shing v. United States* (140 U. S., 424-428) as follows:

The result of the legislation respecting the Chinese would seem to be this, that no laborers of that race shall hereafter be permitted to enter the United States, or even to return after having departed from the country, though they may have previously resided therein and have left with a view of returning; and that all other persons of that race, except those connected with the diplomatic service, must produce a certificate from the authorities of the Chinese Government, or of such other foreign Governments as they may at the time be subjects of, showing that they are not laborers, and have the permission of that Government to enter the United States, which certificate is to be viséed by a representative of the Government of the United States.

It thus appears by the declaration of this high tribunal that the only test to be applied to a Chinese seeking admission into the United States is whether or not he is a laborer. If the negative shall be established in the manner prescribed by the laws, to wit, by the production of the proper certificate, the person must be admitted.

The construction given to the law by the Supreme Court is that which was followed up to a recent period. The Secretary of the Treasury at that time, the Hon. John G. Carlisle, in the regulations of 1893, published for the enforcement of the laws of the United States respecting the Chinese, made the following declaration for the guidance of the officers of the United States:

No class of Chinese are prohibited from coming into the United States or remaining there, except such as may properly and within the meaning of said statutes be known as "laborers." (See series 7, No. 18, U. S. Internal Revenue, 1893, p. 9.)

It is needless for me to say to you that Mr. Carlisle is not only a statesman intimately acquainted with the spirit and policy of his Government, but that he is one of the first lawyers of his country. After the treaty of 1894 went into effect—that is, in 1896—new regulations were issued from the Department of the Treasury, signed by the Acting Secretary, the Hon. Charles S. Hamlin, to whose Bureau Chinese matters specially belonged, and in which the declaration above quoted appears with this additional statement:

The persons referred to in the acts of Congress to which these regulations apply, and whose immigration into the United States is prohibited, are limited to Chinese laborers. (See regulations, 1896, p. 9.)

Thus it will be seen that from the passage of the first exclusion act in 1882 until July 15, 1898, when the opinion of the Attorney-General above referred to was given, for a period of sixteen years the prohibition to enter the United States was distinctly confined to Chinese laborers only, other classes not being included in the prohibition. But under the opinion of the Attorney-General none but those expressly enumerated in Article III of the treaty of 1894 are allowed admission into the United States. It is most unreasonable to suppose that such was the intent of the negotiators. Did they contemplate the admission of students and the exclusion of scholars, when there are such in China of the most eminent attainments, professors and philosophers, worthy to rank with the distinguished savants of America or Europe? Did they propose to admit merchants, however small their business, and reject bankers, of whom there are in China many possessed of millions, and turn away brokers or commercial agents, of whom there are not a few in China managing the business of the largest commercial houses and banking companies of Europeans? Was it probable that they should provide for the admission and residence in the United States of tens of thousands of Chinese laborers and prohibit the entrance of physicians to care for them? Would they stipulate for the coming without limit of mere travelers, however lowly, for curiosity, and refuse the stay of noblemen or men of high professional standing? To state these questions is to refute them.

Not only a large class of Chinese of education, high rank, and business standing have thus been excluded by a simple ruling of the Treasury Department, but such obstructions and conditions are by the Immigration Bureau thrown around the admission of those who are recognized as entitled to enter the United States as in many cases amount to a virtual nullification of the treaty. That convention expressly stipulates that students, without qualification, are to be admitted. And yet the Treasury Department proceeds to neutralize this privilege by a ruling that defines a student to be "a person (1) who intends to pursue some of the higher branches of study, or who seeks to be fitted for some particular profession or occupation (2) for which facilities of study are not afforded in his own country; (3) for whose support and maintenance in this country, as a student, provision has been made, and (4) who, upon completion of his studies, expects to return to China." (Regulations, 1900, p. 35.) It would sound strange to read in a dictionary of the English language the only definition of student to be "one who pursues a supergraduate course and is provided in advance with a competency." And yet such is the interpretation of the word of the treaties which is followed by the Immigration Bureau. It will be seen that four conditions are attached to the admission of a Chinese student into the United States, not one of which is warranted by the treaty. The effect is that the doors of American universities and colleges are practically closed to the Chinese race.

Merchants are among the enumerated classes in the treaties entitled to admission and residence in the United States, and yet so many restrictions are applied to their entrance and residence that in many instances they amount to a violation of the treaty. Merchants and others of the exempt class are required, under the law, upon reaching the United States to produce certificates setting forth a series of facts as to their past lives, occupation, and standing in China. But this cer-

tificate, duly viséed, is not accepted as sufficient evidence of their right to enter. They are subjected to a most searching examination by the customs officials. At San Francisco, where most of them arrive, they are lodged in the loft of a wooden house awaiting this examination. It is practically an imprisonment, lasting sometimes for weeks and even months. They are not allowed to see their friends. Cases are reported where persons have become sick and no doctor was allowed to see them, and deaths have occurred.

In the examination or inquisition above noted the merchant, student, or other of the exempt class is compelled to answer a great variety of questions and to give an account of his past life, and if any of his answers are inconsistent with the statements in the certificate, or for any other cause they create suspicion as to their correctness, the applicant is refused admission and compelled to return to China. The manner of these examinations is reprehensible. Men and women are examined alone, neither their friends nor a lawyer in their behalf being allowed to be present, and the interpreter is generally a foreigner. There are so many dialects of the Chinese language that one interpreter can not understand them all. Hence misunderstandings often arise and injustice is inflicted, whereas if a competent interpreter, who understood the particular dialect spoken by the applicant, should be allowed to be present misunderstanding and consequent injustice would be avoided.

The certificates are required to be in the English language, but they also appear in duplicate in Chinese. The customs inspectors take advantage of every technicality to reject them, even when there is no evidence of fraud. It is made by law the duty of the United States consul at the port of departure in China "to examine into the truth of the statements set forth in said certificate," and to refuse to viséed the same if not found correct. Yet if a certificate duly viséed by the consul is presented with the omission of a single particular in English, though it may appear in the Chinese text, it is rejected.

To illustrate the extreme severity with which the officials carry out the law, I cite one or two recent cases. Last year several merchants came to San Francisco with a good supply of money and credit to make purchases. They were provided with the legal certificates viséed by the American consul, but it appeared that in their certificates some parts of their former career were not filled up in English, although properly filled up in Chinese. The objection was raised by the customs authorities that the certificates were defective. It was contended on their behalf that the law was complied with, as every detail was mentioned in the certificate, although some of it was only in Chinese, and it was offered to supply the omission in the English from the Chinese text, but the authorities would not allow it. The case was appealed to the Treasury Department, and the decision of the San Francisco authorities was confirmed. It was of no avail that these merchants had come 10,000 miles, that their certificates were quite sufficient as far as the Chinese text was concerned, and that the American consul who viséed the document was at fault in not seeing that all the parts were filled up in the English text. It was suggested that the merchants be released under bonds and that their certificates be sent back to China for correction. There was no suspicion of fraud, yet the suggestion was not heeded, and these merchants were compelled to return to China. It was afterwards stated that they went to Europe to purchase their goods.

One more case will be sufficient to illustrate the manner in which the law is applied. During the present year a boy of 16 years of age, sent by his father, a merchant of good standing in Shanghai, to this country for the obvious purpose of finishing his education, and armed with a proper certificate, applied to the collector of custom at Malone, N. Y., for admission into the United States. His application was rejected and he was obliged to return to China, notwithstanding the assurance given by the Chinese consul at New York of the bona fide student character and purpose of the boy. The ground upon which he was denied admission was not because there was any doubt as to the genuine student character of the boy, but simply because of the statement found in his certificate, which had been duly viséed by the United States consul-general at Shanghai, that the boy's intention of coming to the United States was "to study the English language."

The examination above stated is not the only inconvenience of that character to which merchants and others are subjected. They are kept in confinement pending inquiries set on foot by the customs inspectors. These inquiries are often made in a surreptitious manner; the applicants for admission are not afforded an opportunity to confront those who give damaging information against them or to rebut their statements. The report of the inspector is decisive as to their admission or deportation to China, and their only remedy is an appeal to the Secretary of the Treasury in Washington, which is virtually to the Commissioner of Immigration. The report of the inspector is *ex parte*, and the applicant can only support his appeal by *ex parte* affidavits, as no judicial hearing or orderly examination by counsel is allowed. The Treasury officials on appeal, however fair-minded they are, have no opportunity of hearing witnesses or taking fresh evidence, and usually disregard the affidavits and accept the report of the inspector. Would it be inappropriate for me to say that such a proceeding seems like a travesty of justice?

To send a Chinese back upon his arrival in this country is a great hardship, especially when it is based upon technicalities often without merit. It means to him loss of business, of money, and of time, as well as blighted hopes. The result is sometimes fatal.

There are other hardships suffered by Chinese subjects seeking admission to the United States, which are not so much the result of injustice on the part of officials as the laws and regulations adopted ostensibly to enforce the treaties. As already mentioned, the law of Congress requires of merchants and others coming to the United States a certificate authenticated by the United States consul at the port or place of departure. At many places in China whence they depart there is no American consul. Most of the Chinese go to Hongkong to ship for this country. It is impossible to obtain there the required certificate, it being a British port, and they not being residents of that place. It has been held by the Treasury Department that Chinese coming from a foreign port must procure the certificate of the authorities of that port, and that the certificate of the Chinese consul there is not sufficient. In most instances it is not possible for the authorities of the foreign port to make out the certificate giving the facts required by the law. The only person who could do so is the Chinese consul, and under the construction given to the law by the Treasury Department this officer is not permitted to give the certificate, and the Chinese seeking to come to the United States from such foreign ports suffer great inconvenience.

I have thus far referred to the hardships suffered by the Chinese merchants and others in securing the admission to the United States which they are guaranteed by the treaties. But after they have overcome these obstructions thrown in their way by the customs officials, they are constantly liable to annoyances and hardships while resident in the United States at the hands of these officials. To some of these I beg to call your attention. Chinese residing in the United States are often annoyed and harassed by overzealous inspectors and United States marshals, who, without a word of warning, surround a community of Chinese, herd them together, and demand the immediate production of their registration certificates or other proofs of their right to remain in the country; and if no such evidence is found on their persons they are placed in confinement until a tedious process of investigation is gone through and their right to remain in the United States is proved to the entire satisfaction of the inspector or other officer of the law, as the case may be. Even merchants well known locally in the city or town they reside in are not exempt from this mode of inquisition, to the detriment of their business and annoyance personally.

One of the glaring incidents of the kind was that of Hong Sling, a merchant of Chicago, who, while visiting Decatur, Ill., last year, was pounced upon by a United States officer and challenged to show proof of his right to be in the country. He gave his name, place and character of his business, and other evidence of his character as a merchant, including a letter signed by the Hon. Mr. Gage, Secretary of the Treasury, certifying to his standing as a merchant personally known to him. But the officer was not satisfied, and threatened immediate arrest unless a legal certificate was produced, although the law required the registration of laborers only and made registration of merchants voluntary on their part. After thorough search of his own baggage, Hong Sling finally succeeded in finding his certificate, which he happened to have taken along with him. Then kicking him and abusing him, the officer permitted him to go on his way, greatly humiliated in the presence of a large crowd that had gathered around him.

Chinese lawfully residing in this country can not pass over the boundary without getting proper papers by filing an application one month prior to their departure. Some Chinese, not knowing this regulation, have been caused hardships. Inconvenience is caused when a Chinese is suddenly called away from the United States. Instances have occurred where Americans taking Chinese servants with them out of the United States, and not having time to file application as required, have not been permitted to bring their servants back on their return.

Merchants doing a large business for many years in this country and desirous of sending for members of their families in China can not do so unless they themselves return to China to get the necessary certificate. Neither the Chinese minister nor a Chinese consul is permitted to issue the certificates. This also works great hardships to many Chinese in this country.

Registered Chinese laborers when they go back to China on a visit are obliged, unless the time is extended, to return within a year. In case they want the time extended, they have to send their papers back to this country to be certified by the Chinese consul at the port of departure. The papers are often lost on the way, and there does not seem to be any way of replacing them. In any case, it is a tedious proceeding and liable to vexatious delays.

Chinese merchants, who have a settled business in this country, are often denied landing upon their return from a visit to China or elsewhere on the least pretext. Consequently their business has to suffer, in addition to the heavy expense they are put to in appealing their cases.

The foregoing somewhat tedious statement of the hardships suffered by the Chinese who seek admission to and residence in the United States, because of the laws of Congress and the regulations of the Treasury Department, might be enlarged did it seem necessary. But I think the cases cited are sufficient to demonstrate that the spirit and intent of the treaties are being defeated. It further shows, I am sorry to say, that the officials of the Government of the United States, to whom is intrusted the enforcement of the laws, treat the Chinese, not as subjects of a friendly power lawfully seeking the benefit of treaty privileges, but as suspected criminals, and that merchants, students, and others clearly entitled to residence in the country do not receive the courtesy and consideration due them, but are looked upon as offenders and suspects, and treated as such. It is not becoming in me to laud the merits of my own people or to claim for them undue consideration. I may, however, without impropriety, recall the language of the President of the United States, who properly interpreted the spirit and desires of my Government, when Congress at an earlier period sought to legislate in an unfriendly manner. He said:

This ancient Government, ruling a polite and sensitive people, distinguished by a high sense of national pride, may properly desire an adjustment of their relations with us which would in all things confirm, and in no degree endanger, the permanent peace and amity and the growing commerce and prosperity which it has been the object and the effect of our existing treaties to cherish and perpetuate. (Message of President Hayes, March 1, 1879.)

III.—WHETHER THE EXCLUSION LAWS HAVE PROVED TO BE FOR THE BEST INTERESTS OF THE UNITED STATES.

Having discussed the diplomatic history of the treaties and laws of Congress, and examined how far and in what manner these laws work hardships to the Chinese, I come now to consider the question whether they have proved to be for the best interest of the United States in an economic aspect.

If the present laws have worked for the best interest of the United States, this fact would furnish a very strong reason for their permanent retention upon the statute books. If they have not worked for the interest of the United States, then it must be admitted that a change is not only desirable but absolutely necessary. It is not the desire of the Chinese Government in making this communication to enter into any argument concerning this matter, but the sole purpose is to furnish in as succinct a form as possible some of the facts upon which the Chinese Government bases its belief that the laws in question have worked injury to both countries.

A brief history of the events which led up to the troubles culminating in the exclusion of Chinese laborers from the United States may be of value in understanding this question.

In 1844 five ports in the Chinese Empire were opened to American commerce under a treaty negotiated by Caleb Cushing. The commerce of the United States with the ports of China grew rapidly. As already stated, in 1868 the Burlingame treaty was entered into and ratified by both countries, under the terms of which the right of Chinese to im-

migrate to the United States was admitted, and the promise was made that the subjects of China should enjoy the same privileges, exemptions, and immunities respecting travel and residence as the subjects of the most favored nation. At that time the Pacific railroads were being built across the western part of the United States, and other large enterprises were projected on the Pacific coast. Labor on the Pacific coast was very scarce, and in frequent instances day laborers received higher wages than were paid to skilled artisans in the eastern part of the United States. There was then no alien contract-labor law on the statute books of the United States, and the railroad companies sent their agents to Canton and contracted for many thousands of Chinese.

This influx of Chinese labor naturally attracted a great deal of attention in certain quarters. The labor agitators feared that the scarcity of labor from which the far West had suffered would be at an end, and that wages would be reduced. The attention of Congress was called to the Chinese question, and instead of passing an alien contract-labor law, as was done later, that body attempted the restriction of Chinese immigration. A bill was passed restricting the immigration of Chinese and was vetoed by President Hayes; the veto being accompanied by a message so convincing that I take the liberty of attaching a copy^a of it and request your honorable Government to give it the consideration which is its due. (See inclosure No. 3.) The excitement in the West had been taken advantage of by what were known as "sand-lot" politicians, led by Dennis Kearney. These men, it will be remembered, precipitated riots in which a number of Chinese were killed. A careful examination of the records in the State Department will not disclose a single instance in which the Chinese were the aggressors. The Pacific coast States, I am informed, were very evenly divided politically at that time, and both of the great political parties were forced to declare against the Chinese. For no party without taking such a stand could have won the support of those who then held the balance of power in California and Oregon. It is not to be wondered at, therefore, that Congress again attempted to settle this question by the exclusion of Chinese laborers. They passed such a bill. It was vetoed by President Arthur by the special message of April 4, 1882, which reviews the history of Chinese immigration and the restrictions sought to be placed upon it. A copy^a of this message is attached hereto, to which attention is directed. (See inclosure No. 4.) This Congress shortly afterwards passed a bill restricting Chinese immigration, which became a law. It was not so stringent as subsequent legislation, but it was an opening wedge for the Scott law of 1888, followed by the Geary law of 1892. In 1894 the last treaty concerning this subject was entered into, and was considered by the Chinese Government as a somewhat favorable modification of the Geary law. A copy^a of this treaty is likewise attached hereto. (See inclosure No. 5.)

The arguments against the admission of Chinese to the United States are well known and can be very briefly stated; it is claimed that the Chinese will work for less wages than the American workman; it is claimed that the population of China consisting of 400,000,000 people would, if immigration were unrestricted, overrun the United States

^a Not printed.

and destroy its institutions; it is claimed that the Chinese do not come with the intention of becoming citizens, but return to China as soon as they acquire sufficient means to establish themselves in the country of their nativity; and it is claimed that their standard of living is so low that they consume practically nothing and add but little to the purchasing element of the community.

There has now been a period of nineteen years of partial and total exclusion of Chinese laborers. Of this there have been thirteen years of total exclusion and six years of partial exclusion, preceded by a period of unlimited admission of the subjects of the Chinese Empire. It is an easy matter to trace the comparative effect of unlimited immigration, partial exclusion, and total exclusion.

I will first take the question of labor. The rates of wages for the different periods are taken from the Fifteenth Annual Report of the Commissioner of Labor of the United States. The average rate of wages for labor in California in 1870, with unrestricted Chinese immigration, was \$2 per day. It remained stationary at this rate until 1884 when, under partial restriction of Chinese immigration, it was raised to \$2.31 per day. Immediately upon the passage of the act of 1884 the average wages dropped to \$1.70. In 1893, the first year after the passage of the Geary law, the average wages in California for laborers was \$1.73 per day. After the passage of the Geary law wages for labor in California steadily declined until in 1898 the average was only \$1.59 per day. These figures are official and prove conclusively that the exclusion of Chinese has not had the effect of raising wages where Chinese labor is employed.

The fact is that Chinese labor does not compete and never has competed with American labor, but supplements American labor and is of advantage to it. It is not difficult to explain why this is so. The Chinese are not skilled in the lines of industry in which wages are highest in the United States. They are skilled in those lines of labor in which the United States is deficient. They are agriculturists and thoroughly familiar with agricultural products which the Department of Agriculture has by successful experiments demonstrated are easily grown within the United States. The successful tea garden in South Carolina would be only one garden out of thousands instead of an isolated curiosity, if the Chinese immigration law should be expunged from the statute books. The successful silk farms in Louisiana and California would no longer be unique, and the United States would become an exporter of raw silk. The present development of the rice industry in the States of Louisiana and Texas would be but a start toward the reclamation of the swamp lands of the United States, and the possibilities in this direction could scarcely be estimated beforehand. The reports of the Land Commissioner of the United States show that less than one-half of the area of the United States is now under cultivation. In the line of agriculture alone more Chinese could be used in the United States than would emigrate to this country in a century. The rate of wages paid to Chinese laborers would be paid according to the value of the productions as is now paid to American labor, and as the Chinese people are not skilled in the industrial lines prominent in the United States and are not adapted to those employments they would enter into competition with no American labor but would organize for themselves new lines of labor and new occupations according to their training in the country of their nativity. They

came to the United States when the laundry business was not only in its infancy but practically unknown. They made it a great industry, not only for themselves but for Americans. The cut-rate laundries are American laundries. In no city are the cheapest rates to be found in the Chinese laundries. The same may be said of domestic service.

It is claimed that the population of China consists of 400,000,000 people. It is very doubtful whether this is a correct estimate, as no accurate census has ever been taken of the population of China. A reference to the reports of the consuls of the United States holding official posts in China and of immigration statistics will show that all the immigration into the United States from China has come from the single province of Kwangtung (Canton), which has a population of about 25,000,000; of this population only about 5,000,000 live in those districts which solely supply Chinese immigrants. The reason for this is to be found in the character of the Chinese. The Chinese is averse to travel and not inclined to emigrate from China. This is shown by the fact that while every country in Europe has thrown its doors open to Chinese immigration, it is very rare that a Chinese is found in any of the European countries. The wages in those countries are very much higher than the wages in China, and there is no barrier whatever to prevent the Chinese from going to Europe, but they do not go. The reason they come to the United States is that they have friends and relatives in this country, and are therefore sure of assistance in making a start in the New World. Even the desire to come is not so extensive as might be expected, as is shown by the census periods. In 1860 there were 34,933 Chinese in the United States; in 1870 there were 63,249; in 1880 there were 105,465; in 1890 there were 107,488; and in 1900, 89,863. It will be seen that at the time of the prohibition of the immigration of Chinese the Chinese population had not increased as rapidly as the American population. Instead of having more Chinese in proportion there were not as many. In the entire ten years from 1880 to 1890 the Chinese population of the United States increased by only 2,023. In the last ten years, ending with 1900, the Chinese population had decreased by 17,625. These facts and figures should at once put a stop to the fallacious though popular argument that this country would be in imminent danger of being overrun with millions upon millions of Chinese should the bars of exclusion be let down.

The next objection, that the Chinese do not acquire citizenship, is a peculiar one. They are not allowed by the laws privileges accorded to the people of other countries of becoming naturalized. If they were accorded the same privileges as other people, many of them would become citizens; but if they should not it would not be against the interests of the United States. It is a matter of notoriety that the Swedes and Norwegians have settled in certain communities and there obtained control of local politics. The same is true of the people of other countries. It is certainly not very desirable that a foreign element should have control of American politics, and that is the main effect of naturalization. The fact that the Chinese do not seek to interfere with the internal affairs of the country of their residence ought to count in their favor.

In 1890, which was the year in which a census was taken nearest the year when the Chinese were excluded, the census reports show that out of 82,329 prisoners in the United States only 407 were Chinese. And

out of 73,045 paupers in almshouses in the United States only 13 were Chinese. An analysis of the offenses for which the Chinese were convicted shows that they were practically all of a petty nature. The Chinese by the census of 1890 show the smallest percentage of criminals and paupers of any nationality within the United States.

The objection that the standard of living of the Chinese is lower than that of the Americans can not now be sustained. The Chinese, owing to the overcrowded condition of their country, have in times past lived very cheaply. But should a commission examine into the facts it could be proved that contact with other more extravagant countries has very greatly modified the habits of the Chinese in this particular and has led them to acquire many new wants. This largely accounts for the great increase in the Chinese trade. If the Chinese did not want anything more than he did a hundred years ago he would not buy any more, but the statistics show that his purchases are increasing more rapidly than those of the inhabitants of any other country. An inquiry directed to the leading houses of cities in which Chinese reside will develop the fact that the Chinese use as many and as expensive articles of food and clothing in proportion to their means as the people of any other nation. It is true that a Chinese who makes little will spend but little, in order to prevent the necessity of having to apply to charitable organizations for subsistence. But, after all, a Chinese is not unlike other people in the matter of spending money. It is safe to say that the more he makes the more he spends. I am sorry to say that there are thousands of Chinese in California who have worked hard for years in this country and yet have not been able to save money.

The Chinese Government does not believe that there would be any great immigration from China to the United States should all restrictions be removed. The principal objection to the exclusion law is that it seriously affects the commercial relations between the two countries. The American people took a prominent part in opening up to the world the immense foreign trade of China. The first American vessel that appeared in Chinese ports was in 1874, and the trade with the United States far outstripped that with any other nation except England until those troubles on the Pacific slope brought about a reaction in China. The Chinese people felt that they had been wronged by having restrictions placed upon them which were not enforced against any other people. I beg to append a table^a furnished by the Bureau of Statistics showing the exports from San Francisco to China during the past thirty years, which bears out my statement. (See inclosure No. 6.)

The history of this commerce as shown by this table is practically a history of the agitation against the Chinese upon the Pacific coast. In 1872, before the agitation, the exports amounted to upward of \$7,000,000. The agitation commenced, and in 1876 the exports fell to \$126,000. As soon as President Hayes vetoed the first anti-Chinese bill the exports increased to over \$9,000,000. Another bill was introduced, and the exports fell to \$185,000. The year after the Geary law was passed the exports were \$123,000. Owing to the just attitude lately assumed by the United States Government in China, and the rumor that the exclusion law which is about to expire would not be reenacted, a better feeling has prevailed, and the exports have again

^a Not printed.

increased to over \$2,000,000. Had the exports averaged as they did in 1879, they would have been \$200,000,000 more than they have been from the single port of San Francisco.

The Bureau of Statistics in its report for December, 1899, uses the following language:

The more rapid development of the privileges of foreigners in China and the introduction of modern commercial methods dates from the treaty of Shimonoseki, made between China and Japan in 1895, at the close of the war between those nations, and followed by a commercial treaty in 1896. The important features of these treaties were that they opened the waters of the principal rivers and canals to citizens of other nations, giving foreigners the right to purchase goods or produce in the interior of China, to rent warehouses without the payment of special taxes or exactions, and to engage freely in all kinds of manufacturing industries in the treaty ports; also to import all kinds of machinery, paying only the stipulated import duties thereon, and upon products manufactured by them in China paying only such inland transit dues as are leviable on imported merchandise (the latter provision having been somewhat modified, however, by the commercial treaty). While the China-Japan treaty specially conferred these privileges only on Japanese subjects, they at once became applicable to the subjects of other nations having full treaty relations with China under the "most favored nation" principle. The prompt result of this was a movement from all parts of the business world in the direction of China and the establishment of business and manufacturing industries not only in the old treaty ports, but in the new ones which were opened by the Japanese treaty and by subsequent action of the Chinese Government. This was followed by other evidences of a disposition to adopt modern methods. The railroad from Peking to Tientsin was quickly completed by the Chinese Government and agreements made looking to the construction by foreign capital of other lines thousands of miles in length; telegraphs were extended; electric roads, electric lights, and telephones introduced in the principal cities; mining and manufacturing concessions freely granted; the West River, which penetrates southern China from Canton westward, was opened to commerce, and, finally, small steamers under foreign control were given permission to penetrate to the interior limits of navigation on all the rivers of the provinces containing treaty ports. The effect of this is already seen in the establishment of factories and business houses, the construction of railroads, the extension and multiplication of steam navigation lines, and the opening of mines in the great sections where the coal and iron deposits are said to be the largest in the known world.

This is a true description of the progress now in China, and it will be seen that with the statistics showing that the United States was not overrun with Chinese labor before this period of progress, this country could not now be overrun when the demand for labor in China itself has so vastly increased. On account of the exclusion act, the American people are not securing the share they would otherwise have in the profits of this period of Chinese progress. It is natural that China should buy of the country to which it sells. Instead of that, it sells the most to the United States, and although it favors American goods above those of any other country, it largely buys from England. The imports of merchandise from England into China increased from 14,952,000 taels in 1878 to 33,960,000 in 1895. Those of the United States increased from 2,253,000 to 5,093,000. The imports from the United States show a falling off from 9,263,000 taels to 5,093,000 the year that the Geary law was put in operation. The exports to the United Kingdom had fallen off from 38,689,000 taels in 1872 to 12,945,000 in 1897, while the exports to the United States increased from 11,943,000 in 1872 to 17,828,000 in 1897. China continued to sell her goods to the United States, but greatly decreased the proportion of the goods bought from the United States. The reports of the United States consuls officially residing in China are uniform that American goods are preferred, but goods are being purchased from England. The percentage of the exports to China secured by the United States has greatly decreased during this period of

activity in Chinese trade. The total trade of the United States has increased somewhat, but it does not bear as large a proportion as it formerly did. This is a condition which must give concern to both countries, and one which would seem to create the necessity for a commission to examine thoroughly into the entire question of Chinese commerce with the United States and the immigration of the Chinese people.

The diplomatic relations between the two countries are, greatly to the satisfaction of the Chinese Empire, most cordial, and afford an unusual opportunity for the Government of the United States to correct the false apprehensions of its people and allay their prejudices, and the Chinese Government to put an end to whatever prejudice may exist upon the part of the Chinese people against the United States. It is the wish of both Governments that these commercial questions should be settled in a manner which will promote the prosperity of both nations and bring about a friendly intercourse between their respective people which will be mutually profitable and gratifying. I think I have shown that the commercial questions are intimately connected with the treatment of the Chinese who seek to enter the United States under the guaranty of treaty, and that the former can not be satisfactorily developed and maintained without a fair and honorable adjustment of the subject of immigration.

IV.—SHOULD THE EXCLUSION LAWS BE REENACTED, AND IF SO, TO WHAT EXTENT OF TERRITORY SHOULD THEY BE APPLIED, AND WHAT MODIFICATIONS ARE CALLED FOR BY EXPERIENCE IN THEIR ENFORCEMENT.

The review of the diplomatic history which I have made makes it clear, I think, that the Chinese negotiators of the treaty of 1880 did not contemplate a permanent exclusion of Chinese laborers from the United States, and the American commissioners held out the hope that it would only be a temporary measure and not general in its application. Certain it is that if it had been proposed or intimated that the exclusion would continue for twenty years, the Chinese Government never would have agreed to the treaty. It is also quite certain that if the present laws shall be reenacted, the two Governments can not have the cordial and harmonious intercourse which should be maintained, neither can the commercial relations be as extensive, as intimate, and as profitable as the economic conditions of the two countries demand and justify. Can the Government of the United States afford to pay the high price which it will cost to maintain laws which, I think, I have shown are contrary to the spirit and intent of the treaties, to the recognized principles of jurisprudence, and to the spirit of amity and fair dealing which should control the conduct of nations? I feel confident that if the honorable Congress of the United States will cause a thorough investigation of this important subject to be made, uncontrolled by the unthinking clamor of selfish interests, it will find a better way to conserve the interests of this great country than by the reenactment of the Chinese exclusion laws as they now exist and are enforced.

THE HAWAIIAN ISLANDS.

When the American commissioners were in Pekin negotiating the treaty of 1880 and asking that power might be conferred upon the Congress of the United States to limit or suspend the immigration of

Chinese, they were asked by the Chinese negotiators if they could "give them any idea of the laws which would be passed to carry such power into execution." The American commissioners, among other written assurances, said: "If there were sections of the country where such immigration was clearly beneficial, then the legislation of the United States under this power would be adapted to such circumstances. For example, there might be a demand for Chinese labor in the South and a surplus of such labor in California, and Congress might legislate in accordance with these facts. In general the legislation would be in view of and depend upon the circumstances at the moment such legislation became necessary."

Since that carefully worded assurance was given the Hawaiian Islands have been annexed to the United States. It has been the policy of the controlling interests and the practice of the past governments of those islands to admit Chinese subjects into those islands under reasonable conditions. At the time of the annexation there were residing there approximately 20,000 Chinese. The official statistics show that a large number of the Chinese population had been born in the islands, and that a considerable number of them have become lawfully naturalized citizens of Hawaii. They also show that many of them have become holders of real estate; that they outnumber all other nationalities, native or foreign, as merchants and traders, and that in three of the leading branches of trade, as shown by the official licenses issued, they exceed all other nationalities. In social life, also, their position is worthy of consideration, as it will be seen that of the Chinese population over 6 years of age 48.47 per cent are able to read and write English or Hawaiian. Of Chinese children over 6 years 92 per cent attend school, and many of them have been educated in the government colleges and higher institutions of instruction. They are prominent in Christian churches and in aiding in the support of hospitals and other charitable institutions. They freely intermarry with the native population. They are recognized as industrious, temperate, and law-abiding and as important factors in various social movements.

The reason which brought about the immigration treaty of 1880 between China and the United States, the treaty of 1894, and the legislation based on those treaties which exclude Chinese laborers from the United States does not apply to the Hawaiian Islands. In the States it is alleged that Chinese labor comes in competition with white labor to the detriment of the latter, and that it is contrary to their interests to admit the Chinese; but exactly the reverse is the case in the Hawaiian Islands, as they come into competition with neither white nor native labor, and have been and are regarded there as a desirable element of the population.

That such is the case we have the authority of the present government of these islands. The territorial governor in his annual report to the Secretary of the Interior, just made, in speaking of the employment of large numbers of Chinese upon the plantations, says:

It may safely be said that such action never has, does not now, and never will interfere with either American skilled or unskilled labor. * * * It has been demonstrated beyond a doubt that the unskilled labor upon the plantations must be furnished by other than Americans. This would be true even if the large estates were divided into small holdings. It is simply a physical impossibility for the Anglo-Saxon satisfactorily to perform the severe labor required in the sugar fields. This being true, Hawaii is entitled to legislation favorable to its greatest prosperity,

which he shows can best be secured by the admission of Chinese under reasonable restrictions. (See Report, August 28, 1901, p. 63.)

Do not the Hawaiian Islands present the exact conditions foreshadowed by the American commissioners at Peking in 1880, and is not the Congress thereby pledged to permit the admission of Chinese laborers into those islands under the reasonable regulations indicated by the governor of the Territory?

THE PHILIPPINE ISLANDS.

By the fortunes of war these islands came into the possession of the United States. Previous to that event and for centuries very intimate and important relations had existed between them and China owing to their contiguity and the favorable trade and industrial conditions. The commercial intercourse between the cities of southern China and these islands has been and is now very extensive, and the Chinese population resident there is very large, engaged in every walk of life. There are innumerable artisans, farmers, traders, merchants, bankers, and persons of large wealth—in fact, business men of every legitimate character. Many of these are native born, of which a considerable portion are the offspring of marriage with the Philippine races, and the manners, customs, and characteristics of the people of the islands are so much in harmony with those of the Chinese that the latter for ages have met with a hearty welcome and have fraternized readily with them. During this long period and up to a recent date there have existed free immigration and unrestricted commerce.

Notwithstanding the fact that the President of the United States had repeatedly stated that it was not his intention to change the existing conditions in the territory acquired from Spain, further than was necessary to restore and preserve order, and that the whole subject of their future relations would be left to Congress for determination, within a few months after peace was declared the military commander of the Philippines, General Otis, issued an order extending to these islands the Chinese exclusion laws of the United States. By the decree of this officer, without previous authorization of the President or the Secretary of War, and without antecedent notice, this extreme and harsh measure was enforced against the Chinese subjects. And the same still remains in force, notwithstanding the earnest protests and remonstrances of the Chinese Government.

It is respectfully submitted that this measure was, in its inception and now in its continued enforcement, in violation of the principles of international law. When the treaties of 1880 and 1894 were negotiated the Philippine Islands were a part of the dominions of Spain. Those treaties were framed with a view to the peculiar condition of the labor question in the United States, and the Chinese Government reluctantly yielded to the earnest representations of the commissioners of the United States that they were necessary to allay the apprehensions of the white laborers in this country. Only as a matter of comity, and to gratify your Government on that point, did the Chinese Government consent to the treaties. They can not be applied to other territory in another and widely separated part of the globe, where an altogether different condition of labor exists, without the consent of the Chinese Government. To do so would seem to be a breach of good faith as well as of international law, and I feel persuaded that, upon a full consideration of the subject, neither the President nor the

Congress will continue that military order in force by its reenactment in legislation.

It is hardly necessary to assert that under no state of circumstances could the Chinese Government have been persuaded to sign a convention which could be interpreted to authorize the exclusion of Chinese subjects from the Philippine Islands, where they had found a welcome and a home, and with which islands as their nearest neighbors its people for centuries had carried on an extensive and profitable commerce. And it is worthy of consideration by the President, who is so justly distinguished for his high standard of right, and by the Congress of a great and enlightened nation, to inquire whether the Chinese, who have lived in and traded with those islands for centuries before the United States had an existence even as colonies of Great Britain, have not acquired vested rights of which they ought not to be deprived even by the legislation of Congress, much less by the mere order of a military commander. Attention is called to the fact that for nearly forty years unrestricted commerce with the Philippine Islands has been guaranteed to the Chinese under the stipulation of article 47 of the treaty of commerce between Spain and the Chinese Government. Under the protection of this treaty a large commerce had been established, and it can hardly be regarded as an act of comity toward China to destroy the commerce built up under the solemn guarantees of the Spanish Government. The order of the military commander, or kindred legislation if enacted, means the destruction or impairment of a large and lucrative trade to and from the seaports of China. It means the cutting off of many thousands and tens of thousands of Chinese and mestizos from their kinsmen in China. It means a radical change in the industries and occupations of these people, and great hardships and impoverishment in many cases. Certainly before an intelligent and right-minded body of legislators shall take such a course they will carefully examine the situation of affairs.

What has been the influence of the Chinese in the past centuries and what is it to-day in the Philippines? I must not weary you, as I might, with long citations from recognized authorities in the past and present. I cite only three from many travelers and officials who testify that the Chinese have largely contributed to the prosperity of these islands. Dr. Antonio Morga, in his work on the Philippines, written in the sixteenth century, says of Manila:

It is true the town can not exist without the Chinese, as they are workers in all trades and business, and are very industrious.

Juan de la Concepcion, a writer and traveler in the seventeenth century, sums up the situation as follows:

Without the trade and commerce of the Chinese these dominions could not have subsisted.

The testimony of writers of the present day might be reproduced in great number, but it will probably suffice to cite the official report of the nearest commercial representative of the United States, Consul-General Wildman, of Hongkong, who was on duty throughout the Spanish war and the subsequent insurrection, and, no doubt, was well informed on the subject of which he wrote. In his report to the Secretary of State of November 22, 1898, a short time after the promulgation of the Otis order, he wrote:

Broadly speaking, there is not an industry in the islands (Philippines) that will not be ruined if Chinese labor is not permitted.

And in a report the following year, speaking of the possibility of competing at Manila with the extensive manufactories at Hongkong, he says it "would only be possible if Chinese labor were admitted freely." (Consular Reports, November, 1899, p. 421.)

The unwisdom of the Otis order is demonstrated by the situation of affairs in the possessions of other nations in the same quarter of the world. The British are reputed to be the most successful in governing colonies, and are usually controlled in their conduct by the best interests of the people over whom they exercise government. In the nearby colony of Hongkong, in the Straits Settlements, and in the Malay Peninsula the British Government welcomes and encourages the immigration of Chinese and admits them to all the rights of citizenship. The result is that Hongkong, Singapore, Penang, and Malakka are in a flourishing condition and peace and contentment prevail. If Congress should, before taking action, send a commission to the Philippines and to the British, French, and other colonies in the Far East, I have no doubt such a report would be made as would lead to the reestablishment of Chinese immigration in the Philippines.

Why should the Chinese be excluded from the Philippines, when free entrance is granted to all the other races of the East? While the immigration of the Japanese, the Siamese, the Malay, the Singalese, and the Hindoo coolies is properly permitted, is it a just and fair discrimination to exclude the Chinese?

Since the acquisition of the Philippines by the United States it has been correctly stated in this country that their possession would constitute a convenient base of operations for the extension and maintenance of a large commerce between China and the United States. When, by the fortunes of war, these islands were brought into the American union, my Government saw in this proximity an additional reason why the friendly relations which had so long existed between the two nations should become more intimate and harmonious. And it welcomes your efforts with the other great powers to maintain an open door to the commerce of the Chinese Empire. But how can these expectations be realized if the Congress of your country shall ratify the action of the authorities in the Philippines in cutting off access of the Chinese to the islands with which for ages they have maintained intercourse, and in destroying the commerce of important cities with them?

From what I have above stated, it will be seen that the treaties of 1880 and 1894, which relate to the immigration of Chinese solely to the then existing territory of the United States, do not include the Hawaiian Islands or the Philippine Archipelago within their purview. I am aware that the honorable Congress of the United States has full power to legislate for these newly acquired possessions. Before the enactment of the present exclusion laws, the United States Government deemed it necessary to send a special commission to China to negotiate a convention for the modification of the existing treaties between the two countries, which was concluded in November, 1880. This clearly shows the desirability of consulting the wishes of both Governments in a matter that affects their mutual relations. In view of the vast interests involved and the commercial and friendly relations between China and the United States, I earnestly hope that no hasty step will be taken looking to the reenactment of the exclusion laws, in deference to clamor from any quarter, until every effort has been made to obtain a broad and comprehensive view of the question.

It will be seen also from what has been said that the Imperial Government of China does not consider the reenactment of the exclusion laws by the American Congress necessary. But if the honorable Congress should, after proper investigation, still hold to the opinion that the demands of national policy require the retention of some such measure on the statute books, I beg to point out a course which is not open to so many serious objections and which leads to the same results. Why can not the general immigration laws of the United States be so modified and broadened in their scope as to include the immigration of Chinese in their provisions? Why can not the test be made such as to exclude the undesirable elements of all countries from the American shores irrespective of race or nationality? If such a course should be followed it would serve the purpose as effectively as the most drastic law could do. In that case there would be no invidious discrimination so long as the law were made applicable, without distinction, to Europeans, Asiatics, and Africans alike. The most objectionable feature of the present exclusion laws is that they single out the Chinese people alone for unjust exclusion.

I regret that the importance of the question and the urgency of the situation have made it necessary that I should ask so much of your valuable time, and that I should dwell at so great a length upon the topic in hand. From what I have said you will have noticed that, appealing to the provisions of Article IV of the treaty of 1880, already cited, I think it proper and incumbent upon Congress, before acting upon the question of new legislation, to examine with care into the hardships suffered by the Chinese subjects, and that this examination can best be made by a commission, who will visit the localities in the United States where the Chinese most largely congregate, and the Hawaiian and Philippine Islands, and by a personal investigation ascertain how the present laws and regulations affect the Chinese and how their exclusion affects the localities in question. I think such an investigation is due from Congress, in view of the treaty stipulations, of the desire of the Imperial Chinese Government, and of the great interests involved. I trust, therefore, that the President of the United States may see proper to send this proposition for a commission to Congress with his favorable recommendation.

If such a commission is appointed, I should hope that their report would satisfy Congress that further exclusion of Chinese from the United States is unnecessary; but if that should not occur, it ought to make plain to Congress that the present laws are in violation of justice and humanity, inflict on the Chinese unnecessary hardships and indignities, that they are not in harmony with the treaties, that they work injury to the interests of both countries, and should be materially modified.

I entertain the further hope that the investigation will lead to the conclusion that the Hawaiian Islands and the Philippine Archipelago stand on an entirely different footing and should be open to the ingress and egress of Chinese in common with other Asiatics who may resort there for purposes of labor, trade, travel, or residence.

I beg to add that I have by no means exhausted the subject. But this paper is already too long, and I feel that I ought not to exhaust your patience. In case, however, the commission should be appointed, as I have suggested, to inquire into the wording of the Chinese exclusion laws I shall be pleased to furnish to the commission further information bearing upon the subject.

In conclusion, I venture to express the belief that the honorable Congress of the United States will deal with the important question at hand in a spirit of fairness and equity and accord to Chinese subjects who wish to come to the United States for all legitimate purposes the same treatment as is accorded to the people of other countries and demanded and secured by this Government for American citizens in China—an open door and a fair field.

Accept, etc.,

WU TING-FANG.

Mr. Hay to Mr. Wu.

No. 194.]

DEPARTMENT OF STATE,
Washington, December 18, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant, with inclosures, reviewing the treaties and laws regulating Chinese immigration in this country, and requesting that before opening the question of new legislation, Congress will provide for a commission to visit the localities in the United States and in the Philippine and Hawaiian islands, where the Chinese most largely congregate, and by a personal investigation ascertain how the present laws and regulations affect the Chinese, and how the exclusion of Chinese affects the localities in question.

I have communicated copies of your note and its inclosures to the Committee on Foreign Relations of the Senate and to the Committee on Foreign Affairs of the House of Representatives.

Accept, etc.,

JOHN HAY.

CLAIMS OF MISSIONARIES—DIRECT SETTLEMENT WITH CHINESE OFFICIALS.

Mr. Squiers to Mr. Hay.

No. 640.]

LEGATION OF THE UNITED STATES,
Pekin, May 28, 1901.

SIR: I have the honor to hand you herewith a copy of an inclosure transmitted here in a dispatch from the United States consul at Chefoo (No. 416, May 20, 1901).

It shows claims presented by Messrs. Crawford & Hudson, which it appears the governor of Shantung, in the desire to appease the missionaries, has agreed to pay. It seems to me unfortunate that the missionary, owing to his peculiar status, can present and recover damages that an ordinary resident of the country will be precluded from doing under the rules recently adopted by the foreign representatives. (See Mr. Rockhill's dispatch^a No. 42, March 14, 1901). I have reference to traveling expenses to and from the United States, and extra living expenses while there.

Their settlement of the claims of native Christians has caused no end of criticism and ill-feeling, especially in this province, and among foreigners as well as Chinese. They have themselves gone into the country and assessed damages on the various villages where Christians

^aSee appendix to this volume, page 104.

had been killed or their property destroyed. As they have generally been accompanied by soldiers, such settlements were in fact forcibly made, the presence of the soldiers making them such whether they accompanied the missionaries simply as a guard or not.

In Shansi, the governor has set aside 200,000 taels to be fairly divided between the Protestants and Catholics, thus preventing the certain quarrels and strife that will surely follow direct settlements made by the missionaries themselves. So far as I know, this course has been followed in the province of Shansi only.

While it might be at times a source of great annoyance and trouble to our consuls and the legation, I think in the end it would prove to the best interests of the missionaries and their work if they were precluded from any official intercourse whatever with the local officials on matters pertaining to their native Christians. A reference to the records of the legation will show that the Chinese Government finds such interference with their people most repugnant, while in some cases unjust treatment or actual persecution of native Christians on the part of petty officials may have been prevented; as a rule, I believe most foreigners who have lived in China for a number of years will agree that it brought down on the Christian all the hatred and animosity this people now seem to be capable of.

I have, etc.,

H. G. SQUIERS.

[Inclosure.]

TAIAN FU, SHANTUNG, *April 22, 1901.*
(Kuang Hsu, 27th year, 3d Moon, 14th day.)

I, Mao Shu-yun, agree to pay to Messrs. Bostick and Verity, Dr. Barrow, and Miss Sture the sum of taels two thousand nine hundred and cents eighty-one (taels 2,900.81), Taian K'uping, compensation in full for all losses sustained on their respective mission places in Taian City by theft and robbery during 1900. I agree to pay taels five hundred eighty-six and cents sixteen (taels 586.16) to-day and the balance not later than the 8th Moon of this year (Kuang Hsu, 27th year).

For extra expenses in living and moving incurred by the Boxer troubles, we with our coloborers look either to the governor or to the General Government of China.

Claim made by Dr. T. B. Crawford.

Traveling expenses Chefoo to stopping place in America and return to Taian (Mexican).....	\$2,002.55
Rent, Greenville, S. C., eight months, at \$6.....	48.00
	2,050.55

T. J. Hudson's claim.

Traveling expenses from Taianfu to Demossville, Ky.....	\$900.00
---	----------

C. P. BOSTICK.

Trianfu, May 4, 1901.

Mr. Hay to Mr. Squiers.

No. 355.]

DEPARTMENT OF STATE,
Washington, July 17, 1901.

SIR: I have to acknowledge the receipt of your dispatch, No. 640, of May 28 last, reporting that the governor of Shantung, in his desire to appease the missionaries, has agreed to pay a claim presented by Messrs. Crawford & Hudson.

You say: "It seems to me unfortunate that the missionary, owing to his peculiar status, can present and recover damages that an ordinary resident of the country will be precluded from doing, under the rules recently adopted by the foreign representatives. (See Mr. Rockhill's dispatch, No. 42, March 14, 1901.) I have reference to traveling expenses to and from the United States, and extra living expenses while there;" and you add that the settlement by missionaries of the claims of native Christians has caused no end of criticism and ill-feeling, especially in the province of Chihli, and among foreigners as well as Chinese; and that while it might be at times a source of great annoyance and trouble to our consuls and the legation, you think that in the end it would prove to the best interests of the missionaries and their work if they were precluded from any official intercourse whatever with the local officials on matters pertaining to their native Christians.

In reply I have to say that, while unable to apply coercion to American citizens in the provinces to prevent their compromising their claims with the local authorities, this Department has, in its instructions to the consuls, uniformly discouraged independent negotiations between individual sufferers and the district officers for the adjustment of alleged losses, and has enjoined upon the consuls nonintervention to bring about any such piecemeal settlement of difficulties which, so far as this Government is concerned, are being settled in the course of the general negotiations at Peking.

On the 20th of December last an instruction in that sense was sent to the consul at Amoy, which I quote for your information, as follows:

I have to acknowledge the receipt of your No. 49, of November 7, 1900, reporting that you have adjusted all the claims for damages to American mission property and have received in settlement thereof the sum of \$3,000, Mexican.

The good disposition of the local authorities is appreciated, and if the settlement effected by you is acceptable to the sufferers, the Department does not oppose it. Such partial and scattered settlements can not, however, affect this Government in dealing with the general question of a settlement with the Chinese Government which shall secure deterrent and exemplary punishment and afford guaranties for future safety of our citizens.

The position maintained by this Government is that international indemnities, especially for Americans murdered, are adjustable by the Peking treaty, and that the negotiations can not be divided by separate local demands. If the local authorities offer to repair local losses by direct arrangement with sufferers, officers of this Government are neither to support nor object to them.

You will act accordingly in the future.

On the 21st of the same month an instruction of similar tenor was sent to the consul at Fuchau.

While regarding these separate compositions of claims as unsanctioned and as not involving any responsibility on the part of this Government to effect their execution, the Department must necessarily take equitable cognizance of them as matters of fact, if for no other reason than to bar any duplicate claim upon the international indemnity by reason of the same losses. Hence they should, whenever possible, be reported to the Department, for its information, by the legation or the consuls.

You may instruct the consuls in the sense of this instruction.

I am, etc.,

JOHN HAY.

**CLAIMS OF CHINESE SUBJECTS RESIDING AT BUTTE, MONT., ON
ACCOUNT OF BOYCOTT OF THEIR BUSINESS.**

Mr. Wu to Mr. Hill.

No. 207.]

CHINESE LEGATION,
Washington, July 6, 1901.

SIR: It becomes my duty to lay before you the claim for damages of several hundred Chinese subjects resident in the city of Butte, Silverbow County, State of Montana, between the year 1886 and the present time.

These Chinese subjects were peaceable and law-abiding, having complied with all the laws respecting their registry, and were engaged in the lawful business of merchants, keepers of restaurants, farmers and gardeners, laundrymen, cooks, servants, and laborers. On or about the year 1886 there was instituted a conspiracy or combination of several thousands of the citizens of the United States, resident in the said Silverbow County, Mont., confederated together in various labor associations, with the object of destroying the business of the Chinese subjects above described, depriving them of their occupations or employment, paralyzing their industry, and by threats and violence compelling them to abandon their homes and business and depart from said city and county.

It appears that this conspiracy or combination was at first confined to more or less peaceful methods of what is known as the "boycott," whereby it was sought to prejudice the inhabitants of the city of Butte against the employment of Chinese subjects and to secure the discharge of those who were already in their employ. But as time passed and the wicked and unlawful object of the conspiracy was proving only partially successful, the conspirators became more bold and lawless in their demonstrations; by false and slanderous stories it was sought to inflame the public mind against the Chinese subjects; it became more difficult for the latter to maintain their lawful pursuits, and the secret murder of a number of Chinese occurred, the perpetration of which must be ascribed to the spirit of lawlessness and hatred created by this conspiracy.

The conduct of the conspirators became so violent that the Chinese subjects appealed to the police department of said city and county to protect them from the acts of lawlessness, and to secure to them the protection of their business and to extend to them such rights as by treaty and law were granted to subjects of other nations in said city. But the police did not and would not protect or endeavor to protect them; and so far from securing the protection guaranteed by treaty, the city council, under whose authority the police are appointed and act, in the year 1892, upon the request of the labor associations, indorsed and approved of the conspiracy, and thereby gave its official influence to the unlawful and violent proceedings.

This action of the city council increased the opposition to and damages suffered by the Chinese, and in 1893 they appealed through counsel to the governor of the State of Montana to interpose his higher authority and influence to secure to them the protection which had been guaranteed to them by treaty and by public law. The appeal was referred to the attorney-general of the State, who decided that the action of the city council was not unlawful, and in his opinion

used such language of hatred and prejudice as I am forced to believe must be unusual in legal documents of the United States. No relief or interposition was obtained from the governor of the State, and the conspirators, assured of the sympathy of the local authorities, redoubled their lawless proceedings greatly to the damage of the business and pursuits of the Chinese subjects.

Finally, all other relief being closed to them by the inaction and lack of sympathy on the part of the authorities, these Chinese subjects, to the number of more than 200, through their counsel, applied in 1897 to the judge of the circuit court of the United States, petitioning that certain of the conspirators named should be brought into court to answer for their conduct, which was set forth in detail, and that the judge would take such action as he should find necessary and possible for the relief of the petitioners. Thereupon, the judge caused a full investigation to be made, and as a result thereof he directed a decree to be issued commanding and enjoining the conspirators named and all their confederates and coconspirators from further continuing or conspiring to injure or destroy the business of the Chinese subjects and to cease from all acts tending to maintain the conspiracy and boycott.

In this connection I desire to direct your attention to the following facts which were judicially determined by the United States court in said suit: That the Chinese subjects who were parties to the suit in court, to the number of over 200, were then (1897) and had been for eight years previous peacefully domiciled in Silverbow County conducting or desiring to conduct lawful business, and that they were entitled to the protection of the United States; that the defendants in the suit and certain other persons, residents of said county, to the number of more than 3,000, representing more than twenty unions or associations, banded together to organize and carry into execution "a willful and malicious conspiracy and combination" to deprive the Chinese residents "of the means of earning a livelihood, and thereby compel them to leave the said county;" that in execution of this conspiracy and combination an executive committee was appointed for the vigorous prosecution of the same, with power to raise money and employ men "to be a working force to commit the acts" of violence to be hereafter stated; that large sums of money were raised by forced subscriptions among business men and from the unions, and that a considerable force of men was so hired; that notices were published in the newspapers and posted throughout the city, and especially on the places of business of the Chinese subjects and on the houses of all persons employing Chinese, announcing that a boycott of the Chinese had been declared, and appealing to all citizens to cooperate in carrying it out; that they employed and caused a wagon to be driven through the city carrying a large transparency on which was painted repulsive caricatures of Chinese subjects, with a display notice of the boycott, and a gong sounding to attract attention; that the members of the conspiracy did willfully and maliciously go in numbers to the places of business of the Chinese merchants, stand upon and forcibly occupy the highway and sidewalks, and warn people about to become customers that these places were boycotted—that persons ought not to and must not patronize such places; that these conspirators did sometimes use force and compel the customers to leave such places of business, and that the result of such violent acts was to materially reduce the business of such

merchants and make the same unprofitable; that in further execution of said conspiracy and combination the hotels and boarding houses of the city in which were employed Chinese cooks or servants were visited and notified that the Chinese servants must be discharged; persons were hired to willfully and maliciously go to such houses, stand upon and forcibly occupy the highway and sidewalk, and warn and threaten such persons as were about to enter that they must not patronize such houses; that a number of such boarding houses were kept by females; that when they declined to obey the orders of the conspirators, a wagon, with a transparency containing the name of the boarding house and the proprietress boycotted, was driven about the city with a gong sounding; that in almost all cases the women were forced to yield to the demand and discharge their Chinese servants, but in addition they were compelled to pay to the conspirators the money expended for the wagon and advertising, amounting in the case of one female to \$45; that persons were employed by the conspirators to ascertain all the private and business houses in which Chinese were employed, and they were treated in a similar manner; that a boycott was placed upon the Silver Bow National Bank because its cashier employed a Chinese servant and its place of business was in a block in which a Chinese acted as janitor; the bank began to suffer by the withdrawal of depositors, and the boycott was only removed after a secret conference between its president and a committee of the conspirators; and that the effect of the acts of the conspirators, a part of which are above described, was to deprive many of the Chinese residents of work and the means of earning a livelihood, to materially reduce the business of the merchants and make the same unprofitable, and to break up the homes and drive away from Silverbow County 350 of such Chinese residents, being one-half of the number of those residing in said county, and that all of the Chinese residents would have been driven away but for the restraining influence of the injunction of the United States circuit court.

It is to be borne in mind that all these acts, growing out of what the court finds to be a "willful and malicious conspiracy," were committed openly, with the full knowledge of the police, the city and the State authorities, and without a single effort on their part to restrain the lawlessness, as will be seen by reference to the finding No. 27 of the record of said court.

The petitioners whose claim for indemnity I herewith submit estimate the damages suffered to amount to \$500,000. They recognize the good effect of the injunction of the United States court, but represent that the conspirators, while ceasing from open acts of violence, are still seeking to execute their conspiracy by clandestine means. It further appears that the persons who have inflicted the damages are insolvent, even if it were possible to successfully accuse them before the courts, which in the present state of local public sentiment would be impossible. Neither can any remedy be found by proceedings against the city or county authorities who have willfully allowed these damages to be inflicted.

The only remedy to be found for my injured countrymen is to resort to the Government of the United States to make good its treaty stipulations. I therefore appeal to you, and through you to the honored and upright President, to take such steps as will fully indemnify the Chinese subjects of Silver Bow County, Mont., for the pecuniary losses and injuries they have sustained, and such as will hereafter

secure to them the full enjoyment of their rights as peaceu. and law-abiding residents.

I transmit herewith the petition of the Chinese subjects setting forth their grievances and losses, and to this are attached the complaint before the United States circuit court, the action of the city council of Butte City and the governor of the State of Montana, the findings of facts, and the injunction of the United States court.

Accept, etc.,

WU TING-FANG.

[Inclosure.]

BUTTE, MONT., *February 20, 1901.*

To His Excellency WU TING-FANG,
Chinese Minister, Washington, D. C.

SIR: I have to-day mailed you a certified copy of the record, including the testimony in the case of Hum Fay et al. v. Frank Baldwin et al., being a case involving a boycott of the Chinese residents of the city of Butte and county of Silver Bow, State of Montana. This record includes a copy of the decree rendered by the United States circuit court for the district of Montana, restraining and enjoining the defendants from further boycotting said Chinese residents of said Butte City and Silver Bow County. Among the findings is one to the effect that the duly constituted authorities of said city of Butte and county of Silver Bow, and also of the State of Montana, neglected and refused to enforce the laws and ordinances in force at the time in behalf of said Chinese residents, to the great injury and damage of said Chinese residents.

The undersigned most respectfully request that you will present a claim to the United States Government, as in the memorial heretofore sent to you, praying that they be awarded an adequate amount of compensation for the damages they have received. Our counsel, Col. W. F. Saunders, will call upon you shortly with reference to this matter, and give you such further information in the premises as may be necessary.

Thanking you in advance for an early reply, we beg to remain, etc.,

QUON LONG CHUNG.
WAH SHUNG LUNG.
QUONG TUCK WING.
BOW SHANG TONG.
WUI HEONG LOW.

KIM CHONG TAI.
WAH CHONG TAI.
SHANG HAI.
NEE WAH LUNG.

To His Excellency WU TING-FANG,
*Envoy Extraordinary and Minister Plenipotentiary
from the Empire and Government of China to the United States of America.*

SIR: The undersigned are a committee representing the Chinese denizens from 1886 to 1897 in Silver Bow County and Butte City, Mont., and some of whom, to the number of 226, with plaintiffs, joined in a certain action hereinafter referred to, and they in behalf of their fellow-countrymen, wronged and damaged by the action hereafter described, humbly and respectfully petition your excellency to take such action and institute such proceedings as will result in securing to your petitioners pecuniary compensation for the wrongs and injuries hereinafter recited.

And your petitioners represent that they are persons of Chinese descent and natives and subjects of the Empire of China, who during the period above mentioned were domiciled in said Silver Bow County, State of Montana, and in all respects were complying with the laws of the United States, authorizing and permitting them to remain as denizens of the said United States and entitling them to all the rights and privileges of citizens of the most-favored nations; and they were conducting divers and sundry industries in said county and State to the great advantage of said community and profit to themselves.

And your petitioners say that while they were engaged in the peaceable and orderly conduct of their divers and several industries as aforesaid certain citizens of the

United States, resident in said Butte City, did wickedly and maliciously conspire against your petitioners and their fellow-countrymen, denizens as aforesaid, with the intent and for the purpose of destroying all their industries and preventing them from securing any reward for the labors in which they were engaged, and to compel them to leave the said city, county, and State.

That such conspirators, numbering several thousand citizens of the United States, having been organized into unions or associations, successfully and secretly did institute against all the Chinese subjects in said Silver Bow County, including your petitioners, a boycott, by means whereof they designed and intended to prevent your petitioners and their countrymen, in said Silver Bow County, from conducting any business whatever, whereby they would be deprived of a livelihood and would be compelled to emigrate to some other country; and your petitioners say that many of them were without means and were dependent upon their daily labor for the necessities of life.

That when said unions or associations had been formed as aforesaid and had entered upon said boycott they proceeded to inflame the minds of people of other races than ours against your petitioners and their countrymen and to excite animosity against them by libels, slanders, abuse, and all the processes of mischief which they could set in motion; that to this end they assumed to forbid any citizen of the United States or person other than of Chinese descent from patronizing your petitioners or their countrymen or any of them therein or from employing them in any industry whatever, and to this end did threaten our customers with a like boycott in case they should disregard the commands of said conspirators. To the end that they might be protected against such unlawful actions, your petitioners and other Chinese subjects resident thereat applied to the police department of said city and county, which is charged by law with the protection of individual rights and the maintenance of public order, to prevent the said boycott so far as it assumed the form of lawlessness and to secure to your petitioners such rights as by treaty and law were granted to subjects of other nations in said county and State.

But the police did not and would not so protect or endeavor to protect your petitioners, and so it was that the said unions and associations, being the conspirators aforesaid, by a resolution adopted by them, requested the council of the said city of Butte, in which your petitioners did most dwell, to assist them in their unlawful practices so as aforesaid contemplated and set in motion, and said city council, which is the legislative department of the said city of Butte, did indorse and approve said movement, and by its actions consented to assist and did assist the conspirators aforesaid in their design and purpose so as above manifested, and failing therein, after long-continued endeavor, your petitioners applied to the officers of the said county, charged by law with the maintenance of public order, and asked them to assist your petitioners in protecting their said rights, but so it was that the said officers did neglect and refuse so to do.

That thereupon your petitioners, or some of them, called the attention of the authorities of the State of Montana, to wit, the governor thereof, to the conspiracy and boycott aforesaid, with the statement that the same was in derogation of the treaty rights of your petitioners, and requesting protection therefrom, but so it was that the said governor, referring the said statement and request to the attorney-general of the State as to his opinion thereon, said attorney-general did maintain that the said conspiracy and boycott, and consequently pecuniary damage, were not in derogation of the rights of your petitioners, and thereupon, being so advised as to his duty, the chief executive of the State, charged by her constitution to see that the laws were faithfully executed, neglected to protect your petitioners against the actions of the conspirators aforesaid.

And your petitioners do further represent that said conspiracy and boycott existed long prior to 1886, and does since exist, to the great damage of your petitioners and those they represent, and their countrymen, natives, and subjects of the Chinese Empire, and that it does yet continue, to the great and continuing damage of all Chinese whose domicile is in said Silver Bow County.

And the passions and prejudices of the more ignorant citizens of the said community are and have been so excited as that the Chinese have been deprived of the means of making a living and in a number of instances native Chinese subjects have been killed by the citizens of the United States in consequence of the conspiracy aforesaid.

And your petitioners do further say that they have been damaged by reason of unlawful acts so as aforesaid committed in being deprived of their labor and business as aforesaid in the sum of \$500,000 and more, and that large numbers of their countrymen, subjects and natives of the Empire of China, whose domicile was in said

Butte at the time of the commencement of said boycott, were by reason thereof driven from said city and county and compelled to seek a living elsewhere, to their great pecuniary injury, loss, and damage.

And your petitioners say that, having been subjected to the injury and contumely aforesaid and the loss and damage consequent thereon, they commenced a certain action in the circuit court of the United States to enjoin and prevent the said unlawful acts of the said conspirators, and that with expense and labor they did finally procure an injunction whereby the unlawful and coarser forms of said conspirators were enjoined and restrained, but the same still clandestinely continues to the great injury of your petitioners.

Your petitioners attach hereto and mark as "Exhibit A" their bill of complaint in the action aforesaid, which in form and substance they affirm is true. They also attach the order whereby certain other Chinese subjects, residents in Silver Bow County, were admitted as complainants in said action.

They also attach hereto and mark as Exhibit B the correspondence between the governor and the attorney-general of the State of Montana, touching the said boycott and the executive duty of repressing the same.

They also attach hereto and mark as Exhibit C the findings of the examiner in chancery, appointed for that purpose by said court, of the facts found by him touching the said boycott.

They also attach hereto and mark as Exhibit D the findings of the court, confirming with immaterial modifications the said findings.

They also attach hereto and mark as Exhibit E the order of the court for a permanent injunction in said case.

They also attach hereto and mark as Exhibit F the injunction issued in said action.

They also accompany these papers with the testimony in said action taken before said examiner.

And your petitioners say that during the continuance of said boycott they suffered great damage in their estate and persons and that the defendants in said action as well as the other persons joining in said conspiracy against whom proof could be obtained were then citizens of the United States, owing to it allegiance, obedience, and fidelity, and are and were practically insolvent, and that for the loss and damage by your petitioners suffered there is no remedy at law or otherwise than through diplomatic channels.

Your petitioners do further say that they are ready at all times and before any tribunal thereto authorized to maintain by competent proof the facts stated in this petition.

Wherefore your petitioners pray that for all the wrongs aforesaid done to the Empire of China by said citizens of the United States to their persons and estate, including the homicides aforesaid, your excellency may be instructed to demand of the Government of this country adequate remuneration, and it may be recommended that His Imperial Majesty may direct that the same be paid to us, that we may be reimbursed for the damages we have suffered in the premises for these violations of the treaty obligations of the United States of America. And as in duty bound your petitioners will ever pray.

We are, etc.,

Hum Fay, Quong Loy, Hure Pock, Kim Chong Tai, Wah Shung Lung,
Wang Hong Gow, Quon Long Chung, Don S. Len, Bow Shang Tong,
Tung Tuck, Wong Fun, Wah Chong Tai, Kong Sing Fong, Chun
Chew, Chum Choy, Chin Him Tong, Quong Tuck Wing, Wong Tai
Shang, Tuck Kim, Tung Yee Chan, Shang Hai, Yee Wo, Deer Yick.

W. F. SANDERS,

J. U. SANDERS,

L. P. SANDERS,

Solicitors for Petitioners.

EXHIBIT A.

In the circuit court of the United States, ninth circuit, district of Montana.

HUM FAY, DEER YICK, HUM TONG, AND HURE POCK,
complainants,

v.

FRANK BALDWIN, GRIFFITH E. TAYLOR, GEORGE MORE-
hart, George E. B. Walters, P. H. Burns, Ed. March-
chand, H. G. Morgan, M. J. Geiger, Louis Schaffer,
Harry La Galla, Charles Slayton, J. W. Huffman,
George W. Morgan, Frank P. Weldon, Fred What-
ley, Albin A. Sandahl, Robert E. Taylor, J. H. Free,
W. R. Martin, W. H. Eddy, and John Doe and Rich-
ard Doe, whose real names are unknown, defendants.

Bill of complaint.

Now come your orators Hum Fay, Deer Yick, Hum Tong, and Hure Pock, who sue for themselves and all other subjects and natives of the Empire of China, and who are of Chinese descent, and who are conducting or desire to conduct and but for the unlawful acts of the defendants hereinafter alleged and set forth would conduct business in the county of Silverbow, State of Montana, and who desire to join herein, and who are all alien inhabitants of the said State of Montana, and complaining of the defendants Frank Baldwin, Griffith W. Taylor, George Morehart, George B. Walters, P. H. Burns, Pat Kane, Ed. Marchand, H. C. Morgan, M. J. Geiger, Louis Schaffer, Harry La Galla, Charles Slayton, J. W. Huffman, George W. Morgan, Frank E. Weldon, Fred Whatley, Albin A. Sandahl, Robert E. Taylor, J. H. Free, W. R. Martin, W. H. Eddy, and John Doe and Richard Roe, whose real names are unknown to the plaintiffs, and all others who combined and confederated together and are perpetrating and assisting in the perpetration and threaten to continue the perpetration of the wrongs hereinafter described, and say that they, the said defendants, are citizens and residents of Montana, and your orators and each of them are of Chinese descent, and are natives and subjects of the Empire of China, domiciled in Silverbow County, Mont., and that there are of such Chinese subjects domiciled in said county engaged in conducting lawful business in said county of Silverbow, or desiring so to conduct such business, and but for the unlawful acts of the defendants hereinafter alleged would conduct such business therein, and who desire to join in this prosecution three hundred or more alien Chinese, who each have a common and general interest in redressing the wrongs herein complained of and in preventing and enjoining the same, but whom it is impracticable to bring before this court as orators in this case, and for whom your orators sue as well as for themselves, and your orators say that they and the said parties for whom they sue, are and have been residents of Butte, in said county of Silverbow, for more than one year last past, and they say that the said Hum Fay, Deer Yick, and Hum Tong are, and since the 1st of April, 1896, have been doing business in said Silverbow County, Mont., in the buying and selling of Chinese and Japanese fancy goods, and in the maintenance and carrying on the business of conducting a restaurant in the city of Butte, in said county of Silverbow and State of Montana; and they are entitled by the laws of the United States and the treaties between the said Empire of China and the United States to reside in said county of Silverbow, and to conduct and carry on for a profit their business aforesaid at Butte and elsewhere, and they and each of them have complied with the provisions of the law of the United States entitled "An act to execute certain treaty stipulations relating to Chinese," approved May 6, 1892, and have obtained from the proper officer the certificate in said act provided.

And your orators complain and say that they have been domiciled within the territory of the United States for the twenty years last past, and now reside in the district of Montana.

And your orators do further say that they are by law and treaties entitled to all the rights, privileges, immunities, and exemptions which are accorded to the citizens and subjects of the most-favored nations, and to conduct their said business without let or hindrance from the said defendants, their aiders, abettors, confederates, or coconspirators, or either or any of them, and are entitled to the equal protection of the laws of the United States, and that the public faith of the United States is pledged to protect your orators and all others in like condition, nativity, and descent from the ill treatment and wrongs hereinafter alleged to have been perpetrated by

the said defendants, their aiders, abettors, and confederates, and are entitled to the equal protection of the laws of the United States and of the State of Montana.

And your orators say that, so being subjects of the Chinese Empire domiciled as aliens of the United States and residing in said Silverbow County, on or about the 1st day of April, 1896, the said Hum Fay, Deer Yick, and Hum Tong, as they well might, pursuant to the privileges so secured to them by treaty and law, at Butte, in said Silverbow County, did proceed to carry on the business of buying and selling for a profit Chinese and Japanese goods and of keeping a restaurant for customers for profit at No. 37 West Park street, in the city of Butte aforesaid, in the county of Silverbow, which said business they were able to conduct for a period of time without let or hindrance from the said defendants or any of them, and at great profits to your said orators aforesaid. But so it was, as your said orators are informed and verily believe, that the said defendants, with the intent and for the purpose of preventing the said Hum Fay, Deer Yick, and Hum Tong from conducting the said business successfully and from securing any custom or customers therefor, and from making any profit thereat, and with the intent and for the purpose of intimidating the patrons of the said owners of said restaurant in their said business, and thereby preventing them from patronizing said business and to break up the business of the owners of said store and restaurant, and compel them to leave the said county of Silverbow, did, on or about the 1st day of October, 1896, willfully and maliciously combine, confederate, and conspire together, and with other persons in large numbers to your orators unknown, and to the number of three or four hundred, all actuated by a like purpose, designed to deprive all Chinese aliens residents at said county of Silverbow of the privilege of doing business therein and of the equal protection of the laws and of equal privileges and immunities under the laws, and to deny them the rights and privileges secured to them by the laws and treaties of the United States.

And your orators do further say that the said Hure Pock, on the 1st day of April, 1896, and from that time forward until now, has conducted in the said city of Butte a store for the sale of Chinese and Japanese goods at great profit to himself, and has proceeded to carry on, and does yet carry on, said business; and your orators do further say that a large number of the alien Chinese above mentioned are engaged in the conduct of divers and sundry kinds of business in said Butte, to wit, the keeping of restaurants and providing food for individuals who should desire to eat thereat for a compensation to be paid by such customers, and divers and sundry of them carrying on the business of raising garden vegetables in said Silverbow County, and sundry and divers of such Chinese aliens as mentioned herein are engaged in the laundry business for profit, and were making large profits in and about the conduct of the various kinds of business so by them carried on as aforesaid in the said county of Silverbow.

And your orators do further say that there is a large number of Chinese alien residents of said Silverbow County who could and but for the wrongs hereinafter set forth and described would conduct and carry on divers and sundry enterprises and business in said county of Silverbow at a great profit to themselves; but so it is that the said defendants, their aiders, abettors, confederates, and conspirators, wickedly designing and intending to disregard the laws and treaties of the United States and the laws of the State of Montana, and to deny these Chinese aliens, residents aforesaid, the equal protection of the laws and equal privileges and immunities thereunder, and to break up the business in which they are engaged, and to deny to them the privileges of profitably conducting the same, and to prevent others of said alien Chinese residents from entering into that or any other business in said county of Silverbow for that purpose and with that intent, on or about the 1st day of October, 1896, did combine, conspire, and confederate together, and with divers and sundry other persons to your orators unknown, willfully and maliciously to deprive your orators and other Chinese alien residents of said Silverbow County of their rights so to conduct said business profitably, and, having so wickedly combined, conspired, and confederated together for that purpose, did, on the 1st day of October, 1896, at said Butte, maliciously and with force and arms go into the place of business of the said Hum Fay, Deer Yick, and Hum Tong, and did stand upon and occupy the highway in front thereof and the sidewalk thereat, and did there remain upon said walk and public way warning all persons who had patronized and were customers of the said Hum Fay, Deer Yick, and Hum Tong, or who were about to become their customers in and about their business aforesaid and for whom they were made, and but for the unlawful and malicious conspiracy and acts aforesaid would have made large sums of money, and did, in behalf of the various voluntary organizations herein described and named, advise, direct, and state to said persons that the said business and place of business aforesaid of the said owners was placed under a boycott, and that persons and customers aforesaid contemplating becoming

customers and all persons ought not and should not and must not patronize the said business of the owners of said store and restaurant as aforesaid.

And your orators do further say that the said defendants, their aiders, abettors, and confederates as aforesaid, did then combine and conspire together, and did follow other customers of your orators with the malicious intent to deprive your orators of the right to the profitable business in said Silver Bow County, and warned and directed them not to patronize alien Chinese in any manner whatever, and did threaten customers of your orators and other alien Chinese, as aforesaid, that if they should continue to patronize such alien Chinese the said combination, confederation, and conspiracy will place such patrons under a boycott and thereby deprive them of the rights and privileges which they are entitled to enjoy under the laws; and thereby many of the customers of your orators and the other Chinese alien residents engaged in business in the said county of Silver Bow are terrified and prevented from patronizing your orators. And to the end that the said defendants, their aiders and abettors, may more efficiently and effectually destroy the business of your orators and the alien Chinese aforesaid, they have heretofore organized and are now maintaining divers and sundry combinations, confederations, and associations, known as assemblies, unions, brotherhoods, or some other names to your orators unknown, and said assemblies, brotherhoods, and unions, or other associations, have willfully and maliciously combined, conspired, and confederated together to continue and to perpetrate the wrongs aforesaid to your orators and other Chinese alien residents of Silver Bow County, and to destroy their business and to prevent them from engaging in legitimate business in said county, and from the privileges of earning a living and money as the result of their labors as aforesaid. And among the organizations so by said defendants, their aiders, abettors, and coconspirators organized and conducted there are the Workingman's Union, the Carpenters' Union, the Plumbers and Gas Fitters' Union, the Tailors' Union, the Bricklayers and Stone Masons' Union, the Brewers' Union, the Bakers' Union, the Painters and Decorators' Union, the Tin, Sheet Iron, and Cornice Workers' Union, the Butchers' Union, the Musicians' Protective Union, the Molders' Union, the Millwright and Pattern Makers' Union, the Barbers' Union, the W. R. Morley Assembly, the Meaderville Assembly, the Clerks' Assembly, the Cooks' Assembly, the Brotherhood of Switchmen, and the Amalgamated Association of Engineers, which organizations and assemblies organized to promote the welfare and interest of the various members thereof by lawful means aforesaid, by their members perverted into the combination and conspiracy aforesaid, whereby the business of your orators has been impaired, and if such combination shall succeed, this will be entirely destroyed.

And your orators do further say that the said defendants, their aiders and abettors as aforesaid, have from time to time since said 1st day of October, 1896, manufactured and do yet continue to manufacture, own, procure, and keep divers and sundry certain libelous banners, notices, transparencies, floats, pictures, paintings, mottoes, and signs conspicuously printed upon muslin or other material advertising that the Chinese of said county be boycotted and recommending that nobody shall patronize them, and warning all persons not to become customers of them, and which contain, among other things, pictures and cartoons of Chinese of a character and quality calculated and designed to hold all Chinese alien residents up to contempt and to excite the prejudice of the community against them, which said pictures being impressed upon cloth are put into conspicuous frames; and in fulfillment of the combination and conspiracy aforesaid, and with the intent and for the purpose of destroying the business of your orators and other alien Chinese residents, and of preventing others of like descent and nativity and nationality from entering upon said business, procure the same to be carried or drawn in wagons through the streets of the said city of Butte, to the end that the prejudice of the individuals composing that community may be excited, and that the ignorant or the wicked, if any such there shall be, shall by force and arms and otherwise destroy the business of your orators and the aliens of Chinese descent and nationality, and your orators be denied the privilege of conducting successful business therein.

And your orators do further say that for the purpose of ascertaining who the patrons of your orators and other Chinese persons are the said defendants, their coconspirators, confederates, aiders, and abettors, follow such Chinamen as they go to the homes of their customers upon errands of business with the view and intent to ascertain who said customers are, to the end that such custom may be destroyed, and to warn such customers not to patronize your orators or their countrymen engaged in business thereat.

And your orators do further say that the said defendants about the 1st day of January, 1897, undertook and agreed among themselves and with divers and sundry other persons to your orators unknown and with the various persons of the organizations aforesaid, that for the said purpose of keeping up and maintaining the said

boycott they would contribute, and they did maliciously and unlawfully contribute money to spies and pay informers so as aforesaid engaged in perverting persons from patronizing your orators in and about their business and in carrying the said libelous banners, floats, notices, transparencies, pictures, paintings, mottoes, and signs printed as aforesaid, which are malicious defamations of your orators and all who are Chinese alien residents engaged in business in said county of Silver Bow, the real intention and design being to bring before the public the nativity of your orators and their countrymen and to expose your orators to public hatred and contempt; and by the procurement of the said defendants, their said aiders and abettors, said libelous and defamatory banners are drawn upon wagons or carried by individuals through the streets and in the sight of the said persons of Butte, and are yet being so carried and read by many thousands of people, many of whom are thereby prejudiced against your orators and others of like nativity and country.

And your orators do further say that from time to time the said defendants, their coconspirators, aiders, and abettors, do and did print, publish, and cause to be distributed in said Butte and elsewhere, dodgers, cards, and pamphlets advising the citizens and denizens of said county to boycott your orators and others and not to patronize them in and about the business in which they are engaged, and did also print the names of patrons of your orators and distributed them through said county, with the intent and for the purpose on the part of the said defendants, their aiders and abettors, of exposing such persons to hatred, ridicule, and persecution, and thereby terrify them into abandoning the patronage of your orators.

And your orators do further say that all the foregoing acts were done and performed by the said defendants, their aiders and abettors, wickedly, maliciously, and unlawfully, and are in contravention of the rights of your orators to pursue their lawful industry without let or hindrance from the said defendants or any other person, and without being subject to the conspiracies aforesaid, and wholly unrestrained, except by equal, just, and impartial laws. And your orators do say that by reason of the acts aforesaid they have suffered great damage in the sum of \$500,000.

And your orators do further say that the said defendants are continuing and threaten to continue each and all of the unlawful acts aforesaid, and threaten to procure and also to perpetrate and assist in the perpetration of the same, and threaten to further continue to pay money from time to time, as it may be required, for the purpose of continuing the unlawful and malicious acts aforesaid, and have agreed to continue hereafter to pay money to procure a continuation thereof, and such other and further unlawful acts as in the judgment of the said defendants, their confederates and coconspirators, will be effectual to destroy the business in which the cocomplainants and all others of Chinese descent and nationality engaged in business in said county of Silver Bow, or propose hereafter to engage therein.

And your orators say that they do not know the names of the members of the several said unions, associations, assemblies, or organizations aforesaid, and can not obtain the same, but that said associations, assemblies, unions, brotherhoods, by delegates from each of said voluntary associations, have organized a trade and labor assembly, which said trade and labor assembly, in its own name and in the name of the foregoing organizations, is continuing to boycott, persecute, and harass, as aforesaid.

And your orators say that unless such conspiracies, confederations, and combinations were ordered and directed by the labor organizations aforesaid, and the said trades and labor assembly, and the said defendants, your orators would be permitted to enjoy their natural, essential, and inalienable rights, among which is the right of enjoying their liberty of acquiring possession and protecting their property, and seeking and obtaining their safety and happiness by the peaceful and untrammelled conduct of the lawful business in which they are engaged. And your orators do further say that there are in the said county of Silver Bow a large number of Chinese persons, alien residents therein, subjects of the Empire of China, engaged in the business of buying and selling merchandise thereat for a profit, and of keeping restaurants for profit, and are engaged in the business of making and selling clothing and raising garden vegetables for a profit, and other lawful occupations. But the combinations and conspiracies of the said defendants and others aforesaid is designed and intended by the said defendants and others to prevent your orators, and all others who are subjects and aliens of the Empire of China, from conducting their said business legitimately within the limits of said county of Silver Bow, and to intimidate and coerce the citizens of said county from patronizing your orators and the other natives and subjects of the Empire of China aforesaid, and they have succeeded in destroying most of the patronage heretofore enjoyed by your orators and the Chinese subjects aforementioned.

And your orators do further say that from the very nature of the damage and injury so as aforesaid perpetrated and incurred it is not possible to prove the amount thereof in an action at law, and that the recovery of such damages as are conse-

quent thereon would involve a multiplicity of suits, and that if the said defendants and the other citizens combining and confederating with them shall be permitted to continue their unlawful and malicious acts aforesaid the injuries to your orators and the other natives and subjects of China residing in Silver Bow County will be irreparable, and that there is no adequate remedy at law for the redress of the wrongs so suffered.

And your orators do further say that the said defendants, their aiders, and abettors as aforesaid, are daily engaged in preventing by the unlawful means aforesaid, customers from patronizing the stores, restaurants, tailor shops, laundries, and other places of business of your orators and the other Chinese residents aforesaid, conducted by the natives and subjects of China in the said county of Silver Bow, and are daily causing your orators and other natives of China aforesaid to suffer great loss in and about their business in said county conducted.

And your orators do further say that the said defendants by reason of their identification with said divers and sundry organizations have great power and influence over the community in which your orators and their countrymen have been doing business, and are able thereby to incite the wicked and ignorant in said community to continue the perpetration of said wrongs to your orators and others, and that they intend so to incite the ignorant and wicked members of said community to continue their boycott so wickedly and unlawfully incited, inaugurated, and maintained, and to impair and render unprofitable the business in which your orators and others are now and have for the last ten months been engaged.

And your orators further say that the said defendants did from time to time themselves secretly meet and with their aiders and abettors advise and plan a continuation of the unlawful acts aforesaid by them or some of them, and they threaten so to continue to do.

And your orators do further say that the foregoing boycott and acts constituting the same are perpetrated by the said defendants and others wickedly, unlawfully, and maliciously in scorn of the public faith of the United States, which by treaty and law is so solemnly pledged to protect your orators and all other alien Chinese residents of the United States from the maltreatment hereinbefore alleged and described.

And your orators do further say that damages accruing to your orators by the said wrongs heretofore perpetrated by the said defendants exceeds the sum of \$50,000, and unless restrained by the court the further injury hereafter to be perpetrated by a continuance of the said wrongs above set forth and threatened will exceed the sum of \$2,000, and that the good will of their business so being conducted at Butte, in said county, would, by the cessation of said wrongs so threatened and being perpetrated, be increased more than \$2,000.

And your orators do further say that all of the foregoing acts and doings are contrary to equity and good conscience and tend to the manifest injury of your orators in the premises and to the injury of all persons in like condition and circumstance, for as much as your orators can have no adequate remedy except in a court of equity, and to the end therefore that the defendants may, if they can, show why your orators should not have the relief hereby prayed and make a full disclosure and discovery of all the matters aforesaid and according to the best and utmost of their knowledge, remembrance, information and belief, full, true, direct, and perfect answers make to the matters hereinbefore stated and charged under oath, and answer under oath being hereby expressly waived, and that the said defendants, their agents, confederates, coconspirators, and all persons acting in the premises with them may be enjoined and restrained from any further violation of your orator's said rights, your orators pray that your honor may grant writ of injunction, issuing out of and under the seal of this honorable court, perpetually enjoining and restraining the said defendants, their clerks, agents, servants, workmen, and confederates from further combining or conspiring in the manner before mentioned and described to injure or destroy the business aforesaid of your orators, and from injuring or destroying the business of those certain natives and subjects of the Empire of China, resident in Silver Bow County, and conducting business therein, and from boycotting your orators or the natives and subjects of the Empire of China aforesaid so engaged in business in said county, and from advising, threatening, or coercing any person or persons intending to become patrons of your orators as aforesaid from so patronizing your orators and their countrymen as they shall incline or desire, and from causing to be carried through the streets of said Butte the said banners, floats, transparencies, and mottoes with the same or like libelous or defamatory pictures or mottoes thereon, and from remaining in the vicinity of the places of business of your orators or their countrymen so engaged in business in said Silver Bow County advising and notifying individuals not to patronize your orators or other citizens of Chinese nativity, descent, or citizenship, or threatening them in any manner if they do so; and they be further enjoined and restrained from in any

way or manner contributing any money or moneys whatever to be by anybody used to injure the business of your orators or their countrymen in said county, or to cause said floats, banners, transparencies, mottoes, to be carried in the streets in the said town of Butte or county of Silver Bow; that the said floats, transparencies, mottoes, and other devices so unlawfully and maliciously used as aforesaid may be destroyed or delivered up to your orators for that purpose; and that a provisional or preliminary injunction be issued, restraining the said defendants, their clerks, attorneys, agents, workmen, and confederates as aforesaid, pending this cause, and for such other and further relief as the equity of the cause may require and to your honor may seem meet.

May it please your honor to grant unto your orators not only a writ of injunction conformable to the prayer of this bill, but also a subpoena of the United States of America directed to the said Frank Baldwin, Griffith E. Taylor, George Moreheart, George P. Walters, P. H. Burns, Pat Kane, Ed. Marsch, H. C. Morgan, M. J. Geiger, Louis Schaffer, Henry La Galla, Charles Slayton, J. W. Hoffman, George W. Morgan, Frank P. Welden, Fred Whatly, Albine A. Sandahl, Robert E. Taylor, J. H. Free, W. R. Martin, W. H. Eddy, and John Doe and Richard Roe, whose real names are unknown, commanding them on a certain day to appear and answer unto this complaint and to abide and perform such order and decree in the premises as to the court shall seem proper and required by the principles of equity and good conscience.

SANDERS & SANDERS,
Solicitors for Complainants and of Counsel.

W. F. SANDERS,
Of Counsel for Complainants.

UNITED STATES OF AMERICA, *District of Montana, ss:*

On this the 13th day of April, 1897, before me personally appeared Huie Pock, one of the complainants above named, who, being by me duly sworn, deposes and says, that he has heard the foregoing bill of complaint read, and knows the contents thereof, and that the same is true to his own knowledge except as to the matters therein stated on information and belief, and as to these matters he believes it to be true.

HUIE POCK.

Sworn and subscribed to before me this 13th day of April, 1897.

[SEAL.]

LEWIS PENWELL,
*Notary Public in and for the County of
Lewis and Clarke, State of Montana.*

EXHIBIT B.

THE STATE OF MONTANA, GOVERNOR'S OFFICE,
Helena, January 27, 1893.

HON. HENRI J. HASKELL, *Attorney-General, City.*

DEAR SIR: I hand you herewith papers from Hon. Thompson Campbell, of Butte City, which call attention to the fact that there has been such action taken by that municipal government which he thinks conflicts with "treaty obligations of the United States Government with that of China, and the subjects thereof residing and being within the United States under said treaty."

You will please instruct this office what my duty is in the case under the constitution and laws of the State.

I am, with respect, yours, very truly,

J. E. RICKARDS, *Governor.*

FEBRUARY 21, 1893.

To His Excellency JOHN E. RICKARDS, *Governor of Montana.*

SIR: Herewith we note the receipt of a communication from your department under date of January 23, 1893, inclosing papers from the Hon. Thompson Campbell, of Butte City, which in themselves call attention to the fact that there has been such action taken by the municipal government of the city of Butte, which in the opinion of Mr. Campbell conflicts with "the treaty obligations of the United States Govern-

ment with that of China and the subjects thereof residing and being within the United States under said treaty."

All of which has been submitted to this department with the request that we advise you as to your official duties in the case under the constitution and laws of the State.

The action of Mr. Campbell in submitting this matter to your department for your consideration is predicated upon two documents therewith inclosed, which for the purpose of review are noted as follows:

"HALL OF THE SILVER BOW TRADES AND LABOR ASSEMBLY,
"Butte, Mont., ———, 1892.

"To the Mayor and City Council of the City of Butte.

"GENTLEMEN: At a meeting of the Silver Bow Trades and Labor Assembly, held December 4, 1892, the undersigned were appointed a committee to wait upon your honorable body and to ask the assistance of the city government in labor's strenuous endeavors to rid the city of the Chinese.

"For years, owing to the competition of the Chinese, a respectable living in any classes of labor in this city has been uncertain and precarious. Our laboring men can not live as cheaply as Chinamen, and therefore can not afford to work in competition with Chinamen. Considering it the duty of the city government to look after the welfare of its citizens, we are confident that the present city government, like its predecessors, will regard the interests of the white men, who are citizens, rather than the Chinamen, who are not citizens.

"The method in which we ask the city council to second our efforts to rid the city of the Chinamen is by discharging all the city employees who employ Chinese help directly or indirectly, or who in any way patronize Chinese labor.

"Respectfully submitted.

"Per order,

"SILVER BOW TRADES AND LABOR ASSEMBLY.

"Committee appointed by our body to submit this petition:

"JAMES BROWN.

"THOMAS MATTHEWS.

"DAN McCALLUM.

"W. H. SWEET."

"Communication from the Silver Bow Trades and Labor Assembly, asking that all city employees patronizing Chinese be discharged, was, on motion of Paxson, referred to the judiciary committee."

["Extract from the report of the judiciary committee."]

"In the matter of the communication of the Trades and Labor Assembly referred to your committee, we beg leave to report that after having considered said communication your committee recommends that the heads of all departments of the city be requested by the council to use their best endeavors to induce all employees of the city, and that all employees be requested not to employ or patronize Chinamen, either directly or indirectly, during the term that they are in the employ of the city in any capacity. On the motion of Pascoe, the report was received and adopted."

The first of these documents appears to be a communication which was prepared by a committee of the Silver Bow Trades and Labor Assembly of Butte, Mont., under the authority and direction of such Trades and Labor Assembly, and presented to the mayor and city council in the month of December, 1892, which communication was referred to the judiciary committee of said council, and thereafter the report of said committee being received by the council the same was adopted.

This matter so submitted to us presents for our consideration two propositions, the first of which is international and the second a State question and involving the violations of the stipulations or obligations of a treaty, and second the enforcement of the laws of the State of Montana to protect residents therein.

First. Is the action of the city council of the city of Butte in contravention of any law of Congress or of any treaty stipulation or obligation of the United States Government with that of China, and the subjects thereof residing and being within the United States under said treaty?

Second. Does this case present such a state of facts to your excellency, if true, as will warrant executive interference in the absence of any complaint on the part of the subjects of the Chinese Government who are residing within the jurisdiction of the State of Montana, or a demand for an inquiry by the Department of State of the General Government?

The first treaty of any note that was entered into between the General Government and China was one of peace, amity, and commerce between the United States of America and Ta Tsing Empire of China, concluded at Wang Hiya on July 3, 1844, and ratified by the President January 17, 1845.

One of the conditions of said treaty was to the effect "that there shall be a perfect, permanent, and universal peace and a sincere and cordial amity between the United States of America on one part and the Ta Tsing Empire on the other part and between their people respectively without exception of person or places."

The object of said treaty was to open to the citizens of the United States five Chinese ports and permit the citizens of the United States to proceed at their pleasure with their vessels and merchandise to and from any foreign port to either of said five ports, and from either of said five ports to any other of them. At each of said five ports citizens of the United States lawfully engaged in commerce were permitted to import from their own or any other port in China and sell there and purchase therein, and export to their own or any other ports therein, all manner of merchandise of which the importation or exportation was not prohibited by said treaty. The former limitations of trade of foreign nations to certain persons appointed at Canton by the Government and commonly called Hong merchants was thereby abolished, and citizens of the United States engaged in the purchase or sale of imports or exports were by the article of said treaty admitted to trade with any and all subjects of China without distinction, and were not to be subject to any new limitations or impeded in their business by monopolies or other injurious restrictions.

At the place of entry of the vessels of the United States the citizens of the United States, merchants, seamen, or others sojourning there might pass and repass in the immediate neighborhood, but they could not at their pleasure make excursions into the country among the villages at large, nor could they repair to their public marts for the purpose of disposing of goods unlawfully and in fraud of the revenue.

All citizens of the United States in China peaceably attending to their affairs were placed on a common footing of amity and good will with subjects of China, and were entitled to receive and enjoy for themselves and everything appertaining to them the special protection of the local authorities of Government who were required to defend them from all insult or injury of any sort on the part of the Chinese.

If the citizens of the United States had special occasion to address any communication to the Chinese local officers or Government, they were required to submit the same to their consul or other officer to determine if the language was proper and respectful and the matter just and right, in which event the consul would transmit the same to the appropriate authority for their consideration and action in the premises, and if the controversy should arise between citizens of the United States and subjects of China which could not be amicably settled otherwise the same should be examined and decided conformably to justice and equity by the public officers of the two nations acting in conjunction.

It was stipulated that the provisions of said treaty should not be altered without grave cause; but inasmuch as the circumstances of the several ports of China open to foreign commerce are different, experience may show that inconsiderable modifications are requisite in those parts which relate to commerce and navigation, in which case the two Governments will, at the expiration of twelve years from the date of said convention, treat amicably concerning the same by means of suitable persons appointed to conduct such negotiations.

In 1858, which was nearly thirteen years after the ratification of the first treaty with China and during the administration of President Buchanan, the two Governments adopted and renewed in a manner clear and positive by means of a treaty or general convention of peace, amity, and commerce, the rules which in future were to be mutually observed in the intercourse of their respective countries.

This treaty was substituted for the treaty of 1844, so far as it related to the identical subjects, and had effect of opening additional ports to commerce and permitted citizens of the United States with their families to trade therein and to proceed at their pleasure with their vessels and merchandise from any of said ports to any other of them.

Prior to the adoption of this last-named treaty the vessels of the United States have not been admitted to trade freely with the ports of China on an equal footing with the vessels of other countries; but this treaty had the effect to open to the United States all the ports of China which were at that time open to foreign commerce.

Following the rule laid down in article 34 of the treaty of 1844, which provided that additional articles might be made thereto every twelve years, the United States and the Ta Tsing Empire entered into articles additional to the treaty of 1858, which

were ratified by the President in 1868, and which was known as the Burlingame treaty.

In the last-named treaty the Emperor of China was delegated with the right to appoint consuls at ports of the United States who should enjoy the same privileges and immunities as those which were enjoyed by public law and treaty in the United States by the consuls of Great Britain and Russia, or either of them.

This treaty by its articles recognized the inherent and inalienable right of man to change his home and allegiance, and also the mutual advantage of the free migration and immigration of citizens, respectively, from the one country to the other for the purposes of curiosity, of trade, or as permanent residents. It provided that citizens of the United States visiting or residing in China should enjoy the same privileges, immunities, or exemptions in respect of travel or residence as may there be enjoyed by the citizens or subjects of the most favored nation, and reciprocally Chinese subjects visiting or residing in the United States shall enjoy the same privileges, immunities, or exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most favored nation, and reciprocally Chinese subjects visiting or residing in the United States shall enjoy the same privileges, immunities, and exemption in respect to travel or residence as may there be enjoyed by the subjects or citizens of the most favored nation; but nothing therein contained should be held to confer naturalization upon citizens of the United States in China nor upon subjects of China in the United States.

It is further provided that Chinese subjects should enjoy all the privileges of educational institutions under the control of the Government of the United States which are enjoyed in the respective countries by the citizens or subjects of the most favored nations; and that Chinese subjects may freely establish and maintain schools within the United States at those places where foreigners are by treaty permitted to reside.

Under the provisions of the treaty of 1868, as well as those of former treaties, hordes of Chinese laborers, who were subjects of the Ta Tsing Government, took advantage of the plenary conditions and literally poured into the United States, and not until protest after protest had gone up from the people against this influx of immigration which endangered the good order of certain localities within its boundaries—namely, the Pacific coast States and Territories—did the Government of the United States, by its Congress, take legislative action thereon, and on May 6, 1892, passed what was called the Chinese exclusion act. The act provided that the coming of the Chinese laborers to the United States be, and the same is hereby, suspended after the passage of the act and until the expiration of ten years next thereafter.

Said act further provided that hereafter no State court or court of the United States shall admit Chinese to citizenship. This act was intended to prevent and did have the force and effect of preventing Chinese laborers from immigrating into the United States, and for its constitutionality depended upon the fact that it was a police regulation in this that the coming of Chinese laborers to this country endangered the good order of certain localities within the territory thereof. While this act exempted from its provisions all the Chinese laborers who were in the United States on the 17th day of November, 1880, as well as those who came to the same before the expiration of ninety days after the passage of said act, it was in itself, so far as the United States could speak through that body, a Congressional declaration that the subjects of Ta Tsing Empire and the Chinese are objectionable to the people of the United States.

The people of the United States spoke through their Congress, which was their sovereign power, and declared in plain and unmistakable language "that Chinese cheap labor, which had taken or obtained so firm a root in American soil, should be uprooted and transplanted into the soil of its nativity." It was a declaration that the fittest should survive, and a further declaration that their presence in this country was prejudicial to and endangered the good order of certain localities within the territory thereof.

The act of Congress of 1882, and as amended by the act of 1884, was accepted, and must be understood as a proscription against the admission of Chinese subjects into the United States by land or water, and any Chinese person found unlawfully within the United States shall be caused to be removed therefrom to the country from whence he came at the cost of the United States, after being brought before some justice, judge, or commissioner of a court of the United States and found to be not lawfully entitled to be or remain in the United States.

The first step that was taken to protect free white labor against competition against Chinese cooly labor and discourage the immigration of Chinese into the United States was taken by the miners in the State of California in the years 1854 and 1855, and resulted in the passage of a law which fixed the rate of a foreign miner's tax at

\$4 a month as to all foreigners "eligible to become citizens of the United States," and as to all foreigners "ineligible to become citizens of the United States," increased it \$2 a month for every successive year ad infinitum.

The agitation of this question which was so vital to the people continued, and their opposition thereto was made manifest by further legislation by the legislature of California, in 1858, by an act entitled "An act to prevent the further immigration of Chinese or Mongolians into this State."

The subject-matter of this act is noted in the two sections following:

"On and after the first day of October, A. D. one thousand eight hundred and fifty-eight, any person or persons of Chinese or Mongolian races shall not be permitted to enter this State, or the land therein, or at any port thereof, and it shall be unlawful for any man or person, whether captain or commander or other person in charge of or interested in or employed on board of, or passenger upon, any vessel of any nature or description whatsoever, to knowingly allow or permit any Chinese or Mongolian on and after such time to enter any of the ports of this State, or land therein or at any place or places within the borders of this State; and any person or persons violating any of the provisions of this act shall be held and deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine in any sum not less than four hundred dollars nor more than six hundred dollars for each and every offence, or imprisonment in the county jail of the county in which the said offense was committed for a period of not less than three months nor more than one year, or by both such fine and imprisonment. Section 2. The landing of each and every Chinese or Mongolian person or persons shall be deemed and held as a distinct and separate offence, and punished accordingly."

The legislature of California, influenced and urged on by the continued opposition of Americans to Chinese coolie labor, in 1862 passed an act entitled "An act to protect free white labor against competition and discourage the immigration of Chinese into the State of California."

As early as 1848 the States of New York and Massachusetts, by and through their legislatures, enacted laws imposing a direct tax upon alien passengers, the former \$1 on cabin and \$1.50 on steerage passengers, and the latter a tax of \$2 on each passenger, to be paid under both laws by the master, owner, or consignee of the ships.

Upon the ground that the power of tolerance or intolerance of foreigners is a question which should lie with the Federal Government, and act with the State governments, the courts held the tax unconstitutional, although Chief Justice Taney, in a case arising under the statute of New York, dissented from a majority of the court and contended that the power over persons was in the State and not in the Federal Government.

The advocates of the several measures disavowed the doctrine of State sovereignty, but asserted the States as independent in the management of their internal affairs; that in everything which contributed to their tranquility they are the managers; that in all police regulations they are supreme; that the State had an inalienable right to regulate all matters pertaining to its public morals, must have the right to exclude paupers, criminals, and dangerous persons, and that the exercise of this power and discretion rested nowhere else than in the legislature. (*Prigg v. Penn.*, 16 Pet., 625; 5 How., 525; 14 Pet., 565; 11 Pet., 142.)

They stoutly maintain that the police of the ocean belong to Congress, and that the police of the land belong to the State. (*Manning v. Clark*, 5 How., 471.)

Unquestionably the power exists in the State absolutely to decide what is sufficient cause to forbid a continued residence within its borders, and those considerations may be municipal or economical—as for example, danger of pauperism, danger of health, danger to morals, danger to property, danger to public principles by revolutions and change of government, or danger to religion. (*Passenger cases*, 7 How., 443.)

The municipality of Butte being a component part of the State of Montana, and governed by the existing laws of this State, has a coordinate right with the State to enforce such rules and regulations which are not inconsistent with the constitution and laws of the State to protect such municipality from dangers of pauperism, danger to health, danger to morals, danger to property, or danger to religion.

The attorney for the Chinese company must concede:

(a) That the Chinese are not bona fide residents in any sense of the word; they will not even permit their bones to have sepulture in our soil.

(b) That this request by the trades and labor union of Butte, even if incorporated into a rule by the municipality of Butte, would not interfere with the "possession or enjoyment" of property by the Chinese or prevent them from engaging in common with American citizens resident therein.

(c) That such a rule does not conflict with the treaty obligations of the United States Government with that of China and the subjects thereof residing and being within the United States under said treaty.

That these two propositions are not mooted must be conceded. From the very fact that the customs and habits of the Chinese are such as negative the assumption that they are bona fide residents of this State and too that the laws of Montana permit foreigners to engage in trade upon an equal footing with the citizens thereof; and that this can not be regarded in any sense as an inhibition upon the right of the Chinese to engage in trade.

The treaties that have been entered into from time to time between the United States of America and Ta Tsing Empire show nothing more than that they were intended for the purpose of trade and commerce between the two countries and for maintaining permanent and universal peace between the people of those Governments respectively.

We present a brief epitome of the several articles of treaty:

The treaty of 1844 provided for the opening of five ports and permitted citizens of the United States with their families to reside and trade there. It provided that the United States might appoint consuls at these ports and restricted the trade to these places. Citizens of the United States were allowed to engage pilots for their vessels in entering said ports and to hire servants and clerks, seamen, and laborers; that no cargo could be discharged without permits from the superintendent of customs of the port. The tonnage duty on vessels belonging to the United States was required on their being permitted to enter. Duties on imports were required to be paid on the discharge of the goods and duties of export on the landing of the same, payable either in sycee silver or in foreign money at the rate of exchange as ascertained by the regulations then in force.

It provides how houses and places of business may be obtained, the hiring of sites for the inhabitants to construct houses and places of business, and also hospitals, churches, and cemeteries, and that the local authorities of the two Governments should select in concert the sites for the foregoing objects. The citizens of the United States were not permitted at their pleasure to make excursions into the country among the villages at large nor to repair to public marts for the purpose of disposing of their goods. In case any officer or citizen of the United States employed any citizen of China such employee was protected from prosecution on the part of the Chinese Government. It provides for the protection of dwellings or property when attacked by mobs, incendiaries, or other lawless persons.

In case of controversies arising between citizens of the United States and subjects of China, the same are to be examined and decided conformably to justice and equity by the public officers of the two nations acting in conjunction.

It provided that if merchant vessels of the United States were plundered by robbers or pirates in Chinese waters and the robbers could not be apprehended by reason of territory and numerous population of China, that the Chinese would not make indemnity for the goods lost.

It provided for the action on the part of the Chinese Government in case of vessels wrecked or stranded on the coast of China.

It provided for the mode and manner of correspondence not only in case where citizens of the United States desired to address the local officers of China, but in case of correspondence between the authorities or representatives of the respective Governments, and prohibited the interchange of presents between the two Governments.

It prohibited the citizens of the United States trading with any other ports of China that were not open to foreign commerce, and that in case of such violation they were not entitled to any countenance or protection from the United States. It negated any construction of the treaty that would confer naturalization upon citizens of the United States in China, or upon subjects of China in the United States. The so-called Burlingame treaty is the only treaty in existence which purports to grant to subjects of the Ta Tsing Empire residing in the United States rights, privileges, and immunities coequal to those granted to the citizens of the United States residents of such Empire.

As to those privileges, the treaty provides that Chinese subjects visiting or residing in the United States shall enjoy the same privileges, immunities, and exemptions in respect of travel or residence as may there be enjoyed by the citizens or subjects of the most favored nation.

This latter paragraph does not, as will be perceived, grant to subjects of the Chinese Empire residing in the United States the right to engage in trade and deal in lands and estates, and the holding of any office therein is practically inhibited by proscription of the rights of naturalization.

To asseverate that citizens of the United States under the articles of either treaty have the right to freely engage in trade in any portion of the Ta Tsing Empire, except such as are specifically enumerated in said articles, would be to contend for that which is not therein written. All that is not therein delegated is excluded therefrom for that such treaties are limitations of right rather than a delegation of prerogative. They carry with them the stamp of autocratic concessions on the one hand and monarchical reservations on the other.

That which was secured by American diplomacy has yielded us an inheritance of Mongolian vampirism, which has fastened itself upon every source of living common to American wage workers.

Because we think to remove this human barnacle by lawful and legitimate measure, we are met with the declaration that "such peaceful agencies are in violation of the said treaty obligation."

These treaties of peace, amity, and commerce never contemplated that we should yield up to the subjects of the Chinese Empire every channel and means by which the American wage worker secures a livelihood for himself and family in order that his wealth might go to the former or that they might compete with him to the extent that the exercise of such privileges would be prejudicial to and endanger the good order of any locality within the United States.

This is not a retrospect of facts, dependent upon speculation or idle fancy, but a state of facts the existence of which is the nursery of crime and the parent of poverty. How best to preserve the rights of the wage workers of the country after their destruction through Mongolian labor is not the inquiry, but how to preserve them from such destruction.

In view of the above facts and the articles of said mentioned treaties we hold that the action of the city council of Butte was not in any manner or at all in conflict with the treaty obligations of the United States Government with that of China.

H. J. HASKELL, *Attorney-General.*

EXHIBIT C.

In the circuit court of the United States, ninth circuit, district of Montana.

HUM FAY, DEER YICK, HUM TONG, AND HUIE POCK, }
complainants,

v.

FRANK BALDWIN, GRIFFITH E. TAYLOR, GEORGE B. Walters, George Morehart, P. H. Burns, Ed. Marchand, H. S. Morgan, M. J. Geiger, Louis Schaffer, Harry La Galla, Charles Siaton, J. W. Huffman, George W. Morgan, Frank P. Weldon, Fred Whately, Albin A. Sandahl, Robert E. Taylor, J. H. Freer, W. R. Martin, W. H. Eddy, and John Doe and Richard Roe, }
whose real names are unknown, defendants.

To the Hon. HIRAM KNOWLES,

Judge of the above-entitled court.

SIR: I have the honor to submit the report of my proceedings under the following order of the court:

"Pursuant to the written stipulation of the respective parties hereto filed herein, it is ordered that the evidence herein is referred to Henry N. Blake, esq., a master in chancery of this court, to ascertain and report to this court the facts established thereby; that he pass upon the objections to the evidence or any part thereof, and that he report his decision as to the competency, relevancy, and materiality of any objections thereto, as well as to the facts established by the competent proof in writing to this court, and that he give reasonable notice to the solicitors of the respective parties of the time and place of any hearing by him and hereunder.

"HIRAM KNOWLES."

I have passed upon the competency, relevancy, and materiality of the objections to the evidence which have been preserved in the record. Messrs. Sanders and Sanders, and Francis Brooke, esq., solicitors for the complainants, and Messrs. J. L. and M. L. Wines and John N. Kirk, esq., and George A. Clarke, esq., solicitors for

the defendants, were given reasonable notice of the time and place of the hearings had by me under said order and appeared and were heard orally and submitted briefs. My rulings upon the objections of the evidence have been reduced to writing upon the pages where the same appear in the original report filed herein August 23, 1898. I have examined the evidence and rejected the portions thereof which were considered incompetent, irrelevant, and immaterial.

On consideration whereof, I have found there have been established, by competent proof, the following

FINDINGS OF FACTS.

1. That the bill of complaint herein was filed April 14, 1897, by the complainants Hum Fay, Deer Yick, Hum Tong, and Huie Pock; and thereafter, upon the 7th day of April, 1898, the parties hereinafter named filed herein their petition of intervention, reference to which is hereby made for a full statement thereof, and joined said complainants in the prosecution of this section to secure the same relief, to wit: Wah Shung Lung, Tom Hing Jip, Tom Wah, Tom Hoi Quoi, Tom Huie Shom, Tom Mun Hi, Tom Lick, Hum Young, Tom Hi Lip, Lang Gung Fon, Jung Hing Sing, Quon Hock Ben, Jung Mung Wy, Lou Quong, Chin Noy, Chin Thick, Chin Foo, Charley King, Woo Shoo, Ye Gung, Wong Long Ben, Chin Wing Shoy, Chin Sung, Chin Low, Quong Tuck Wing, Bow Shang Kong, Quong Fong, Quon Que Sing, Wong Ming, Quon High, Quon Hong, Quong Hing Huie, Lang Moy, Quon Long Quock, Quon Ying Quong, Quong Jung, Quon Hing Gee, Quon Shick Shung, Hum Kee, Hum Town, Tom One Lung, Tom Hing Ga, Tom Mon Chon, Young Tong, Ling Chee, Quong Chong Wa, Foo Kee, Wauh Die, Chin Yu Dong, Gum Chong Hi, Leo Baugh Yu, Quon Quack Hung, Leo Chung, Soo Mou, Lou Hong Ken, Lou Guch Yu, Lou Hock Num, Wau Kee, Chang Saw, Soo Ye King, Long Ben, Woo Lem, Mook Yick, Hop Lee, Jim Lee, Hing Jack, Jong Hong, Tom Que, Lee Mou, Tuoe Fon, Quon Yow, Tom Buck, Tom Fong, Tom Show, Tom Tong, Quon Hing Yow, Quon Kock Gow, Wong Foy You, Youn Quon, Jung Hock Jock, Chin Yun, Jung Ching, Lim Fon, Ye Sin Fu, Chin Jew, Chin Fun, Don Len, Ah Loy, Chin Ham Dong, Wah Chong Tai Co., Wong Hon, Lim Lee Lock, Chin Quon Hing, Pow Ning Tong, Wong Wauh Son, Che Lou Fou, Tom Quong, Lou Quon, Wong Jung, Woo Ling, Chin Toy, On Fook, Chin Toy Chin, Buck Yum, Quon Ah Yung, Quon Son Jake, Quon Dong Ben, Quon Quock Ben, Quon Ti Dick, Chung Ye Wah, Quon Sing Lee, Quon Wee, Jung Fung Poy, Lang Foo Lee, Quon Lee, Quong Jing, Quong Lung Chung, Quon Quagh Lung, Ong Du Fon, Quong Joe, Ong Tong Yung, Quon Kee, Quon Den, Quon Hock, Song Yen, Sing Lee, Lang Hing, Quon Keo, Tom Quon, Lee Faw, Quon Gwee Gwock, Quon Ming, Tom Gem, Tom Yen, Tom Ying, Tom Hock, Tom Chung, Tom Li, Tom Shom, Tom Hing, Tom Quong, Tom Tong, Tom Huey, Tom Jim, Jung Sing Kee, Sam Young, Woo Sing You, Quon Ling Ging, Chung Quon, Ah Mun, Tom Young, Tom Quong, Tom Sing, Tun Dau, Tom Hung, Hum Wuh, Han Bor, Hum Kee, Hum Young, Hum Mun Yee, Jung Bing Ling, Jum Kun Wee, Quon Fook Loy, Soo Tong, Jung Hing, Soo Que, Jung Young, Jung Wing, Jung Fee, Hing Hum Hing, Lee Youn, Tom Chee, Tom Jong, Tom Hee, Tom Ying, Tom Yick, Tom Hong, Tom Fon, Tom Jim, Tom Woo, Tom Quock, Lee Sun, Tom Kin, Tom Hoo, Quon Chong, Quon Chong, Quon Sin, Quon Hem, Tom Toy, Tom Wing, Tom Wing Hee, Tok Fook Yen, Tom Lung, Tom Lee, Tom Sue, Wong Chung, Tong You Loy, Chung Yun, Ah Kee, Chung Yuck, Tom Sam Lee, Jen Ah Hem, Hum Tom, Woo Bauh, Jung Wot, Jung Yum, Jung Yen, Jung Dick Chum, Toy Ton, Toy Sing Chu, Toy Ling, Toy Yick Mou, Quon Yock, Tom Yea, Quon Sing, Quon Chea Sing, Lou Chin, Quon Egg, Quon Tong, Jong Wong, Yuen Tuck, Chu King, Kee Yock, Sam Yick, Jung Chu.

2. That the complainants who filed the original bill of complaint herein, and said parties who filed April 7, 1896, said petition of intervention, and are named in finding one hereof, were, at the time of the filing of the said original bill of complaint, and the said supplemental bill of complaint, and for a period of eight years prior thereto had been domiciled in said county of Silver Bow, State of Montana, and were conducting or desiring to conduct lawful business therein, to wit, keeping of stores for the sale of goods; keeping of restaurants and places providing food for a compensation; the raising of vegetables; and working for hire as cooks, servants, laborers, and laundrymen; and that said complainants and parties are natives of Chinese descent, and were during the time specified, and are now, entitled to the protection which is accorded in the United States to subjects of the Empire of China.

3. That the above-named defendants, at the time specified in said original and supplemental bills of complaint herein, were citizens and residents of the said county of Silver Bow; and that the said George B. Walters departed this life since the commencement of this suit.

4. That the complainants, Hum Fay, Deer Yick, and Hum Tong, since the 1st day of April, 1896, have been and are now doing business in said county of Silver Bow in the buying and selling of Chinese and Japanese fancy goods and in the maintenance and carrying on of a restaurant at No. 37½ West Park street, in said city of Butte; and that the said complainant, Huie Pock, since the 1st day of April, 1896, has been and is now conducting, in said city of Butte, a store for the sale of Chinese and Japanese fancy goods.

5. That during the times in said bill of complaint mentioned there were and are now in the city of Butte organizations generally known as labor unions, associations, and assemblies; that the above-named defendants and their aiders and abettors, hereinafter mentioned, and more than three thousand residents of said county of Silver Bow were members thereof, according to their respective trades and occupations; that among those organizations were and are the Workmen's Union, the Carpenter's Union, the Plumbers and Gas Fitters' Union, the Tailors' Union, the Bricklayers and Stonemasons' Union, the Brewers' Union, the Bakers' Union, the Millmen and Smelters' Union, the Tin, Sheet Iron, and Cornice Workers' Union, the Butchers' Union, the Molders' Union, the Musicians' Protective Union, the Millwright and Pattern Makers' Union, the Barbers' Union, the W. R. Morely Assembly, the Pioneer Assembly of the Knights of Labor, the Clerks' Assembly, the Meaderville Assembly of the Knights of Labor, the Cooks and Waiters' Union, the Brotherhood of Switchmen, and the Amalgamated Association of Engineers; and that each of said organizations elected, for a term of six months, delegates according to their membership to a body in said city of Butte designated the Silver Bow Trades and Labor Assembly.

6. That meetings for the transaction of business were held at stated times and places by said labor unions, associations, and assemblies, and the Silver Bow Trades and Labor Assembly; that the decisions and orders of the said Silver Bow Trades and Labor Assembly upon matters over which it assumed jurisdiction were recognized as final and binding upon the members of the organizations represented by such delegates, and were in force; that during the times in said bill of complaint specified, and the period of five years prior thereto, it was one of the obligations of said members to refrain from patronizing the Chinese and Japanese, and also all persons who patronized the Chinese and Japanese; that with these objects in view a boycott had been declared and was then in existence by said organizations and the Silver Bow Trades and Labor Assembly upon the said Chinese and Japanese and their patrons; that on or about the 1st day of November, 1896, and from that time until the issuance of the restraining order herein against the defendants, in the month of April, 1897, the acts hereinafter specified in these findings were committed by the defendants, who are mentioned in furtherance of a willful and malicious conspiracy and combination of said members of said organizations to render more effective the said obligations and boycott, and deprive the complainants and all persons in whose behalf the original and supplemental bills of complaint were filed of the means of earning a livelihood, and thereby compel them to leave the said city of Butte and the county of Silver Bow.

7. That during the time in the said original bill of complaint specified, the following general committee was organized in said city of Butte to devise ways and means for the vigorous prosecution of said boycott against the Chinese and Japanese in the sixth finding mentioned, by the collection of funds and the hiring of men to be a working force to commit the acts in these findings hereinafter specified, to wit:

Members of the Cooks and Waiters' Union, the above-named defendants Frank Baldwin, Frank P. Weldon, and George W. Morgan; members of the Hotel and Restaurant Employer's Association, the above-named defendants H. C. Morgan, W. R. Martin, and one J. A. S. Dougherty; and the proprietors of three steam laundries in said city of Butte, the defendants J. H. Free, owner of the Troy Laundry, Frank Hurlbut, owner of the Union Laundry, and Robert E. Taylor, acting for himself and his partner, the defendant Albion A. Sandahl, the owners of the C. O. D. Laundry; that said Frank Baldwin was the secretary thereof; that said joint committee was aided in its labors by the unions, associations, and assemblies in the fifth finding specified and said Silver Bow Trades and Labor Assembly; that the first working force consisted of the defendants George B. Walters, George Morehart, and one Patrick Kean; that the second working force was composed of the defendants, Louis Schaffer, Charles Slayton, and Frank Baldwin; that said persons constituted said working force and were hired by said joint committee and paid for their service from said funds; and that each of the defendants and persons who committed the acts in these findings mentioned conspired, combined, and confederated with the members of said joint committee and said labor unions, associations, and assemblies and the Silver Bow Trades and Labor Assembly to maintain said boycott upon the Chinese

and Japanese and all persons patronizing them, until the complainants and the parties in whose behalf this action is prosecuted, should be driven from the said city of Butte, and county of Silver Bow.

8. That in pursuance of said conspiracy and combination in the sixth and seventh findings specified, and by order of said joint committee, and the said Silver Bow Trades and Labor Assembly, the following notice was printed in the Inter Mountain, a newspaper published in said city of Butte, upon the 13th day of April, 1897, to wit:

“BOYCOTT.

“A general boycott has been declared upon all Chinese and Japanese restaurants, tailor shops, and washhouses by the Silver Bow Trades and Labor Assembly. All friends and sympathizers of organized labor will assist us in this fight against the lowering Asiatic standards of living and morals. America *v.* Asia, progress *v.* retrogression are the considerations now involved. American manhood and American womanhood must be protected from competition with these inferior races, and further reduction of the wages of native labor by the employment of these people must be strenuously resisted.

“By order of the Silver Bow Trades and Labor Assembly.

“P. H. BURNS; *President.*

“G. B. WALTERS, *Secretary.*

That the said P. H. Burns, at the time specified in said notice, was a member of said Bricklayer and Stone Masons' Union, and a delegate therefrom to the said Silver Bow Trades and Labor Assembly, and the president thereof; and that said George B. Walters was then a member of said Clerks' Assembly and a delegate therefrom to the said Silver Bow Trades and Labor Assembly, and the secretary thereof.

9. That in pursuance of the said conspiracy and combination in the sixth and seventh findings specified, and by order of said joint committee and said Silver Bow Trades and Labor Assembly, the said defendant Fred Whately was employed to drive through the main streets of the city of Butte, in the daytime, a spring express wagon, drawn by one horse; that the cover was made of bleached muslin, extending downward, in the form of a letter A, from a ridge pole to the center, and was 12 feet long and 6 feet wide; that upon the outside of said cover on one side of said wagon was painted a cartoon representing a Chinese washhouse, and a Chinese, with a long queue, was squirting water from his mouth, sprinkling a shirt he was ironing; that upon the outside of said cover, upon the opposite side, was painted a cartoon representing a Chinese cook house, with a stove, and a Chinese, with a long queue, was kneading dough and dropping a rat into a pot containing soup; that these cartoons were designed to, and would, excite in the spectators feelings of prejudice and hostility against the Chinese; that said wagon was driven from time to time, during certain hours of the day, in the months of January, February, March and April, 1897, and seen by thousands of persons; that there was in said wagon a bell or gong, which could be, and was, rung by the driver, who pushed his foot upon it to attract the attention of the people; and that upon the outside of the cover, upon both sides of the said wagon, were painted the following words: “Boycott the Chinese and Japanese and all persons patronizing them. By order of the Silver Bow Trades and Labor Assembly, and all labor organizations”

10. That in pursuance of said conspiracy and combination in the sixth and seventh findings specified herein, and by order of said joint committee and said Silver Bow Trades and Labor Assembly, and during the months of November and December, 1896, and January, February, March, and April, 1897, some of the above-named defendants, to wit, Louis Schaffer, Charles Slayton, Harry La Galla, Fred Whately, J. W. Huffman, W. R. Martin, M. J. Geiger, George Morehart, Frank Baldwin, and George B. Walters, did willfully and maliciously go to said place of business of said complainants Hum Fay, Deer Yick, and Hum Tong, at No. 37½ West Park street, in said city of Butte, and stand upon and forcibly occupy the highway and sidewalk in front thereof, and warn people who were or were about to become customers in their said business, and did, in behalf of the said unions, associations, and assemblies, and said Silver Bow Trades and Labor Assembly mentioned in finding 5 hereof, advise and state to such persons that such business and place of business was boycotted because the said complainants were Chinese, and that persons ought not to and must not patronize said complainants or the said restaurant and store; that said customers of said complainants were sometimes held up by the use of force by the said defendants, compelled to leave said complainants' place of business; that said defendants posted and distributed to said customers and persons dodgers and printed notices of

such boycott upon the Chinese, and that duplicates thereof are exhibits filed herein August 23, 1898; and that the effect of these acts and the other acts of the defendants in these findings specified was to reduce materially said business of said complainants and make the same unprofitable.

11. That in pursuance of said conspiracy and combination in the sixth and seventh findings specified, and during the months of December, 1896, and January, February, March, and April, 1897, some of the above-named defendants, to wit, George B. Walters, Charles Slayton, W. R. Martin, Louis Schaffer, and Fred Whateley, did willfully and maliciously go to said place of business of the said complainant, Huie Pock, in said city of Butte, and stand upon and forcibly occupy the highway and sidewalk in front thereof, and warn persons who were or were about to become his customers in his said business, and did in behalf of said union, associations, and assemblies, and said Silver Bow Trades and Labor Assembly, mentioned in finding 5 herein, and advise and state to such persons that said business and place of business were boycotted because the said complainant was a Chinese, and that such persons ought not to and must not patronize the said complainant or his said store; that said defendants posted and distributed to said customers and persons dodgers or printed notices of said boycott upon the said Chinese, and that duplicates thereof are exhibits filed herein August 23, 1898; and that the effects of these and other acts of the defendants in these findings specified was to reduce materially the said business of the said complainant and make the same unprofitable.

12. That in pursuance of said conspiracy and combination in the sixth and seventh findings specified herein, and during the months of December, 1896, and January, February, March, and April, 1897, the said defendant George B. Walters, and one John Helm, called upon Mrs. Louise Holmes, at her residence in said city of Butte, and asked her to discharge the Chinamen in her employ; that said Mrs. Holmes had boarders from four to six in number; that the said Walters and Helm, about a month after the first visit, called upon said Mrs. Holmes, and notified her that they had been there many times and requested her to discharge said Chinaman, and they wanted her to understand if she did not comply with their request, they would be compelled to cause her trouble; that they would immediately get out papers to boycott her, and that it would cost her some money to have the boycott raised; that the effect of these and other acts of the defendants in these findings specified was a loss of some of her said boarders.

13. That in pursuance of said conspiracy and combination in the sixth and seventh findings specified, and during the months of January, February, and March, 1897, some of the above-named defendants, to wit, Griffith E. Taylor, Ed. Marchand, George Morehart, Frank Baldwin, George B. Walters, and Louis Schaffer, did willfully and maliciously go to the place of business of Mrs. Eva M. Althoff, upon East Broadway in said city of Butte, to wit, the Will House, and stand upon and forcibly occupy the highway and sidewalk in front thereof, and invite and warn persons who were or were about to become lodgers therein, and did, in behalf of said unions, associations, and assemblies, and said Silver Bow Trades and Labor Assembly mentioned in finding 5 herein, and advise and state to said persons and customers that said Will House was boycotted because the said Mrs. Althoff, the proprietress thereof employed a Chinaman; that said defendants made threats to said lodgers and persons, that they would be boycotted if they did not remove therefrom, and paste upon said Will House and distribute to said persons and lodgers printed notices or dodgers and cards, declaring that said Will House was boycotted; that duplicates of said dodgers, notices, and cards, marked A, B, C, and D, were filed herein August 23, 1898, and reference is thereby made to the same, and that the effect of these and other acts of the defendants specified in these findings was to reduce materially the said business of said Mrs. Eva Althoff, and make the same unprofitable.

14. That in pursuance of said conspiracy and combination in said sixth and seventh finding specified herein, and during the months of January, February, March, and April, 1897, and by order of said joint committee and said Silver Bow Trades and Labor Assembly, Fred Oram and other persons were hired to carry, and did carry, in the daytime, through the main streets of said city of Butte, a transparency of bleached muslin about 4 feet long and 3½ feet wide, and attached to a pole, and that upon the same were printed the following words: "Boycott the Will House." "Mrs. Will employs Chinese." "By order of the Silver Bow Trades and Labor Assembly." That said Mrs. Will was the former name of the said Mrs. Eva M. Althoff.

15. That the said Mrs. Althoff, in order to carry on her said business at said Will House without molestation by the said defendants and persons in the thirteenth and fourteenth findings herein named, was compelled to and did pay March 16, 1897, to said defendant George B. Walters, as the representative of the defendants and the

said unions, associations, and assemblies and the Silver Bow Trades and Labor Assembly, the sum of \$45; that the said Walters and the said defendants in the thirteenth finding mentioned demanded said sum to pay the expense of hiring persons to commit the acts in the thirteenth and fourteenth findings herein specified, and paint the said transparency and print said dodgers and notices and cards; that the receipt of the said Walters for the said sum of \$45, marked Exhibit F, was filed herein August 23, 1898, and reference is hereby made to the same; and that thereupon the said defendant caused to be printed and published in said newspaper, the Inter Mountain, a notice declaring said boycott of the said Will House off, "by order of the Silver Bow Trades and Labor Assembly;" and that a copy of said notice, marked Exhibit G, was filed herein August 23, 1898, and reference is hereby made to the same.

16. That in pursuance of said conspiracy and combination in the sixth and seventh findings specified, and during the months of November and December, 1896, and January, February, and March, 1897, a delegate from the Cooks' and Waiters' Union made a report to the Silver Bow Trades and Labor Assembly that Mrs. Margaret Noyes employed a Chinese cook; that Mrs. Noyes was then keeping a boarding house in said city of Butte; that some of the defendants, to wit, George S. Walters, George Morehart, and Ed Marchand, called upon said Mrs. Noyes and notified her, in behalf of the said unions, associations, and assemblies, that she must discharge the said cook or she would be boycotted and her said business destroyed; that M. B. Holtz, a member of said Clerks' Assembly, was a boarder at said house and was notified by the said Walters to quit because the said Mrs. Noyes employed a Chinese; that printed dodgers or notices of a boycott upon the said business of said Mrs. Noyes were distributed about her said house and in the neighborhood; that said Morehart was hired to and did watch the said house; that the effect of this and other acts of the said defendants in these findings specified was to reduce materially the said business of the said Mrs. Noyes, and make the same unprofitable; that the said Mrs. Noyes in order to avoid pecuniary loss and controversy, and pursue her said business without molestation by the said defendants, was required to sign a paper promising that she would not employ Chinese and pay the sum of \$12.50 to the said Walters, as the representative of the said defendants and said union and associations and assemblies and the said Silver Bow Trades and Labor Assembly; that the said Walters and the defendants demanded said sum to pay the expense of printing said boycott dodgers and notices and hiring the said Morehart to watch her said house, and that thereupon the said boycott was declared lifted.

17. That in pursuance of said conspiracy and combination in the sixth and seventh findings specified herein, and during the month of January, 1897, the said George B. Walters and George Morehart called upon Mrs. Rodgers at her place of business in the said city of Butte; that Mrs. Rodgers then kept a lodging house known as the Rodgers House, and employed a Chinese to work in and about her said house; that they gave to the said Mrs. Rodgers printed dodgers or notices, announcing that there had been a boycott upon the Chinese and Japanese in said city of Butte, and asking the friends of organized labor to help them make the boycott; that they then notified said Mrs. Rodgers that if she did not discharge her Chinese help they would boycott the house and make her roomers quit, and drive her out of business; that duplicates of said dodgers or notices were filed herein as exhibits, August 23, 1896; and that thereupon, the said Mrs. Rodgers, in order to carry on her said business without molestation by said defendants, discharged the said Chinese.

18. That in pursuance of the said conspiracy and combination in the sixth and seventh findings specified, and during the months of December, 1896, and January, February, and March, 1897, the said defendant George B. Walters and one person whose name was not proved called upon D. N. Dellinger in said city of Butte; that said Dellinger had charge of a block the larger portion of which was used for stores, and the upper floor was used for offices; that a Chinese janitor was employed in and about the said block; that said Walters and said other person whose name was not proven gave to said Dellinger a dodger or printed notice, which stated that the Chinese and Japanese were boycotted; that the said dodger or notice is marked Exhibit L, and was filed herein August 23, 1898, and reference is hereby made to the same; that said Exhibit L is a duplicate of said Exhibit J, and that said Walters and person then notified said Dellinger to discharge the said Chinese.

19. That during the months of November and December, 1896, and January, February, March, and April, 1897, one of the rules of said Clerks' Assembly was as follows, to wit: "A fine of \$5 shall be imposed on any member for each of the following offenses: Patronizing Chinese or Japanese." Reference is hereby made to Exhibit N, filed herein August 23, 1898, section 1, article 9. That Fred Bacon and

W. D. Fenner, members of said Clerks' Assembly, were fined for a violation of this by-law; that by-laws of the same tenor were then in force in said unions, associations, and assemblies and the Silver Bow Trades and Labor Assembly; that David M. Matt, a member of said Butchers' Union, was fined for the offense of patronizing Chinese; and that in pursuance of said combination and conspiracy in the sixth and seventh findings specified, and during the times aforesaid, and by order of the said joint committee and said Silver Bow Trades and Labor Assembly, said by-laws were vigilantly enforced and the penalties were inflicted.

20. That in pursuance of said conspiracy and combination in the sixth and seventh findings specified, and during the months of January, February, and March, 1898, and by order of the said joint committee and said Silver Bow Trades and Labor Assembly, a boycott was placed on Fayette Harrington because he employed a Chinese, and upon the Silver Bow National Bank, of said city of Butte, because the said Harrington was the cashier of the said bank, and said bank was conducting and prosecuting its business in the Beaver Block, upon which a boycott had been placed, according to the order contained in said Exhibit I; that for this reason money had been withdrawn by one depositor in said bank; and that after a meeting had been had by one O. K. Lewis, the president of said bank, and a committee, consisting of said defendant George B. Walters and a person named Reed, said boycott was taken off.

21. That in pursuance of said conspiracy and combination in the sixth and seventh findings specified, and during the months of November and December, 1896, and January, February, March, and April, 1897, and by order of said joint committee and said Silver Bow Trades Assembly, some of the said defendants, to wit, Charles Slayton, George Morehart, Louis Schaffer, and George B. Walters, watched and followed the Chinese who went to houses in the said city of Butte where they were employed as cooks, servants, laundrymen, and other occupations, and made report to said joint committee and said labor union, associations, and assemblies and the said Silver Bow Trades and Labor Assembly, giving the names of persons who were hiring Chinese in any capacity; that members of said working force were then sent to said houses to see the occupants and request the discharge of such Chinese; and that such request would be followed by an order to have a boycott declared against them.

22. That in pursuance of said conspiracy in the sixth and seventh findings specified, and by order of said joint committee and said Silver Bow Trades and Labor Assembly, and during the months of December, 1896, and January, February, March, and April, 1897, a printed notice of the boycott upon all Chinese and Japanese restaurants, tailor shops, and washhouses, and all persons employing them in any capacity, were circulated by said working force and said defendants in said city of Butte, and that a duplicate of said notice, marked Exhibit — was filed herein August 23, 1898; and reference is hereby made to the same.

23. That in pursuance of said conspiracy and combination in the sixth and seventh findings specified herein, and by order of the said joint committee and said Silver Bow Trades and Labor Assembly, and during the months of December, 1896, and January, February, March, and April, 1897, a printed notice announcing that a general boycott had been declared upon the Chinese and Japanese restaurants, tailor shops, and washhouses by said Silver Bow Trades and Labor Assembly, were circulated by said working force of the defendants in the said city of Butte, and that a duplicate of said notice, marked Exhibit K, was filed herein August 23, 1898, and reference is hereby made to the same.

24. That in pursuance of said conspiracy and combination in the sixth and seventh findings specified herein, and by order of said joint committee and said Silver Bow Trades and Labor Assembly, and during the months of December, 1896, and January, February, March, and April, 1897, printed notices announcing that said Butte Tailors' Union had placed a boycott upon all Chinese tailor shops were circulated by said working force of the defendants in said city of Butte; and that duplicates of said notices, marked Exhibit K, were filed herein August 23, 1898, and reference is hereby made to the same.

25. That in pursuance of said conspiracy and combination in the sixth and seventh findings herein specified, and by order of said joint committee and said Cooks' and Waiters' Union, and during the month of March, 1897, printed cards notifying members of organized labor that nine parties, whose names or places of business are set forth, persisted in employing Chinese and Japanese labor were circulated by said working forces of the defendants in said city of Butte; and that duplicate of said card, marked Exhibit I, was filed herein August 23, 1898, and reference is hereby made to the same.

26. That in pursuance of said conspiracy and combination in the sixth and seventh findings herein specified, and during the months of November and December, 1896, and the months of January, February, and March, 1897, some of said defendants, to wit, Robert E. Taylor, George B. Walters, M. J. Geiger, and H. C. Morgan, circulated subscription papers in said city of Butte, and collected money from D. K. Giard and George E. Palmer, and divers other persons, to pay the expenses of said boycott and acts hereinafter described; that said expense, including the wages of said working force, the printing of said boycott notices, dodgers, and cards, the printing of said transparency and cartoons upon said wagon, the use and driving of said horse and wagon, the carrying of said transparency and the printing of said advertisement in said Inter Mountain, and that all of said expenses were paid from funds collected and from persons engaged in business in said city of Butte, and the Cooks' and Waiters' Union, the Hotel and Restaurant Keepers' Association, and said proprietors of said Troy Laundry, Union Laundry, and the C. O. D. Laundry, and the said Silver Bow Trades and Labor Assembly.

27. That the public authorities and officers of said city of Butte and said county of Silver Bow and said State of Montana did not protect any of said complainants or parties in whose behalf this action is prosecuted, or any of the persons mentioned in these findings in the enjoyment of the right to pursue a lawful occupation, or hire persons to perform labor or expend money in places of business; never caused any of said defendants to be arrested or punished in any manner for the commission of any of said acts hereinafter specified.

28. That books containing the records of the proceedings during the periods under investigation, to wit, the months of November and December, 1896, and January, February, March, and April, 1897, were stolen from the custody of the officers of the following organizations, to wit: The Cooks and Waiters' Union, the Silver Bow Trades and Labor Assembly, the Clerks' Assembly, the Hotel and Restaurant Keepers' Association, and the joint committee on the Chinese boycott; that said books were kept in divers places, and were missing at the same time; and that the complainants resorted to all legal process to obtain said books, but they were not produced upon this hearing.

29. That the effect of the said acts hereinbefore specified in these findings was to deprive said Chinese residents of said city of Butte of work and the means of earning a livelihood, and compelled them to go to other places; that from the 1st day of November, 1896, to the issuance of the restraining order herein in the month of April, 1897, 350 of said Chinese residents, about one-half thereof, were thereby driven from said city of Butte; and that the conspiracy and combination in the sixth and seventh findings herein, to compel the plaintiffs and the parties in whose behalf this action is prosecuted, failed solely through the issuance of said restraining order herein.

Dated this — day of March, 1899.

HENRY N. BLAKE,
Master in Chancery.

EXHIBIT D.

In the circuit court of the United States, ninth circuit, district of Montana.

In open court, March 12, 1900.

HUM FAY ET AL., COMPLAINANTS,	} No. 40.
v.	
FRANK BALDWIN ET AL., DEFENDANTS.	

In this matter, heretofore argued and submitted for the consideration of the court, it is—

Ordered that a decree enter herein against all of the defendants except the following: Frank L. Galla, W. H. Eddy, A. A. Sandahl, John Doe and Richard Roe, and G. B. Walters, who is dead.

Attest: A true copy from minutes.

[Seal circuit court of the United States.]

GEO. W. SPROULE, *Clerk.*

EXHIBIT E.

In the circuit court of the United States for the ninth circuit, district of Montana.

HUM FAY, DEAR YICK, HUM TONG, HUIE POCK, WAH SHANG LUNG, TOM HING JIP, Tom Wah, Tom Hoi Quoi, Tom Huie Shom, Tom Mun Hi, Tom Four, Tom Shu, Tom Quong Wy, Tom Hoy Sing, Tom Quon Hi, Tom Lick, Hum Young, Tom Hi Lip, Lanf Gung Fon, Jung Sing Hing, Quon Hock Ben, Jung Mung Wy, Lou Quong, Chin Noy, Chin Thick, Chin Foo, Charley King, Woo Shoo, Ye Gung, Woo Long Ben, Chin Wing Shoy, Ching Sung, Chin Low, Quong Tuck Wing, Bow Shang Kong, Quong Fong, Quon Que Sing, Wong Ming, Quon High, Quong Hong, Quon Hing Gee, Lang Noy, Quong Quock, Quong Ying, Quong Jung, Quon Hing Gee, Quon Quock Shung, Hum Kee, Hum Town, Tom One Lung, Tom Hing Ga, Tom Mon Shon, Young Tong, Ling Chee, Quong Chong Wa, Foo Kee, Wuah Die, Chin Yu Dong, Gun Chong Hi, Leo Gaugh Yu, Quon Quack, Hung, Leo Chung, Soo Mou, Lou Hong Ken, Lou Guch Yu, Lou Hock Num, Wauh Kee, Chang Sam, Soo Ye King, Long Ben, Woo Lem, Mook Yick, Hop Lee, Jim Lee, Hing Juck, Jong Hong, Tom Que, Lee Mou, Tuoe Fen, Quon Yok, Tom Buck, Tom Fong, Tom Show, Tom Tong, Quon Hing Yow, Quon Hock Gow, Wong Foy You, Yuon Quon, Jung Hock Jock, Chin Yun, Jung Chin, Lim Fen, Yee Sin Fu, Chin Jew, Chin Fun, Don Len, Ah Loy, Chim Ham Dong, Wah Chong Tai Co., Wong Hon, Lim Chee Look, Chin Quong Hing, Pow Ning Tong, Wong Wauh Son, Chew Lou Foue, Tom Quong, Lou Quon, Wong Jung, Woo Ling, Chin Toy, On Fook, Chin Toy, Chin Buck Yum, Quon Ah Yung, Quon Son Jake, Quon Dong Ben, Quon Quock Ben, Quon Ti Dick, Chung Ye Wah, Quon Sing Lee, Quon Wee, Jung Fung Foy, Lang Foo Lee, Quon Lee, Quon Jing, Quon Lung Chung, Quon Quag Lung, Ong Do Fon, Quong Joe, Ong Tong Yong, Quon Kee, Quon Den, Quon Hock, Song Yen, Sing Lee, Lang Hing, Quon Keo, Tom Quon, Lee Faw, Quon Gwee Gwock, Quon Ming, Tom Gem, Tom Yen, Tom Ying, Tom Hock, Tom Chung, Tom Li, Tom Shon, Tom Hing, Tom Quong, Tom Tong, Tom Huey, Tom Jim, Jung Sing Kee, Sam Young, Woo Sing You, Quon Ling Ging, Chung Quon, Ah Mun, Tom Young, Tom Sing, Yun Dau, Tom Hung, Hum Wuh, Han Bor, Hum Kee, Hum Young, Hum Mun Ye, Jung Bing Ling, Jum Kun We, Quon Fook Hoy, Soo Tong, Jung Hing, Soo Que, Jung Young, Jung Wing, Jung Fee, Hing Hum Hing, Lee Youn, Tom Chee, Tom Jong, Tom Hee, Tom Ying, Tom Yick, Tom Hong, Tom Fon, Tom Jim, Tom Woo, Tom Quock, Lee Sun, Tom Kim, Tom Hoo, Quon Chong, Quon Sin, Quon Hem, Tom Toy, Tom Wing, Tom Wing, Kee Tok Fook, Yen, Tom Lung, Tom Lee, Tom Sue, Wong Chung, Tong You Loy, Chung Yun, Ah Kee, Chung Yuck, Toy Ton, Jung Yum, Toy Sing Chu, Toy Ling, Toy Yick Mou, Quon Egg, Quon Tong, Jong Wong, Yuen Tuck, Chu King, Kee Yock, Sam Yick Quon, Yock Tom Yea, Quon Sing, Quon Shea Sing, Lou Chin, Jung Cha, complainants,

v.

FRANK BALDWIN, GRIFFITH E. TAYLOR, GEORGE MOREHART, P. H. BURNS, H. C. Morgan, M. J. Geiger, Louis Schaffer, Charles Slayton, J. W. Hoffman, George W. Morgan, Frank P. Welden, Fred Whateley, Robert E. Taylor, J. H. Free, W. R. Martin, Ed. Marchand, et al., defendants.

This cause came on to be heard upon motion for a final decree by Messrs. Sanders & Sanders, solicitors for the complainants against the defendants, their servants, agents, employees, confederates, and coconspirators, and all associations and organizations acting with them in and about the perpetration and continuation of the wrongs set forth in their said bill of complaint; and thereupon, on consideration thereof, it is ordered that the said motion be, and the same is hereby, granted, and it is—

Ordered, adjudged, and decreed that the foregoing-named complainants do have a perpetual and final decree enjoining and restraining the above-named defendants and each of them, their agents, servants, workmen, confederates, employees, and coconspirators, and all associations and organizations heretofore, at, and before the institution of this suit, or which since the institution of the same have joined the same, and purpose and intend to continue the said boycott and conspiracy, from so maintaining and continuing the same, and they and each and all of them are and shall be enjoined and restrained from further combining or conspiring to injure or destroy the business of the said complainants or any of them, and from threatening, coercing, or injuring any person or persons becoming or intending to become patrons of said complainants or any of them because of such patronage or intent, and from publishing, carrying, or causing to be carried or drawn or published through the streets of Butte or in said county any libelous or defamatory pictures, transparencies, mottoes, ban-

ners, or any other devices of the Chinese, and from remaining in the vicinity of the places of business of said complainants or any of them upon the streets or sidewalks, advising or notifying individuals not to patronize said complainants or any of them, or persons of Chinese nativity, descent, or citizenship, and from threatening such persons in any manner if they do so, and from contributing money to be by anybody used with the intent and for the purpose of injuring the business of said complainants for or on account thereof, and from in any way or manner combining or confederating together with the intent and for the purpose of destroying the business of said complainants or any of them.

And it is further ordered, adjudged, and decreed that the said clerk of this court, under the seal thereof, shall issue said injunction conformable to this decree, and that said injunction shall be in force and binding upon the defendants herein named and each of them and their agents, servants, workmen, confederates, employees, and coconspirators from and after the service upon them severally of said writ of injunction by delivering to them severally a copy thereof duly certified by the clerk of this court.

And it is further ordered, adjudged, and decreed that the said complainants shall have and recover of and from said defendants their costs in this behalf heretofore taxed by the clerk of this court at the sum of \$1,750.05, and that they have execution therefor against the said defendants as upon judgments at law.

HIRAM KNOWLES, *Judge*.

Filed and entered May 18, 1900.

GEO. W. SPROULE, *Clerk*,
By C W. BLAIR, *Deputy*.

EXHIBIT F.

In the circuit court of the United States for the ninth circuit district of Montana.

THE UNITED STATES OF AMERICA, *District of Montana, ss:*

The President of the United States to Frank Baldwin, Griffith E. Taylor, George Morehart, P. H. Burns, H. C. Morgan, M. J. Geiger, Louis Schaffer, Charles Slayton, J. W. Hoffman, George W. Morgan, Frank P. Weldon, Fred Whatley, Robert E. Taylor, J. H. Free, W. R. Martin, Ed. Marchand, and each of them, their agents, servants, workmen, confederates, employees, and coconspirators, greeting:

Whereas Hum Fay, Dear Yick, Hum Tong, Huie Pock, Wah Shang Lung, Tom Hing Jip, Tom Wah, Tom Hoi Quoi, Tom Huie Shon, Tom Mun Hi, Tom Fou, Tom Shu, Tom Quong Wy, Tom Hoy Sing, Tom Quon Hi, Tom Lick, Hum Young, Tom Hi Lip, Lang Gung Fon, Jung Hing Sing, Quon Hock Ben, Jung Mung Wy, Lou Quong, Chin Noy, Chin Thick, Chin Foo, Charley King, Woo Shoo, Ye Gung, Wong Long Ben, Chin Wing Shoy, Chi Sung, Chin Low, Quong Tuck Wing, Bow Shang Kong, Quong Fong, Quon Que Sing, Wong Ming, Quon High, Quong Hong, Quong Hing Huie, Mang Moy, Quong Long Quock, Quon Ying, Quong Jung, Quon Hing Gee, Quon Shock Shung, Hum Kee, Hum Town, Tom One Lung, Tom Hing Ga, Tom Mon Chon, Young Tong, Ling Chee, Quon Chong Wa, Woo Kee, Wauh Die, Chin Yu Dong, Gun Chong Hi, Leo Baugh Yu, Quon Quack, Hung Leo Chung, Soo Mou, Lou Hong Ken, Lou Guch Yu, Lou Hock Num, Wauh Kee, Chang Saw, Soo Ye King, Long Ben, Woo Lem, Mook Yick, Hop Lee, Jim Lee, Hing Juck Jong Hong, Tom Que, Lee Mou, Tuoe Fon, Quon Yow, Tom Buck, Tom Fong, Tom Show, Tom Tong, Quon Hing Yow, Quon Kock Gow, Wong Foy You, Yvon Quon, Jung Hock Joek, Chin Yun, Jung Ching, Lim Fon, Yee Sin Fu, Chin Jew, Chin Fun, Don Len, Ah Ley, Chin Ham Dong, Wah Chong Tai Co., Wong Hon, Lim Chee Lock, Chin Quong Hing, Pow Ning Tong, Wong Wauh Son, Chew Lou Fou, Tom Quong, Lou Quon, Wong Jung, Woo Ling, Chin Toy, On Fook, Chin Toy, Chin Buck Yum, Quon Ah Yung, Quon Son Jake, Quon Dong Ben, Quon Quock Ben, Quon Ti Dick, Chung Ye Wah, Quon Sing Lee, Quon Wee Jung Fung Poy, Lang Fee Lee, Quon Lee, Quon Jing, Quong Lung Chung, Quon Quagh Lung, Ong Du Fon, Quong Joe, Ong Tong Yong, Quon Kee, Quon Den, Quon Hock, Song Yen, Sing Lee, Lang Hing, Quan Qeo, Tom Quon, Lee Faw, Quon Gwee Gwock, Quon Ming, Tom Gem, Tom Yen, Tom Ying, Tom Hock, Tom Chung, Tom Li, Tom Shon, Tom Hing, Tom Quong, Tom Tong, Tom Huey, Tom Jim, Jung Sing Kee, Sam Young, Woo Sing You, Quon Ling Ging, Chung Quon Ah Mun, Tom Young, Tom Quong, Tom Sing, Yun Dau, Tom Hung, Hum Wug, Han Bor, Hum Kee, Hum Young, Hum Mun Ye, Jung Bing Ling, Jum Kun We, Quon Fook Loy, Soo Tong, Jung Hing, Soo Que, Jung Young, Jung Wing, Jung Fee, Hing Hum, Hing, Lee Youn, Tom Chee, Tom Jong, Tom Hee, Tom Ying, Tom Yick, Tom Hong, Tom Fon, Tom Jim, Tom Qoo, Tom Quock, Lee Sun, Tom Kim, Tom Hoo, Quon Chong, Quon Sin, Quon Hem, Tom Toy, Tom

Wing, Tom Wing Hee, Tok Fook Yen, Tom Lung, Tom Lee, Tom Sue, Wong Chung, Tong You Loy, Chung Yun, Ah Kee, Chung Yuck, Tom Sam Lee, Jen Ah Hem, Hum Tom, Yoo Bauh, Jung Wot, Jung Yum, Jing Yen, Jung Dick Chun, Toy Ton, Toy Sing Chu, Toy Ling, Toy Yick Mou, Quon Egg, Quon Tong, Jong Wong, Yuen Tuck, Chu King, Kee Kock, Sam Yick Quon, Yock Tom Yea, Quon Sing, Quon Chea Sing, Lou Chin, Jung Che, citizens and subjects of the Empire of China, residents and doing business in the city of Butte and county of Silverbow, State of Montana, have heretofore filed on the chancery side of the circuit court of the United States for the ninth circuit, district of Montana, a bill against Frank Baldwin, Griffith E. Taylor, George Morehart, P. H. Burns, H. C. Morgan, M. J. Geiger, Louis Schaffer, Charles Slayton, J. W. Hoffman, George W. Morgan, Frank P. Welden, Fred Whateley, Robert E. Taylor, J. H. Free, W. R. Martin, Ed. Marchand, their agents, servants, workmen, confederates, employees, and coconspirators; and have obtained an allowance for an injunction as prayed for in said bill;

Now, therefore, we, having regard to the matters in said bill contained, do hereby command and strictly enjoin you, the said Frank Baldwin, Griffith E. Taylor, George Morehart, P. H. Burns, H. C. Morgan, M. J. Geiger, Louis Schaffer, Charles Slayton, J. W. Hoffman, George W. Morgan, Frank P. Welden, Fred Whateley, Robert E. Taylor, J. H. Free, W. R. Martin, Ed. Marchand, and each of you, your agents, servants, workmen, confederates, employees, and coconspirators, from further combining or conspiring to injure or destroy the business of the above named citizens and subjects of the Empire of China and residents of and doing business in the city of Butte and county of Silverbow, State of Montana, or any of them; and from maintaining or continuing the boycott and conspiracy against said Chinese existing at the institution of this case; and from threatening, coercing, or injuring any person or persons becoming or intending to become patrons of the said citizens and subjects of the Empire of China, or any of them, because of such patronage or intent; and from publishing, carrying, or causing to be carried or drawn or published through the streets of Butte or in said county any libelous or defamatory pictures, transparencies, mottoes, banners, or any other devices of the Chinese; and from remaining in the vicinity of the places of business of said citizens and subjects of the Empire of China and residents of and doing business in the city of Butte and county of Silverbow, State of Montana, or any of them, upon the streets or sidewalks advising individuals not to patronize the said above-named Chinese, or any of them, or persons of Chinese nativity, descent, or citizenship, and from threatening such persons in any manner if they so do; and from contributing money to be by anybody used with the intent and for the purpose of injuring the business of the said Chinese above named, or any of them; and from threatening, coercing, or injuring any person or persons intending to become patrons of the above-named Chinese for or on account thereof; and from in any way or manner combining or confederating together with the intent and for the purpose of destroying the business of the said citizens and residents of the Empire of China and residents of and doing business in the city of Butte and county of Silverbow, State of Montana, or any of them.

And said commands and injunctions and each and all of them you are respectfully required to observe and obey until our said circuit court shall make further orders in the premises.

Hereof fail not, under penalty of the law thence ensuing.

Witness the Hon. Melville W. Fuller, Chief Justice of the United States, this 4th day of June, 1900, and in the one hundred and twenty-fourth year of the Independence of the United States of America.

[SEAL.]

GEO. W. SPROULE,
By T. B. STEPHENS, Deputy.

Mr. Hay to Mr. Wu.

No. 188.]

DEPARTMENT OF STATE,
Washington, December 4, 1901.

SIR: Referring to your note No. 207, of July 6 last, presenting the claims of several hundred Chinese subjects resident in the city of Butte, Silverbow County, Mont., for \$500,000 damages for injuries received by them at the hands of lawless parties in said city and county between the year 1886 and the date of your note, I have the honor to inform you that the Department has given careful consideration to your note and its inclosure.

It is clearly shown that the rights of the Chinese subjects mentioned were violated by the boycott placed upon them by various labor organizations of the city of Butte, and it is equally obvious that for the redress of their grievance an adequate remedy was and is afforded by the courts. The proof of these facts is found in the findings and decree of the Federal court enjoining the defendants from the commission of the acts complained of.

While it is stated in your note that the conspirators are still seeking to execute their conspiracy by clandestine means; that the persons who inflicted the damages are insolvent, and that no remedy can be found by proceedings against the city or county authorities, yet neither of these allegations seems to the Department to warrant the exercise of diplomatic intervention.

The damages suffered could have been averted by a prompt appeal to the court; and the facts that the complainants have suffered damages through their laches in making the appeal does not justify a departure from the ordinary rule that diplomatic intervention is improper in any case where ample judicial remedies exist. If the complainants had promptly availed themselves of their remedial rights, the injuries complained of could have been prevented. Their failure and neglect to do so does not make the United States culpable and responsible for the damages resulting.

The statement that the conspirators are still seeking to execute their conspiracy by clandestine means is one which, to justify action, should be sustained by proofs, on the submission of which to the court it is not doubted that the penalties for disobeying the injunction will be applied.

The statement that no remedy could be found against the unlawful action of the city or county authorities in aid of the conspirators, the Department is unable to accept as correct in point of law.

The Department is glad to be able to assure you that while the action of the Federal court is sufficient proof that the rights of the subjects of the Empire of China domiciled in the city of Butte will be protected and enforced by the judiciary, it may yet add that the Executive will not fail, should the case arise justifying its interposition, to use all its power to secure to them all the rights, privileges, immunities, and exemptions guaranteed by the United States Constitution and by treaty between the Governments of the United States and China.

Accept, etc.,

JOHN HAY.

CONDOLENCES ON ASSASSINATION OF PRESIDENT MCKINLEY.

Mr. Wu to Mr. Hay.

CHINESE LEGATION,
Washington, September 18, 1901.

SIR: I have the honor to state that I have received an Imperial edict, a translation of which is herewith respectfully inclosed.

In obedience to the command of the edict, I beg to express to your Government the feelings of deep sympathy and sorrow which Her Majesty the Empress Dowager and His Majesty the Emperor share with the Government and people of the United States.

Accept, etc.,

WU TING-FANG.

[Inclosure.]

IMPERIAL EDICT TRANSMITTED BY THE PRIVY COUNCIL UNDER DATE OF SEPTEMBER 16, 1901, TO MINISTER WU, AND RECEIVED BY HIM ON SEPTEMBER 17, 1901.

“By direction of Her Majesty, the Empress Dowager, this edict is issued by us.

“The plenipotentiaries (Prince Ching and Viceroy Li) have memorialized the Throne by telegraph that they have received a note from the United States minister at Peking, conveying the sad intelligence of the death of the President of the United States.

“It is with unspeakable sorrow and consternation that Her Majesty and Ourselves have heard the distressing news. The late President always gave manifestations of sincere friendship, and during the events of the past year he pursued a policy marked by a high sense of justice.

“Wu Ting-fang is hereby instructed to convey to the United States Government this message of Our sincere condolence. Respect this.”

Mr. Adee to Mr. Wu.

DEPARTMENT OF STATE,
Washington, October 4, 1901.

SIR: I have the honor to acknowledge the receipt of the memorandum left by you at this Department on the 18th ultimo, embodying the message of sympathy extended by their Majesties, the Emperor and the Empress Dowager of China, in view of the shooting of the late President of the United States.

I shall be pleased if you will convey to their Majesties an expression of the grateful appreciation of the Government and people of the United States for their kind messages, the acknowledgment of which has been delayed until now owing to the pressure of public affairs attendant upon the shooting and death of President McKinley.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

BOND FOR PAYMENT OF INDEMNITY DEMANDED OF CHINA BY THE POWERS.^a

Mr. Conger to Mr Hay.

No. 776.]

LEGATION OF THE UNITED STATES,
Pekin, October 14, 1901.

SIR: I have the honor to inclose herewith a translation of the bond for the lump sum or total indemnity of 450,000,000 taels, which, in compliance with paragraph (c) of Article VI of the Final Protocol, was yesterday delivered to his excellency Mr. B. J. de Cologan, as dean of the diplomatic corps, signed and sealed by the plenipotentiaries, Prince Ch'ing and Li Hung-chang, and bearing the official seal of the imperial board of revenue. I will send a copy of the bond in French and Chinese as soon as it can be obtained.

I am, etc.,

E. H. CONGER.

^a See Foreign Relations, 1900, page 77 et seq., and Appendix to this volume.

[Inclosure.—Translation.]

We, Prince Ch'ing, Grand Secretary Li Hung-chang, and the ministers of finance, deliver the present bond, according to the clauses of Article VI of the Protocol signed September 7, 1901, by the plenipotentiaries of the eleven Powers, viz, Germany, Austria-Hungary, Belgium, Spain, the United States of America, France, Great Britain, Italy, Japan, Holland, and Russia, and by the Chinese plenipotentiaries, who stipulate the following:

By an imperial Edict dated May 29, 1901, His Majesty the Emperor of China agreed to pay the Powers an indemnity of 450,000,000 Haikwan taels, calculated in gold at the rate of the Haikwan tael to the gold currency of each country, as indicated below:

Haikwan tael=marks	3. 055
=Austria-Hungary crown	3. 595
=gold dollar	0. 742
=francs	3. 750
=pound sterling	0. 3s. 0d.
=yen	1. 407
=florin, Netherlands	1. 796
=gold ruble (17.424 dolias find)	1. 412

This sum in gold shall bear interest at 4 per cent per annum, and the capital shall be reimbursed by China in thirty-nine years, under the conditions indicated in the plan of amortization annexed to the said Protocol.

The principal and interest shall be payable in gold or at the rates of exchange corresponding to the dates at which the different payments fall due.

The amortizations shall be paid annually.

The interest shall be paid semiannually and shall start from the 1st of July, 1901, but the Chinese Government shall have the right to pay off, within a term of three years, commencing January 1, 1902, the arrears of the first six months, finishing December 31, 1901, on condition, however, that it pays compound interest at the rate of 4 per cent per annum on the sums the payments of which shall have thus been deferred.

The present bond shall be converted into fractional bonds, signed by the delegates of the Chinese Government designated for this purpose.

The resources assigned as security for the bonds are the following:

1. The balance of the revenues of the imperial maritime customs, after payment of the interest and amortization of previous loans secured on these revenues, plus the proceeds of the raising to 5 per cent effective of the present tariff on maritime imports, including articles until now on the free list, but exempting rice, cereals, and flour from abroad, gold and silver bullion, and coin.

2. The revenues of the native customs, administered in the open ports by the imperial maritime customs.

3. The total revenues of the salt gabelle, exclusive of the fraction previously set aside for other foreign loans.

The product of the resources assigned to the payment of the bonds shall be remitted monthly to the commission of bankers designated by the various Powers for the collection of the sums belonging to each of them.

The present bond represents the sum of 450,000,000 Haikwan taels, calculated in gold at the rate corresponding to the gold currency of each country as indicated above.

CITIZENSHIP OF LAM CHUNG WA, A CHINESE NATURALIZED IN HAWAII PRIOR TO AUGUST 12, 1898, AND SUBSEQUENTLY RESIDING IN CHINA.

Mr. Conger to Mr. Hay.

No. 804.]

LEGATION OF THE UNITED STATES,
Pekin, November 4, 1901.

SIR: I have the honor to inclose to you herewith copies of correspondence relating to the claim to American citizenship of one Lam Chung Wa, a Chinese living at Canton, and to be, etc.

E. H. CONGER.

[Inclosure 1.]

Mr. McWade, consul, to Mr. Goodnow, consul-general.

No. 193.]

CONSULATE OF THE UNITED STATES,
Canton, China, October 16, 1901.

MY DEAR MR. GOODNOW: Will you kindly give me your advice in the following case:

Lam Chung Wa, a resident of Canton, has called on me at the consulate and preferred a request to be registered here as an American citizen. He was a resident of the Hawaiian Islands for seventeen years, prior to that Territory becoming our property. His papers show that he was a naturalized Hawaiian subject. He left Hawaii in 1897 for Canton, where immediately after his arrival he engaged in business as a merchant. He is still a merchant and in good standing. I inclose for your courteous perusal and decision all of his original papers and his photograph.

I have told Lam Chung Wa that I will refer his case to you for decision. I hope that I am not giving you too much trouble.

With kindest regards, etc.,

ROBERT M. MCWADE, *Consul.*

[Inclosure 2.]

Mr. Goodnow to Mr. Conger.

No. 357.]

CONSULATE-GENERAL OF THE UNITED STATES,
Shanghai, October 22, 1901.

SIR: I hand you herewith Consul McWade's No. 193, and hope you will instruct him.

I am, etc.

JOHN GOODNOW.

[Inclosure 3.]

Mr. Conger to Mr. Goodnow.

NOVEMBER 1, 1901.

SIR: I have to acknowledge receipt of your dispatch No. 357, of the 22d ultimo, transmitting Consul McWade's dispatch No. 193, of the 16th ultimo, requesting instructions upon the citizenship of one Lam Chung Wa.

It appears from the evidence submitted that the said Lam Chung Wa is a native of Heong Sang, in the province of Kuangtung, Empire of China; that on the 19th day of August, 1886, he was naturalized as a citizen of the Kingdom of Hawaii before W. M. Gibson, minister of the interior; that he was recognized as such naturalized citizen by passport No. 1454, issued to him September 1, 1890, by the acting consul-general of Hawaii at Hongkong, and again by a special certificate issued to him by H. E. Conger, minister of foreign affairs of Hawaii, on November 22, 1897.

The act of Congress of April 30, 1900, entitled "An act to provide a government for the Territory of Hawaii," provides as follows:

"SEC. 4. That all persons who were citizens of the Republic of Hawaii on August 12, 1898, are hereby declared to be citizens of the United States and citizens of the Territory of Hawaii."

By virtue of the above Lam Chung Wa is a citizen of the United States, unless he has renounced such citizenship.

In this connection I call your attention to the statement in Mr. McWade's dispatch that Lam Chung Wa left Hawaii in 1897 for Canton, where immediately after his arrival he engaged in business as a merchant, and where he is still a merchant in good standing.

A citizen of the United States "may reside abroad for purposes of health, education, amusement, or business for an indefinite period, and may even acquire a civil or commercial domicile there, without expatriation, providing he does so with the intention in good faith of returning to the United States. But if he permanently withdraws himself and his property and places both where neither can be made to contribute to the national necessities, acquires a political domicile in a foreign country and avows his purpose not to return, he has placed himself in the position where his country has the right to presume that he has made his election of expatriation."

This presumption arises more readily "when a naturalized citizen of the United States returns to his native country and resides there for a series of years with no

apparent purpose of returning." By some of our naturalization treaties a residence of two years in the country of nativity without the intention of returning being in some way made apparent, is sufficient to give rise to the presumption of self-expatriation.

I beg to suggest that Consul McWade be advised to exercise great care before registering Lam Chung Wa as a citizen of the United States, that "his claim to American citizenship shall not be made the pretext of avoiding duties to one country while absence secures him from duties to another."

I am, etc.;

E. H. CONGER.

Mr. Hay to Mr. Conger.

No. 429.]

DEPARTMENT OF STATE,
Washington, December 21, 1901.

SIR: I have to acknowledge the receipt of your dispatch, No. 804, of the 4th ultimo, inclosing a copy of correspondence between you and the United States consul-general at Shanghai, respecting the claim to American citizenship of one Lam Chung Wa, a Chinaman, living at Canton.

Your instruction to the consul-general in the matter is approved by the Department.

I am, etc.,

JOHN HAY.

DEATH OF EARL LI HUNG-CHANG.

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Pekin, November 6, 1901.

(Mr. Conger reports that Earl Li's death is momentarily expected.)

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 6, 1901.

(Mr. Hay directs Mr. Conger to express deepest sympathy with China in the imminent loss of her great statesman.)

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Pekin, November 7, 1901.

(Mr. Conger reports the death of Earl Li at 11.15 on the morning of the 7th of November.)

Mr. Hay to Mr. Conger.

No. 407.]

DEPARTMENT OF STATE,
November 8, 1901.

SIR: I confirm herewith telegrams^a from and to you respecting the death of Earl Li Hung-chang.

The Government and people of the United States sympathize with China in the loss sustained by her in the death of the statesman who for so many years shone preeminent in the councils of his country, and who gave many proofs of his esteem and friendship for the United States.

I am, etc.,

JOHN HAY.

Mr. Wu to Mr. Hay.

CHINESE LEGATION,
Washington, November 8, 1901.

SIR: It is my painful duty to announce to you the death of His Excellency Li Hung-chang, Earl of Suh-yih of the First Rank, Grand Tutor of the Heir Apparent, Grand Secretary of State, Viceroy of Chihli, and Plenipotentiary of China, etc., which, according to telegraphic information received by me, occurred on the 7th instant about noon.

Accept, etc.,

WU TING-FANG.

Mr. Hay to Mr. Wu.

No. 185.]

DEPARTMENT OF STATE,
Washington, November 11, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 8th instant, announcing the death, on the 7th instant, of His Excellency Li Hung-chang, Earl of Suh-yih of the First Rank, Grand Tutor of the Heir Apparent, Grand Secretary of State, Viceroy of Chihli, and Plenipotentiary of China, etc.

In reply I beg to assure you that the Government and the people of the United States sympathize with China in the loss of her great statesman, who gave so many proofs of his esteem and friendship for the United States.

The United States minister to China, who had already reported the death of Earl Li, has been instructed to offer appropriate condolences.

Accept, etc.,

JOHN HAY.

^a Printed, ante.

COLOMBIA.

CONDOLENCES ON ASSASSINATION OF PRESIDENT MCKINLEY.

President Marroquin to President Roosevelt.

[Telegram.]

BOGOTÁ, *September 23, 1901.*

May it please your excellency to accept the expressions of condolence of the Colombian Government and people for the demise of the illustrious President McKinley.

JOSÉ MANUEL MARROQUIN,
President of Colombia.

President Roosevelt to President Marroquin.

[Telegram.]

EXECUTIVE MANSION,
Washington, September 23, 1901.

I cordially acknowledge your message of condolence for the great loss suffered by the people of the United States.

THEODORE ROOSEVELT.

DENMARK.

CITIZENSHIP OF LARS CHRIS. JENSEN.

Mr. Swenson to Mr. Hay.

No. 194.]

LEGATION OF THE UNITED STATES,
Copenhagen, March 13, 1901.

SIR: I have the honor to transmit herewith, for your information, a copy of a letter from Lars Chris. Jensen, Cooleyville, Minn., and of mine in reply thereto, regarding the effect of his naturalization in the United States on his former allegiance to Denmark.

I have, etc.,

Laurits S. Swenson.

[Inclosure 1.]

Mr. Jensen to Mr. Swenson.

COOLEYVILLE, MINN., *January 29, 1901.*

DEAR SIR: As I am a native of Denmark, emigrated to America at the age of 21 years, 1890, am now 32 years, and a full citizen of America, I would like to be released from all allegiance to Denmark or any sovereign thereof, but as I do not know the form it has to go through, would like very much to get your advice about it, and whom to apply to if you are not the right party, and about what the expenses will be. I intend to make a visit to Denmark in the near future and would not like to go through the Danish army for the pleasure of visiting my native country one or two months. If any reference is necessary in regard to this matter, please write William Rob. Anderson, register of deeds, Albert Lea, Minn. I was born in Wejen Lendum Sogn, Jylland, July 27, 1868.

Larsen Chris. Jensen.

[Inclosure 2.]

Mr. Swenson to Mr. Jensen.

LEGATION OF THE UNITED STATES,
Copenhagen, February 18, 1901.

SIR: Replying to yours of the 29th ultimo, I beg to say that your naturalization as a citizen of the United States has released you from your former allegiance to Denmark, and that no further steps are necessary for that purpose.

Denmark recognizes the right of expatriation, and in case you return here without the intention to reside permanently you will be treated as a citizen of the United States.

Having emigrated to America at the age of 21, and having acquired full citizenship there, you are not liable to military service on your temporary return to Denmark.

I would advise you to bring with you your certificate of naturalization, and to procure a passport either from the Department of State at Washington or, on your arrival, from the legation of the United States here.

Respectfully, yours,

Laurits S. Swenson.

MILITARY-SERVICE CASE OF SÖREN L. SÖRENSEN.*Mr. Swenson to Mr. Hay.*

No. 197.]

LEGATION OF THE UNITED STATES,
Copenhagen, March 26, 1901.

SIR: I have the honor to transmit herewith copies of the correspondence in the military-service case of Sören Laurids Sörensen, a former Dane, naturalized in the United States, who, upon his return to Denmark, has been summoned for military duty.

I respectfully submit my report without any further comment, as the facts in the case are fully set forth in the inclosures herewith.

I have, etc.,

LAURITS S. SWENSON.

[Inclosure 1.—Translation.]

*Mr. Sörensen to Mr. Blom, vice-consul.*BRAMMINGE, *September 24, 1900.*

SIR: I would request you to enlighten me on the following question: I emigrated to America at the age of 21 years 6 months. I resided in the United States seven years, and acquired American citizenship by naturalization. When I returned to Denmark three years ago I met at the conscription session, and on exhibiting my certificate of naturalization, I was informed that if I was in the country two years from that time I was to present myself again at that place. I returned to America, however, before the expiration of the two years, remaining there about one year.

On my return here two weeks ago I was notified to appear at the conscription session, where I was enlisted for military service. No notice was taken of my citizenship papers. Can I be required to perform military duty? If so, why was I not pressed into the service three years ago. I attained my thirty-second year in August this year. I desire to be informed, at your earliest convenience, if the authorities have a right to require me to meet for duty immediately after my return here, when I am an American citizen. Had I been conscripted three years ago, and then left the country, the case would have been different.

Note the fact that I am 32 years of age and have resided in America as stated above.

Respectfully, yours,

SÖREN L. SÖRENSEN.

[Inclosure 2.]

*Mr. Swenson to Mr. Sörensen.*LEGATION OF THE UNITED STATES,
Copenhagen, September 28, 1900.

SIR: Before giving any definite reply to your communication of the 24th instant to Mr. Jules Blom, I beg that you will be good enough to inform me if at the time of your emigration to the United States you had completed your military service, if you secured a permit to emigrate, and if you intend to return to the United States for the purpose of residing and performing the duties of citizenship there.

Kindly send me your certificate of naturalization, which will be returned to you after examination.

Respectfully, yours,

LAURITS S. SWENSON.

[Inclosure 3.—Translation.]

*Mr. Sørensen to Mr. Swenson.**BRAMMINGE, *September 29, 1900.*

SIR: Thanking you for yours of the 28th instant, I beg to say that I had not completed my military service when I emigrated to America.

I emigrated before I was 22 years of age; and before that time one is not required to meet at the session to be conscripted for service. I reported my emigration to the proper authority in Denmark. I intend to return to America if I can get my affairs here arranged satisfactorily. But you know better than I do that I can live two years abroad as an American citizen; that is what the consul in Chicago informed me before I left. I inclose my certificate of naturalization, which you will please return.

SÖREN L. SÖRENSEN.

[Inclosure 4.]

Mr. Swenson to Mr. Schested, minister for foreign affairs.

No. 105.]

LEGATION OF THE UNITED STATES,
Copenhagen, October 1, 1900.

EXCELLENCY: I have the honor to invite your excellency's attention to the following military-service case:

Sören L. Sørensen, who emigrated from Denmark to the United States at the age of 21 (he is now 32), was duly naturalized as an American citizen in 1895. In 1897 he visited his native country, returning to the United States after a stay of less than two years. About the middle of last September, he again returned to Denmark, and he has recently been notified that his name has been entered on the conscription rolls for military duty. His present address is Bramminge, Jutland. No military service had been required of him before his emigration, and he secured the usual permit before leaving the country. He appears to be here on a matter of business, which he wishes to arrange so as to be enabled to return to the United States. He appeals to me for intervention in his behalf; and I would respectfully request that your excellency be good enough to bring his case to the attention of the proper authorities, to the end that his name may be stricken from the conscription rolls and that he may be exempted from military duty.

I avail, etc.,

LAURITS S. SWENSON.

[Inclosure 5.]

*Mr. Swenson to Mr. Sørensen.*LEGATION OF THE UNITED STATES,
Copenhagen, October 1, 1900.

SIR: Replying to yours of the 29th ultimo, I beg to inform you that I have this day addressed a communication to the Danish minister of foreign affairs requesting that your name be stricken off the conscription rolls and that you be exempted from military duty.

Your certificate of naturalization is returned herewith.

Respectfully, yours,

LAURITS S. SWENSON.

[Inclosure 6.]

*Mr. Sørensen to Mr. Swenson.*BRAMMINGE, *January 24, 1901.*

SIR: Replying to yours of November 29, 1900, I beg of you to kindly inform me if I am stricken off the conscription rolls and exempted from military duty.

Please let me know soon as possible.

Respectfully, yours,

SÖREN L. SÖRENSEN.

[Inclosure 7.]

*Mr. Swenson to Mr. Sörensen.*LEGATION OF THE UNITED STATES,
Copenhagen, January 25, 1901.

SIR: Replying to yours of the 24th instant, inquiring if your name has been stricken off the conscription rolls, I beg to say that the ministry of justice has not yet notified the foreign office as to what action has been taken in your case. As soon as I receive such notice I shall advise you.

Respectfully, yours,

LAURITS S. SWENSON.

[Inclosure 8.—Translation.]

*The minister of foreign affairs to Mr. Swenson.*COPENHAGEN, *March 12, 1901.*

MR. MINISTER: In a note, dated October 1, 1900, you have been good enough to invite my attention to the case of Sören Laurids Sörensen, who, though a naturalized citizen of the United States, has been entered upon the conscription rolls of Denmark, the country of his birth, where he is making a short sojourn for the purpose of arranging certain business matters.

After having corresponded with my colleague, the minister of justice, I have the honor to inform you as follows regarding the case of the person in question: The above-named Sören Laurids Sörensen, who was born in Denmark in 1868, and who at the age of 17 was entered on the conscription rolls, emigrated in 1890, after having notified the proper authorities as required. His name was not, however, stricken from the rolls. In May, 1897, he returned to Denmark, and in July of that year he purchased a piece of property at Nöraa, in the commune of Bramminge, which, in the month of March, 1898, he exchanged for property situated in the village of Bramminge, thus for a second time becoming a proprietor. He remained in Denmark until the month of September, 1899; that is to say, more than two years. In September, 1899, he entered upon his second journey to the United States; not, however, with the intention of remaining, but for the purpose of selling a piece of property which he owned there.

Finally, on his return to Denmark in September, last year, he was summoned for military duty.

The above-named Sörensen having been domiciled in Denmark more than two years, having become a proprietor, and having made his living both as agriculturist and as keeper of a temperance hotel, my colleague, the minister of justice, considers his summons to military service entirely legitimate, in accordance with Article III of the convention concluded between Denmark and the United States July 20, 1872.

I avail, etc.,

SCHESTED.

[Inclosure 9.]

*Mr. Swenson to Mr. Sörensen.*LEGATION OF THE UNITED STATES,
Copenhagen, March 16, 1901.

SIR: Referring to my letter of January 25, last, I now inform you that the minister of justice has decided your case.

After a careful investigation he has come to the conclusion that you are liable to military duty in Denmark. From a note addressed to me by the Danish minister of foreign affairs I learn the following facts regarding your case:

You were born in Denmark in 1868. At the age of 17 you were entered on the conscription rolls. In 1890 you emigrated to America, after having notified the proper authorities, as required. Your name was not, however, stricken from the military rolls. In May, 1897, you returned to Denmark, and in July of that year you purchased a piece of property at Nöraa, in the commune of Bramminge, which, in the month of March, 1898, you exchanged for property situated in the village of Bramminge, thus for a second time becoming a proprietor.

You remained in Denmark until the month of September, 1899; that is to say, more than two years. In September, 1899, you entered upon your second journey to the United States; not, however, with the intention of remaining, but for the purpose of selling a piece of property which you owned there. Finally, on your return to Denmark, in September, last year, you were summoned for military duty.

The above facts establish a strong presumption that you have withdrawn not only your person, but also your interests, from the United States, and, on their face, show absence of intent to return for the purpose of residing and performing the duties of citizenship there.

You appear to have returned to the country of your original allegiance to secure a permanent livelihood there. Unless you furnish strong and satisfactory proof in rebuttal of the contention made by the minister of justice, namely, that you have taken up your permanent domicile in Denmark without intent to return to the United States, I have no authority to intercede with the Danish Government in your behalf.

Respectfully, yours,

LAURITS S. SWENSON.

Mr. Hay to Mr. Swenson.

No. 113.]

DEPARTMENT OF STATE,
Washington, April 12, 1901.

SIR: Your No. 197, of the 26th ultimo, relative to the detention of Sören L. Sörensen, a naturalized citizen of the United States, for military duty, has been received.

The note of the minister of foreign affairs to yourself of March 12 ultimo would seem to throw upon Mr. Sörensen the onus of showing that his acts, as recited in the note, do not evince an intention on his part to acquire a permanent domicile in Jutland, and your letter of the 16th ultimo in that sense to Mr. Sörensen has, therefore, the Department's approval.

I am, etc.,

JOHN HAY.

**LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES
UNDER MILITARY AND EXPATRIATION LAWS OF THEIR
NATIVE COUNTRY.^a**

DEPARTMENT OF STATE,
Washington, April 10, 1901.

**NOTICE TO AMERICAN CITIZENS FORMERLY SUBJECTS OF DENMARK WHO
CONTEMPLATE RETURNING TO THAT COUNTRY.**

The information given below is believed to be correct, yet it is not to be considered as official, as it relates to the laws and regulations of a foreign country.

Military service becomes compulsory to a subject of Denmark during the calendar year in which he reaches the age of 22 years.

In November or December of the year in which he becomes 17 years old he is expected to report for enrollment on the conscription lists. If he neglects to do so he may be fined from 2 to 40 kroner; but if his neglect arises from a design to evade service he may be imprisoned.

In case he fails to appear when the law requires that he be assigned to military duty he is liable to imprisonment.

^a See instruction to Austria-Hungary, December 10, 1900, p. 7.

When one whose name has been or should have been entered on the conscription lists emigrates without reporting his intended departure to the local authorities he is liable to a fine of from 25 to 100 kroner.

A person above the age of 22 years entered for military service must obtain a permit from the minister of justice to emigrate. Non-compliance with this regulation is punishable by a fine of from 20 to 200 kroner.

The treaty of naturalization between the United States and Denmark provides that a former subject of Denmark naturalized in the United States shall, upon his return to Denmark, be treated as a citizen of the United States; but he is not thereby exempted from penalties for offenses committed against Danish law before his emigration. If he renews his residence in Denmark with intent to remain, he is held to have renounced his American citizenship.

A naturalized American, formerly a Danish subject, is not liable to perform military service on his return to Denmark, unless at the time of emigration he was in the army and deserted, or, being 22 years old at least, had been enrolled for duty and notified to report and failed to do so. He is not liable for service which he was not actually called upon to perform.

Passports are not required to secure admission to Denmark, but they are useful or necessary as means of identification, or in proof of citizenship. They should be exhibited whenever evidence of citizenship is required.

PERMISSION FOR MORMON MISSIONARY TO VISIT DENMARK.*

Mr. Swenson to Mr. Hay.

No. 204.]

LEGATION OF THE UNITED STATES,
Copenhagen, May 10, 1901.

SIR: Referring to my No. 160, dated March 29, 1900, relative to the banishment from Denmark of two Mormon missionaries, I have the honor to transmit herewith copies of correspondence touching the request of one of these persons, Mr. Rönnow, for permission to visit Denmark before returning to the United States.

You will observe from the inclosures herewith, which are self-explanatory, that his request has been granted by the Danish ministry of justice.

I have, etc.,

LAURITS S. SWENSON.

[Inclosure 1.]

Mr. Rönnow to Mr. Swenson.

TRONDHJEM, NORWAY, *March 13, 1901.*

DEAR SIR: You no doubt recollect the "banishment case" against Mr. Thomas P. Jensen and myself, which was brought before you in January, 1900, and perhaps recall our last conversation, which was to the effect that you would secure permission for me to return to Denmark before my return to America.

My desire is, if all goes as expected, to visit Denmark about June 1, and would therefore feel greatly obliged to you if you could secure for me that privilege.

* See Foreign Relations, 1900, p. 413.

If possible, I should like this permission granted so that it would be perpetual; that is, so I could come and go at will at any and all times in the future, or if possible, to have the banishment decree revoked or annulled.

Yours, truly,

CHAS. C. RÖNNOW.

[Inclosure 2.]

Mr. Swenson to Mr. Schested, minister for foreign affairs.

No. 116.]

LEGATION OF THE UNITED STATES,
Copenhagen, March 16, 1901.

EXCELLENCY: I have the honor to inclose herewith a copy of a letter from Mr. Charles C. Rönnow, a Mormon missionary, who was banished from Denmark last year. His case was fully discussed in my No. 82, of January 9, 1900, and my No. 85, dated the 29th of the same month, and in your excellency's notes, in reply thereto, dated January 26 and February 28, 1900.

In an interview which I had with the minister of justice in March last year regarding the decree of banishment in question, he assured me that in case the parties affected should desire to visit Denmark at some future date for legitimate purposes, they would experience no difficulty in obtaining the required permission from the ministry of justice.

Mr. Rönnow now desires me to procure for him such permission. I will thank your excellency to invite the attention of the minister of justice to the request contained in the inclosure herewith, to the end that favorable action thereon may be taken at the earliest convenient date.

Be pleased, etc.,

Laurits S. Swenson.

[Inclosure 3.—Translation.]

Mr. Schested to Mr. Swenson.

COPENHAGEN, May 7, 1901.

MR. MINISTER: Replying to your note of March 16 last, requesting permission for Charles C. Rönnow, a Mormon missionary, to visit Denmark, on a short sojourn, I have the honor to inform you that my colleague the minister of justice, finds no objection to granting the desired permission.

I avail, etc.,

SCHESTED.

[Inclosure 4.]

Mr. Swenson to Mr. Rönnow.

LEGATION OF THE UNITED STATES,
COPENHAGEN, May 9, 1901.

SIR: Referring to your letter of March 13 last, and to mine of March 16, in reply thereto, I now beg to inform you that the Danish ministry of justice has granted your request for permission to visit Denmark before returning to the United States.

Respectfully, yours,

Laurits S. Swenson.

Mr. Hill to Mr. Swenson.

No. 117.]

DEPARTMENT OF STATE,
Washington, May 23, 1901.

SIR: Your No. 204, of the 10th instant, with inclosures, has been received, and your efforts, resulting in permission for Charles C. Rönnow, who was expelled from Denmark last year, to visit the country, have the Department's approval.

I am, etc.,

DAVID J. HILL.

CONDOLENCES ON ASSASSINATION OF PRESIDENT MCKINLEY.

Mr. Brun to Mr. Hay.

[Telegram.]

LEGATION OF DENMARK,
Bar Harbor, Me., September 14, 1901.

I am directed to express to your excellency the deep sorrow of the King, of His Majesty's Government, and of the Danish nation, at the sad death of the President.

BRUN, *Danish Minister.*

Mr. Swenson to Mr. Hay.

[Telegram.]

LEGATION OF THE UNITED STATES,
Copenhagen, September 16, 1901.

Crown Prince called to-day to express his own and King's condolence. King of Greece personally, Empress Dowager of Russia through minister, request me to convey sympathy to Mrs. McKinley, Government, and people.

SWENSON.

Mr. Hay to Mr. Swenson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 17, 1901.

Please make earnest acknowledgment of condolences of His Majesty, the Crown Prince, the King of the Hellenes, and Empress Dowager of Russia, in name of Government, American people, and Mrs. McKinley.

JOHN HAY.

DOMINICAN REPUBLIC.

CONDOLENCES ON ASSASSINATION OF PRESIDENT MCKINLEY.

Señor Vasquez to Mr. Hay.

[Telegram.]

LEGATION OF THE DOMINICAN REPUBLIC,
New York, September 14, 1901.

In the name of my Government and of myself I offer sincerest sympathy and condolence upon the death of His Excellency President McKinley, who knew how to command the admiration of the whole world.

F. LEONTE VASQUEZ,
Chargé d'Affaires, Dominican Republic.

Mr. Hill to Señor Vasquez.

DEPARTMENT OF STATE,
Washington, September 25, 1901.

SIR: The pressure of public business attendant upon the death of President McKinley has delayed until now an acknowledgment of your telegram of the 14th instant, conveying an expression of the sympathy of the Government of the Dominican Republic with that of the United States in the loss it has sustained by that sad event.

I shall be obliged if you will assure your Government of the grateful appreciation of the Government of the United States for its message of condolence.

At the same time I beg to thank you for the expression of sympathy made on your own behalf.

Accept, etc.,

DAVID J. HILL,
Acting Secretary.

ECUADOR.

REGISTRY AND EDUCATIONAL LAWS.

Mr. Hay to Mr. Sampson.

No. 168.]

DEPARTMENT OF STATE,
Washington, April 10, 1901.

SIR: I inclose copy of a letter from Rev. John Lee, of Chicago, who asks certain specified questions concerning the passage in Ecuador of a civil registry law and one relating to education.

The Department will be pleased to have you give it the information necessary to answer the inquiry made.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Lee to Mr. Hay.

57 WASHINGTON STREET, CHICAGO, ILL., *April 5, 1901*

DEAR SIR: Will you kindly answer the following questions:

1. Did the Ecuadorean Congress pass the civil registry of marriages, births, and deaths law? Has it received the approval of the Executive; and if so, when?

2. Did the Ecuadorean Congress pass a law providing that no priest or monk can teach in any school under Government control, and that no school conducted as a private affair by priests can hereafter confer any degrees, except in an ecclesiastical line? Has this law received the approval of the Executive; and if so, when?

If the State Department is in possession of any recent intelligence concerning "more liberal laws relating to marriages and public worship" in either Ecuador or Bolivia, I shall thank you most sincerely for such intelligence.

Yours, most respectfully,

JOHN LEE.

Mr. Sampson to Mr. Hay.

No. 249.]

LEGATION OF THE UNITED STATES,
Quito, May 10, 1901.

SIR: You can say to Rev. John Lee, in answer to his questions, copies of which you inclose me in your No. 168 of April 10, 1901, as follows:

First. The Ecuadorean Congress did pass the civil registry bill for the registry of marriages, births, and deaths. It was approved by the President October 25, 1900.

Second. The same Congress did pass a law forbidding priests or monks to teach in any school under Government control, except as appointed to teach religion; said law also prohibits any school under

the control of the priests or monks from conferring any degree except ecclesiastical. This law was approved by the President October 18, 1900.

Third. Information desired as to "more liberal laws," etc., October 5, 1900, the President approved a law passed by Congress to buy (compulsory sale of church required) the cemeteries of the country, so anyone could be buried in them.

A representative of the Pope has just left Ecuador.

While here he and the minister of foreign affairs negotiated a treaty between church and state granting civil marriage for non-Catholics, and a division of all cemeteries, so that in one part may be buried non-Catholics and in the other Catholics. This is to save the Government the expense of buying the cemeteries.

This treaty must be approved by Congress of Ecuador and the Pope before it becomes operative.

I have, etc.,

ARCHIBALD J. SAMPSON.

INTERNATIONAL POLICY OF ECUADOR.

Mr. Carbo to Mr. Hay.

LEGATION OF ECUADOR,
Buffalo, September 12, 1901.

MR. SECRETARY: I have the honor to communicate to you the following cablegram that I have just received from the President of Ecuador:

QUITO, *September 12, 1901.*

Minister Ecuador, Buffalo:

International policy of present Government, strict neutrality. Frontiers mutually and perfectly respected; complete peace within and without Republic. Deny all news to the contrary.

PLAZA.

With sentiments, etc.,

L. F. CARBO.

Mr. Hay to Señor Carbo.

No. 31.]

DEPARTMENT OF STATE,
Washington, September 20, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 12th instant embodying the text of a telegram received by you from the President of Ecuador, translation of which reads as follows:

International policy of present Government, strict neutrality. Frontiers mutually and perfectly respected; complete peace within and without Republic. Deny all news to the contrary.

This information has been received with much pleasure by the Government of the United States, which naturally feels a lively solicitude that good will and harmony shall prevail among American States.

Accept, etc.,

JOHN HAY.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.

President Plaza to the Vice-President of the United States.

[Telegram.]

QUITO, ECUADOR, *September 15, 1901.*

The Ecuadorian people and Government join in the legitimate sorrow of the Great Republic for the demise of its illustrious President.

PLAZA, *President.*

Mr. Hay to Mr. Sampson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 17, 1901.

Express grateful thanks for sympathy cabled by President Plaza and Ecuadorian Congress.

HAY.

FRANCE.

CLAIM OF MARTY & D'ABBADIE ON ACCOUNT OF DETENTION OF STEAMSHIP "SULLBERG" AT MANILA.

M. Cambon to Mr. Hay.

[Translation.]

EMBASSY FRENCH REPUBLIC TO UNITED STATES,
Washington, January 7, 1901.

MR. SECRETARY OF STATE: By order of my Government I have the honor to send you herewith a copy of a memorial by which Messrs. Marty & D'Abbadie, French citizens and shipowners at Haiphong (Tonkin), represent how they have been injured by certain decisions made concerning them by the American authorities in the Philippines.

This claim, as you will see, arises from the fact that the Federal authorities at Manila believe themselves authorized to compel vessels that touch at ports in the Philippines to leave the whole of their cargoes there, even though it may be impossible to sell them.

Specifically, the steamer *Sullberg*, chartered by Messrs. Marty & D'Abbadie, found it impossible owing to events then transpiring at Iloilo to carry to that port merchandise that were booked for it, and for seventeen days the head of the customs service at Manila refused to allow the said vessel to sail for Asia with that merchandise. For all the losses sustained in consequence of the detention of their vessel our fellow-countrymen claim an indemnity of 22,471 Mexican dollars.

In the opinion of my Government the pretension of the American authorities at Manila seems contrary to the rules followed in all merchant countries. Indeed, the principle which is constantly observed in all policed States is that the master of a merchant vessel laden with merchandise is permitted to discharge in the port for which it is bound, or at which it may put in, such part only of the cargo as he may designate for the purpose either of his own motion or under the orders of his employers. Moreover, only that part of the merchandise so designated that is entered for consumption is subject to customs duties, and not such as may be warehoused in bond or manifested for transit.

The pretension to which Messrs. Marty & D'Abbadie object is so clearly contrary to the prevalent usages that it seems to rest on the personal decision of a customs official and not on any formal provision of the new customs regulations of the Philippines to which it seems that General Otis would not have failed to refer in a precise manner if the possibility of such a reference had occurred to him.

I can but commend this claim to your kindly attention and embrace this opportunity to renew, etc.

JULES CAMBON.

[Inclosure.]

M. Auguste Rafael Marty, a native of Porta (Eastern Pyrenees), France, born August 16, 1844, and M. Jules Edouard d'Abbadie, born at Tonnay, Charente (Charente-Inférieure), France, June 18, 1853, partners, doing business under the name of Marty & D'Abbadie, the said partnership having been entered into in pursuance of an instrument under private seal dated September 11, 1886, and extended by an instrument, likewise under private seal, January 1, 1897, until December 31, 1906, shipowners, residing at Haiphong, Tonkin, have the honor to address to the United States Government the present reclamation, the object of which is to secure an indemnity of 22,471 piasters,^a by way of redress for the injury done them by the arbitrary detention of the steamer *Sullberg* with a cargo of salt and rice on board in the waters of Manila, from February 13 to March 2, 1899.

This indemnity would be payable to the firm of Marty & D'Abbadie, charterers of the *Sullberg*, by way of redress for the losses occasioned to them by paying for the use of the vessel during her detention and by the expenses caused by the acts of the American authorities, and also for the losses experienced on the cargo and on the freight that would have been earned by the vessel during the time of her detention.

The owner of the vessel, Mr. H. N. Struve, Hauptstrasse C. 63, Blankenese, Germany, agent at Hongkong for Messrs. Siemssen & Co., is not interested in the present claim, the amount of the freight agreed upon in his favor having been duly paid.

No claim has been, and none can be, brought by any person whatever on the ground of the acts that have given rise to the present claim for indemnity. There is no reason for paying any attention to the insurers of the goods, since the present petition has reference only to the damage caused by the detention of the vessel during a period of seventeen days. In support of this claim the claimants have the honor to furnish the following detailed information:

The steamer *Sullberg*, carrying the German flag, Mr. H. N. Struve, of Hauptstrasse C. 63, Blankenese, Germany, being the owner, and Messrs. Siemssen & Co. being the agents at Hongkong, and the vessel having been chartered by Messrs. Marty & D'Abbadie, French shipowners, residing at Haiphong, Tonkin, left Quinhone, Anam, on the 9th of February last, with a cargo of rice and salt belonging to the charterers.

The rice was to go to Manila, while the salt was to be taken to Iloilo.

At the time of its departure from Quinhone there was nothing that could cause the charterers to suppose that the vessel could not make the proposed voyage and land successively at Manila and at Iloilo the goods which were intended for those ports.

The steamer arrived at Manila on the 14th day of February, and effected the discharge of its cargo of rice with great difficulty. The difficulties were such that the grain could not be warehoused before the 28th of February. Consequently the rice remained in the lighters for thirteen days, and during its stay the quantity of 94 piculs and $\frac{74}{100}$ was removed (i. e., stolen).

As soon as the vessel arrived the captain of the *Sullberg* learned that, in consequence of the hostilities between the United States Government and the Philippine insurgents, the city of Iloilo had, in a great measure, been burned, and that any commercial transaction there was impossible. He was therefore compelled to renounce entering that port.

The captain then decided that he would leave Manila after discharging the rice (evidently thinking that the discharge would be effected within the normal period of from twelve to eighteen hours), in order to go to Hongkong, where he hoped to be able to negotiate, in due time, the sale of the 18,000 piculs of salt remaining on board of his vessel. Contrary to all expectation, however, not only did the American authorities create all possible difficulties in order to prevent the landing of the rice, but they objected to the departure of the *Sullberg*, and, furthermore, claimed that the captain must be compelled to discharge his salt at Manila. Feeling confident that the right was on his side, the captain refused to do this.

Notwithstanding his energetic protest and the intervention of the General Tobacco Company (which was the consignee of the vessel) and of the consul of France, the American authorities maintained their opposition.

This state of things continued until the 2d of March, when the American authorities decided to remove the interdiction and to authorize the departure of the vessel.

^aFrench persons in the United States frequently use the word piaster as equivalent to the American dollar. The dictionary of the French Academy (sixth edition) says that the piastre is a silver coin whose value is about 5 francs. Its value, however, differs in different countries.

The *Sullberg* had been detained at Manila from February 13 to March 2—that is to say, for seventeen days.

Was this detention legal? Was it in conformity with the rules of international law? Can it at least be explained by the necessities of the conflict between the United States Government and the Philippine insurgents? Evidently not.

In the first place, and even if a state of war were recognized between the Philippine insurgents on the one hand and the United States Government on the other, and even if the latter consequently invoked belligerent rights in its favor, the fact is that no proclamation of a blockade had been issued as regarded the coasts of Manila. And no blockade could be established there, as Manila is now under the de facto sovereignty of the American Government.

The entrance into and departure from the port of Manila had necessarily therefore to remain free to all vessels carrying a neutral flag.

No special notice had been given to the captain of the *Sullberg*, and when he entered the port of Manila he had a right to suppose that he could trade there, freely, as usual.

Even if a state of war had been proclaimed and a regular blockade had been established subsequently to the *Sullberg's* entrance into the port of Manila, that vessel would have had a perfect right, recognized by all powers, to depart free with her cargo, and a certain time should have been allowed to her for that purpose.

Thus, even admitting that a state of war existed, the detention of the *Sullberg* in the manner in which it took place was absolutely at variance with the rules of international law.

Furthermore, there was nothing to justify it.

Will it be said that the *Sullberg* was suspected of having arms or munitions for the rebels on board? The *Sullberg* had sailed from Anam direct to Manila, which port is now under the high authority of the United States Government. This circumstance was in itself sufficient to show that there was no intention to commit fraud or to introduce articles contraband of war.

If the captain of the *Sullberg* had had arms for the rebels, he evidently would not have gone to Manila to discharge them.

The ship's papers were, moreover, in proper order; the manifest, which had been visé by the French authorities on her departure from Quinhone, mentioned nothing but a cargo of rice and salt, and it is a principle received in international law that a ship's papers which have been regularly visé by the authorities of one power are entitled to full faith and credit among the other powers.

Finally, even supposing that the American authorities had any reason to suspect a fraud on the part of the captain of the *Sullberg*, they had no right to detain that vessel for seventeen days in the waters of Manila.

If the United States Government invoked the rights of belligerent powers, it could not exercise, on board of the *Sullberg*, anything more than a mere right of search, and it could not hold the vessel any longer than was necessary to make that search.

In no case can the right of search imply the right to require the discharge of the goods.

These are well-founded principles, and the law of nations establishes a right to indemnity when a search has shown the suspicions to be unfounded and to have caused injury to the captain or the owners of the vessel. With all the more reason this must be true in the case of a prolonged detention which was wholly uncalled for, and which was not justified by the allegation of any fraud.

Besides, other vessels have been in the same case as the *Sullberg*, and have been obliged by the political situation of the Philippines to give up discharging their goods. The local government, so far from detaining them, has facilitated their departure.

Why was an exception made in the case of the *Sullberg*, and why were these vexatious measures taken against her?

The captain of the *Sullberg* in no way objected to admitting the local authorities on board of his vessel, and the custom-house officers who were placed on board might easily have ascertained that the vessel carried no arms or munitions of war.

If the American Government had been able, in the beginning, to conceive the slightest suspicion, the loyal attitude of the captain ought to have been sufficient to dispel it.

The charterers, whose commercial uprightness is well known, earnestly protest against any such suspicion.

As soon as they were able to do so without subjecting themselves to inadmissible demands, they made it a point to justify themselves.

On the 6th day of March, when the *Sullberg* arrived at Hongkong, Mr. A. R. Marty, their agent, wrote to the United States consul-general, informing him of the vessel's arrival, and requesting him to send a representative to witness the discharge of the cargo of salt.

The consul-general was pleased to comply with this desire, and his delegate ascertained that there were neither arms nor munitions of war on board of the *Sullberg*.

Owing to the numerous obstacles placed in the way of the discharge of the rice, and by the detention of the *Sullberg* for seventeen days at Manila, the United States Government caused a serious loss to Messrs. Marty & d'Abbadie.

This detention, as we have just shown, was in violation of the law of nations, and can not be justified by any of the necessities which are allowable in case of war, in favor of the belligerents. It took place without any good reason, on a mere suspicion of fraud, which had no foundation whatever.

The United States Government must itself have recognized this, since it authorized the departure of the *Sullberg* after she had been illegally detained for seventeen days.

It is, therefore, under obligations to furnish redress for the injury which it caused. It remains for us to establish the amount of the damage done.

This damage is composed of five elements, to wit:

1. Payment of freight during the period of detention, i. e., for seventeen days at 350 piasters per day, the sum of 5,950 piasters.

2. Payment of the expenses occasioned by the act of the American authorities, cost of telegrams, removal (déplacement) of the captain, expenses of sojourn on board of the *Sullberg*, etc.—that is to say, the sum of 1,045 piasters and 65 cents.

3. The loss occasioned on the sale of the cargo by the postponement of that sale. The 18,000 piculs of salt were, as we have already remarked, to be taken to Iloilo, where they were to be sold at one piaster per picul. The salt had to be sent to Hongkong, where its average price per picul is but 50 cents. On its arrival, however, it could find no purchasers. In the interval which elapsed between February 10 (meaning 13th) and March 6 (meaning 2d)—that is, during the detention of the vessel at Manila—the Hongkong market had been supplied. It was therefore necessary to warehouse it, and its sale will hardly be possible in less than three or four months, while the cost of warehousing, etc., will be about 10 cents per picul. The failure to earn in consequence of the action taken by the American authorities at Manila is therefore 5.60 (meaning 0.60) cents per picul, or a total of 10,800 piasters.

4. The damages for the freight which would have been earned by the *Sullberg* during her detention; this may be estimated at 3,000 piasters.

5. Finally, the refunding of the expenditures occasioned by the numerous difficulties raised in connection with the discharge of the rice, which might have been effected in one day at most in ordinary times, whereas it was effected in thirteen days. Furthermore, payment for the 94 piculs and seventy-four one-hundredths which were stolen, making, in the aggregate, 1,675 piasters and 35 cents.

The total amount of the claim of Messrs. Marty & d'Abbadie is 22,471 piasters.

By procuration of Marty & d'Abbadie.

(Signed) _____

Haiphong, November 20, 1899.

RECAPITULATION.

1. Payment of the price called for by the charter for seventeen days, at 350 francs (piasters?) per day	\$5, 950. 00
2. Repayment of the expenses incurred during the aforesaid detention at Manila, 466.57; at Hongkong, 579.08.....	1, 045. 65
3. Loss on the sale of salt, .60 per picul, i. e., on 1,800 piculs.....	10, 800. 00
4. Damages for the freight that might have been earned by the <i>Sullberg</i> during her detention.....	3, 000. 00
5. Repayment of the expenses incurred through the difficulties raised in connection with the landing of the rice and the quantity stolen.....	1, 675. 35
Total	22, 471. 00

On this 22d day of November, 1899, before us, Eugene Domergue, resident mayor of the city of Haiphong, appeared Mr. Auguste Raphael Marty, member of the firm of Marty & d'Abbadie, shipowners, and, acting in the name of said firm, who, being called upon by us to affirm the truth of the statements made by him in his demand written opposite, bearing date of November 22, 1899, and having reference to a claim for indemnity presented to the American Government for damages occasioned to their chartered steamer, the *Sullberg*, in the waters of Manila, replied "I affirm, on my soul and on my conscience, that the sum of 22,471 piasters, which I claim for the damage done to us, is really and legitimately our due."

Of which affirmation, we, the resident mayor of the city of Haiphong, have given

a certificate to the said Mr. Marty, representing his firm, and have drawn up the present paper, which he has signed with us after it had been read to him.

By procuration of Marty & d'Abbadie.

DOMERGUE,
A. MARTY.

Examined for authentication of the signature of Mr. Domergue, resident mayor of Haiphong, and that of Mr. A. Marty above affixed.

For the superior resident and by delegation.

The resident, head of the cabinet.

(Signed) _____.

Hanoi, November 25, 1899.

Examined for authentication of the signature, affixed opposite, of the resident, head of the cabinet, for the resident superior of Tonkin and by delegation, authenticating the signature of Messrs. A. R. Marty, member of the firm of Marty & d'Abbadie, and Domergue, resident mayor of the city of Haiphong.

For the consul of France and by delegation,

G. GOUDEREAU, *The Chancellor.*

HONGKONG, December 7, 1899.

Mr. Hay to Mr. de Margerie.

No. 425.]

DEPARTMENT OF STATE,
Washington, November 2, 1901.

SIR: I have the honor to refer to Ambassador Cambon's note of January 7 last, in which he transmitted the memorial of Messrs. Marty & d'Abbadie, French citizens, preferring a claim against this Government for \$22,471, on account of the detention at Manila for a period of seventeen days in February and March, 1899, of the ship *Sullberg*.

In this note Mr. Cambon stated that the *Sullberg* "found it impossible, owing to events then transpiring at Iloilo, to carry to that port merchandise that was booked for it, and for seventeen days the head of the customs service at Manila refused to allow the said vessel to sail for Asia with that merchandise," and that in the opinion of his Government the pretension of the American authorities seemed contrary to the rules followed in all merchant countries. He asserted that the principle which is constantly followed in all policed States is that the master of a merchant vessel laden with merchandise is permitted to discharge in the port for which it is bound or at which it may put in such part only of the cargo as he may designate for the purpose, either of his own motion or under the orders of his employers; that only the part of the merchandise so designated that is entered for consumption is subject to customs duties, and not such as may be warehoused in bond or manifested for transit. He added: "The pretension to which Messrs. Marty & d'Abbadie object is so clearly contrary to the prevalent usages that it seems to rest on the personal decision of a customs official and not on any formal provision of the new customs regulations of the Philippines to which it seems that General Otis would not have failed to refer in a precise manner if the possibility of such a reference had occurred to him."

The claimants also complain that they were delayed about twelve

days in landing the rice, because of difficulties thrown in the way by American authorities, and that during this time a large quantity of rice (94.74 piculs) was stolen.

The statement of the claimants upon which the statement in Mr. Cambon's note is evidently based, that a part of the cargo (the salt) was destined to Iloilo, is incorrect. The manifest shows that the entire cargo was consigned to Manila. A copy of that document is inclosed herewith.^a

The only entry made at Manila, however, was for the rice. When the vessel had discharged the rice the consignee asked for a clearance to Hongkong without discharging the balance of the cargo, which consisted of 1,099,600 kilos of salt in bulk. Under paragraph 3 of the United States provisional customs tariff and regulations then in force, promulgated in General Orders, No. 10, from the office of the military governor in the Philippines under date of October 26, 1898, clearance of the vessel could not be granted until all her cargo had been landed and accounted for. The request of the consignees was therefore refused. The regulations prohibiting the clearance of a vessel under such circumstances were taken from the existing United States customs regulations, and it is submitted that they were not unreasonable under the conditions existing.

It may be observed, moreover, that the military governor had been advised that the *Sullberg* was suspected of having arms concealed on board and had instructed the collector to have a careful examination made of all cargo discharged therefrom, and after the cargo had been completely discharged to make a thorough search of the vessel. The character of the cargo—salt in bulk—offered the greatest facilities for the concealment of arms and other contraband.

After the vessel had been detained for a period of seventeen days she was cleared, under a suspension of the operation of the regulation which the military governor had the power to authorize, without having discharged the salt cargo. The authorities in the Philippines state that this suspension was not made because either the military governor or the collector was convinced that the suspected arms were not on board, but for other reasons which seemed satisfactory to the military governor.

In regard to the statement of the claimants relative to the delay in landing the rice and of the theft of a portion thereof, the collector of the port at Manila reports that "the claimants were not delayed in landing their rice cargo by any conditions thrown in the way by the American authorities, and no claim or statement was ever submitted to this office as to the loss of 94.74 piculs of rice (estimated value \$236.85) which claimants state were stolen. The examination of this rice was made on board the vessel, and it was released by the customs officials in charge at the ship's side, hence, if any part of the cargo was stolen, the theft must have occurred after the rice had been released by this department, and was under full control of the consignees or their agent."

The Department perceives no basis for a claim for an indemnity in behalf of Messrs. Marty & d'Abbadie.

Accept, etc.,

JOHN HAY.

^a Not printed.

**LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES
UNDER MILITARY AND EXPATRIATION LAWS OF THEIR
NATIVE COUNTRY.***

DEPARTMENT OF STATE,
Washington, January 21, 1901.

NOTICE TO AMERICAN CITIZENS FORMERLY CITIZENS OF FRANCE WHO
CONTEMPLATE RETURNING TO THAT COUNTRY.

The information given below is believed to be correct, yet is not to be considered as official, as it relates to the laws and regulations of a foreign country.

All Frenchmen who are not declared unfit or excused may be called upon for military duty between the ages of 20 and 45 years. They are obliged to serve three years in the active army, ten in the reserve of the active army, six in the territorial army, and six in the reserve of the territorial army.

If released from all military obligations in France, or if the authorization of the French Government was obtained beforehand, naturalization of a former French citizen in the United States is accepted by the French Government; but a Frenchman naturalized abroad without the consent of his Government, and who at the time of his naturalization was still subject to military service in the active army or in the reserve of the active army, is held to be amenable to the French military laws. Not having responded to the notice calling him to accomplish his military service, he is placed on the list of those charged with non-compliance with the military laws, and if he returns to France he is liable to arrest, trial, and upon conviction is turned over to the army, active, reserve, or territorial, according to his age. Long absence from France and old age do not prevent this action.

A Frenchman naturalized abroad, after having passed the age of service in the active army and the reserve, nevertheless continues on the military list until he has had his name struck from the rolls, which may usually be done by his sending his naturalization certificate through the United States embassy to the proper French authorities.

The French Government rarely gives consent to a Frenchman of military age to throw off his allegiance. Application on the subject may, however, be addressed to the minister of justice at Paris, accompanied by a full statement of the particulars and a fee of 675 francs. If the request is granted, the name of the person concerned is erased from the military list and he may return to France safely.

There is no treaty between the United States and France defining the status of former French citizens who have become naturalized American citizens.

Passports are not necessary to enter France, but are usually required from sojourners or travelers afterwards. They are recognized without being visaed or indorsed.

* See instruction to Austria-Hungary, December 10, 1900, page 7.

**COURTESIES TO U. S. S. ANNAPOLIS BY COMMANDANT OF FRENCH
NAVAL STATION AT ALGIERS.**

Mr. Hay to Mr. Porter.

No. 879.]

DEPARTMENT OF STATE,
Washington, March 6, 1901.

SIR: Under date of the 1st instant the Acting Secretary of the Navy transmits a copy of a letter from Commander Karl Rohrer, commanding the U. S. S. *Annapolis*, in which that officer reports that in order to repair an injury which occurred to the safety valve of the vessel's boiler on February 2 last a particular piece of brass tubing which was required could not be obtained in the port of Algiers, where the vessel then lay, and that therefore the commander, accepting the kind offer which had been made by Rear-Admiral Albert Servan, the commandant of the French naval station at that place, applied to him for assistance. There being no pipe of the required size in stock, the admiral ordered an ingot to be cast, bored, and turned, gave to the commander two sections of tubing of the size and length required, and declined to have a bill made out for the material and work involved.

You will express to the Government of the French Republic the thanks of the Navy Department for the kind and courteous treatment extended by Rear-Admiral Servan to a vessel of the United States and to her commander.

I am, etc.,

JOHN HAY.

**COURTESIES TO UNITED STATES MILITARY ATTACHÉ AT FRENCH
GRAND AUTUMN MANEUVERS.**

Mr. de Margerie to Mr. Hay.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC
IN THE UNITED STATES,
Manchester by the Sea, August 3, 1901.

MR. SECRETARY OF STATE: The minister of war of France has decided to invite the foreign military attachés to witness the grand maneuvers which will be performed this year by the First, Second, Sixth, and Twentieth Army corps, under the direction of General Brugère.

Having been instructed to transmit this invitation to the Federal Government, I will thank you to inform me, as speedily as possible, whether it desires the military attaché of the United States embassy at Paris to witness these maneuvers.

I will add that if said officer goes to the French grand maneuvers he will have to present himself on the 10th of September next to the staff of the army (second bureau), where he will be informed of the arrangements made regarding foreign officers. These officers will attend the maneuvers on and after September 13 and the final review on the 19th.

Be pleased to accept, etc.,

P. DE MARGERIE.

Mr. Adee to Mr. de Margerie.

No. 417.]

DEPARTMENT OF STATE,
Washington, August 13, 1901.

SIR: Replying to your note of the 3d instant, I have the honor to inform you that the Acting Secretary of War, under date of the 10th idem, says that the invitation of the Government of the French Republic to that of the United States to be represented at the grand maneuvers of the First, Second, Sixth, and Twentieth French Army corps in September next, is accepted with pleasure, and that suitable instructions have been sent to the military attaché of the United States at Paris.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Hill to Mr. Vignaud.

No. 938.]

DEPARTMENT OF STATE,
Washington, October 14, 1901.

SIR: I inclose a copy of a letter from the War Department relative to the courtesies extended to Capt. T. Bentley Mott, U. S. A., military attaché, the official representative of the United States at the recent French maneuvers, by Colonel de Fontenilliat, who was in charge of the foreign officers, and his assistants, and reciting the thoughtfulness and delicacy on the part of General Brugère, commanding the French army, at a dinner to the foreign officers, in not offering the usual toasts to the sovereigns and chiefs of state whose representatives were present, owing to the death of President McKinley.

It is desired to have you express this Government's thanks for the courtesies extended to Captain Mott, and its profound appreciation of the action of General Brugère on the occasion referred to.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

[Inclosure.]

Mr. Sanger to Mr. Hay.

WAR DEPARTMENT, *Washington, October 7, 1901.*

SIR: I have the honor to request that the American ambassador at Paris, France, may be instructed to express in appropriate terms to the French Government the high appreciation by this Department of the many courtesies extended to Capt. T. Bentley Mott, military attaché, the official representative of the United States Army, while attending the recent French grand autumn maneuvers, and especially the polite attentions shown to him by Colonel de Fontenilliat, who had charge of the foreign officers, and his assistants.

The thoughtful and delicate action in memory of the death of President McKinley on the part of General Brugère, the general commanding the army, on the occasion of the dinner to the foreign officers, in not offering the usual toast to the sovereigns and chiefs of state whose officers were present, and directing that the regimental music should not play during the dinner as a mark of respect to the official representative of the United States Army, is profoundly appreciated by this Department.

Very respectfully,

WM. CAREY SANGER,
Acting Secretary of War.

Mr. Vignaud to Mr. Hay.

No. 899.]

EMBASSY OF THE UNITED STATES,
Paris, November 2, 1901.

SIR: I have to acknowledge receipt of the Department's No. 938 of October 14, instructing this embassy to express the thanks of our Government for the courtesies extended to Captain Mott during the recent maneuvers of the French army, and its profound appreciation of General Brugère's delicacy in not offering the usual toast to the sovereigns at a dinner given to the foreign officers, owing to the death of President McKinley. This instruction was complied with October 25 last.

I have, etc.,

HENRY VIGNAUD.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.

Mr. Delcassé, minister for foreign affairs, to Mr. Hay.

[Telegram.]

PARIS, *September 14, 1901.*

I beg your excellency to accept the sincere and keen condolences of the French nation and Government, who share with all their hearts in the mourning of the nation and Government of the United States.

DELCASSÉ.

Mr. Hay to Mr. Delcassé.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1901.

In the name of the American people and their Government I thank your excellency for the fraternal message of sympathy and sorrow on the part of the French Government and people.

JOHN HAY.

RIGHT OF EXPATRIATION DENIED EMILE ROBIN.

Mr. Vignaud to Mr. Hay.

No. 902.]

EMBASSY OF THE UNITED STATES,
Paris, November 5, 1901.

SIR: Some time ago a naturalized American of French origin, Mr. Emile Robin, applied to this embassy for the purpose of having his name erased from the French military rolls. Robin was born in France on the 9th of January, 1869. After having served in the active army the full term of three years, to which every Frenchman has to submit, he proceeded to the United States, where he was naturalized March 31, 1900. At that time, although released from the active army, he was still liable to serve in the reserve, and therefore, according to the

French law of June 26, 1889, new article 17 of the code, he could not renounce his French nationality without the consent of his Government.

At his urgent request the embassy applied, nevertheless, for his complete discharge from all military obligations in France, and I am now in receipt of Mr. Delcassé's reply. The application is refused, on the ground that, as the period during which Robin is liable to serve in the active army (comprising the reserve) only expires on the 12th of March, 1903, when he would be transferred to the territorial army, and further, as he failed to apply to the authorities to obtain consent to change his nationality, his naturalization in the United States has no value in the eyes of the French Government.

Such reply was fully expected and contains nothing new, but it defines the position the French Government takes when cases of this kind arise, in a manner so precise that I have deemed it advisable to send you a copy and translation of it.

I have, etc.,

HENRY VIGNAUD.

[Inclosure—Translation.]

Mr. Delcassé to Mr. Vignaud.

PARIS, October 31, 1901.

MR. CHARGÉ D'AFFAIRES: The 3d of July last the ambassador of the United States applied for my mediation to obtain the striking off our army roll of Mr. Robin (Émile), who had obtained American naturalization on the 31st of March, 1900.

My colleague, the minister of war, to whom I hastened to refer the matter, informs me that the result of the information collected by his department is that Mr. Robin has not been authorized by the French Government to be naturalized abroad. By the terms of article 17 of the Civil Code, if a Frenchman is still subject to the obligations of military service in the active army, naturalization abroad will not cause him to lose the quality of Frenchman unless it was authorized by the French Government.

As Mr. Robin would have been transferred to the territorial army only on March 12, 1903, he was subject to the formality of an authorization when he acquired, in 1900, his American naturalization. That authorization not having been applied for, the naturalization acquired in America by Mr. Robin is without value in the eyes of the French Government.

General André charges me, in these circumstances, to express to you his regret at being unable to order the striking off of Mr. Robin's name from our army roll.

Accept, etc.,

DELCASSÉ.

GERMANY.

EXPULSION OF MAX FRIEDRICH SCHAAF.

Mr. White to Mr. Hay.

No. 1510.]

EMBASSY OF THE UNITED STATES,
Berlin, January 17, 1901.

SIR: I have the honor to inform you that on the 11th ultimo the embassy was informed by the consulate at Hamburg that Max Friedrich Schaaf had been ordered to leave that city within fourteen days, and that intervention was at once made in Schaaf's behalf to the end that he might be permitted to remain there until the autumn of 1901, or, if that were not convenient, until next spring (F. P. No. 846.) Schaaf was born at Leipzig in 1872 and emigrated with his parents in 1882 to the United States, where he became a citizen through the naturalization of his father in 1889. After his father's death he returned to Leipzig, in September, 1899, where he remained for about a year, then going to Altona, near Hamburg. A short time after his arrival in that city he was expelled from Prussia on account, it is said, of his father having neglected to obtain his release from German allegiance before his immigration, and he then moved to Hamburg, whereupon he soon received the order referred to above.

To-day I have been informed by the foreign office that, in view of the embassy's interest in the case, Schaaf will be allowed to remain in Hamburg until April, but that the senate of the "Free and Hanse City" felt compelled to maintain the order of expulsion, as it was assumed that Schaaf had emigrated in order to evade military service.

I am, etc.,

ANDREW D. WHITE.

Mr. Hay to Mr. White.

No. 1159.]

DEPARTMENT OF STATE,
Washington, February 5, 1901.

SIR: I have to acknowledge the receipt of your No. 1510, of the 17th ultimo, reporting the case of Max Friedrich Schaaf, a naturalized American citizen, who was taken to this country when 10 years old, became a citizen through the naturalization of his father, and, having returned to Germany, has been ordered to leave the city of Hamburg in April next.

The German contention in this case appears to be extreme and even scarcely reasonable, as Mr. Schaaf emigrated in his father's care when only 10 years old. This Government would much regret if this case, and others which have within the past two years been reported to your

embassy, and the consulates in Germany, should indicate a purpose to hold all American citizens of German origin, who emigrated during minority, amenable to the imputation of intention to evade military service, no matter what their age may have been at the time of emigration. Whilst it may be licit to deduce from the facts of any particular case that the emigration of the minor was for the sole purpose of evading military service and that conditions exist in his instance which make his return to and sojourn in his native place detrimental to public order or interests, the application of this exceptional procedure to all minor emigrants would not be in consonance with the spirit and intent of the existing conventions of naturalization between the two countries, and would in fact almost amount to the injection into the treaty stipulations of a requirement of prior consent to change of allegiance, a requirement not admitted by the negotiators of those conventions.

I am, etc.,

JOHN HAY.

Mr. White to Mr. Hay.

No. 1542.]

EMBASSY OF THE UNITED STATES,
Berlin, February 16, 1901.

SIR: I have the honor to acknowledge the receipt this morning of your instruction No. 1159, referring to the expulsion case of Max Friedrich Schaaf, and in this connection to report that the embassy's dispatch No. 1510, with regard to this case contained practically the whole (not a summary) of the foreign office's note in question. Of late the foreign office has refrained from entering upon any discussion of such cases. The position taken by the royal Prussian authorities is that it is to be presumed that any one who emigrates from Prussia without having performed military service emigrated for the purpose of evading such service, the age of the person in question at the time of his emigration not being taken into account. The Prussian authorities hold that no such person should be allowed to settle in Prussia or to make a prolonged visit in that country while still of an age when, had he remained a Prussian subject, he might be called upon for military service. They consider that the provisions of the Bancroft treaties are sufficiently complied with if the person in question is allowed to visit his former home and to remain there a few weeks; and of late years, in certain parts of the country, expulsion orders have become more or less frequent. The question of having obtained permission to change allegiance does not appear to influence the case, the idea being merely that a person should not be able, through a few years' residence abroad and naturalization in a foreign country, to return to his native place and to there sojourn free from the duties and obligations of other men of the same age who have lived there continuously. It sometimes happens, of course, that local officials show too much zeal and that there is real hardship connected with a case of expulsion, but it must not be forgotten that the number of persons expelled or otherwise molested on account of their not having performed military service is relatively very small when considered in connection with the great number of American citizens of German origin who visit their former homes every year.

In Germany a record is kept of every male child born in the country. At the beginning of each calendar year official notice is published to the effect that all males born during the twentieth preceding calendar year are to report for examination as to their fitness for military service. At the end of the year proceedings are taken against all those who have failed to report, and they are all sentenced to pay a fine or undergo imprisonment, and warrants are issued for their arrest. When such a person returns from the United States or any other country, unless the fact of his change of nationality is recorded and his name has been taken from the lists, he is liable at any time to be called upon to pay the fine, the same being almost invariably refunded, in the case of an American citizen, upon intervention being made by the embassy. In Zahl's case he was probably sentenced several years before he became a citizen of the United States.

In this connection I beg to call attention to Mr. Kasson's dispatch No. 124, of January 6, 1885, and to the inclosures therein. (F. Rels. 1885, p. 392.)

I am, etc.,

ANDREW D. WHITE.

**LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES
UNDER MILITARY AND EXPATRIATION LAWS OF THEIR
NATIVE COUNTRY.**^a

DEPARTMENT OF STATE,
Washington, January 23, 1901.

NOTICE TO AMERICAN CITIZENS FORMERLY SUBJECTS OF GERMANY WHO
CONTEMPLATE RETURNING TO THAT COUNTRY.

The information given below is believed to be correct, yet is not to be considered as official, as it relates to the laws and regulations of a foreign country.

A German subject is liable to military service from the time he has completed the 17th year of his age until his 45th year, active service lasting from the beginning of his 20th year to the end of his 36th year.

A German who emigrates before he is 17 years old, or before he has been actually called upon to appear before the military authorities, may, after a residence in the United States of five years and after due naturalization, return to Germany on a visit, but his right to remain in his former home is denied by Germany, and he may be expelled after a brief sojourn on the ground that he left Germany merely to evade military service. It is not safe for a person who has once been expelled to return to Germany without having obtained permission to do so in advance. A person who has completed his military service and has reached his 31st year and become an American citizen may safely return to Germany.

The treaties between the United States and the German States provide that German subjects who have become citizens of the United States shall be recognized as such upon their return to Germany if they resided in the United States five years.

^aSee Instruction to Austria-Hungary, December 10, 1900, page 7.

But a naturalized American of German birth is liable to trial and punishment upon return to Germany for an offense against German law committed before emigration, saving always the limitations of the laws of Germany. If he emigrated after he was enrolled as a recruit in the standing army; if he emigrated while in service or while on leave of absence for a limited time; if, having an unlimited leave or being in the reserve, he emigrated after receiving a call into service or after a public proclamation requiring his appearance, or after war broke out, he is liable to trial and punishment on return.

Alsace-Lorraine having become a part of Germany since our naturalization treaties with the other German States were negotiated, American citizens, natives of that province, under existing circumstances, may be subjected to inconvenience and possible detention by the German authorities if they return without having sought and obtained permission to do so from the imperial governor at Strassburg.

The authorities of Wurttemberg require that the evidence of the American citizenship of a former subject of Wurttemberg which is furnished by a passport shall be supplemented by a duly authenticated certificate showing five years' residence in the United States in order that fulfillment of the treaty condition of five years' residence may appear separately as a fact of record.

A former German subject against whom there is an outstanding sentence, or who fears molestation upon return for an offense against German law, may petition the sovereign of his native State for relief, but this Government can not act as intermediary in presenting the petition.

Travelers are not required to show passports on entering or leaving Germany, but they are likely to be called upon to establish their identity and citizenship at any time, and especially so if living in boarding houses or renting apartments. They are consequently recommended to provide themselves with passports. They do not usually require to be visaed or indorsed, but the local authorities sometimes demand a German translation.

CONSULAR CONVENTION (ARTICLE XII) OF 1871 BETWEEN THE UNITED STATES AND GERMANY—PREVIOUS NOTICE TO CONSULS OF SERVICE ON MERCHANT VESSELS OF WRIT OF ATTACHMENT NOT REQUIRED.

Mr. von Holleben to Mr. Hay.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, February 9, 1901.

MR. SECRETARY OF STATE: On the 19th of October of last year the United States marshal of Philadelphia libeled the Hamburg steamship *Assyria*, code signal R. L. C. G., of the Hamburg-American Packet Navigation Stock Company, then lying in that port, without advising in advance, conformably to Article XII, paragraph 2, of the consular convention of December 11, 1871, between the United States and the

German Empire, the imperial consul at Philadelphia of this process serving on board the ship.

While bringing the foregoing case to the knowledge of your excellency, I have the honor, with reference to my note^a of the 31st of March of last year, and your excellency's obliging note^a No. 417, of the 19th of April, to apply to your kindly intercession to the end that the officials concerned be instructed, in order to avoid the recurrence of similar violations of the provisions of Article XII of the consular convention between the United States of America and Germany, to advise the imperial consular officers in the future before serving processes on board German merchant vessels, and thus afford the said consular officers an opportunity of being present at such serving.

Be pleased, etc.,

HOLLEBEN.

Mr. Hay to Mr. von Holleben.

No. 561.]

DEPARTMENT OF STATE,

Washington, February 23, 1901.

EXCELLENCY: In reply to your note of the 9th instant, relative to the reported violation of the consular convention of December 11, 1871, by the United States marshal at Philadelphia in libeling the Hamburg-American Line steamship *Assyria* without first having notified the German consul at that city, I have now the honor to inform you that the Attorney-General, to whom the matter was referred, wrote on the 16th instant that he brought the matter to the attention of the marshal and instructed him to avoid in future any similar occurrence in contravention of the terms of the convention referred to above.

Accept, etc.,

JOHN HAY.

Mr. Hay to Mr. von Holleben.

No. 565.]

DEPARTMENT OF STATE,

Washington, March 1, 1901.

EXCELLENCY: On the 23d ultimo I had the honor to inform you, in reply to your note of February 9, that the Attorney-General had brought the matter of the alleged violation of the consular convention of 1871, between the United States and Germany, by the United States marshal at Philadelphia, in libeling the Hamburg-American Line steamship *Assyria* without first having notified the German consul at that city, to the attention of the marshal and had instructed him to avoid in future any similar occurrence in contravention of the terms of the convention.

I am now in receipt of a communication from the Attorney-General, dated February 26, stating that, after further consideration of the language of Article XII of the consular convention referred to, it appears to him that the previous notice to be given to the consular officers of the respective nations relates only to an examination or

^aNot printed.

search of merchant vessels by judicial authorities or custom-house officials, and to the taking of the depositions or statements of officers or persons belonging to the crew of a vessel of the respective nations, to be made or used in judicial proceedings. In his judgment, therefore, the service of a writ of attachment upon a vessel is not within the language or intent of said Article XII; and as immediate service of such a writ is often the very essence of the claimant's or creditor's right, as showing due diligence, especially where preferences are concerned, he thinks the reasons are obvious why the service of an ordinary attachment was not intended to be, and was not in fact embraced, in the proceedings which require previous notice under Article XII of the treaty aforesaid.

Accept, etc.,

JOHN HAY.

Count von Quadt to Mr. Hay.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, November 8, 1901.

MR. SECRETARY OF STATE: By a note, No. 565, of March 1 of this year, relative to the attachment of the steamer *Assyria*, of Hamburg, your excellency communicated to the imperial ambassador a letter, dated February 26 of this year, from the Attorney-General, in which he declared that upon further examination of Article XII of the consular convention of December 11, 1871, concluded between the United States of America and Germany, he had formed the opinion, at variance with his earlier view, that the attachment of merchant vessels did not come within the class of judicial proceedings previous notice of which is to be given to the consular officer under Article XII of the aforesaid consular convention.

The contents of your excellency's note have been brought to the knowledge of the Imperial Government, by which I am now instructed to make the following communication to your excellency.

The Imperial Government is unable to concur in the opinion advanced in the Attorney-General's letter of the 26th of February of this year and repeated in your excellency's note of March 1 last. To be sure, the attachment of vessels is not specially mentioned in the aforesaid convention at its proper place, yet, in the opinion of the Imperial Government, it is to be assimilated to the cases enumerated in Article XIII, *loco citato*, and in like manner requires that the consular officer be called upon.

The Imperial Government has always adhered to the opinion that the obligation of notifying the imperial consular officers concerned extends, if not to all official proceedings of American local authorities on board German merchant vessels, at least to all such as affect the interests of the vessel or its service.

This view has been upheld by the Imperial Government in several instances, and notably in connection with the conflict between police officers of Hoboken and firemen of the Norddeutschen Lloyd steamer

Elbe in 1890, and has been conceded in Assistant Secretary William F. Wharton's note of June 19, 1891.

Among the official proceedings of American authorities affecting the interests of the vessel or its service, an attachment is indeed to be placed in the first rank, and it has been thus expressly conceded by the Government of the United States itself in the cases of attachment of the vessels *Schleswig*, *Rhaetia*, *Magdalene*, and *R. C. Rickmers*. I venture, in this respect, to refer to the note^a of Secretary of State John Sherman, of November 9, 1897, No. 395; the notes^a of Secretary of State William R. Day, of June 2, 1898, No. 60, and of the 23d of August of the same year, No. 99; and the note^a of Assistant Secretary of State David J. Hill, of the 19th of April of last year, No. 417.

The Imperial Government does indeed grant that an attachment must in most cases be executed without delay. But this does not come in support of the opinion advanced by the Attorney-General, because the obligation to call upon the assistance of the consuls in the proceedings under consideration has never been understood otherwise than that a notification of any official proceeding whatever was to take place before execution only when its object was not to be defeated by reason of the loss of time thereby involved, but that a notification given immediately after entering upon its execution would be deemed sufficient. Vessels of a foreign nation in Germany enjoy a similar right.

Under the circumstances, the Imperial Government thinks it may express its expectation that the United States Government will not depart from the interpretation of article 12 of the consular convention as accepted in the above-mentioned cases, and that the attachment of a vessel will, as heretofore, be counted among the official proceedings therein specified, which require a previous notification.

While respectfully asking that your excellency will take the views of the Imperial Government as herein presented into favorable consideration and favor me with a reply at your convenience, I avail myself of this opportunity to renew, etc.

A. QUADT.

Mr. Hay to Mr. von Holleben.

No. 707.]

DEPARTMENT OF STATE,
January 6, 1902.

EXCELLENCY: Referring to Count von Quadt's note of November 8 last, relative to the construction of Article XII of the consular convention of December 11, 1871, I have the honor to inclose a copy of a letter from the Attorney-General, stating why he is constrained to adhere to the decision of his predecessor, communicated to you March 1, 1901, that service of an attachment on a vessel was not intended to be and was not embraced in the proceedings which require previous notice to consular officers.

Accept, etc.,

JOHN HAY.

^a Not printed.

[Inclosure.]

*Mr. Knox to Mr. Hay.*DEPARTMENT OF JUSTICE,
December 28, 1901.

SIR: I have the honor to state that I have given careful consideration to your letter of November 19 and to the note from the German embassy which you inclose, with its accompanying papers, relative to the construction of Article XII of the convention of 1871 between the United States and Germany. The language of that article is that "the judicial authorities and custom-house officials shall in no case proceed to the examination or search of merchant vessels without having given previous notice to the consular officers of the nation to which the said vessels belong, in order to enable the said consular officers to be present." The concluding paragraph of the article provides for giving such notice when statements by officers or members of a crew are to be made in court or before a magistrate, in order to prevent error or false interpretation which might impede the correct administration of justice.

The view of Mr. Griggs (letter of February 26, 1901), to which the embassy's note refers, was that the service of a writ of attachment upon a vessel is not within the language or the intent of this article of the treaty, especially since immediate service of such writ is often the very essence of the right of a claimant or creditor. The note of the German embassy, while claiming that the service of attachments is covered by the language of Article XII, concedes generally that when the object of the proceedings can otherwise not be attained, or be attained but partially, the obligation to give previous notice is so far qualified, and that the proximity of a vessel's departure justifies the failure to notify before the attachment is effected, provided due notice is subsequently given.

On review of the entire subject, I concur in the conclusion announced in my predecessor's letter of February 26, 1901, viz, "that the reasons are obvious why the service of an ordinary attachment was not intended to be and was not in fact embraced in the proceedings which require previous notice under Article XII of the treaty."

Very respectfully,

P. C. KNOX, *Attorney-General.***EXPULSION OF MORMON MISSIONARIES FROM GERMANY.***Mr. White to Mr. Hay.*

No. 1535.]

EMBASSY OF THE UNITED STATES,
Berlin, February 14, 1901.

SIR: I have the honor to inform you that in December last, under general instructions from the Department, intervention was made in behalf of Lewis T. Cannon and Jacob Müller, American citizens, who had been residing in Cologne, "in the capacity of missionaries of the Church of Jesus Christ of Latter Day Saints (otherwise known as the Mormon Church)," who had been found "lästig" (troublesome, objectionable) by the local authorities "because of the preaching and practice" of their religion, and who had consequently been expelled from Prussia. In the case of Mr. Müller, who had no present intention to return to Germany, the request was made that the order for his expulsion might be recalled, so that he might not be liable to arrest and punishment in case he ever found it desirable to make another visit. Mr. Müller is a naturalized American citizen of Wurtemberg origin, and is about 60 years old. Mr. Cannon, however, who is a native American citizen, wished to be allowed to return to Prussia as a student in case he should not be permitted to do so as a missionary.

To-day the embassy is in receipt of a note from the imperial foreign office in which it is stated that the Royal Prussian Government does

not consider it practicable ("angänglich") under the circumstances either to recall the orders of expulsion or to permit Cannon to stay in Prussia as a student. This information has at once been communicated to Mr. Cannon, who was at Zurich, Switzerland, when last heard from, and he has been asked to communicate it to Mr. Müller, whose address is not known to the embassy.

I am, etc.,

ANDREW D. WHITE.

ATTEMPT ON GERMAN EMPEROR'S LIFE AT BREMEN.

Mr. Hay to Mr. White.

[Telegram.]

DEPARTMENT OF STATE,

Washington, March 8, 1901.

Convey through appropriate channel fitting expression of the President's sympathy for the Emperor's painful accident and his sincere congratulations upon His Majesty's escape from more serious injury.

HAY.

Mr. White to Mr. Hay.

No. 1565.]

EMBASSY OF THE UNITED STATES,

Berlin, March 9, 1901.

SIR: I have the honor to acknowledge the receipt this morning of your telegraphic instructions,^a and to inform you that I have at once acted in accordance with the same and have communicated with Baron Richthofen, the imperial secretary of state for foreign affairs.

I am, etc.,

ANDREW D. WHITE.

Mr. Jackson to Mr. Hay.

No. 1574.]

EMBASSY OF THE UNITED STATES,

Berlin, March 16, 1901.

SIR: Referring to the ambassador's dispatch No. 1565, of the 9th instant, I have the honor to report that I am to-day in receipt of a note from the imperial foreign office in which I am informed that the German ambassador in Washington has been instructed to convey to our Government an expression of the sincere gratitude of the Imperial Government for the evidence of friendly sympathy on the occasion of the assault on the German Emperor at Bremen on March 6, 1901.

I have, etc.,

JOHN B. JACKSON.

^a Printed ante.

Mr. von Holleben to Mr. Hay.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, March 29, 1901.

MR. SECRETARY OF STATE: The ambassador of the United States at Berlin has expressed to the Imperial Government the sympathy and congratulations of your excellency's Government on the occasion of the accident which recently befell His Majesty, the Emperor and King, at Bremen.

By order of the chancellor of the Empire, I have the honor to convey to your excellency the most sincere thanks of the Imperial Government for this friendly token of sympathy.

Be pleased to accept, etc.,

HOLLEBEN.

**MILITARY-SERVICE CASES OF LADISLAUS GOLUS, XAVER SYL-
VESTER BALZ, MICHAEL, NICHOLAS, AND MATHIAS GENT,
HENRY KAUFFMANN, AND ALFRED NACHTIGALL.**

Mr. Jackson to Mr. Hay.

No. 1589.] EMBASSY OF THE UNITED STATES OF AMERICA,
Berlin, March 30, 1901.

SIR: Referring to the embassy's dispatch No. 1492,^a of December 31, 1900, I have the honor to append hereto a memorandum report of certain military cases, particularly mentioned below, which have been brought to a satisfactory conclusion during the current quarter, and which have not been referred to heretofore in the embassy's correspondence with the Department.

I have, etc.,

JOHN B. JACKSON.

[Inclosure.]

1. Ladislaus Golus brought his case to the attention of the embassy in May, 1900, and after certain correspondence the embassy intervened in his behalf (F. O., No. 704), on the 17th of that month.

Golus was born at Gollub in 1873, and emigrated in 1890 to the United States, where he duly became naturalized as a citizen in New York, in April, 1900. He returned on a visit to Gollub soon thereafter, and on May 12 he had been arrested and kept in prison, in spite of his protest as an American citizen, until he had paid a fine on account of his nonperformance of military service.

The embassy again invited attention to this case on June 21, 1900 (F. O., No. 735), September 10 and 17 (F. O., Nos. 804 and 810), and December 20 (F. O., No. 849). Under date of January 14, 1901, Golus having in the meantime returned to the United States, the foreign office notified the embassy that the money in question would be refunded to his father at Gollub.

2. Xaver Sylvester Balz informed the embassy in December, 1900, that he wished to visit his former home in Alsace, had made the usual formal request, and hoped that the embassy would support the same. He had been born at Buchweiler in 1863, and when 18 years old had emigrated to the United States, where he had duly become naturalized as a citizen.

On January 5, 1901 (F. O., No. 862), and again on the 10th of the same month, Balz, having informed the embassy in the meantime that the minister for Alsace-Lorraine at Strassburg had refused his request, owing to the fact that a warrant had been issued for his arrest on account of his evasion of military duty, the embassy communicated with the foreign office in regard to the case, and under date of January 24 a reply was received to the effect that permission had been granted Balz to visit Buchsweiler for six weeks at some time before the 1st of next June.

3. The brothers Michael, Nicholas, and Mathias Gent brought their case to the attention of the embassy in April, 1900, and, after correspondence, intervention was made in their behalf (F. O., No. 715), on May 30. They were born at Büschdorf in 1866, 1870, and 1874, respectively, had emigrated to the United States, and had duly become naturalized as citizens at Creston, Iowa, where all three now reside. Recently their representative at their former home had been compelled to pay fines amounting in all to 624.21 marks on account of their not having reported for military service.

Attention was again called to this case in June, September, and December, 1900, and under date of January 29, 1901, the foreign office notified the embassy that the fines had been remitted and the money paid would be refunded.

4. Henry Kauffmann, writing from his home in the United States, informed the embassy that he desired to be permitted to make a visit to his former home in Alsace, and had already been in correspondence with the imperial ministry at Strassburg in the matter. On January 29, 1901, the embassy addressed a note (F. O., No. 882) to the imperial foreign office in support of Kauffmann's request, and under date of February 21 it was informed that permission had been granted him to visit Strassburg for three weeks.

5. Alfred Nachtigall's case was brought to the attention of the embassy on January 22, 1901, and intervention was at once (F. O., No. 880) made in his behalf. Nachtigall had emigrated to the United States from Germany without having performed military service, and had duly become naturalized as a citizen in 1890, at Grand Rapids, Mich., at which place he continued to reside. A previous effort, made by his father, to obtain his release from German allegiance was said to have been unsuccessful. Under date of March 23, the embassy was notified by the foreign office that Nachtigall had been recognized as an American citizen and his name taken from the German military lists.

**MILITARY-SERVICE CASES OF SIGMUND MEYERS (MAYER),
DIEDRICH EBKEN, GUSTAV A. SEITZ, LOUIS WIESS, (JOHN)
JACOB HÄBERLE, ROBERT H. JUST, SIEGMUND STERN, AND
MAX KUECHLIN.**

Mr. White to Mr. Hay.

No. 1660.] EMBASSY OF THE UNITED STATES OF AMERICA,
BERLIN, July 1, 1901.

SIR: Referring to Mr. Jackson's dispatch No. 1589, of March 30, 1901, I have the honor to append hereto a memorandum report of certain military cases, particularly mentioned below, which have been brought to a conclusion during the past quarter, and which have not heretofore been referred to in the embassy's correspondence with the Department.

I am, etc.,

ANDREW D. WHITE.

[Inclosure.]

1. Sigmund Meyers (Mayer) emigrated from Germany to the United States about nine years ago, and duly became naturalized as a citizen in Philadelphia, on May 29, 1899. On account of his not having appeared for military service, his father (it was claimed), in Bavaria, had been ordered to pay a fine. The case was brought to the attention of the embassy by Messrs. Gutman Klein & Son, of Philadelphia, and under date of February 12, 1901, intervention (F. O., No. 894) was made in Meyers's

behalf to the end that he "be recognized as an American citizen, his name taken from the German military lists, and all proceedings against him on account of his failure to present himself for military service stopped."

Under date of April 11, the foreign office replied to the embassy's note, stating that Meyers's name had been taken off the military lists and that no criminal proceedings had been commenced against him on account of his evasion of military service.

2. Diedrich Ebken was born in Bremen in 1876, and emigrated in 1891 to the United States, where he became naturalized as a citizen at Cincinnati in 1900. In January, 1901, he returned to Bremen on a visit, when he was almost immediately informed that he must leave the country. At his own request, however, permission was granted him to remain until April 5. He was nevertheless arrested soon after and compelled to pay a fine of 200 marks, on account of his not having performed military service. His case was reported to the embassy by the consul at Bremen, and under date of March 19, 1901, intervention (F. O., No. 915) was made in his behalf.

Under date of April 16, Consul Diederich informed the embassy that Ebken's fine had been refunded (this information being confirmed by the foreign office on April 25) and the money forwarded to him at his home in the United States.

3. Gustav A. Seitz, an American citizen of German origin residing in Zumbrota, Minn., brought his case to the attention of the embassy in November, 1900. He had emigrated from Baden without having performed military service, and although permission had been granted him to visit his former home, it appeared uncertain that he had been fully recognized as an American citizen. Seitz had addressed a petition to the Grand Duke of Baden, and under date of March 1, 1901, the embassy notified the foreign office (F. O., No. 901) that it desired to give all proper support to the same. Seitz had exhibited evidence of his naturalization in the United States in 1881.

Under date of April 19 the foreign office informed the embassy that it had communicated with the Baden authorities in regard to the case, and that they would communicate directly with Seitz, from whom the embassy subsequently learned that he had been notified that he was at liberty to visit Baden under the same conditions as all other foreigners could do so, and that he was not liable to any military obligation.

4. Louis Wiess emigrated to the United States from Alsace-Lorraine in 1873, after having been drafted for military service. He became naturalized as a citizen in 1878. In March, 1901, he made application to the imperial authorities at Strassburg (as instructed to do by the embassy in May, 1900) for permission to visit his former home for two months, and on April 1 (F. O., No. 921) the embassy addressed a note to the foreign office in support of his request.

On April 29 the embassy was informed by the foreign office that Wiess had been granted permission to spend six weeks at his former home at some time during the current year.

5. (John) Jacob Häberle had been in personal correspondence with the authorities of the Kingdom of Wurttemberg (from which he had emigrated to the United States) and had encountered difficulties in effecting his recognition as an American citizen. He first brought his case to the attention of the embassy in the summer of 1900, and after the required authentication of his papers intervention was made in his behalf (F. O. No. 855) on December 28, 1900. Attention was again called to the case (F. O. No. 911) on March 14, 1901.

A reply was received from the foreign office on May 11, in which it was stated that Häberle had been recognized as an American citizen, and that an attachment placed upon his property on account of his evasion of military service had been removed.

6. Robert H. Just applied to the embassy in person on April 9, 1901, and intervention (F. O. No. 924) was at once made in his behalf. Just was born in Berlin in 1874 and, when 11 years of age, had been taken by his parents to the United States, where he duly became a citizen through the naturalization of his father while he was still a minor. In October, 1900, he returned to Germany for the purpose of studying music, and subsequently he was interrogated by the police authorities and ordered to leave Prussia within four weeks from April 1, or again become a German subject.

Under date of May 13, however, the foreign office informed the embassy that the expulsion order had been recalled and that Just would be permitted to remain in Berlin until further notice.

7. Siegmund Stern, a naturalized American citizen of German origin, informed the embassy in a letter which was received on April 8, 1901, that he had been ordered

to leave Prussia within fourteen days, and the embassy at once (F. O. No. 923) made intervention in his behalf, requesting, in accordance with Stern's wish, that he be allowed to remain until about the 1st of July. Stern stated that he had important business to attend to and that he wished to be allowed to stay at Schlüchtern for two months longer.

Under date of May 23 the foreign office informed the embassy that the Prussian authorities did not find themselves in a position to cancel the expulsion order, as Stern, who emigrated from Germany in 1890 without having performed military service had repeatedly returned and had already been permitted to sojourn in Schlüchtern since July 1, 1900.

It is understood that Stern was not molested pending the final decision of his case, and it will be noted that the decision that he must go was not made until six weeks after attention had been called to the case. He was consequently enabled to remain in Prussia up to within about two weeks of the time when he intended to leave.

8. Max Kuechlin's case—his arrest, imprisonment, and release, and the ultimate refunding of his military fine in accordance with intervention made by the embassy in April, 1901—has, it is understood, been fully reported by the United States consul at Freiburg, Baden.

J. B. J.

MILITARY-SERVICE CASES OF NICK BRITTEN, LAWRENCE M. METZGER, HERRMANN E. MEISNER, FRIEDRICH KOCH, AND AUGUST MEYER.

Mr. Jackson to Mr. Hay.

No. 1743.]

EMBASSY OF THE UNITED STATES,
Berlin, September 30, 1901.

SIR: Referring to the embassy's dispatch No. 1660, of July 1, 1901, I have the honor to append hereto a memorandum report of certain military cases, particularly mentioned below, which have been brought to a conclusion during the quarter ending to-day, and which have as yet not been fully reported to the Department.

I have, etc.,

JOHN B. JACKSON.

[Inclosure.]

1. Nick Britten commenced a correspondence with the embassy with regard to his military status in April, 1900, the result of which was that intervention was made in his behalf (F. O. No. 881) on January 23, 1901, to the end that he be recognized as an American citizen and his military fine remitted.

Britten was born in the Rheinprovinz in 1864, and had emigrated to the United States in 1882, subsequently becoming naturalized as a citizen in the State of Iowa, where he continues to reside. Certain money coming to him by inheritance had been attached on account of his failure to perform military service.

Attention was again invited to this case on February 26 (F. O. No. 900), March 14 (911), and June 19 (972), and under date of July 10, 1901, a note was received from the foreign office in which it was stated that the fine which Britten had been sentenced to pay, on April 6, 1887, had been remitted. The "costs" in this case were also remitted.

2. Lawrence M. Metzger (see case No. 1, in report accompanying Mr. Jackson's dispatch No. 1416,^a of September 29, 1900) had been permitted to make a visit to his former home in Germany, and after leaving for the United States an application had been made for the remission of his military fine (F. O. No. 77, of August 1, 1900).

Under date of August 18, 1901, a note was received from the foreign office in which it was stated that the fine and the court's costs had been remitted. Certain other costs, amounting in all to 12 marks, had already been collected and this amount was not refunded. No further action in the case is contemplated.

3. Herrmann E. Meisner brought his case to the attention of the embassy in June, 1901, and on the 26th of that month intervention (F. O. No. 982) was made in his behalf, to the end that he might be allowed to remain in Prussia for about two months longer.

Meisner was born in Prussia in 1858. When about 20 years of age, and after having been found unfit for military service, he emigrated to the United States, where he duly became naturalized as a citizen in 1886. In 1892 he had remained in Germany for about two months without molestation. In December, 1900, he had again returned, on a visit to his mother, and on June 15 he had received an order to leave Prussia within fourteen days, the order having been issued by the Berlin police presidency.

Under date of August 21, the foreign office notified the embassy that Meisner would be permitted to remain until September 15.

4. Friedrich Koch, as reported by the United States consul at Bremen, was born in Prussia in 1872, and, after having obtained his release from Prussian allegiance, emigrated to the United States in 1888. He became naturalized as a citizen in due time, and passport No. 42878 was issued to him by the Department. He returned to Germany in July, and soon thereafter he was notified by the local authorities at his former home in Schleswig-Holstein, that he must leave the country by September 2.

On August 13, 1901, intervention (F. O. No. 1006) was made by the embassy in his behalf, as Koch wished to be permitted to remain in Prussia until October 8, and under date of September 13 the foreign office replied that he might do so until October 1—in view of the special circumstances in this particular case.

5. August Meyer was born in Prussia in 1876 and emigrated to the United States in 1892, where he duly became naturalized as a citizen. He returned to Germany about July 1, 1901, and soon thereafter he received an order from the local authorities to leave within five days. As permission had been granted Meyer's brother to remain until September 1, the embassy made intervention in his behalf (F. O. No. 998) on July 25 to the end that like permission might be granted him.

As nothing further has been heard of this case, either from Meyer himself or from the American consul at Bremen, by whom it was brought to the attention of the embassy, it is presumed that Meyer was able to finish his visit without further molestation and that he has now returned to the United States.

J. B. J.

MILITARY-SERVICE CASE OF KARL KAMMERER.

Mr. White to Mr. Hay.

No. 1814.]

EMBASSY OF THE UNITED STATES,
Berlin, December 31, 1901.

SIR: Referring to Mr. Jackson's dispatch No. 1743 of September 30, I have the honor to report that the only military case—not already mentioned—which has been brought to a conclusion during the quarter ending to-day is that of Karl Kammerer, and that almost no such cases are pending at the present time.

The facts in Kammerer's case are substantially as follows: Born near Villingen, in the Grand Duchy of Baden, in 1869, he emigrated in 1886 to the United States, where he duly became naturalized as a citizen in 1894. In 1892 he was sentenced by the Baden authorities to pay a fine of 200 marks on account of his evasion of military service. This fine had not been collected.

As Kammerer wished to make a visit to his native place, and as he feared trouble unless this fine should be canceled, he brought his case to the attention of the embassy, and intervention was made in his behalf (F. O. No. 999) on July 30, last. Attention was again called to the case (F. O. No. 1034) on September 27.

Under date of October 12, however, the embassy was informed by

the imperial foreign office that the judgment against Kammerer would not be executed, and that there was nothing to prevent his making the desired visit to his former home. This information was communicated to Kammerer at his residence in the United States (York, Pa.), and nothing has since been heard from him.

I am, etc.,

ANDREW D. WHITE.

CONSULAR IMMUNITIES—LIABILITY OF EMPLOYEES OF UNITED STATES CONSULATES TO GERMAN COMPULSORY INSURANCE TAX.

Mr. Jackson to Mr. Hay.

No. 1604.]

EMBASSY OF THE UNITED STATES,
Berlin, April 13, 1901.

SIR: I have the honor to report that the embassy has been requested by the Imperial foreign office to use its good offices in the matter referred to herein. It will be remembered in this connection that the German law relating to insurance against disability and old age (see Mr. Coleman's dispatch No. 182, of October 7, 1890) compels all persons working in a position of dependence upon regular wages, unless the wages exceed a certain amount per annum, to insure themselves against certain liabilities, the insurance to be effected by means of stamps pasted on the insurance cards, one half the cost of the stamp being paid by the employer, the other half by the employee. It will also be remembered (see Mr. Phelps's dispatch^a No. 220, of January 13, 1891) that the members of this mission voluntarily submitted themselves and their households (domestic servants alone being concerned) to the provisions of this law at the time of its going into force, the same course of action, so far as I am aware, having been pursued by those who have joined the mission subsequently and by consular officials of the United States generally throughout Germany.

And now I turn to the case in point. At our consulate at Breslau there are employed (or were employed during the incumbency of Mr. Charles W. Erdman) two German subjects—the one as secretary and the other as messenger—whose cases fall within the provisions of the law mentioned above. Were these two men employed under existing conditions by a German or a nonofficial foreigner, both they and their employers would be compelled to pay for the insurance stamps in the usual manner. Consul Erdman, however, claimed that under Article III of the convention of December 11, 1871, between the United States and the German Empire, neither he nor they were obliged to do so, as they were employees of the consulate, and as he was exempted from taxes of any kind whatsoever. The foreign office, on the contrary, considers it doubtful if the consul is freed from the obligation to contribute toward the payment for the stamps by the treaty. It also says that, even if the two men concerned are considered as officials of the United States, they have no claim to any pension, and German Beamten under similar conditions are not freed from an obligation to insure.

^aNot printed.

The good offices of the embassy having on one or more occasions been used in the cases of domestic servants employed by American consular officers, the foreign office has now requested the embassy to act in the case in point to the end that the two German subjects in question may not be deprived of advantages which would come to them were they in other employ.

On other occasions the embassy has usually written to the consul concerned, explained the circumstances to him, and suggested his complying with the law. The case in point, however, presents new features, and after talking it over with Consul-General Mason I decided to submit it to the Department. There have always been uncertainties about the exact meaning of Article III of the convention of 1871 in so far as it refers to consular officers (vice and deputy consuls, etc.) and employees of German nationality, but the general practice has been to exempt such persons from taxation, although, so far as I am aware, no formal decision in the matter has ever been made by the competent authorities. It therefore seems possible that, if the question be made one of principle, the existing practice may be changed to the disadvantage of the parties concerned, and I personally think that this would be quite probable, as I fail to see the reason for the exemption of a German subject from local taxation merely because his employer happens to be an American official. Consequently, in view of the possibilities, I do not feel authorized to act in this matter without instructions, and I therefore refer it to the Department for such action as may be found proper.

I have, etc.,

JOHN B. JACKSON.

Mr. Hill to Mr. White.

No. 1196.]

DEPARTMENT OF STATE,
Washington, April 30, 1901.

SIR: The Department has received Mr. Jackson's No. 1604, of the 13th instant, relative to the question as to whether or not a consul of the United States in Germany and German subjects in the employ of an American consulate in Germany are exempt from the employees' insurance tax.

Under the provisions of Article III of the treaty of 1871 the consul at Breslau, not being a German subject, is exempt from the payment of the tax. But, in the opinion of the Department, that exemption can not be claimed for the secretary and messenger of the consulate, who are German subjects.

The Department notes Mr. Jackson's statement that the members of the embassy at Berlin and the United States consular officers generally throughout the German Empire have voluntarily submitted themselves and their employees to the provisions of the insurance tax law. The consul at Breslau should be advised to follow the same course, as it is to the advantage of his employees. He can undoubtedly arrange so that they shall bear the payment of the quota of the contribution which he is asked to pay.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

**CITIZENSHIP OF A CHILD BORN IN THE UNITED STATES AND
TAKEN ABROAD DURING ITS MINORITY.***Memorandum.*

IMPERIAL GERMAN EMBASSY,
Washington, April 16, 1901.

I. On June 26, 1875, the Attorney-General of the United States rendered an opinion that children who are born in the United States and whose father is a naturalized American citizen shall be considered American citizens even if their father has left the United States after the children's birth and renounced his American citizenship and allegiance.

These children, however, shall be afforded an opportunity when they reach the age of 21 of electing whether they will return and take the nationality of their birth or retain the nationality acquired by the act of their father.

II. In 1883, in the case of a young Jew, the Imperial German legation was informed by the Department of State that the United States Government had adopted the principle that minor children who were born within the dominion of the United States do not lose their American citizenship *eo ipso* if their father changes his nationality, but that these children will be afforded an opportunity of making formal option of allegiance at their coming of age.

III. In 1896 it was stated by the Department of State that a child of foreign parents who was born in the United States and taken abroad by his father during his minority shall retain, according to the point of view established by the executive branch of the United States Government, his American citizenship by birth in the United States and may claim it after attaining majority.

It was added, however, that the executive branch of the United States Government was not competent to declare this, but that this had to be done by the competent court, either State or Federal, as the case may be.

IV. In the case of a Chinese child born in the United States whose parents had not been naturalized in the United States, and who had been taken to China by his parents and wanted to return to this country later, the United States Supreme Court stated in a decision rendered in October, 1897, "that all children born within the dominion of the United States of foreign parents holding no diplomatic office became American citizens merely by birth."

V. A decision contradictory to the previous decisions was issued by the Treasury Department on February 28, 1899, No. 20747, stating that children born in the United States of nonnaturalized aliens and taken abroad by their father should, upon their return to this country, be adjudged alien immigrants.

The papers in this latter case had been referred to the Solicitor of the Treasury Department, who, after a careful review of the authorities, rendered an opinion that a child born in this country of a foreign father and taken abroad by his father, acquired said parent's domicile and nationality.

Memorandum.

DEPARTMENT OF STATE,
Washington, May 27, 1901.

Relative to the matter of the contradiction between certain cases cited in the memorandum of the German embassy of April 16, last, as determined by the Department of State, the Attorney-General, and the Supreme Court of the United States, and one determined by the Treasury Department, announced on February 28, 1899, in Treasury decision No. 20747, upon the question of the nationality of a child born in the United States and taken out of the country by his parents, the Department of State finds upon investigation that the Treasury decision was overruled by the district court of the United States for the southern district of New York, which held that the two American-born children of Acberto Anselmo and his wife, Giovanna, Italians, were not aliens but citizens of the United States, and as such entitled to admission into the United States. (Vide 93, Federal Reporter, 659.)

This decision of the district court is admitted, in a letter from the Secretary of the Treasury of the 20th instant, to be binding and conclusive upon that Department and is now followed by it.

**RESTRICTIONS ON SOJOURN IN THEIR COUNTRY OF ORIGIN OF
 GERMANS NATURALIZED IN THE UNITED STATES.**

Mr. Hay to Mr. Jackson.

No. 1189.]

DEPARTMENT OF STATE,
Washington, April 16, 1901.

SIR: I inclose herewith copies of two dispatches from the consulate-general at Frankfort with respect to the issuance of an order by the Prussian Government restricting the right of sojourn in Prussia of naturalized Americans of German birth.

The order seems to apply only to such former German subjects as have acquired American citizenship, and to be therefore a discrimination against them on that account.

In order that the Department may be fully advised as to this, it would be pleased to have you report whether former Germans who have become naturalized in other countries than the United States are, upon their return to Prussia, expelled therefrom after a limited stay of a few weeks or months, or whether they are permitted to reside there indefinitely and to carry on business either for themselves or as agents of foreign commercial houses.

I am, etc.,

JOHN HAY.

[Inclosure 1.]

Mr. Murphy to Mr. Hill.

No. 55, Consular clerk series.] CONSULATE-GENERAL OF THE UNITED STATES,
Frankfort on the Main, January 11, 1901.

SIR: As a matter of considerable importance to a large class of American citizens, I have the honor to inclose a copy of a letter recently addressed to the consul at Magdeburg by the royal police praesidium at that place, which apparently indicates

clearly that a general order has recently been issued by the Prussian Government restricting for our naturalized citizens of German birth the right of temporary sojourn in Prussia, thus discriminating between our native and naturalized citizens in what seems to me direct violation of the protocols appended to the convention of February 22, 1868, under which naturalized citizens are entitled to the same rights as native citizens.

The recognized right of a government to expel individuals seems to me to be a different thing from a general order which affects an entire class, especially if it applies only to Germans who have become American citizens and not to Germans who have been naturalized in other countries.

If it be held that this is not a matter in which protest can properly be made, are not our citizens of German birth at least entitled to know of this decision in order that they may take the risk into consideration before going to the expense of returning to Germany for brief visits or as representatives and promoters of American trade? (See circular of March 27, 1899.) During the year that I have recently spent in Germany I have had five or six such cases, usually poor people who have had no intention or desire to remain in Germany more than a month or two. I have never known of a case where a wealthy American citizen of German birth has been interfered with in this way upon his return to Germany for prolonged or permanent residence.

In every case which I have reported to the embassy it has succeeded in obtaining for the person permission to extend his visit two or three weeks, but in each instance the American citizen has informed me that he would not have gone to the expense of the journey if he had been cognizant of the fact that he could be expelled at once by order of an official having local authority, no matter how peaceably he might conduct himself.

In most such cases the object of the order of expulsion seems to be merely to compel the individual to renounce his American citizenship, thus removing the one obstacle to his enforced enlistment in the German army. In some cases the expulsion may be meant simply as a warning to would-be emigrants.

In the special case of Albert Ehrenstroem the embassy has asked for an extension of his time, but I hope that the Department will decide that it is right to give to the press the substance of the letter addressed by the Royal Prussian police presidium at Magdeburg to Consul Baehr.

I have, etc.,

GEORGE H. MURPHY,
Consular Clerk.

[Subinclosure.—Translation.]

ROYAL POLICE PRESIDUM,
DIVISION 2, No. M. 2710,
Magdeburg, December 21, 1900.

Answer to a letter of December 12, 1900:

The order to Albert Ehrenstroem to leave Prussian territory before February 1, 1901, is based upon an instruction from a higher source under which Germans formerly liable for military service who return to Germany after having acquired American citizenship are to be permitted to remain only for a short time, which is to be measured by the circumstances and purposes of their sojourn. The period allowed in the above-mentioned case appears to be sufficient.

LUTTERKORTH.

Memorandum: Ehrenstroem emigrated with his parents when he was 13 years of age. He was then too young to serve in the army, and his emigration was not opposed. It is clear that he was not an evader of any obligation to the Prussian Government, but that as a child he naturally accompanied his parents.

G. H. M.

[Inclosure 2.]

Mr. Murphy to Mr. Hill.

No. 58, consular clerk series.]

CONSULATE-GENERAL OF THE UNITED STATES,
Frankfort on the Main, March 21, 1901.

SIR: Referring to my dispatch of January 11 last, reporting the issuance of an order by the Prussian Government restricting the right of sojourn in Germany of natural-

ized American citizens of German birth, I have the honor to inclose herewith a clipping from the Frankfort Kleine Presse containing the same information as the letter from the police president at Magdeburg, a copy of which accompanied my former report.

It accordingly now appears certain that a general order has been issued discriminating against such expatriated Germans as have acquired American citizenship. No mention is made either in the letter of the police president or in the inclosed newspaper article of Germans who have acquired any other nationality.

It is furthermore of interest to our citizens of German birth who may desire to visit their old homes or to settle in Germany as representatives of American commercial houses and promoters of American trade that the question as to how long they may be permitted to remain is left to the decision of the local police authorities, and that such permission can not be extended beyond weeks or months at most, if the person emigrated without first performing military service.

This restriction of the right of sojourn applies even to persons who emigrate as minors with their parents before they have reached the age when they can be compelled to serve in the army.

I have, etc.,

GEORGE H. MURPHY,
Consular Clerk.

[Subinclosure.]

TRANSLATION FROM THE FRANKFORT KLEINE PRESSE OF MARCH 20, 1901.

Military.—By higher authority the attention of police and municipal officials has been called to the following: Persons who, before fulfilling their military obligations or for the purpose of avoiding the same, have emigrated to the United States of America, and there acquired American citizenship, will be permitted to remain in Germany only for a period of weeks or months according to the circumstances of each case, but they will not be permitted to settle permanently in Germany.

Mr. White to Mr. Hay.

No. 1624.] EMBASSY OF THE UNITED STATES OF AMERICA,
Berlin, May 4, 1901.

SIR: I have the honor to transmit herewith a report made to me to-day by Mr. Jackson (to whom the instruction was addressed) with reference to your No. 1189, of April 15, 1901, which was received at the embassy on the 26th ultimo.

I am, etc.,

ANDREW D. WHITE.

[Inclosure.]

Mr. Jackson to Mr. White.

EMBASSY OF THE UNITED STATES OF AMERICA,
Berlin, May 4, 1901.

SIR: With reference to the State Department's instruction No. 1189, received by me on the 26th ultimo, I have the honor to submit the following report:

After more than ten years' experience at this post, and after having had frequent conversations with my colleagues and with German officials upon the subject of the expulsion of former German subjects, I feel at liberty to say with positiveness that there is no intention on the part of the Prussian Government to discriminate against American citizens. In the question under consideration it is very difficult to draw a parallel. In the first place, no other treaty similar to our Bancroft treaties of 1868 exists between the German Empire, or any German State, and any foreign country. In the second place, obligatory military service exists in almost all continental coun-

tries, and consequently the emigration of young Germans to those countries is not considerable. Moreover, with many of these countries informal understandings, or even formal agreements, exist, in accordance with which their respective nationals are reciprocally handed over to their home authorities where an attempt is made to evade military service. Where no treaty exists the returned German is not considered as entitled to be protected by the authorities of the country in which he has acquired nationality, and he is generally punished in accordance with German law without any intervention on their part. This is even the case with British subjects, the Department of State being probably aware of the fact that it is the general practice of the British Government to decline to intervene in behalf of a naturalized subject who returns to the land of his birth. As there is no compulsory military service in Great Britain, there is a comparatively large emigration of Germans to that country, but, as I am informed by the British ambassador here, it rarely happens that intervention is made in behalf of such a person (even to ask for permission for one to spend a few weeks in Germany, on a visit, or to make a cure at some watering place), although the instances where they get into trouble are by no means infrequent.

The general rule is to make it unpleasant for all persons of German birth who have evaded military service in their native country, whether their emigration took place for the purpose of evading such service or not, upon their return to Germany after having acquired another nationality, it being held by the authorities, especially those in Prussia, that the sojourn of such persons for any length of time causes discontent and dissatisfaction among their companions of the same age who have remained at home. It is of course possible that certain of the minor local officials may entertain particular grudges against American citizens of German origin on account of the frequency with which they have to do with annoying cases where they are involved, but I am confident that these views are not shared by the superior officials of the Prussian ministry of the interior, or at all generally by their subordinates.

With regard to the order in the case of Albert Ehrenstroem (see correspondence with Mr. George M. Murphy, consular clerk) and to the recent general order, I have to state that I have been informed by the Prussian ministry of the interior that attention has been merely called to what has been the practice for a long time, so that persons who do not know that objection exists to their renewing their residence in Germany may not be subjected to hardship.

I am, etc.,

JOHN B. JACKSON,
Secretary of Embassy.

PASSPORT APPLICATIONS OF PERSONS BORN IN THE UNITED STATES—PRODUCTION OF CERTIFICATE OF FATHER'S NATURALIZATION NOT TO BE REQUIRED.

Mr. Hill to Mr. White.

No. 1205.]

DEPARTMENT OF STATE,
Washington, May 21, 1901.

SIR: Mr. Jackson's unnumbered dispatch of the 1st ultimo, transmitting returns of passports issued by your embassy during the preceding quarter, has been received.

Miss Ella Seemann applied for a passport through the consul at Hamburg, and received one February 20, 1901, No. 2671. The form used was that intended for a person claiming citizenship through the naturalization of the parent, and she was required to produce her father's naturalization certificate. In another case—that of Miss Henrietta Augusta Herrmann, whose application was also through the consul at Hamburg—the applicant could not show her father's naturalization certificate, but was required to make the statements usually required from a person whose citizenship is derived from the naturalization of the father. As both of these women were, as their statements show, born in the United States and had not forfeited their allegiance, they should not have been required to make the statements

or produce the proof which the consul required, their citizenship being derived, not from their parents' naturalization, but from the fact of their American birth. The provisions of the statutes on this subject and the decisions of the Federal courts, as well as this Department's repeated rulings, are based primarily upon the fourteenth amendment to the Constitution of the United States, which provides that "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State where they reside."

You will instruct the consul at Hamburg in this sense.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

CITIZENSHIP OF A SON BORN OF AMERICAN PARENTS TEMPORARILY SOJOURNING IN GERMANY.

Mr. Hill to Mr. White.

No. 1210.]

DEPARTMENT OF STATE,
Washington, June 14, 1901.

SIR: I inclose herewith copy of a letter^a from Bernard D. Thorner, who was naturalized on April 4, 1887, in the city court of Birmingham, Ala., and who received a passport, No. 219, dated January 14, 1890, from the legation of the United States at Berlin for himself, wife, and minor son, Eugene Guido, then 3½ months old.

It appears from Mr. Thorner's statement that the son was born in Germany while his parents were on a temporary visit there, and that notice of the birth was given to the legation at Berlin, which failed to make record of it. He contemplates sending this son to Germany for the purpose of study, and fears that by reason of his own birth and that of his son in Germany the lad will, upon reaching the military age, be called upon for service. He therefore desires that the American citizenship of his son be recognized by the German Government.

There is no doubt that the boy is an American citizen under section 1993 of the Revised Statutes, and is entitled to all the protection this Government can give him as such. The Department will be pleased, therefore, to have you do what you can to have his American citizenship recognized by the German Government.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Jackson to Mr. Hay.

No. 1772.]

EMBASSY OF THE UNITED STATES,
Berlin, October 24, 1901.

SIR: I have the honor to report that on the receipt, on June 28, of the Department's instruction No. 1210, of June 14, 1901, intervention was made in behalf of Eugene Guido Thorner, to the end that he be

^aNot printed.

recognized as an American citizen and permitted to come to Germany for a somewhat prolonged course of study, and that, no answer having been received from the foreign office in the meantime, attention was again called to the case on September 27. To-day, however, I have been notified by the foreign office that there is nothing to prevent the American citizen, Eugene Guido Thorner, from making a prolonged stay in Germany.

In this connection I have to state that there are at the present moment no pending military cases of long standing, and that there are fewer such cases pending at all than at any time since my connection with this mission—a period of almost eleven years.

I have, etc.,

JOHN B. JACKSON.

**FINE ON PAUL N. FRIEDLAENDER FOR "UNAUTHORIZED"
EMIGRATION.**

Mr. White to Mr. Hay.

No. 1665.]

EMBASSY OF THE UNITED STATES,
Berlin, July 10, 1901.

SIR: I have the honor to invite attention to the case of one Paul N. Friedlaender, a naturalized American citizen of German origin, and to request that such instructions may be given in regard thereto as may be found appropriate.

Friedlaender was naturalized at Chicago, on May 28, 1897, after having resided in the United States for a full term of five years. He had had permission to emigrate from Germany and had regularly renewed his German passport until the time of his becoming an American citizen. His mother, who lives at Potsdam, near Berlin, was called upon about a year ago to pay a fine on his account—for being absent without permission—and she had become involved in correspondence with the local authorities. In March, 1901, Friedlaender applied to the embassy for its assistance, and on the 23d of that month a note (F. O. No. 918) was addressed to the foreign office asking that such steps might be taken as were "necessary to effect the return to Friedlaender of his American papers, the refunding of any money which may have already been paid on account of his failure to report for military service, the cessation of all proceedings against him which may have been taken on the same account, and his recognition as an American citizen."

To this note the foreign office replied, under date of June 12, returning Friedlaender's naturalization certificate and certain other papers, and stating that he had been sentenced to pay a fine of 30 marks or to undergo imprisonment for ten days by a local court, on April 10, 1900, on account of his "unauthorized emigration," but that Friedlaender had not yet paid the fine and costs and as he was in America there was no necessity, at present, to take steps looking toward his pardon.

The embassy at once replied (F. O. No. 969) that Friedlaender expected to return to Germany upon a visit during the present year, and requested that such steps might be taken as were necessary to set aside the sentence against him.

Under date of June 28, the foreign office addressed another note to

the embassy, advising that Friedlaender petition the Emperor directly in order that the judgment against him might be set aside before his return to Germany, and suggesting that, in order to expedite matters, the embassy should support such a petition when made.

To this note the embassy replied at once (F. O. No. 987) requesting a reconsideration of the case, as Friedlaender's offense was merely emigration without permission, and not desertion, and as "under the circumstances, in the opinion of the embassy and in accordance with precedent, the case falls within the provisions of the treaty of 1868, and the two Prussian ministerial decrees of July of that year, copies of which are transmitted herewith. As the Prussian ministry of justice has decreed that 'die durch strafbare Auswanderung verwirkte Strafe * * * nicht zur Vollstreckung gebracht werden soll,' there would appear to be no reason for Friedlaender's making a formal petition for pardon."

To this note the foreign office has now replied, under date of the 8th instant, that the ministerial decrees referred to above presupposed the actual return to Germany of the person in question, that it was probable that Friedlaender's fine would be remitted by an act of clemency, and that it would be advisable for him to send in a petition to the Emperor before coming to Germany, as if he did not do so he might be called upon to pay the fine and take the consequences.

The embassy will make no reply to this note for the present. The foreign office's advice has, however, been communicated to Friedlaender, who has been informed that while the embassy holds that he is entitled to visit Germany without molestation under the terms of the treaty itself, and that no pardon is necessary, it might enable him to avoid possible trouble if he acted upon this advice. He has been requested to inform the embassy with regard to his decision and his movements in the event of his coming to Germany.

Without instructions, however, the embassy would not feel at liberty to give support to any petition which Friedlaender may determine to send in, as by so doing it might be considered that the embassy admitted the correctness of the position now taken by the foreign office. If it is necessary for Friedlaender to send in a petition in order to secure such rights as would appear to be his under the treaty, there is no reason why the same course should not be followed by every American citizen of German origin who desires to visit his former home, and this, under existing circumstances, the embassy is not prepared to admit.

I have, etc.,

ANDREW D. WHITE.

Mr. Hill to Mr. White.

No. 1230.]

DEPARTMENT OF STATE,
Washington, July 26, 1901.

SIR: Your No. 1665, of the 10th instant, reports that Paul N. Friedlaender, a native of Germany, was naturalized at Chicago May 28, 1897, after having resided in the United States for a full term of five years; that his mother was called upon about a year ago to pay a fine on his account, and that the embassy had addressed the foreign office asking the refunding of any money already paid on account of his failure to

report for military service and the cessation of all proceedings against him which may have been taken on the same account and his recognition as an American citizen.

In the second paragraph on the first page of your dispatch you state that Friedlaender had permission to emigrate from Germany, while in the fourth paragraph of the second page you state that "his offense was merely emigration without permission." You further state that Friedlaender had been sentenced to pay a fine or suffer imprisonment by the judgment of a local court April 10, 1900, on account of his unauthorized emigration; that the German foreign office has advised that Friedlaender petition the Emperor directly for a vacation of the judgment or remission of the penalty, and suggested that in order to expedite matters his petition be supported by the embassy, which the latter declined to do for the reason that the case is governed by the naturalization treaty of 1868 and by the two ministerial decrees of July of that year, and that since the Prussian minister of justice has decreed that as the penalty for punishable emigration is not to be executed there would appear to be no reason for a formal petition of pardon.

To this the foreign office replied, advising that Friedlaender send in a petition before coming to Germany, as otherwise a demand for payment will be made upon him and difficulties for him will arise therefrom, as then the remission of the penalty will not at that time have been introduced in the official way.

You express doubt whether you should give support to any petition by Friedlaender, as by so doing it might be construed as an admission of the correctness of the position taken by the foreign office, rendering it necessary to pursue the same course in respect of every American citizen of German origin desiring to visit his former home.

The naturalization convention of 1868 provides:

ARTICLE I. Citizens of the North German Confederation who become naturalized citizens of the United States of America and shall have resided uninterruptedly within the United States five years shall be held by the North German Confederation to be American citizens and shall be treated as such. This article shall apply as well to those already naturalized as those hereafter naturalized.

ARTICLE II. A naturalized citizen of the one party remains liable to trial and punishment for an action punishable by the laws of his original country and committed before his emigration, saving always the limitations established by the laws of his original country.

ARTICLE IV. If a German naturalized in America renews his residence in North Germany without the intent to return to America, he shall be held to have renounced his naturalization in the United States. * * * The intent not to return may be held to exist when the person naturalized in the one country resides more than two years in the other country.

The circular of the minister of justice, dated July 5, 1868, states that it was the prevailing intention of the treaty that in conformity with its second article the punishment incurred by punishable emigration is not to be brought to execution on occasion of a return of the emigrant to his original country if the returning emigrant has obtained naturalization in the other country in conformity with the first article of the treaty.

The circular of the minister of the interior, dated July 6, 1868, states that it was the prevailing intention of the treaty that in conformity with Article II of the treaty the punishable action committed by the unauthorized emigration of a citizen of the confederation to the United States of America should not be made the ground for a penal prose-

cution upon the return of such person to his former country after absence of not less than five years, and that the punishment for such action, even though already legally declared, should not be consummated if the person has acquired in America the right of citizenship in conformity with Article I of said treaty.

A State has the unquestionable legal right to regulate under penalties either the emigration of its subjects or the immigration of aliens, as also to punish its nationals for failure to report for military service, except so far as restrained by treaty (1 Rivier, 269; 2 Wharton, sec. 171).

A State does not, however, necessarily take official notice of the naturalization of its subjects as citizens of another State. Consequently, in the absence of such official knowledge, it may, if authorized to do so by its own laws, proceed against them by judicial trial and condemnation, even in their absence. With such treatment by it of its own subjects no other State has any concern.

As the case is stated, Friedlaender was a native-born German subject and appears to have been condemned as for punishable emigration. If he had received permission to emigrate, the judgment was not unlawful, though erroneous in point of fact, unless the fact was shown at the trial; if he had not received such permission, it was not unlawful unless at the trial proof was submitted showing his naturalization in the United States and his compliance with the terms of the treaty. As the case is stated, it does not appear that the judgment was unlawfully rendered, although erroneous. And as the German court or Government would not know this error without evidence of the facts which brought Friedlaender within the exemption of the treaty, it is entirely proper that he should take steps before the court to have the judgment vacated and set aside, on proof of the facts which would have constituted a good defense of the action if they had been presented at the trial, or that he should petition the Emperor to vacate the judgment, submitting the facts and proofs necessary to show that the judgment was in fact given in violation of the treaty.

While this may result in some inconvenience in practice, it is the course pursued in the United States in analogous cases. If a judgment by default has been rendered against a person during his absence, provision is usually made for his application to the court, within a given period, to have the judgment set aside for error of law or fact. If a person has been condemned as a criminal, he may have judicial proceedings to correct an erroneous conviction, and in the last instance may appeal to the Executive to grant a pardon.

The advice of the German foreign office that an appeal be made to the Emperor to set aside the judgment on the grounds stated in your dispatch, so far from involving a concession that the conviction was not erroneous in fact, may be accepted in the sense that it was erroneous because rendered in violation of the treaty, as authentically interpreted in the circulars. A pardon would be inappropriate as implying a guilt which is shown not to exist in fact, yet if this is the only way the Emperor can lawfully proceed, the proceeding should be accompanied by you with this interpretation.

The better course in all such cases is for the naturalized American to have proceedings instituted in the proper court to vacate the judgment, if such remedy is given by the local laws; and in all cases if they have notice they should make defense by counsel if allowable to

suits of that character while pending. They should not burden the embassy by asking it to relieve them from the consequences of their own neglect to defend; but it is, of course, proper for you to render them all necessary assistance, even when they could have avoided trouble by timely attention to their own interests.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

KAISER WILHELM CANAL—PASSAGE OF UNITED STATES NAVAL VESSELS THROUGH.

Mr. White to Mr. Hay.

No. 1672.]

EMBASSY OF THE UNITED STATES,
Berlin, July 18, 1901.

SIR: I have the honor to report that permission has been granted the United States ship *Enterprise* (Massachusetts nautical school ship) to pass through the Kaiser Wilhelm (Kiel) Canal, en route to the North Sea, in accordance with a request made by the embassy a few days ago. This request was made at the instance of Commander Edward M. Hughes, United States Navy, commanding the *Enterprise*, who is at present cruising in the Baltic Sea and expects to arrive at Kiel about August 1.

I have, etc.,

ANDREW D. WHITE.

Mr. Jackson to Mr. Hay.

No. 1765.]

EMBASSY OF THE UNITED STATES,
Berlin, October 19, 1901.

SIR: I have the honor to report that, in accordance with a statement furnished the embassy by Mr. Sartori, our consular agent at Kiel, the canal dues paid by the U. S. S. *Enterprise* amounted to 400 marks, and those of the U. S. S. *Buffalo* to 900 marks, which, considering the saving in time and coal, would apparently indicate that it is less expensive for our ships to go through the Kaiser Wilhelm Canal than it would be for them to round the Danish peninsula.

During the past few months three United States naval vessels, the *Enterprise*, *Hartford*, and *Buffalo*, have visited Kiel, and while all have made a good impression—the *Hartford*, on account of her beauty and historical connections, and the *Enterprise* and *Buffalo*, as showing the admirable way in which landsmen are trained for both our commercial and military navies—I am of the opinion that it would be advantageous to have more modern ships visit German ports. During “regatta week” at Kiel there is usually quite an assemblage of German naval vessels in port, as well as a more or less international (principally English) gathering of pleasure and racing yachts. It is the known desire of the German Emperor to increase the international character of the regatta, and I feel confident that the presence of American vessels during the week would be favorably regarded. In view of the recent reestablishment by us of an “European squadron,” I venture to hope that this question may receive proper consideration.

Many German naval officers have been in United States ports, have experienced American hospitality, speak English, and have pleasant recollections of their association with our service and its officers, while relatively few of our officers have any knowledge of German or anything more than a superficial (or literary) acquaintance with German officers and the Imperial Navy. As a former officer in our Navy, I have given this subject considerable serious consideration, and I am decidedly of the opinion that more intercourse between American and German naval officers in ports where there is no outside influence can not but be beneficial.

I have, etc.,

JOHN B. JACKSON.

DEATH OF THE DOWAGER EMPRESS QUEEN FREDERICK.

Mr. White to Mr. Hay.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Berlin, August 5, 1901.

The Empress Frederick, mother of the reigning Emperor, died at Cronberg about 6 o'clock this afternoon.

WHITE.

Mr. White to Mr. Hay.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Berlin, August 6, 1901.

The funeral services for the late Empress Frederick are to be strictly private, and a request has been made that no special delegation be sent.

WHITE.

Mr. White to Mr. Hay.

No. 1690.]

EMBASSY OF THE UNITED STATES,
Berlin, August 8, 1901.

SIR: I have the honor to confirm the telegram^a sent you on the evening of the 5th instant, as well as that^a sent you on the evening of the 6th.

This second message was sent upon the receipt of a note from the foreign office, stating that the course adopted was in accord with the last wishes of the late Empress. The funeral services are to be held at Cronberg on Sunday, August 11, and on August 13 the remains are to be placed in the mausoleum at Potsdam, near those of the late Emperor Frederick. It is now understood that the diplomatic corps is not to participate in the services at Potsdam.

I have, etc.,

ANDREW D. WHITE.

The President to German Emperor.

[Telegram.]

EXECUTIVE MANSION,
Washington, August 6, 1901.

I learn with deep sorrow of the death of Your Majesty's beloved mother, the Dowager Empress Queen Frederick. Her noble qualities have endeared her memory to the American people, in whose name, and in my own, I tender to Your Majesty heartfelt condolence.

WILLIAM MCKINLEY.

Count von Quadt to Mr. Hay.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Manchester-by-the-Sea, August 8, 1901.

MR. SECRETARY OF STATE: Having been apprised officially of the death of Her Majesty the Empress and Queen Frederick, which took place on the 5th instant, I hereby perform the sad duty of bringing this to Your Excellency's notice. His Majesty, the Emperor and King, my most gracious master, together with the entire Royal House, have been plunged into the deepest grief by this sad event.

Accept, etc.,

A. QUADT.

Mr. Adee to Count von Quadt.

No. 635.]

DEPARTMENT OF STATE,
Washington, August 13, 1901.

SIR: Replying to your note of the 8th instant, I have the honor to inform you that upon the receipt of the sad tidings of the death of Her Majesty, the Dowager Empress and Queen Frederick, His Majesty's mother, through the embassy of the United States, at Berlin, the President immediately sent a message of sympathy to His Majesty by telegraph.

A copy of the telegram^a is inclosed for your consideration.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. White to Mr. Hay.

No. 1703.]

EMBASSY OF THE UNITED STATES,
Berlin, August 14, 1901.

SIR: Referring to the embassy's dispatch No. 1690, of the 8th instant, I have the honor to report that, after a period of uncertainty, it was ultimately signified to the ambassadors at this court that their presence would be welcome at the funeral services of the late Empress

^aPrinted ante.

Frederick at Potsdam, and that consequently I was present on that occasion yesterday.

The pageant and services were very impressive, besides the German Emperor and Empress, the King and Queen of Great Britain taking part in the whole ceremony.

Immediately before the procession began to move the Emperor signified a wish to see me, and upon my coming into his presence he spoke quite at length regarding the message of sympathy which he had received from the President, expressing his heartfelt appreciation of it and his thanks for it, and joining to this a personal expression of deep sympathy for a recent bereavement of my own.

I may add to this that the entire German press, so far as I have observed it, gave prominence to the President's message of sympathy, frequently adding expressions of thorough appreciation of its spirit and whole tenor.

I am, etc.,

ANDREW D. WHITE.

EXPIATORY MISSION OF PRINCE TSCHUN.

Mr. White to Mr. Hay.

No. 1721.]

EMBASSY OF THE UNITED STATES,
Berlin, September 5, 1901.

SIR: I have the honor to report that it has been officially announced that the German Emperor received Prince Tschun Tsai-fong, a brother of the Emperor of China, at Potsdam at noon yesterday, and that Prince Tschun made a speech in which he expressed the regret of the Emperor of China at the murder of the German minister in Peking, Baron Clemens von Ketteler, last year. The German Emperor received from Prince Tschun a letter from the Emperor of China, and made a reply to the speech. A translation of the speeches and of the letter is appended hereto, their text having been published in the official part of last night's Imperial Gazette (No. 210).

Prince Tschun arrived in Potsdam on September 3 and was lodged in one of the royal palaces. Yesterday morning, in carriages provided by the royal stables, but without any escort, he proceeded to the "New Palace," where, accompanied by the new Chinese minister as interpreter, he was received by the Emperor, who was surrounded by several German princes, Baron von Richthofen, the Imperial secretary of state for foreign affairs, and various high court, civil, and military officials.

On leaving the palace Prince Tschun was greeted with the military honors usually shown to an Imperial prince, and a military escort accompanied him to his residence. It is understood that, expiation having now been made, he will be shown the usual courtesies as long as he remains the guest of the Emperor—for a day or two.

The new Chinese minister has not yet been received as such, and diplomatic relations have not yet been fully resumed, no audience having been granted the departing minister to present his letters of recall.

I have deemed it advisable to make this report, in view of the fact that the sending of this "expiatory mission" was the result of the

combined action of the several foreign representatives in Peking, and because of the attention which has been given to it by the press generally and of the irresponsible reports which have been made with regard to the manner in which Prince Tschun was to have been received, and the reasons for his not having come through from Basle to Berlin about the 26th ultimo.

I am, sir, etc.,

ANDREW D. WHITE.

[Inclosure.]

[Clipping from the European edition of the New York Herald, Paris, September 5, 1901, containing a free translation of the letter from the Emperor of China, Prince Tschun's speech, and the German Emperor's reply.]

Berlin, Wednesday.—The letter from the Emperor of China, handed to the Emperor William by Prince Tschun, is to the following effect:

“The Great Emperor of the Chinese Empire to His Majesty the Great German Emperor, greeting.

“Ever since the Empires have been mutually represented by permanent legations we have stood in uninterrupted friendly relationship toward one another. These relations became still closer when Prince Henry of Prussia came to Peking, for on that occasion we had the privilege of receiving the Prince frequently and of being able to hold intercourse with him in an intimate manner. Unfortunately, in the fifth month of last year, the Boxers rebelliously penetrated into Peking and the soldiers joined them.

“The result was the murder of Your Majesty's minister, Baron von Ketteler, a man who, so long as he occupied his post in Peking, paid careful attention to the interests of our countries and to whom we were bound to pay our special acknowledgments. We regret most deeply that Baron von Ketteler met so terrible an end among us. The fact that we were not in a position to take due protective measures was painful to our feeling of responsibility. It was our feeling of responsibility which prompted us to erect a monument on the spot as a sign that the crime should not remain unexpiated.

“Further, we have sent to Germany with this letter, the Imperial Prince Tschun Tsai-fong, at the head of a special mission. Prince Tschun, who is our own brother, will assure Your Majesty how deeply the events of the past year have grieved us and how deeply the feeling of penitence and shame still animate us. Your Majesty sent your troops from a far distance to put down the Boxer rebellion and restore peace and the welfare of our nation. We have, therefore, commanded Prince Tschun to express personally to Your Majesty our thanks for your efforts in promoting peace.

“We cherish the hope that Your Majesty's indignation has given place to the old feelings of friendship. That the relations between our Empires may be of an even more extensive, intimate, and beneficial character than hitherto is our firm assurance.”

Prince Tschun, in delivering the letter, spoke in the following terms:

“By order of the Great Emperor, my most gracious lord and master, I have the honor to deliver His Majesty's letter into Your Majesty's Imperial hands. After the rebellious movement in China in the past year, the Imperial court felt spontaneously no less than on the demand of the powers the obligation of expressing, by a special mission, its sincere regret at these events, and especially in the case of which Your Majesty's excellent minister, Baron von Ketteler, fell a victim.

“In order to place the sincerity of this regret beyond all doubt His Majesty the Emperor designated a very near blood relation for the mission. I am in a position to assure Your Majesty that the Emperor, my most gracious master, stood aloof from these complications, which brought the great misfortune upon China and loss and care upon Germany, in the fullest sense of the words. Nevertheless, in accordance with customs existing for thousands of years, the Emperor of China has taken the blame for it upon his own sacred person. I have, therefore, the task of expressing to Your Majesty the most cordial feelings of the Emperor, my illustrious master, toward Your Majesty. In handing to you this letter, I am also charged to be the interpreter of this feeling of the Great Emperor of China toward Her Majesty the Empress, and the whole of the Imperial family, and to express the wish that Your Majesty's house may flourish and enjoy health, happiness, and blessings in the fullest measure. His Majesty the Emperor of China hopes that the events of the past year were only a passing shadow, and that after the clouds have dispersed, the brightness

of peace between the two nations of Germany and China may teach them mutually ever to understand and value one another better. This is also my most sincere wish."

THE EMPEROR'S REPLY.

The Emperor then addressed the following reply to Prince Tschun:

"This is not a joyous or festive occasion, or the fulfillment of a simple act of courtesy, which has brought your imperial highness to me, but a deeply melancholy and very serious event. My minister at the court of the Emperor of China, Baron von Ketteler, has been slain in the capital of China by the murderous weapon of an Imperial Chinese soldier, lifted against him by superior command, an unheard-of crime, which is branded by international law and the usage of all nations alike. From the mouth of your imperial highness I have just received the expression of the deep regret of the Emperor of China.

"Concerning this event I readily believe that your imperial highness' imperial brother personally stood aloof from the crime and the subsequent acts of violence against the inviolable legations and peaceful foreigners. All the greater is the guilt which falls upon his adviser and his government. These must not delude themselves into believing that by an expiatory mission alone they will have made atonement and obtained pardon for their guilt. This can only be done by their future attitude in conformity with the prescriptions of international law and the usages of civilized nations. If the Emperor of China conducts the government of his great Empire henceforth strictly in the spirit of these prescriptions, then will his hope be fulfilled that the sad results of the complications of the past year will be overcome, and that between Germany and China, as formerly, lasting peaceful and friendly relations will again prevail and conduce to the benefit of two nations and the whole of human civilization. In the sincere and earnest wish that this may be so, I bid your imperial highness welcome."

**CONDOLENCES ON THE ASSASSINATION OF PRESIDENT
M'KINLEY.**

The German Emperor to the Secretary of State of the United States.

[Telegram.]

DANZIG, *September 14, 1901.*

Deeply affected by the news of the untimely death of President McKinley, I hasten to express the deepest and most heartfelt sympathy of the German nation. Germany mourns with America for her noble son who lost his life whilst he was fulfilling his duty to his country and his people.

WILLIAM, I. R.

Mr. Hay to Mr. White.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1901.

You are charged to express in the name of the President and the sorrowing people of this country the deepest appreciation of the touching message of his majesty the German Emperor. The generous share of Germany in our national affliction manifests the closeness of the ties that exist between the two peoples.

JOHN HAY.

OPENING OF THE PORT OF EMDEN.

Mr. Jackson to Mr. Hay.

No. 1740.]

EMBASSY OF THE UNITED STATES,
Berlin, September 25, 1901.

SIR: I have the honor to report that the new port of Emden has now been opened without any great formality. It is announced in last night's *Reichs-Anzeiger* that this port can now accommodate the largest sea-going ships. The inner harbor (Binnenhafen) has everywhere a depth of more than 6 meters, while the depth of the outer harbor at mean high water is more than 11 meters, so that it can accommodate ships drawing 8.2 meters at all times. The harbor will be kept open in winter, and the channel of the Ems, from Emden to the sea, is to be made 10 meters deep. Quays have been built in the outer harbor, and electric cranes, coaling chutes, etc., have been provided. The outer harbor is a free harbor, and provision has been made for the loading and unloading of goods, and for storage, with comparatively little supervision by the customs authorities.

I have, etc.,

JOHN B. JACKSON.

VISIT OF GERMAN SCHOOLSHIPS MOLTKE AND STEIN TO UNITED STATES, PORTO RICAN, AND CUBAN PORTS.

*Count von Quadt to Mr. Hay.*IMPERIAL GERMAN EMBASSY,
Washington, September 30, 1901

MR. SECRETARY OF STATE: I have the honor, in pursuance of instructions received from my Government, most respectfully to inform your excellency that, in accordance with the plans approved by his majesty the Emperor and King, his majesty's schoolship *Moltke* will be at Baltimore from the 24th to the 30th of January next, and at Annapolis from January 30 to February 5.

His majesty's schoolship *Stein* will be at San Juan de Puerto Rico from the 3d to the 6th of January next, at Cienfuegos from the 16th to the 18th, and at Habana from the 22d to the 28th of the aforesaid month.

Accept, etc.,

A. QUADT.

Mr. Adee to Count von Quadt.

No. 565.]

DEPARTMENT OF STATE,
Washington, October 8, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 30th ultimo, informing me of the dates on which his majesty's schoolships *Moltke* and *Stein* will visit certain cities of the United States, Porto Rico, and Cuba.

With a view to the extension of the usual courtesies to these vessels, I have made the matter known to the heads of the Treasury, War, and Navy Departments and to the governors of Maryland and Porto Rico.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

EFFORTS TO DIVERT GERMAN EMIGRATION FROM NORTH AMERICA TO GERMAN COLONIES AND SOUTH AMERICA.

Mr. Jackson to Mr. Hay.

No. 1773.]

EMBASSY OF THE UNITED STATES,
Berlin, October 25, 1901.

SIR: As the Department is aware, efforts have repeatedly been made to direct the flow of German emigration away from North America, the United States, and Canada, toward the German colonies and South America. It is claimed that in North America the emigrant is too readily absorbed and that he loses his political and economic nationality in a very short time, while in the colonies he remains a German in every sense, and in South America he still retains, to a considerable extent at least, his German tastes and habits. In short, the emigrant to North America is lost to Germany entirely, while those who go to South America, although they may lose their political nationality, continue to be purchasers in the German markets. It will be remembered that arguments of this character were used in advocating the passage of an emigration law in 1897.

Germany is at present suffering from industrial depression, the eventual result of which can not but be healthy, and the immediate effect of this is almost certain to be increased emigration in the near future. The condition is such that the president of the Prussian ministry (Count Bülow) has thought it wise to instruct the provincial governors to collect information with regard to the numbers of the unemployed and to suggest measures by which aid can be given.

The Colonial Society, however, has determined to endeavor to direct the emigration which it considers inevitable, and to that end it has made a provisional arrangement with the Imperial Government for the establishment of an information bureau for emigrants. This bureau is to be under the supervision of the chancellor of the Empire, although its character will not be strictly official, and information is to be furnished by it gratuitously to intending emigrants, directly or through agents. The Government is to bear a part of the expenses connected with this work, and is to furnish to the bureau such information as may be received from its representatives abroad as may be of interest to those wishing to make a home outside the limits of the Empire proper. The avowed object of this enterprise is "to prevent the dissipation of the energy, nationality, and capital which German emigrants take out of the Empire, uselessly throughout the world, and the economic fertilization of foreign countries, and to so direct German emigration that it may remain German, nationally and economically, to the greatest possible extent."

I have, etc.,

JOHN B. JACKSON.

GERMAN EMPEROR'S RESPONSE TO THE PRESIDENT'S MESSAGE OF GOOD WILL.

Mr. White to Mr. Hay.

No. 1791.]

EMBASSY OF THE UNITED STATES,
Berlin, November 20, 1901.

SIR: I have the honor to report that, immediately after my recent return to Berlin, I included in the usual notification to the foreign office a request for an audience with the Emperor, in order to make

known to him the special message of good will which the President had personally instructed me to convey.

As a result, I was invited to dine last evening with their majesties at Potsdam, audience being previously given me.

Having heard the message from the President expressing his hearty good feeling toward the Monarch and his Empire, His Majesty responded very cordially, declaring that he fully reciprocated the feeling the President had expressed, and referring to the President's career and character in terms which showed that he had studied both with care and highly appreciated them. He also referred to the recent elections in New York City and elsewhere, as proving that the President's courage and intelligent earnestness had given a strong impulse to men of like character throughout the country, and among these he especially named, with admiration, Mr. Seth Low.

In this, as well as in the conversation at table and afterwards, the Emperor dwelt upon the wonderful progress made by the United States in sundry great enterprises and industries and especially in shipbuilding, discussing this and kindred subjects with remarkable thoroughness and knowledge of detail. He referred to the fact that he had sent suitable persons to the United States to study our canal systems and internal waterways generally. He also expressed his pleasure at the honor done the imperial ambassador, Dr. Von Hollenben, by Harvard University, and said that, in recognition of this courtesy, he had ordered a collection of casts of the more curious and interesting sculptures and works of art from various public monuments and collections within the Empire to be especially prepared and sent to the Germanic Museum at that institution.

Both at the audience and in the conversation afterwards, the Emperor showed that he was really pleased with the message which the President had sent him, both with its assurances of a political nature and with its more personal and special details.

I am, etc.,

ANDREW D. WHITE.

COURTESIES TO UNITED STATES NAVAL ATTACHÉ IN GERMANY.

Mr. Hay to Mr. Jackson.

No. 1272.]

DEPARTMENT OF STATE,
Washington, December 7, 1901.

SIR: At the request of the Secretary of the Navy, dated the 5th instant, you are instructed to express to the German Government the thanks of the Navy Department for the unusual courtesy extended to the United States naval attaché in that marked facilities for visiting the German Torpedo Schoolship and Depot have been granted him.

I am, etc.,

JOHN HAY.

DIFFICULTY OF GERMANY WITH VENEZUELA.

PROMEMORIA.

IMPERIAL GERMAN EMBASSY,
Washington, December 11, 1901.

Against the Venezuelan Government there is a claim pending of the Berlin Company of Discount (Berliner Disconto Gesellschaft) on account of the nonperformance of engagements which the Venezuelan

Government has undertaken in connection with the great Venezuelan Railway which has been built by the said Government. Those obligations amount for the time being to fully 6,000,000 bolivares (1 bolivar to be counted as 80 pfennige). The obligations continue to increase, as the interest for the values of the 5 per cent Venezuelan loan of the year 1896, which was emitted to the amount of 33,000,000 bolivares and which have been transmitted to the company as a guaranty for the payment of interest of the capital spent in building, has not been paid regularly since seven years, nor has the payment been made regularly to the sinking fund.

This behavior of the Venezuelan Government could, perhaps, to a certain degree be explained and be excused by the bad situation of the finances of the State; but our further reclamations against Venezuela, which date from the Venezuelan civil wars of the years 1898 until 1900, have taken during those last months a more serious character. Through those wars many German merchants living in Venezuela and many German landowners have been seriously damaged, as partly compulsory loans have been extorted from them, partly requisites of war which have been found in their possession, as especially the cattle necessary for the feeding of the troops have been taken from them without being paid for, partly their houses and grounds have been ransacked or devastated. The amount of these damages comes to fully 2,000,000 bolivares. This amount is to be divided between 35 claimants, who are partly poor people. Several of the damaged have lost nearly all their possessions, and through this their creditors who live in Germany have suffered likewise. Very likely these reclamations will be presently put before the Reichstag.

Evidently the Venezuelan Government, if we judge it after its behavior in the present, is not willing to fulfill its engagements in compensating these damages. After having first fixed a six-monthly term during which the Government refused to discuss any claims for compensation, the Government issued in January last a decree stating that a commission consisting solely of Venezuelan officials should decide about the claims, which the damaged would have to bring to their knowledge during three months. The proceedings as settled by this decree seem in three articles not to be acceptable. First of all, that all the claims for damage which came from the time before the 23d of May, 1899 (that means before the appointment of the present President of the Republic, Castro), should not be considered, while of course the government of Castro is, as all other governments, responsible for the deeds of its predecessors. Another article said that all diplomatic protestations against decisions of the commission should be excluded and only the appeal to the supreme Venezuelan court of justice should be admitted. The members of this court are entirely dependent on the Government and have frequently been simply dismissed by the President. Finally, the Government wanted to pay for the claims which should be recognized by the commission only with bonds of a newly to be emitted revolution debt, which would be, after the experiences made, up till present without any value.

The behavior of the Venezuelan Government must therefore be considered as a frivolous attempt to avoid just obligations. As was to be expected, several of the few German claims put before the commission have been simply rejected and others have been reduced in a decidedly malicious way. So, by example, a German cattle breeder, from whom

fully 3,800 head of cattle, to the value of more than 600,000 bolivares, had been forcibly taken away, got only 15,000 bolivares adjudicated. But the Government has not paid for the claims recognized as just by the commission, but has told the damaged that a bill in their interest would be submitted to the next Congress.

The German Government has first tried to induce the Government of Caracas to change their decree in the mentioned three articles. After this expedient had been rejected, it has been by order of the Imperial Government firmly declared to the Venezuelan Government that we are forced under the present circumstances to refuse altogether our acknowledgment of the decree. Similar declarations have been delivered by the predominant majority of the other interested powers, especially of the United States of America, whose reclamations from the Venezuelan civil wars come to fully 1,000,000 bolivares. The Venezuelan Government claims against those declarations that it is not able to treat the foreigners in a different way from the Venezuelan citizens, and that the Government regarded, therefore, the settlement of the reclamations in question as an internal affair of the country in which no foreign power could meddle without injuring the sovereignty of the country. Another attempt to change the mind of the Government has been likewise unsuccessful. The Government has declared in its reply that it had to repel all diplomatic interference in this matter and that the claimants, as the term fixed in the decree had meanwhile passed, had to be exclusively referred to the supreme Venezuelan court of justice.

Under these circumstances the Imperial Government believes that further negotiations with Venezuela on the present base are hopeless. The Imperial Government proposes therefore to submit the reclamations in question, which have been carefully studied and have been considered as well founded, directly to the Venezuelan Government and to ask for their settlement. If the Venezuelan Government continues to decline as before, it would have to be considered what measures of coercion should be used against it.

But we consider it of importance to let first of all the Government of the United States know about our purposes so that we can prove that we have nothing else in view than to help those of our citizens who have suffered damages, and we shall first take into consideration only the claims of those German citizens who have suffered in the civil war.

We declare especially that under no circumstances do we consider in our proceedings the acquisition or the permanent occupation of Venezuelan territory. If the Venezuelan Government should force us to the application of measures of coercion, we should have to consider furthermore if at this occasion we should ask likewise for a greater security for the fulfillment of the claims of the Company of Discount of Berlin.

After the posing of an ultimatum, first of all the blockade of the more important Venezuelan harbors—that is, principally the harbors of La Guayra and Porto Cabello—would have to be considered as an appropriate measure of coercion, as the levying of duties for import and export being nearly the only source of income of Venezuela would in this way be made impossible. Likewise it would be difficult in this way to provide the country, which depends on the import of corn, with food. If this measure does not seem efficient, we would have to consider the temporary occupation on our part of different Venezuelan harbor places and the levying of duties in those places.

Mr. Hay to Mr. von Holleben.

WASHINGTON, D. C., *December 16, 1901.*

DEAR EXCELLENCY: I inclose a memorandum by way of reply to that which you did me the honor to leave with me on Saturday and am, as ever, etc.,

JOHN HAY.

[Inclosure.]

MEMORANDUM.

DEPARTMENT OF STATE,
Washington, December 16, 1901.

The President in his message of the 3d of December, 1901, used the following language: "The Monroe doctrine is a declaration that there must be no territorial aggrandizement by any non-American power at the expense of any American power on American soil. It is in no wise intended as hostile to any nation in the Old World." The President further said: "This doctrine has nothing to do with the commercial relations of any American power, save that it in truth allows each of them to form such as it desires. * * * We do not guarantee any State against punishment if it misconducts itself, provided that punishment does not take the form of the acquisition of territory by any non-American power."

His excellency the German ambassador, on his recent return from Berlin, conveyed personally to the President the assurance of the German Emperor that His Majesty's Government had no purpose or intention to make even the smallest acquisition of territory on the South American Continent or the islands adjacent. This voluntary and friendly declaration was afterwards repeated to the Secretary of State, and was received by the President and the people of the United States in the frank and cordial spirit in which it was offered. In the memorandum of the 11th of December, his excellency the German ambassador repeats these assurances as follows: "We declare especially that under no circumstances do we consider in our proceedings the acquisition or the permanent occupation of Venezuelan territory."

In the said memorandum of the 11th of December, the German Government informs that of the United States that it has certain just claims for money and for damages wrongfully withheld from German subjects by the Government of Venezuela, and that it proposes to take certain coercive measures described in the memorandum to enforce the payment of these just claims.

The President of the United States, appreciating the courtesy of the German Government in making him acquainted with the state of affairs referred to, and not regarding himself as called upon to enter into the consideration of the claims in question, believes that no measures will be taken in this matter by the agents of the German Government which are not in accordance with the well-known purpose, above set forth, of His Majesty the German Emperor.

PROMEMORIA.

IMPERIAL GERMAN EMBASSY,
Washington, December 20, 1901.

In case the German Government should be obliged to use coercion against Venezuela in connection with the pending claims, it will have to be considered what kind of measures should be applied.

The most important measure of coercion—that is, the blockade of Venezuelan harbors—would have to be carried through without a declaration of war preceding it. The blockade would therefore be a peace blockade. Such a blockade would touch likewise the ships of neutral powers, inasmuch as such ships, although a confiscation of them would not have to be considered, would have to be turned away and prohibited until the blockade should be raised. In the same manner European States have proceeded on such occasions, especially England and France.

ANARCHISTS—PROPOSED JOINT ACTION AGAINST.

Memorandum handed the Secretary of State by the German and Russian ambassadors December 12, 1901.

[Confidential.]

The assassination of President McKinley, together with the anarchistic crimes and attempts upon the lives of chief magistrates committed in recent years, have rendered it terribly evident that a struggle against the menace of anarchy is an urgent necessity for all governments and a duty whose performance can not be postponed.

It is evident that concerted action on the part of the governments interested can not be really successful unless the uniform and strict enforcement of the measures that may be adopted against the anarchists can be secured by an international understanding. It would be preferable, it seems, to attain that end by an exchange of views among the governments rather than by convoking a new conference.

The Imperial Government of Germany and the Imperial Government of Russia have consequently agreed to propose such common action to the powers as will tend to the adoption of uniform measures in order to check the anarchistic movement.

The resolutions of the conference held at Rome in 1898, only a very small part of which has been put in practice, might serve as a basis for the projected understanding. It would be desirable that the governments, agreeably to the decisions of that conference, should agree to adopt uniform administrative measures having for their object the establishment of a rigorous surveillance of the anarchists by the creation of central bureaus in the various countries, by the exchange of information, and by international regulations relative to the expulsion of anarchists from all countries of which they are not subjects. The projected understanding should, so far as this may be possible, not confine itself to the measures above referred to, but should comprise various legislative measures tending to strengthen and complete the provisions of the penal code against the anarchists, against the combined effects of their common action, and against the subversive press. It would,

furthermore, be well to introduce into legislation a more complete and precise definition of anarchistic crime in all its aspects.

The governments of Germany and Russia express the hope that the United States Government will not refuse to recognize the necessity of energetically resisting the development of the anarchistic movement. The representatives of the two governments, therefore, beg the United States Government to inform them as speedily as possible whether it is disposed in principle to cooperate with the German and Russian governments in establishing an exchange of views that may lead to common action based, either in whole or in part, upon the propositions set forth.

In case of an affirmative reply, the details regarding the enforcing of the measures in question might be subsequently elaborated.

Mr. Hay to Mr. von Holleben.

DEPARTMENT OF STATE,
Washington, December 16, 1901.

DEAR EXCELLENCY: I have the honor to inclose a memorandum giving the views of the President in reference to the memorandum which you kindly left with me a few days ago.

Yours, faithfully,

JOHN HAY.

[Inclosure.]

MEMORANDUM.

DEPARTMENT OF STATE,
Washington, December 16, 1901.

In reply to the memorandum handed me by the ambassadors of Germany and of Russia, I am directed by the President to express his cordial sympathy with the views and the purposes therein set forth.

The President in his message of the 3d of December earnestly recommended to the Congress that "in the exercise of its wise discretion it should take into consideration the coming to this country of anarchists or persons professing principles hostile to all government and justifying the murder of those placed in authority." "Such individuals," the President said, "as those who not long ago gathered in open meeting to glorify the murder of King Humbert of Italy perpetrate a crime, and the law should insure their rigorous punishment. They and those like them should be kept out of this country; and if found here they should be promptly deported to the country whence they came, and far-reaching provision should be made for the punishment of those who stay. No matter calls more urgently for the wisest thought of the Congress."

The President further recommended that "The Federal courts should be given jurisdiction over any man who kills or attempts to kill the President or any man who by the Constitution or by law is in line of succession for the Presidency, while the punishment for an unsuccessful attempt should be proportioned to the enormity of the offense against our institutions." He also recommended that anarchy

should be declared an offense against the law of nations through treaties among all civilized powers.

These extracts from the President's message, it is believed, will assure all governments of civilized peoples of the President's earnest desire to adopt every practicable means to eradicate this deadly growth from our body politic. The President will be glad to adopt such administrative measures as are within his constitutional power to cooperate with other governments to this end.

So far as concerns the legislative action which may be necessary, the large number of bills which have been introduced in both Houses of Congress during the present session sufficiently show the trend of public sentiment in the same direction. The President will take all proper means to urge upon Congress the adoption of such measures for the suppression of anarchy as may be found acceptable to the National Legislature and which may enable the Executive to act in the matter with greater effectiveness in concert with other powers.

GREAT BRITAIN.

FILIPINO SEAMEN HELD NOT TO BE CITIZENS OF THE UNITED STATES.

MEMORANDUM.

BRITISH EMBASSY,
Washington, May 26, 1900.

Cases have recently occurred in which British merchant vessels arriving at Boston from the Philippine Islands bring Filipinos as seamen on board, properly signed on the articles. These men, on arrival at Boston, ask for their discharge, as they claim to be United States citizens, and as such they can be discharged with the sanction of the British consul. But if they are not considered United States citizens, consular sanction to their discharge would have to be refused.

The customs authorities at Boston hold that the Filipinos in question are not entitled to claim American citizenship.

The undersigned would be glad to be made acquainted with the view of the State Department with regard to this point, which appears to be dealt with by Article IX of the treaty of peace between the United States and Spain, signed at Paris December 10, 1898.

PAUNCEFOTE.

MEMORANDUM.

DEPARTMENT OF STATE,
Washington, July 19, 1900.

With reference to the request contained in the memorandum of the British embassy of May 26 last, for an expression of the views of this Government upon the matter of the citizenship of Filipinos, intended for the guidance of British consuls at ports of the United States in determination of the question whether they may or may not discharge Filipinos who, serving as seamen on British merchant vessels, ask to be discharged at United States ports before the voyage for which they have signed articles has terminated, the Attorney-General, to whom the subject has been referred, writes, under date of July 12, that the question is not to be lightly determined. A man may be a citizen in one sense of the word, or from certain points of view, or for certain purposes, yet not in every sense nor for all purposes.

He asks to be informed more definitely what the facts in the cases which have arisen may be, and in what manner the question of citizenship presented itself, believing that he would thereafter be better able to pass upon the subject.

MEMORANDUM.

BRITISH EMBASSY,
Newport, R. I., August 13, 1900.

With reference to the memorandum of the State Department of July 19, relative to the question of the citizenship of Filipinos who, serving as seamen on board British vessels, claim to be discharged at United States ports before the termination of the voyage for which they have signed articles, the following more definite information obtained from Her Majesty's consul-general at Boston is submitted as requested, showing in greater detail how this question of citizenship has been raised.

The question first arose in May and June, 1899, when three British sailing vessels arrived at Boston, having, respectively, six, ten, and nine Filipinos on board, properly and legally shipped as seamen. The ship's articles in each case were not ended, nor had the men shipped to be discharged at a United States port; but on arrival at Boston they all desired to be paid off there.

Her Majesty's consul-general at first refused his sanction, as in case of their becoming destitute it was not clear what Government would be responsible for their relief and protection.

The seamen themselves claimed to be United States citizens and the masters of the ships were of the same opinion. The difficulty in this case was got over by some of the men shipping again at once, while the masters agreed to become liable for the others in case of their becoming destitute.

The question arose again at Boston last May, when the British ship *Treasurer* arrived in port with ten Filipino seamen on board. They also requested to be paid off, and on consular sanction being refused, they all deserted.

It is hoped that the above information will suffice for the purpose mentioned in the memorandum of the State Department above referred to.

MEMORANDUM.

DEPARTMENT OF STATE,
Washington, February 28, 1901.

With reference to the question asked in two memoranda from the British embassy, dated May 26 and August 13, 1900, whether Filipinos regularly shipped on British merchant vessels are regarded by the Government of the United States as citizens of the United States, so that when the British vessels upon which they have shipped touch at ports of the United States the Filipino seamen have the right to demand to be discharged although the voyage for which they have shipped may not be ended, the Attorney-General, to whom the question was referred, holds, in his opinion dated February 19, 1901, that seamen born in the Philippine Islands "are not citizens of the United States within the meaning of any statutes concerning seamen or any other statute or law of the United States."

**EXCLUSION OF BRITISH AND AUSTRALASIAN VESSELS FROM
TRADE BETWEEN THE UNITED STATES AND HAWAII.**

Mr. Choate to Mr. Hay.

[Confidential.]

No. 424.]

AMERICAN EMBASSY,
London, November 10, 1900.

SIR: I have the honor to report that I was recently waited upon by the agent-general for New South Wales in London, and the agent-general for one of the other Australian colonies, in reference to the alleged operation of the United States navigation laws upon Hawaiian international commerce, and especially as affecting trade between Australasian and American ports in vessels not wholly owned by Americans and registered in the United States of America. Their desire was to obtain some relaxation of the strictness of those laws as affecting such trade.

To my suggestion that the more usual course would be to present the matter to you through the British embassy at Washington, they said that they were aware of that, but had obtained permission from the foreign office to approach me on the subject.

As the matter appeared to be of some importance, and apparently no such relief as they sought could be obtained except through legislation, I told them that if they would present the matter in writing I would transmit it immediately to you, and had no doubt that it would receive due consideration.

Accordingly, the agent-general of New South Wales has now addressed to me a letter on the subject, which I inclose, and shall await your instructions as to any answer to be made thereto.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Mr. Copeland to Mr. Choate.

[Confidential.]

WESTMINSTER CHAMBERS,
9 Victoria Street, Westminster, S. W., November 7, 1900.

SIR: At the request of the government of New South Wales (whose representative I am in London), and with the concurrence of the governments of the other Australian colonies represented by their several agents-general, I have the honor to informally approach you on the following subject, having first obtained the assent of Her Majesty's Government to the adoption of this somewhat unofficial course of procedure.

The subject on which I am about to address your excellency has reference to the provisions of the United States navigation laws, so far as they relate to Hawaiian international commerce.

Owing to the application of the laws in question, it has become impossible for any of the mail steamers trading between Australasian and American ports to carry passengers and goods between the United States and Honolulu, unless such steamers are wholly owned by Americans and registered in the United States of America.

As that trade has hitherto represented a very valuable portion of the commerce of this route, Australasian owned shipping is now placed under very serious disadvantages, and in this connection I may mention that the new steamship *Moana*, which was only recently placed on the San Francisco line by the United Steamship Com-

pany of New Zealand, will have to be withdrawn from that service unless some concession is accorded by your Government with respect to the laws referred to.

Further, those laws are so stringent that produce of the United States, even when for convenience of carriage is being sent to a foreign port for transshipment, can not be landed at Honolulu by an alien vessel, and the effect of this has been that the Australian-Canadian mail steamers have lost the trade of Tacoma and Seattle, the produce of those places having hitherto been sent to Vancouver, British Columbia, for shipment to Honolulu.

I may mention that when Hawaii was annexed to the United States it was anticipated by the Australasian colonies that at any rate an interval of some years would have to be allowed to elapse between annexation and the application of the American navigation laws to the Hawaiian territory.

The whole of the colonies composing the Commonwealth of Australia are unanimous in their desire that the United States Government may be induced to adopt such means as may be available to them for relaxing these restrictions on our international trade. In New South Wales the question has been raised and also debated in Parliament, while the chambers of commerce and representative men have strongly urged upon the Government that some action should be taken in the matter as soon as possible.

As an inducement to your Government to favorably entertain this question, I may point out that in addition to the commerce between the United States and the other Australasian colonies (including New Zealand), a large trade is being rapidly developed between your country and the mother colony of New South Wales. Last year (1899), 9 American steamers and 60 sailing vessels from the United States entered the ports of New South Wales, conveying no less than 87,000 tons of your goods; while, during the same period (1899), 8 American steamers and 60 sailing vessels left New South Wales, conveying to your ports 79,798 tons of our goods. As a further instance of this rapid development it may be noted that the value of our imports from your country in 1895 amounted to £624,268, whereas for last year (1899) those imports had swollen to £2,219,319. On the other hand, the value of our exports to your country, which in 1895 amounted to £683,606, had increased to £2,392,281 in 1899. So that our total trade with the United States last year amounted to £4,611,600, having grown to that sum from £1,307,874 in 1895, during a period of only four years.

I would further urge on your attention the fact that the greater portion, if not the whole, of the American goods for which New South Wales provided a profitable market, were allowed to enter our ports free from the imposition of any customs duties, besides being liberally treated with respect to port charges, etc., and I venture to suggest that such commercial liberality on our side is entitled to considerate treatment from the Government of the United States of America.

In conclusion, I beg therefore to ask that your excellency will be so good as to make representations to the United States Government with a view to such relaxation being made in the application of their navigation laws as will permit of passengers and goods being conveyed, as formerly, by Australasian-owned shipping between American ports and Honolulu, at least for some years to come.

I have, etc.,

HENRY COPELAND,
Agent-General for New South Wales.

Mr. Hill to Mr. Choate.

No. 527.]

DEPARTMENT OF STATE,
Washington, January 8, 1901.

SIR: Referring to your No. 424, of November 10 last, I now inclose for your information a copy of a letter from the Secretary of the Treasury, giving at length the reasons why the request of the London agent-general of New South Wales for such a relaxation of the navigation laws of the United States as would permit the conveyance of passengers and merchandise between American ports and Honolulu in Australian-owned shipping can not be granted.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

[Inclosure.]

*Mr. Gage to Mr. Hay.*TREASURY DEPARTMENT,
Washington, January 4, 1901.

SIR: I have the honor to acknowledge the receipt of your letter of November 22, 1900, inclosing a communication, forwarded confidentially by our ambassador to Great Britain, from Mr. Henry Copeland, general agent for New South Wales at London, in which he requests of the United States "such relaxation being made in the application of their navigation laws as will permit of passengers and goods being conveyed, as formerly, by Australasian-owned shipping between American ports and Honolulu, at least for some years to come." You request an expression of my views.

In reply thereto I have the honor to state that the act to which Mr. Copeland refers was passed in pursuance to the traditional policy of this Government which reserves trade between American ports to American vessels. The enactment of this legislation was probable from the date of the annexation of Hawaii, but the interval of nearly two years was allowed to elapse before that policy was carried into effect by act of Congress. It was assumed that this interval would be sufficient for such readjustment of shipping relations as the policy of the United States would require. The desire of the United States to promote friendly commercial relations with the British Australasian governments has been shown by the liberal appropriations of the Congress for the maintenance of an ocean mail service, which has lately been improved, for the mutual benefit of citizens of the United States and British Australasian subjects. In the judgment of this Department it is not feasible to reopen the question as Mr. Copeland suggests.

Respectfully,

L. J. GAGE, *Secretary.*

[Private and confidential.]

Memorandum prepared by the premier of New Zealand. Left by Lord Pauncefoot at the Department of State March 1, 1901.

The annexation of Hawaii by the United States and the bringing of that group of islands under the provision of their navigation laws, thus preventing British owned vessels from carrying on trade between these islands and the United States, is calculated to have a serious effect upon the trade of the colony of New Zealand. For thirty-one years the mails between England and New Zealand have been carried by steamers subsidized heavily by the Government of this colony, and until the 24th of October last one steamer owned by a British company trading here has regularly taken part in this mail service. The service has now, however, been transferred to an American owned line of steamers—that of Spreckels Brothers—the United States Government giving a direct subsidy of £52,000 per annum for ten years. With this subsidy, added to the fact that none of the steamers of this colony can trade between Hawaii and the United States, it follows that the colony is completely excluded from conveying either its own mails or passengers or cargo to that country; and in addition to this the steamers, which are being run to the prejudice and exclusion of its own vessels, operate against British owned steamers trading between Australia and New Zealand, as upon their trips here they will necessarily carry passengers across intercoloni-ally, and this will result most prejudicially against the development of trade by its own steamers, even in its own waters.

Another way in which the altered service will operate against the possible introduction of an alternate service in this country is this:

Prior to the annexation of Hawaii by the United States, Honolulu was made a coal depot for steamers trading under the British flag, via Vancouver to these colonies, and it was the practice of the Canadian mail-ships to land some 500 tons of coal at a time, which they were allowed to do without port charges at Honolulu. Since the annexation of the islands, however, this has not been allowed, and an impost of 3 shillings per ton is levied upon the coal required for steamers not trading within the prescribed territory at all.

The premier, therefore, begs respectfully to request that his excellency will refer the matter to the secretary of state for the colonies in order that representations may be made to the United States Government upon this important subject, with a view to establishing a *modus vivendi* with the United States of a more equitable character than that now existing.

As the matter is one of great importance to this colony, the premier can only strongly impress upon his excellency's attention its great urgency. The subject is at present the basis of a considerable amount of friction, and it is very difficult to tell how far such feeling as now exists may grow.

Mr. Hay to Lord Pauncefote.

No. 2114.]

DEPARTMENT OF STATE,
Washington, March 20, 1901.

EXCELLENCY: Referring to your recent conversation, and to the confidential memorandum you left with me prepared by the premier of New Zealand, touching the injurious effect on the trade relations of New Zealand of excluding British owned vessels from carrying on trade between the Hawaiian Islands and the United States; I have the honor to say that I have fully conferred with the Secretary of the Treasury on the subject.

A remedy for the difficulties complained of is not within the discretionary control of the Executive, the matter being regulated by legislation now in force. The act of April 30, 1900, sections 75, 98, etc., relating to the Hawaiian Islands, requires that the transportation of cargo from the United States to Hawaii, or vice versa, shall be subject to the laws governing the coasting trade of the United States. These laws practically exclude foreign vessels. British vessels may, however, carry merchandise from the coast of the United States to any foreign country via Hawaii, or may bring merchandise to the United States from any foreign country via Hawaii. General subsidies, mail compensation, etc., are given to British vessels plying between Canada and Hongkong, India, Ceylon, etc., under the conditions shown in the report of the Commissioner of Navigation for the year 1900, page 149, et seq.

The regulation of the trade between the United States and the Hawaiian Islands, in conformity with the act above referred to, seems to be in accordance with the practice of other nations under analogous circumstances.

I have, etc.,

JOHN HAY.

**PROTECTION OF AMERICAN INTERESTS BY BRITISH CONSUL IN
THE KONGO FREE STATE.**

Mr. Hill to Mr. Choate.

No. 526.]

DEPARTMENT OF STATE,
Washington, January 7, 1901.

SIR: In view of representations made to the Department by the American Presbyterian Kongo Mission of their need of having some one whom they can consult in matters arising between the mission and the Government of the Kongo Free State, it is desired to have you make known to the British Government the gratification which this Government would experience in learning that the British consul at Boma had been authorized to take care of American interests in the Kongo Free State until United States consular representation there is provided for by Congressional action.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Choate to Mr. Hay.

No. 503.]

AMERICAN EMBASSY,
London, February 8, 1901.

SIR: With reference to your instruction No. 526 of the 7th ultimo, I have the honor to inclose herewith the copy of a note from Lord Lansdowne, in which it is stated that His Majesty's Government will have pleasure in acceding to the wish of our Government that His Majesty's consul at Boma may be authorized to take charge of American interests in the Kongo Free State until such time as consular representatives can be provided for by action of the Congress of the United States.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Lord Lansdowne to Mr. Choate.

FOREIGN OFFICE, *February 5, 1901.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 22d ultimo, requesting that His Majesty's consul at Boma may be authorized to take charge of American interests in the Kongo Free State until such time as consular representation can be provided for by the action of the Congress of the United States.

In reply I have to state that His Majesty's Government have much pleasure in acceding to the wish of the United States Government, and that instructions will be given to Mr. Casement, His Majesty's consul, in accordance with your excellency's request.

I have, etc.,

LANSDOWNE.

Mr. Choate to Mr. Hay.

No. 599.]

AMERICAN EMBASSY,
London, June 21, 1901.

SIR: Referring to your instruction No. 526 of January 7, and to my dispatch No. 503 of February 8 last, I have the honor to inclose herewith a copy of a note from the Marquis of Lansdowne, suggesting

that the Government of the Kongo Free State be notified that Mr. Casement, His Britannic Majesty's consul, has been authorized to take charge of American interests there.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Lord Lansdowne to Mr. Choate.

FOREIGN OFFICE, *June 16, 1901.*

YOUR EXCELLENCY: With reference to your excellency's note of the 22d of January last, I have the honor to inform you that a dispatch has been received from Mr. Casement, His Majesty's consul for the Kongo Free State, pointing out the necessity of notifying the Government of the Kongo Free State of his authority to take charge of American interests.

I have accordingly to request that your excellency will move the United States Government to cause the necessary notification to be made. Mr. Casement has in the meantime been instructed to arrange with the local authorities for provisional recognition as acting consul for the United States, and to inform them that the formal notification will follow.

I have, etc.,

LANSDOWNE.

Mr. Hay to Mr. Choate.

No. 668.]

DEPARTMENT OF STATE,
Washington, July 9, 1901.

SIR: I have to acknowledge the receipt of your No. 599 of the 21st ultimo, inclosing copy of a note from the foreign office suggesting that the Government of the Kongo Free State be notified that His Britannic Majesty's consul at Boma has been authorized to take charge of American interests there.

You will inform the foreign office that this has been done.

I am, etc.,

JOHN HAY.

**PASSPORT APPLICATIONS OF PERSONS CLAIMING UNITED STATES
CITIZENSHIP THROUGH NATURALIZATION OF PARENTS.**

Mr. Choate to Mr. Hay.

No. 484.]

AMERICAN EMBASSY,
London, January 14, 1901.

SIR: In connection with the granting of passports by this embassy, I have the honor to draw your attention to a class of cases presenting some difficulties and involving often not a little hardship to the applicants.

I refer to the applications for passports of those children of naturalized citizens who were minors at the time of the naturalization of their parents, and who, having been taken to America at an early age, have always continued to reside there, and have subsequently performed the duties attaching to full citizenship.

It would seem a hardship to such persons, when otherwise satisfactorily identified, to make the production of their fathers' naturalization papers a prerequisite to obtaining a passport at this embassy,

and yet under existing circumstances I have no option but to refuse unless the papers in question are forthcoming.

It is constantly claimed by such applicants that this is not required of them when they apply direct to the Department of State.

There are only three forms of application known to this embassy, viz, "Native," "Naturalized," and that for "Persons claiming citizenship through the naturalization of husband or parent." It is therefore upon the last form, which requires the production of parents' naturalization papers, that the applicants referred to must make their sworn statements.

As far as I can discover, there is no instruction of the Department which would exactly cover these circumstances.

The following recent case will perhaps make the point clearer. Charles Muchnic, a young man, applied to the embassy some days ago for a passport. He was the bearer of a passport from the Department of State, which had just expired, and also produced proper letters of identification.

From his sworn statement it appeared that he had gone to Philadelphia with his father some twenty years ago, he being at the time but 3 years old, and that his father was naturalized while he was still a child; that ever since that time he had resided uninterruptedly in Philadelphia, where he was educated and subsequently, upon arriving at his majority, voted. He had recently come abroad as an engineer, representing American interests, and had every intention of returning to the United States to reside, as soon as he had accomplished the work he was engaged upon.

A passport was refused him on the sole ground of his inability to produce his father's naturalization papers. His passport from the Department was obtained in Philadelphia, where he is well known, and the production of his father's papers was not required.

I would, therefore, respectfully ask for instructions, to guide me in future in such cases as that of Mr. Muchnic—as to when the production of the father's naturalization papers may be waived, or as to how far such a waiver would be left to the discretion of the embassy.

I have, etc.,

JOSEPH H. CHOATE.

Mr. Hay to Mr. Choate.

No. 540.]

DEPARTMENT OF STATE,
Washington, February 5, 1901.

SIR: The Department has received your No. 484, of the 14th instant, concerning the proof required of those applicants for passports whose parents were naturalized during their minority. You suggest that hardship often arises from the requirement that they produce the father's naturalization certificate.

It is freely admitted that this requirement is often difficult to comply with, but the passport bureau of the Department has frequent evidence that many people come to the United States in infancy or youth, duly qualify as voters when they reach their majority, exercise all the rights of citizenship, and yet have no positive knowledge of their parents' naturalization, and have fallen into the error of supposing that prolonged residence and unquestioned performance of a citizen's functions

have in fact made them citizens. A person in this category is apt to express surprise and even indignation at being called upon to produce his father's naturalization papers, but not infrequently investigation shows that his father never had any such papers, and that he has himself been performing the functions of citizenship without legal right to do so.

The production of the naturalization certificate is not, however, always necessary. Paragraph 154 of the Instructions to the Diplomatic Officers of the United States authorizes the acceptance by a diplomatic agent abroad of a passport issued by this Department as evidence of the citizenship of the person in whose favor it was issued, if presented before its expiration. In the case instanced in your dispatch—that of Charles Muchnic, who recently applied for a passport from you and produced a passport issued by this Department—there was thus no reason for refusing to issue him a new passport without demanding the production of his father's naturalization certificate, unless his passport had expired. An amendment to this paragraph has been submitted to the President, and, if it be approved, it will be permissible to accept an old passport as *prima facie* evidence that the applicant's citizenship was established properly when the old passport was issued.

The statement that the Department does not exact the certificate of naturalization is incorrect. The rule prescribed by the President requires that it be produced, and in Mr. Muchnic's case the records show that he was granted a passport December 21, 1898, No. 1508, upon an application duly supported by his father's naturalization certificate issued November 9, 1898, by the court of common pleas at Philadelphia.

It is not intended that secondary proof may not on rare occasions be accepted in lieu of the naturalization certificate. The question is fully discussed in the Department's publication, *The American Passport*, page 155 et seq. In Mr. Bayard's instruction to Mr. Vignaud, June 13, 1888, quoted on page 161, the general nature of the secondary proof acceptable is set forth. In a few words, it must establish that the father was actually naturalized before the son reached his majority.

It may be added that the existing requirement of production of the naturalization certificate has prevailed since 1873; and experience has shown it to be necessary in order to prevent the Department or its agents from granting passports to those who are not legally citizens of the United States.

I am, etc.,

JOHN HAY.

DEATH OF QUEEN VICTORIA.

Lord Pouncefote to Mr. Hay.

No. 22.]

BRITISH EMBASSY,
Washington, January 22, 1901.

SIR: I am profoundly grieved to inform you that I have received a cable message from the Marquis of Lansdowne announcing the demise of the Queen this evening at 6.30.

It is my melancholy duty to request that you will bring this sad intelligence to the knowledge of the President and his Cabinet.

I have, etc.,

PAUNCEFOTE.

The President to the King of England.

[Telegram.]

EXECUTIVE MANSION,
Washington, January 22, 1901.

I have received with profound sorrow the lamentable tidings of the death of Her Majesty the Queen. Allow me, sir, to offer my sincere sympathy and that of the American people in your personal bereavement and in the loss Great Britain has suffered in the death of its venerable and illustrious sovereign, whose noble life and beneficent influence have promoted the peace and won the affection of the world.

WILLIAM MCKINLEY.

Mr. Hay to Mr. Choate.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 22, 1901.

You will express to Lord Lansdowne the profound sorrow of the Government and people of the United States at the death of the Queen and the deep sympathy we feel with the people of the British Empire in their great affliction.

JOHN HAY.

Mr. Hay to Mr. Choate.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 23, 1901.

The House of Representatives yesterday afternoon adopted the following resolution, and thereupon adjourned:

FIFTY-SIXTH CONGRESS, SECOND SESSION, CONGRESS OF THE UNITED STATES.

In the House of Representatives, January 22, 1901:

Resolved, That the House of Representatives of the United States of America has learned with profound sorrow of the death of Her Majesty Queen Victoria, and sympathises with her people in the loss of their beloved sovereign.

That the President be requested to communicate this expression of the sentiment of the House to the Government of Great Britain.

That as a further mark of respect to the memory of Queen Victoria the House do now adjourn.

Attest:

A. McDOWELL, Clerk,
By WILLIAM J. BROWNING, Chief Clerk.

You will communicate the foregoing to the secretary of state for foreign affairs, requesting that he advise His Majesty of this tribute to the memory of the Queen. An engrossed copy will be forwarded later for formal communication.

HAY.

Mr. Choate to Mr. Hay.

No. 490.]

AMERICAN EMBASSY,
London, January 23, 1901.

SIR: Her Illustrious Majesty the Queen closed her long and splendid career at half past 6 o'clock yesterday afternoon at Osborne, in the Isle of Wight. Although she had been in declining health for some months, it was not generally known until she was seized with a fatal illness a few days ago. She died surrounded by her children and grandchildren, including the Emperor of Germany, whose coming on this pious pilgrimage has made a deep impression here. She commanded, as no other personage of modern times has done, the affectionate homage of mankind, and I am glad to see that the people of the United States are foremost among her admirers outside the British Empire.

Near midnight I received your instructions to express to Lord Lansdowne the sympathy of the Government and people of the United States, with which I have already complied by addressing to his lordship a note (copy inclosed).

The new King enters upon his reign with the good will not of his own subjects only, but of all the world. He is at this moment (2 p. m.) holding his first council, and to-morrow at 10 o'clock he will be proclaimed.

The President's tender message of sympathy to the King has been highly appreciated here.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Mr. Choate to Lord Lansdowne.

AMERICAN EMBASSY,
London, January 23, 1901.

MY LORD: I am instructed by the Secretary of State to express to your lordship the profound sorrow of the people of the United States at the death of Her Majesty the Queen, and the deep sympathy they feel with the people of the British Empire in their great affliction.

I have, etc.,

JOSEPH H. CHOATE.

Mr. Hay to Lord Pauncefote.

No. 2055.]

DEPARTMENT OF STATE,
Washington, January 23, 1901.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of yesterday's date by which you formally convey to me the sad intelligence of the death of the Queen.

The President had already telegraphed condolences to His Majesty the King on receiving the first confirmed intelligence of her late Majesty's demise, and I had instructed Mr. Choate to express to Lord Lansdowne the profound sorrow of the Government and people of the United States and the deep sympathy we feel for the people of the British Empire in their great affliction.

As a further proof of the high regard and respect entertained for the Queen by the people of the United States, I beg to inclose for

your information a copy of a resolution^a adopted on yesterday by the House of Representatives. The text of this resolution has been cabled in full to Mr. Choate for communication to Lord Lansdowne in advance of the formal communication of an engrossed copy.

I have, etc.,

JOHN HAY.

Mr. Hay to Mr. Choate.

No. 536.]

DEPARTMENT OF STATE,
Washington, January 29, 1901.

SIR: I transmit herewith an engrossed copy of the resolution relating to the death of Queen Victoria, passed by the Senate on January 22, 1901, which, in accordance with its terms, you are to deliver to Lord Salisbury. I also inclose an open copy of the resolution.

I am, etc.,

JOHN HAY.

[Inclosure.]

[Senate Resolution No. 480, Fifty-sixth Congress, second session.]

Mr. Allison submitted the following resolution:

Resolved, That the death of Her Royal and Imperial Majesty, Victoria, of noble virtues and great renown, is sincerely deplored by the Senate of the United States of America.

Resolved, That the President pro tempore of the Senate cause to be conveyed to the prime minister of Great Britain a suitably engrossed and duly authenticated copy of the foregoing resolution.

Mr. Choate to Mr. Hay.

No. 496.]

AMERICAN EMBASSY,
London, February 6, 1901.

SIR: I have the honor to report that on the 2d instant, Saturday, I attended as the special representative of the President the funeral of her illustrious Majesty the late Queen Victoria. By direction of the earl marshal the special representatives who had been designated by various nations joined the funeral procession at Windsor and walked together behind the King and the Royal family and Royal visitors. There were six special ambassadors—two from Turkey and one each from France, the United States, Spain, and Japan. At the close of the funeral service at St. George's Chapel I attended luncheon given by the King in St. George's Hall, and after luncheon the King and Queen received the members of the diplomatic corps. I expressed to His Majesty the deep sympathy of the President, to which he replied that he had been very certain of the sympathy of the President and people of the United States and expressed his gratitude. The President's wreath which had been procured by your orders had been sent in his name to Windsor the day before, and was conspicuously placed and greatly admired.

At my interview with Lord Lansdowne yesterday he stated that he

^aPrinted ante.

had just received the commands of his Majesty to assure me of his high appreciation of the honor done to the late Queen by the President of the United States in specially authorizing attendance at her funeral by a special ambassador, and a formal note to that effect is to be sent to me.

I have, etc.,

JOSEPH H. CHOATE.

Mr. Choate to Mr. Hay.

No. 497.]

AMERICAN EMBASSY,
London, February 6, 1901.

SIR: I have the honor to transmit herewith a copy of a note received by me from Lord Lansdowne on January 27, in reply to my note of the 23d, transmitting a copy of the resolution adopted by the House of Representatives on the announcement of the deeply lamented death of Her Majesty the Queen.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Lord Lansdowne to Mr. Choate.

FOREIGN OFFICE, *January 26, 1901.*

YOUR EXCELLENCY: I duly laid before the King, my sovereign, your note of the 23d instant in which your excellency transmitted a copy of a resolution which was adopted by the House of Representatives of the United States of America on the announcement of the deeply lamented death of her late Majesty Queen Victoria, Empress of India, and I have received the King's commands to request your excellency to convey his high appreciation of this mark of sympathy and of the additional respect shown to the memory of the late Queen by the immediate adjournment of the House.

I have, etc.,

LANSDOWNE.

Mr. Choate to Mr. Hay.

No. 511.]

AMERICAN EMBASSY,
London, February 16, 1901.

SIR: With reference to your instruction No. 536 of the 29th ultimo, transmitting an engrossed copy of the resolution adopted by the United States Senate, relating to the death of Queen Victoria, I have the honor to inclose herewith a copy of a note from Lord Lansdowne expressing the appreciation of the King and his thanks for this mark of respect shown by the Senate to the memory of the late Queen.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Lord Lansdowne to Mr. Choate.

LONDON, *February 14, 1901.*

YOUR EXCELLENCY: The prime minister duly laid before the King the copy of the resolution of the Senate of the United States of America which your excellency forwarded in your note to me of the 8th instant.

By command of the King, I am to request your excellency to be so kind as to express to the President of the Senate His Majesty's most sincere thanks for the mark of respect shown by the Senate of the United States to the memory of her deeply lamented Majesty Queen Victoria, Empress of India.

The terms of the resolution are highly appreciated by His Majesty.

I have, etc.,

LANSDOWNE.

ACCESSION OF EDWARD VII.

Mr. Choate to Mr. Hay.

No. 492.]

AMERICAN EMBASSY,
London, January 26, 1901.

SIR: I have the honor to inform you that on Wednesday last, the 23d instant, the King summoned the members of her late Majesty's privy council, made to them a declaration announcing his accession, and the name by which, as King, he is thereafter to be known, and caused them to be sworn of His Majesty's privy council.

* * * * *

On the morning of the 24th instant His Majesty was duly proclaimed at St. James's Palace and in other parts of London, according to the ancient usage, as Edward the Seventh, King of Great Britain and Ireland, Defender of the Faith, and Emperor of India.

* * * * *

I have, etc.

JOSEPH H. CHOATE.

EXCLUSION OF CHINESE PERSONS FROM THE PHILIPPINE ISLANDS.

Lord Pauncefote to Mr. Hay.

No. 44.]

BRITISH EMBASSY,
Washington, February 4, 1901.

SIR: The governor of the Straits Settlements has made inquiry of His Majesty's Government as to whether persons of Chinese race though British subjects are permitted by the United States authorities to travel in the Philippine Islands.

It was reported to His Majesty's Government in September, 1899, in connection with a complaint from the Chinese minister at Washington as to the general exclusion of Chinese from the islands, that it had been decided by the United States Government to ask General Otis for further and more definite information as to what steps had been taken in the matter. No information has, however, reached my Government as to the result of this reference to Manila, and the final decision of the United States Government as to whether the Chinese exclusion act, though in force in the United States, was or was not operative in the Philippines, and I am instructed by the Marquis of Lansdowne to inquire whether you are able to furnish me with the decision the United States Government may have arrived at on this subject.

I have, etc.,

PAUNCEFOTE.

Mr. Hill to Lord Pauncefote.

No. 2148.]

DEPARTMENT OF STATE,
Washington, May 7, 1901.

EXCELLENCY: In your note of February 4 last you asked to be advised, for the information of the Government of the Straits Settlements, whether Chinese persons who are British subjects are permitted to travel in the Philippine Islands.

You also asked to be informed whether a determination has yet been reached as to whether the Chinese-exclusion laws are or are not held to be operative in those islands.

Replying to both inquiries, I have the honor to state that the position taken by the United States War Department, by whom the affairs of the islands are being administered, is as follows:

1. Chinese persons are to be excluded from the Philippines "whether subjects of China or any other foreign power."

2. That such exclusion is a military measure adopted to meet existing military necessity. Being a military expedient, it is not to be considered as in any way affecting the permanent policy of the government of the islands under the conditions of peace.

3. The military order relating to said exclusion did not extend the Chinese-exclusion acts of the United States Congress to and over the Philippine Islands as a law of the United States; the provisions of said acts were adopted as appropriate remedies for the military necessity, and made operative independently of the statute by authority resulting from military occupation.

I have, etc.,

DAVID J. HILL,
Acting Secretary.

VISIT OF U. S. S. "BROOKLYN" TO AUSTRALIA AND NEW ZEALAND ON OCCASION OF TOUR OF DUKE AND DUCHESS OF CORNWALL AND YORK.

Lord Pauncefote to Mr. Hay.

No. 81.]

BRITISH EMBASSY,
Washington, March 26, 1901.

SIR: I have the honor to inform you, by direction of the Marquis of Lansdowne, that their royal highnesses the Duke and Duchess of Cornwall and York will arrive on the 6th of May at Melbourne, where on the 9th of that month the first session of the Federal Parliament of Australia will be opened by His Royal Highness.

The governor-general has requested that it may be made known that should any ships of war of foreign powers be able conveniently to attend these festivities they will be very welcome, and everything will be done to show the officers proper attention.

I have, etc.,

PAUNCEFOTE.

Mr. Hay to Lord Pauncefote.

No. 2130.]

DEPARTMENT OF STATE,
Washington, April 5, 1901.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note, No. 81, of the 28th ultimo, and to inform you in

reply that Rear-Admiral George C. Remy, commander in chief, United States naval force, Asiatic Station, will proceed to Melbourne with the flagship *Brooklyn* upon the occasion of the visit of their royal highnesses the Duke and Duchess of Cornwall and York and the opening of the Australian Parliament.

I have, etc.,

JOHN HAY.

Lord Pauncefote to Mr. Hay.

No. 102.]

BRITISH EMBASSY,
Washington, April 24, 1901.

SIR: I lost no time in communicating to the Marquis of Lansdowne the information contained in your note No. 2130, of April 5, and I have now received his lordship's instructions to express to the United States Government the pleasure it has given His Majesty's Government to hear of the intended visit of an American vessel of war to Melbourne on the occasion of the visit of their royal highnesses the Duke and Duchess of Cornwall and York, and the gratification it will also afford to Australia.

I am further instructed to inquire whether the visit of Rear-Admiral George C. Remy will also be extended to New Zealand, and I venture to hope that you may be able to place me in a position to reply to this inquiry.

I have, etc.,

PAUNCEFOTE.

Mr. Hill to Lord Pauncefote.

No. 2150.]

DEPARTMENT OF STATE,
Washington, May 9, 1901.

EXCELLENCY: In reply to your note No. 102, of the 24th ultimo, I have the honor to inform you that it is stated in a letter of the 6th instant from the Acting Secretary of the Navy that that Department has had communication with Rear-Admiral Remy, and that it is now in a position to say that the U. S. S. *Brooklyn* will visit New Zealand after the completion of the ceremonies at Melbourne.

I have, etc.,

DAVID J. HILL,
Acting Secretary.

**ERECTION OF TABLET IN MEMORY OF FREDERICK W. RAMSDEN,
LATE BRITISH CONSUL-GENERAL AT SANTIAGO DE CUBA.^a**

Mr. Hay to Lord Pauncefote.

DEPARTMENT OF STATE,
Washington, March 26, 1901.

MY DEAR LORD PAUNCEFOTE: I transmit herewith a photograph of the tablet which our Navy Department, with a very high appreciation of his services to American naval prisoners at Santiago de Cuba

^aSee Foreign Relations, 1898, p. 380.

during the Spanish-American war, is about to place upon the house there occupied by the late consul-general of Great Britain, Frederick W. Ramsden.

In transmitting to your excellency this photograph it gives me great pleasure to join in the sentiments of grateful appreciation expressed by the Secretary of the Navy for Mr. Ramsden's magnanimous and self-sacrificing labors in behalf of our prisoners in Cuba.

I am, etc.,

JOHN HAY.

Lord Pauncefote to Mr. Hay.

No. 101.]

BRITISH EMBASSY,
Washington, April 24, 1901.

SIR: On the receipt of your letter of the 26th of March, I immediately forwarded to the Marquis of Lansdowne the photograph of the tablet which the United States Navy Department propose to place upon the house occupied at Santiago de Cuba by the late Mr. Frederick W. Ramsden, Her Majesty's consul at that port, in recognition of his exertions on behalf of the American naval prisoners during the Spanish-American war.

The Marquis of Lansdowne has now directed me to express to the United States Government the gratification of His Majesty's Government at this testimony to the services of one of His Majesty's late consular officers.

I have, etc.,

PAUNCEFOTE.

**CLAIMS OF UNITED STATES CITIZENS V. GREAT BRITAIN ON
ACCOUNT OF DEPORTATION FROM SOUTH AFRICA.**

Mr. Choate to Mr. Hay.

No. 542.]

AMERICAN EMBASSY,
London, April 12, 1901.

SIR: I have the honor to inclose herewith a copy of a notice which appeared in the London Gazette of the 9th instant, announcing the appointment of a commission for investigating the claims to compensation which have been or may be made by persons the subjects of friendly powers in consequence of their deportation to Europe by the British military authorities in South Africa.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.—Extract from The London Gazette of Tuesday, April 9, 1901.]

FOREIGN OFFICE, *April 8, 1901.*

It is hereby notified for public information that the Marquis of Lansdowne, K. G., His Majesty's principal secretary of state for foreign affairs, has appointed a commission for the purpose of investigating the claims to compensation which have been or may be made by persons the subjects of various friendly powers in consequence of their deportation to Europe by the British military authorities in South Africa.

The following gentlemen have been appointed commissioners:

Thomas Milvain, esq., K. C., chancellor of the County Palatine of Durham; Maj. Gen. J. Upton Prior; Maj. Gen. the Honorable H. F. Eaton; C. A. Wilkins, esq.,

late judge of the high court, Calcutta; R. K. Loveday, esq., formerly a member of the Volksraad of the late South African Republic.

The commission will consider the various claims which have been already brought to the notice of His Majesty's Government, together with such others as may be presented to them hereafter by or on behalf of the claimants. They will meet in London and after hearing the cases submitted to them will proceed to South Africa with a view to continuing their investigations on the spot, and on their return to London will take any further evidence which these investigations may have shown to be necessary.

Due notice will be given in the London Gazette of the date on which the commission will open its sittings.

It will be competent for the claimants to appear either in person or by counsel, and also for their respective Governments to be represented if they think fit before the commission.

All claims should be filed at the foreign office on or before the 25th instant.

Mr. White to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
London, October 26, 1901.

(Mr. White reports that Mr. Crane, counsel for the United States before the claims commission, has just informed him that the British Government offers £6,000 in full compensation for all claims of American citizens deported from South Africa up to the present date. Four thousand pounds was originally proposed by the British Government, but Mr. Crane induced them to raise the amount to £6,000, and thinks that, considering the nature of our claims, the offer is very liberal, being 50 per cent better than terms made with other governments, and strongly urges acceptance. Mr. Crane would like to be authorized to say, when the commission meets at noon next Monday, that our claims have been settled. Requests immediate instructions as to acceptance of the proposal.)

Mr. Hay to Mr. White.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 26, 1901.

(Mr. Hay directs Mr. White to authorize Mr. Crane to accept, on behalf of American claimants, the offer of the British Government of £6,000, in full settlement.)

Mr. White to Mr. Hay.

No. 694.]

AMERICAN EMBASSY,
London, October 29, 1901.

SIR: I have the honor to inclose herewith the copy of a telegram^a which I sent you on the 26th instant, after an interview with Mr. R. Newton Crane, whom, as you are aware, has represented our Govern-

^a Printed ante.

ment before the commission appointed by His Majesty's Government to inquire into the claims of the subjects of friendly powers who were deported by order of the military authorities from South Africa.

Mr. Crane called to inform me that he had received from Sir John Ardagh an intimation to the effect that the British Government would be willing to pay us £6,000, in full satisfaction of all the claims, to this date, of American citizens for wrongful arrest, imprisonment, and deportation from South Africa by the military authorities, and he strongly advised acceptance of the offer. Mr. Crane added that, from the amounts which he understood had been accepted by certain other powers, whose claimants are much more numerous than ours, he was satisfied that this proposal was 50 per cent better, in proportion, than that made to any other government; and he expressed a desire to be placed in a position, when the commission met yesterday, to state that our claims had been settled.

Upon the receipt of your reply^a to my telegram on the 26th instant, of which a copy is inclosed, I wrote Mr. Crane a note, whereof I transmit a copy herewith, together with that of his reply. From the latter you will perceive the amounts which have been accepted by Austria, Belgium, Denmark, Germany, Italy, Russia, Spain, Sweden, and Switzerland, in settlement of the claims of the subjects and citizens of those countries. You will also observe that a settlement has not yet been effected with France or the Netherlands.

I had an interview to-day at the foreign office with Lord Lansdowne, who informed me that His Majesty's Government is prepared to pay £6,000 to ours in settlement of the American claims, and I replied that I had, in accordance with your instructions, authorized Mr. Crane to inform Sir John Ardagh that our Government is willing to accept the amount in question.

I ought to add that Mr. Crane, when I saw him on the 26th, said that it was particularly desired that nothing should at present be made public as to the amount which we had agreed to accept, but merely that it should be known that our claim had been settled. Before the commission met, however, another course appears to have been adopted, and the amounts accepted by the powers whose claims have been settled were made known, at the request of the chairman, to the commission.

I have, etc.,

HENRY WHITE.

[Inclosure L.]

Mr. White to Mr. Crane.

6 WHITEHALL GARDENS, S. W.,
London, October 27, 1901.

MY DEAR CRANE: I have heard from Mr. Hay, and you are hereby authorized to accept the offer of £6,000, which you told me on Saturday has been made by His Majesty's Government, in full settlement of all our South African deportation claims to this date.

Yours, etc.,

HENRY WHITE.

[Inclosure 2.]

Mr. Crane to Mr. White.

1 ESSEX COURT, TEMPLE, E. C.,

October 28, 1901.

DEAR MR. WHITE: In accordance with the authority contained in your letter of the 27th instant, I informed Sir John Ardagh, the representative of His Majesty's Government before the South African deportation claims commission, that the United States Government was willing to accept the sum of £6,000 in full satisfaction of the claims, to this date, of citizens of the United States for wrongful arrest, imprisonment, and deportation from South Africa by the military authorities, and a settlement has been arrived at upon this basis.

At the resumption of the sittings of the commission this morning Sir John Ardagh announced that all of the foreign Governments, with the exception of France and the Netherlands, had settled for the claims of their respective subjects with His Majesty's Government in a similar manner, and upon the following terms:

Austria.....	£15,000
Germany.....	30,000
Belgium.....	800
Denmark.....	250
Russia.....	4,000
Italy.....	12,000
Spain.....	150
Sweden and Norway.....	1,000
Switzerland.....	250
The United States.....	6,000

The settlement, so far as the United States Government is concerned, is, in my opinion, an extremely favorable one, as it will afford generous compensation to the claimants whose claims have merit. The sum agreed upon is also very much larger in proportion than that received by any other Government. The total amount awarded is £69,550, and the total number of claimants among whom it is to be divided is 1,100, which gives an average of £63 4s. 6d. for each claimant. As there were only 15 claims presented by the American Government, and the sum awarded to the United States is £6,000, the average is £400 for each claimant, including the good, bad, and indifferent. Some, you will remember, are obviously entitled to no compensation, as certain of them were not American citizens, while others took up arms against the English troops. The settlement averages, roughly, a gross sum of \$2,000 for each American claimant, as against \$316 for each claimant a subject of other Governments.

In the course of a few days I will make a precis of each case and suggest in what manner the award may equitably be distributed among the claimants.

Sincerely, yours,

R. NEWTON CRANE.

Mr. White to Mr. Hay.

No. 712.]

AMERICAN EMBASSY,

London, November 23, 1901.

SIR: I have the honor to inclose herewith the report of Mr. R. Newton Crane, upon the merits of the 15 claims submitted by our Government through him to the South African deportation compensation commission, which is so full and complete that no additional observations or explanations appear to be necessary from me. Mr. Crane has been to see me several times of late on the subject, and has gone over at length the various considerations which have led to the conclusions at which he has arrived with respect to the method of distribution of the award; and I entirely concur in the views expressed in the report.

I may add that Mr. Crane has devoted a great deal of time and attention to the question of these claims ever since the commission has been sitting, and the amount which he succeeded in persuading the

British representative upon the commission, Sir John Ardagh, to recommend his Government to offer us does great credit to Mr. Crane's tact and skill as a negotiator, as well as to the desire of His Britannic Majesty's Government to deal in a liberal spirit with the claims put forward by our Government.

I would particularly call your attention to Mr. Crane's observations, under the heading "General remarks," upon the misleading computation in the tabular statement, setting forth the percentage of the awards to the claims of each country, which appeared in the Times of the 15th instant. Mr. Crane points out that the proper method of estimating the percentage of the awards to each country is not the relation that such awards bear to the total amount claimed by all the subjects or citizens of each power, but the amount averaged by each claimant. If the latter mode of computation be adopted, it will be seen how very much more, in proportion to the number of our claimants, has been awarded to us than to any other power.

I have, etc.,

HENRY WHITE.

[Inclosure.]

REPORT ON THE CLAIMS SUBMITTED BY THE UNITED STATES GOVERNMENT TO THE SOUTH AFRICAN DEPORTATION COMPENSATION COMMISSION.

In general.

Altogether 15 claims were presented, the claimants being Alfred J. Giebner, Seigfried J. Ahrberg, Frank Crus, Francisco Pudjunos, John Anderson, William Phelps, Dr. A. F. Conroy, Anna Wedekind, Charles Fowles, John Joseph Maloney, H. M. Marmorstein, Johan Sundt, ——— Sharp, ——— Lyons, and ——— Nelkin. Of these persons 5 claim to be native-born citizens of the United States, although no evidence is furnished as to the date or place of their birth, and 8 claim to be naturalized citizens. Of the other 2, Lyons and Sharp, nothing is known. Eight were deported on suspicion of being concerned in the Johannesburg plot to murder Lord Roberts and other English officers; 1 was imprisoned at Natal as a Boer spy; 1 was captured on the battlefield while serving, as he alleges, with a Red Cross ambulance corps, attached to the Boer forces; and 3 were compelled to leave the country for various reasons. Two were, strictly speaking, not forcibly deported, but appear to have voluntarily left South Africa, and at their own expense. The entire amount claimed on account of actual losses was \$52,278.29.

The commission heard all of the claims, so far as an *ex parte* statement of them could be made, except those of Lyons and Sharp. No claim has been forwarded from the Department of State on behalf of these last-named claimants, but it was mentioned to the commission that these persons had appealed to the United States Government and that their names were embraced in the letters addressed by his excellency the American ambassador to Lord Lansdowne on the 24th of October, 1900, when the claims of American subjects were first brought to the attention of His Majesty's Government. Sundt's claim was presented to the commission by his solicitors in England, Messrs. Tyrell, Lewis, Lewis & Broadment, and Sundt was orally examined by the commissioners. His claim was rejected on the ground that it appeared from his own admission that he had voluntarily left South Africa, and traveled to England at his own expense, and therefore his case was one which did not come within the jurisdiction of the commission. The claimant subsequently appealed to the Department of State, and upon instructions from the ambassador his claim was again presented to the English authorities.

The commission announced that they would hear the various claims without insisting upon any technical formality in the way of proof; that they would give the representative of His Majesty's Government, Sir John Ardagh, an opportunity to explain why each individual had been deported, and that then the claimants might put in any evidence they could adduce in reply to the charges made by Sir John Ardagh. This course was entered upon, but after the claims had been gone through it was

intimated by Sir John Ardagh that his Government desired, irrespective of any action by the commission, to agree, if possible, with the representatives of the various Governments upon a lump sum to be received by each of the powers in full satisfaction of the demands of their respective claimants, it being understood that His Majesty's Government was not to be concerned as to how the sums so paid were allocated among the various claimants.

I communicated this proposition to his excellency the ambassador in my letter of the 29th of August last, and stated that in my opinion, for reasons therein stated, it was wise to accept it. In due course I received authority to enter into negotiations with Sir John Ardagh, and after numerous interviews, extending over some weeks, an offer of £6,000 was made on behalf of His Majesty's Government to settle the American claims, and I was instructed to accept the same. The result was announced at the meeting of the commission which was held on the 28th of October, 1901, and the commission therefore ceased to have any further consideration of the matter.

The settlement, in my opinion, is a very favorable one to the United States, both in respect to the substance of the claims and the relation they sustained to those put forward by other Governments. The amount awarded to the American Government is more than 100 per cent greater than that allowed to any other Government, whether the amount claimed or the number of claimants be considered. I trust I may be permitted in this connection to express my appreciation of the courtesy, sense of fairness, and extreme indulgence shown by Sir John Ardagh throughout the protracted negotiations before the settlement was arrived at. It was extremely difficult to determine the merits of most of the claims, not only so far as the facts were concerned, but in the application of the principles of public international law and comity, to assertion of facts which were incapable of proof and were therefore considerably assumed.

* * * * *

General remarks.

Since the foregoing was written a summary of the award was made by His Majesty's Government and the percentage of the award to claims has been published by the Times newspaper of the 15th of November, 1901, as follows:

Countries.	Number of claimants.	Amount claimed.	Amount awarded.	Percentage of awards to claims.
Austria-Hungary	112	£43,800	£15,000	34.24
Belgium	6	6,000	800	13.33
Denmark	3	900	250	27.77
France	1	20,000	.....	.....
Germany	199	245,324	30,000	12.22
Greece	1	616	.....	.....
Holland	1,139	706,355	37,500	5.30
Russia	28	10,175	4,000	39.31
Italy	113	51,000	12,000	28.52
Spain	2	520	150	28.84
Sweden and Norway	8	4,000	1,000	25
Switzerland	5	760	250	32.89
United States	14	27,000	6,000	22.22

As it is not improbable that the award of the British Government in this instance may be quoted as a precedent in the future, it should be noted that the above calculation gives a misleading idea of the manner in which the claims have been settled, as most any calculation based upon the relation the award made bears to the sums claimed. The amount claimed is too often not the sum which a claimant honestly thinks is justly due to him for the loss he has suffered, but it is the sum which his caprice or cupidity fixes as that which may possibly be allowed him. In the present instance the allowances demanded for "moral" damages by other claimants than the Americans were very small. Among the American claimants themselves there was a very wide disparity in appraising their losses. Of 3 men in the same occupation, and the same employ, and the same domestic surroundings, deported together, under almost identically the same circumstances, 1 places his demand, at \$5,220; another, at \$11,112.50; and another, at \$50,000.

A fairer way of ascertaining what the award amounts to is by computing what it averages per claimant, practically when, as in this instance, those who make the claims were of practically the same walk of life and employment, and deported under like conditions.

The result of such a computation is as follows:

Countries.	Number of claimants.	Amount awarded.	Average per claimant.		
		£	£	s.	d.
Austria-Hungary	112	15,000	133	18	6
Belgium	6	800	133	6	8
Denmark	3	250	83	6	8
Germany	199	30,000	150	15	0
Holland	1,139	37,500	32	18	4
Russia	28	4,000	142	17	1
Italy	113	12,000	106	3	10
Spain	2	150	75	0	0
Sweden and Norway	8	1,000	125	0	0
Switzerland	5	250	50	0	0
United States	14	6,000	428	11	5

I can not conclude this report without drawing the attention of the Government to the fact, disclosed by affidavits filed with the State Department, that some of the claimants have contracted to pay their local attorneys for presenting their claims 50 per cent of whatever sum may be awarded to them. In the case of one of the attorneys the fee which he will receive, if the recommendations which I have made in this report are carried out, will amount to £750. His services consisted in filing memorials which, although he has been given ample opportunity to do so, have not been supported by a single word of proof of the assertions which they contain. He has been acquainted with the charges made against his clients, but has either been indifferent to them or unable to meet them. If it had been necessary for him to embark in protracted litigation in their behalf and to have devoted time, labor, and skill achieving success for them, such compensation might not have been excessive. But in this case his labors have been of no material advantage.

I therefore trust the Government may find some way of letting it be known that in future such claims do not need the intermediation of attorneys, but can be presented directly by citizens themselves. As the appeals I have made to some of these attorneys to furnish me with evidence to meet the accusation made by the British Government against their clients have met with no response whatever, I think it is only fair to presume that either they no longer represent their former clients, or that the latter are not now living. In either case the Government will be justified in refusing to pay over to the attorneys such sums as may be allotted to their clients until the latter have been directly communicated with, and have had the circumstances explained to them, and have been given an opportunity to confirm or withdraw any powers of attorney they may have heretofore executed for the collection of their respective claims.

R. NEWTON CRANE.

TEMPLE, November 16, 1901.

SUPPLEMENTARY TREATY OF EXTRADITION BETWEEN THE UNITED STATES AND GREAT BRITAIN.

Signed at Washington December 13, 1900; ratification advised by the Senate March 8, 1901; ratified by the President March 28, 1901; ratified by Great Britain March 25, 1901; ratifications exchanged at Washington April 22, 1901; proclaimed April 22, 1901.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Supplementary Treaty of Extradition between the United States of America and Great Britain was concluded and signed by their respective plenipotentiaries at the City of Washington on the thirteenth day of December, 1900, the original of which Treaty is word for word as follows:

The President of the United States of America and Her Majesty the Queen of Great Britain and Ireland, being desirous of enlarging the

List of Crimes on account of which Extradition may be granted under the Convention concluded between the United States and Her Britannic Majesty on the 12th of July 1889, with a view to the better administration of justice and the prevention of crime in their respective territories and jurisdictions, have resolved to conclude a Supplementary Convention for this purpose and have appointed as their Plenipotentiaries, to wit:

The President of the United States, the Honorable John Hay, Secretary of State of the United States, and

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, His Excellency the Right Honorable Lord Pauncefote, Knight Grand Cross of the Most Honorable Order of the Bath, Knight Grand Cross of the Most Distinguished Order of St. Michael and St. George, and Her Majesty's Ambassador Extraordinary and Plenipotentiary to the United States;

Who, after having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following Articles:

ARTICLE I.

The following crimes are added to the list of crimes numbered 1 to 10 in the first Article of the said Convention of July 12, 1889, on account of which extradition may be granted, that is to say:

11. Obtaining money, valuable securities or other property by false pretenses.

12. Wilful and unlawful destruction or obstruction of railroads which endangers human life.

13. Procuring abortion.

ARTICLE II.

The present Convention shall be considered as an integral part of the said Extradition Convention of July 12, 1889, and the first Article of the last mentioned Convention shall be read as if the list of crimes therein contained had originally comprised the additional crimes specified and numbered 11 to 13 in the first Article of the present Convention.

The present Convention shall be ratified and the ratifications shall be exchanged either at Washington or London as soon as possible.

It shall come into force ten days after its publication in conformity with the Laws of the High Contracting Parties and it shall continue and terminate in the same manner as the said Convention of July 12, 1889.

In testimony whereof the respective Plenipotentiaries have signed the present Convention in duplicate and have thereunto affixed their seals.

Done at Washington this 13th day of December, 1900.

JOHN HAY [SEAL.]
PAUNCEFOTE [SEAL.]

And whereas, the said Treaty has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the City of Washington, on the twenty-second day of April, one thousand nine hundred and one;

Now, therefore, be it known that I, William McKinley, President of the United States of America, have caused the said Treaty to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this 22nd day of April, in the year of Our Lord one thousand nine hundred and one, and of the Independence of the United States the one hundred and twenty-fifth.

[SEAL]

WILLIAM MCKINLEY

By the President:

JOHN HAY

Secretary of State.

**PROTECTION BY UNITED STATES CONSUL OF BRITISH INTERESTS
IN THE AZORES.**

Mr. Hill to Mr. Choate.

No. 644.]

DEPARTMENT OF STATE,

Washington, May 29, 1901.

SIR: In a dispatch dated May 5, 1901, Mr. Pickerell, the United States consul at St. Michaels, Azores, reported to the Department that he had been requested by the British consul there to act for him during his proposed absence in England.

In reply the Department cheerfully gave its permission on the understanding that Mr. Pickerell's so acting shall be entirely agreeable to the British Government and to the local authorities at St. Michaels, and that any duties he might be called upon to perform in this connection shall be as consul of the United States temporarily in charge of the British consulate, and all papers to be so signed.

You will communicate this to the British Government.

I am, etc.,

DAVID J. HILL.

Mr. Choate to Mr. Hay.

No. 598.]

AMERICAN EMBASSY,

London, June 22, 1901.

SIR: With reference to your instruction No. 644, of the 29th ultimo, relating to the action of Mr. Pickerell, our consul at St. Michaels, Azores, in taking charge of the British consulate during the proposed absence of the British consul, I have the honor to inclose herewith a copy of a note from the foreign office, dated the 19th instant, conveying the thanks of His Majesty's Government for the courtesy of the United States Government in the matter.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

*Lord Lansdowne to Mr. Choate.*FOREIGN OFFICE, *June 19, 1901.*

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 13th instant and to inform you that His Majesty's consul at the Azores had already reported for the sanction of His Majesty's Government the arrangement by which his duties will be performed during his absence by the consul of the United States.

I have to request your excellency to convey to the United States Government the thanks of His Majesty's Government for their courtesy in this matter.

I have, etc.,

LANSDOWNE.

**RIGHTS OF BRITISH SUBJECTS IN CUBA ARE NOT GOVERNED
BY TREATIES, EITHER WITH THE UNITED STATES OR SPAIN,
BUT BY ALIEN LAW OF 1870.**

MEMORANDUM.

[Confidential.]

BRITISH EMBASSY,
Washington, May 31, 1900.

Her Majesty's embassy has been directed by Her Majesty's Government to ascertain from the United States Government what their views are as to what rights and privileges can be claimed on behalf of British subjects in Cuba.

It has been assumed by Her Majesty's consul-general in Habana that, failing any declaration to the contrary, the rights and immunities hereto enjoyed by British subjects would be continued as long as the temporary occupation lasted, but he was informed by the United States military governor that the only rights which could now be claimed were those under treaties between the United States and Great Britain.

It appears that Her Majesty's consul-general, immediately after his arrival, called on General Brooke, and, in reply to inquiries as to what rights British subjects would enjoy under the new régime, was informed that the existing laws would remain in force in all respects until specifically altered or modified. General Wood now states that from April 11, the date of the exchange of ratifications of the treaty of Paris, all former treaties and conventions relating to the island ceased to exist, and, as above mentioned, the only rights which could now be claimed by British subjects were those which were secured by treaties concluded between the United States and Great Britain.

 MEMORANDUM.

DEPARTMENT OF STATE,
Washington, March 2, 1901.

With reference to the British embassy's confidential memorandum of May 31, 1900, the United States Government does not regard existing treaties as embodying rights and immunities of British subjects in Cuba, Cuba's affairs having been withdrawn from British

treaties with Spain and not having been embraced by British treaties with the United States, which antedated intervention.

The rights, immunities, etc., of aliens in Cuba are elaborately prescribed in the alien law of 1870, which the Attorney-General has recently held to be in force in Cuba. (Opinion of April 26 to Secretary of War; copy handed herewith.) That law, of 57 sections, throws open the courts in Cuba to protect such rights. It is applicable to British subjects.

[Inclosure.]

DEPARTMENT OF JUSTICE,
Washington, D. C., April 26, 1900.

THE SECRETARY OF WAR.

SIR: I have the honor to acknowledge the receipt of the following request for an opinion:

“WAR DEPARTMENT,
Washington, April 16, 1900.

“SIR: I have the honor to present a matter arising in a court of Cuba which seems to involve an interpretation of the treaty of peace with Spain.

“On July 2, 1899, one Ramon Martí y Buguet, a native of Tarragona, Spain, and a Spanish subject, died intestate at Baez, Santa Clara, Cuba, leaving an estate. The court of Santa Clara, having jurisdiction under Spanish law to administer upon estates of persons dying within its jurisdiction, assumed control of said estate and proceeded to administer thereon, pursuant to Spanish law for the administration of estates of deceased natives of Cuba.

“On the 15th of July, 1899, the Spanish consul at Cienfuegos, having learned of the death of Martí, addressed a letter to the judge at Santa Clara, requesting that his consulate be permitted to administer upon the estate of the deceased, pursuant to the provisions of article 44 of the alien law put in force in the island of Cuba while Spanish dominion prevailed therein.

“The court refused to comply with the request of the Spanish consul, and the estate was administered upon in accordance with the laws regulating the administration of estates of deceased natives of the island.

“The Spanish minister at this capital calls the attention of the Government of the United States to this matter and requests this Government to annul the orders made regarding said estate by the judge of said court.

“The questions thus presented appear to me to be:

“1. Under the provisions of the treaty of peace between the United States and Spain (December 10, 1898), did the court of Santa Clara have exclusive jurisdiction to administer upon the estate of said Don Ramon Martí, deceased?

“2. If the said Don Ramon Martí at the time of his death was a resident of Santa Clara, Cuba, did the Spanish consul have the right to participate in the administration of said estate?

“3. If the request of the Spanish consul to be allowed to participate in the administration of said estate was improperly refused by the court, did the court thereafter possess jurisdiction to administer upon said estate?

“I have the honor to request that you will favor me with your opinion upon the matter above presented.

“Very respectfully, yours,

“ELIHU ROOT, *Secretary of War.*

“THE ATTORNEY-GENERAL.

“NOTE.—The original papers in the case are also inclosed, which please return with your reply.

“1075 and inclosures 1, 3, 4, 5, 6, 7, and press copies.”

The inclosures of your letter show the following order of the judge of Santa Clara, dated the 25th of July, 1899:

“As it appears that Don Ramon Martí Buguet, a native of Tarragona, died on the 2d instant, in the precinct of Baez, belonging to this judicial district, without leaving any relatives or testamentary provisions, this court has ordered the proclamation of the intestacy.” “As it appears that, on the 15th instant, the Spanish consul at Cienfuegos addressed a communication to this court, stating that, having heard that the Spanish subject, Don Ramon Martí, had died intestate, he has appointed Don Benito Mendiña, under article 44 of the alien law in force, to draw up the inventory and

to carry out all the other proceedings provided by said law." "Considering, first, that there is no evidence to show that Don Ramon Martí had obtained the registration required by article 9 of the treaty of Paris, concluded between Spain and the United States on the 10th of December of last year, in order to retain his Spanish nationality, and (considering) that, until such registration is proved by record, he must be regarded as a native of Cuba and, consequently, subject only and exclusively to the provisions of the law of civil procedure and the civil code now in force." "Considering, that, even if the reason hereinbefore stated did not exist, the provisions of the alien law cited by the Spanish consul at Cienfuegos would still not be applicable, because, under article 11 of the said treaty, Spaniards residing in the territories over which Spain has ceded or abandoned her sovereignty, remain subject, in civil and criminal matters, to the jurisdiction of the country in which they reside, in accordance with the ordinary laws in force in such territories, and must appear and plead in the same manner as the citizens of the country in which they reside." "In view of the articles of the treaty of Paris, it is declared that the intervention of the Spanish consul at Cienfuegos in those proceedings can not be permitted; and it is ordered that he be notified of this decision by a courteous note."

An examination of Article IX of the treaty of Paris shows that Spaniards residing in the ceded or relinquished territories were to have a year within which to make up their minds whether to preserve—not acquire—Spanish nationality, and I think there is no doubt that a Spaniard born in the peninsula who died in Cuba before the expiration of that year was, in the contemplation of the treaty, a Spanish subject at the time of his death.

Article XI of the treaty relied upon by the judge is, in the English copy, as follows:

"The Spaniards residing in the territories over which Spain by this treaty cedes or relinquishes her sovereignty shall be subject in matters civil as well as criminal to the jurisdiction of the courts of the country wherein they reside pursuant to the ordinary laws governing the same; and they shall have the right to appear before such courts and to pursue the same course as citizens of the country to which the courts belong."

The first part of this article treats of the position of Spanish residents when proceeded against in court, the latter provides implements for their use. The former subjects them as defendants to the tribunals, according to the ordinary laws which may regulate the competency of the tribunals (*leyes comunes que regulen su competencia*); the latter places at their disposal, though aliens, the right to appear before the tribunals (*comparencia en juicio*) according to the same laws of procedure (*forma*) and carrying on the same course of pleading and practice (*procedimientos*) as citizens of the country.

In so placing at their disposal the free right to appear and proceed like citizens, I do not understand that the treaty intended to make it unlawful to give them better methods of appearing or proceeding as alien parties or as Spanish residents in addition to those of citizens. The provision was for their benefit—they were to be allowed, at least, the same "*forma*," and same "*procedimientos*" as citizens. On the other hand, there is still less reason to say that as defendants they could not be subjected to any laws regulating the jurisdiction of the courts except those concerning cases between citizens of the country. The first part of Article XI says nothing of citizens of the country. It says they shall be subject to the tribunals according to the ordinary, the usual (*comunes*), laws concerning their competency or jurisdiction.

What is meant by ordinary or usual? It was usual in every one of the countries mentioned to have laws concerning aliens, laws which incidentally affected the competency of the courts. Article IX of the treaty alludes to these long familiar laws and the possibility of others to be enacted. Such as these, in my opinion, are not excluded by the word ordinary (*común*).

Spanish residents at the time of the making of the treaty were somewhat uneasy lest they should be persecuted, and desired to be guaranteed that a proper course of procedure would be followed in criminal and civil actions against them; but they expected to be aliens, subjects of a foreign sovereign, and to be treated by the laws as such. They desired to be subjected to the tribunals only as other aliens might be; to the ordinary tribunals acting without special authority directed against them.

Article 47 of the alien law, which denied any special *fuero* to aliens (not, as translated, "special right or privilege"), operated to confirm a transfer of aliens (*extranjeros*) in the provinces, from the old *fuero de extranjería* and other special *fueros* (e. g., of war and marine), to the same courts to which Spaniards were subject, "according to the cases," certainly without any purpose by so doing to make them cease to be aliens or to prevent the interposition in administrations of their respective consuls; and I think it was as little the intent of the provisions of Article XI of the treaty to exclude that interposition. The article forbids the establishment of

the old fuero of aliens and that of a new fuero of Spaniards, but not all laws affecting the business concerning aliens which may come into the ordinary courts or fueros "according to the cases." Such a treaty provision might even be unconstitutional and void.

The reasons given in 1868 and 1869 for the general abandonment of special fueros for the ordinary or common fuero were:

"In those regions (colonies), as in Spain, the diversity of fueros paralyzes the march of the administration of justice by the numerous jurisdictions (competencias) to which it gives rise, disorganizes the judicial hierarchy, renders impossible the formation of a correct and enlightened jurisprudence, and is the cause at times of contradictory judgments, in identical cases, which diminishes respect for the law and for the tribunals."

I can not suppose, without manifest proof, that the United States were stipulating to cripple permanently in Porto Rico and the Philippines, and (by persuasion) in Cuba, the vital power to make and judicially enforce laws concerning alien inhabitants.

It must be remembered that, so far as Cuba is concerned, this Article XI does not bear the same relation to the alien law as though the latter were an act of Congress. The treaty is an agreement between Spain and the United States; supreme law for and over the latter, but not for and over Cuba. It obliges us, while acting in that country, to see to it that the Spaniards there are treated as the Article XI intends; but the alien law, while temporarily continued and enforced by the power of the United States, is rather the law of and for another country. It is an old law in Cuba, and is doubtless intended to be left in Cuba when we and our treaty are gone.

In my opinion, then, there is no reason to say that Article XI of our treaty prevents article 44 of the alien law of Cuba from being applicable to the estate of Don Ramon Martí y Buguet.

Both of the conclusions of the court at Santa Clara, therefore, as I think, proceeded from erroneous views of the treaty of 1898.

Your third question is:

"If the request of the Spanish consul to be allowed to participate in the administration of said estate was improperly refused by the court, did the court thereafter possess jurisdiction to administer upon said estate?"

At first view, this seemed to me a question so exclusively of Spanish civil law, with which the secretary of justice and the courts of Cuba are familiar, that I was disposed to suggest that it be referred to them for consideration in the light of the views concerning the treaty hereinbefore set forth. But as I perceived from the inclosures of your letter that two secretaries of justice and some local official attorneys in Cuba have had this matter under consideration, and as I recognized that the international aspect of it might render it difficult for the question to be determined by the familiar rules of the Spanish law concerning appeals, proceedings in cassation, decisions between conflicting jurisdictions, etc., it seemed to me better to attempt to give a direct answer to your inquiry.

An examination of the original Spanish of the alien law, article 44 (of which you inclosed a translation), makes it clearer that the first paragraph of that article aims at the preservation of the property for the benefit of the heirs, rather than the exercise of the judicial power of Cuba in determining who may be the heirs or determining any other question concerning the estate.

Who, then, is expected by the alien law to determine such questions—the consul, the local judge, or both? If the consul is to have any judicial function in the matter, is he with the local judge to constitute a tribunal exercising the judicial power of Cuba, is he to exercise the judicial power of his own country and wholly exclude the local judge from judicial action, or is the consul to exercise the judicial power of his own country upon certain questions and to be the administrator as an officer of his own country, and the judge, with regard to other questions, to step in and exercise the judicial power of Cuba?

It seems to me that some light may be thrown upon these questions by articles 42, 43, and 45 of the alien law, articles 42 and 43 speaking (in the original Spanish) of demands giving rise to a special set of questions, and article 45 providing that in intestate proceedings the Spanish court shall have jurisdiction only of those demands. In the translation of the alien law which you sent me, the word "demands" is omitted from articles 42 and 43, and your translation of them, and of articles 44 and 45, is as follows:

"Article 42. They shall also be subject to said laws and courts in all suits instituted by or against them for the fulfillment of obligations contracted within and outside of Spain in favor of Spaniards, or which involve the ownership or possession of property situated in Spanish territory.

“Article 43. The Spanish tribunals shall also have jurisdiction over and shall take cognizance of suits between aliens brought before them and which involve the fulfillment of obligations contracted or to be fulfilled in Spain.

“Article 44. In the case of an alien dying intestate the judicial authority of the town in which the death occurs shall, together with the nearest consul of the nation to which the deceased belonged, or with the person appointed by the consul in his stead, take an inventory of the property and goods and shall take the necessary steps to have the same placed under custody and at the disposal of the heirs.

“Should the alien be a resident, and should he die outside of his domicile, the judge of the latter, to whom notice shall be sent by the judge of the place where the death occurred, shall fulfill the provisions of the foregoing paragraph with regard to the property and effects of the deceased existing there.

“Should there be no consul in the town where the death occurred or in the domicile, the judicial authority, while awaiting the arrival of the consul, whom he shall advise immediately, or of his delegate, shall only take the measures necessary for the custody of the property and of the goods.

“Article 45. In intestate as well as in testamentary successions of aliens, the Spanish courts shall have cognizance only of the claims and demands referred to in the foregoing articles.”

Further light, I think, can be thrown upon the questions by an examination of two treaties, the making of which closely preceded the alien law of 1870, one of Spain with France (A. D. 1862), and the other of Spain with Italy (A. D. 1867). I quote three articles, which are substantially the same in both treaties.

“XVII. In case of the decease of any subject of one of the contracting parties in the territory of the other, the local authorities must give immediate notice to the consul-general, consul, vice-consul, or consular agent in whose district the decease has occurred, and they, on their part, must give the same notice to the local authorities when the decease comes to their knowledge first.

“If an Italian in Spain or a Spaniard in Italy should die without making a will, or without appointing a testamentary executor, or if the legitimate or testamentary heirs should be minors, incapable or absent, or if the testamentary executors appointed should be incapable, or should not be found in the place where the property has been left, the consuls-general, consuls, and consular agents of the deceased's nation shall have the right of proceeding successively to the following operations:

“1. To affix seals, *ex officio* or at the request of the parties interested, on all the movable property and papers of the deceased, giving notice of this operation to the competent local authority, who may be present and affix his own seals also.

“These seals, as well as those of the consular agent, must not be removed without the consent of the local authority. Nevertheless, if, after a notice addressed by the consul or vice consul to the local authority, inviting him to be present at the removal of the double seals, he should not appear within forty-eight hours from the time of receiving the notice, the said agent may proceed to the operation by himself.

“2. To draw up the inventory of all the goods and effects of the deceased, in the presence of the local authority, if he has attended in consequence of the aforesaid notification.

“The local authority shall put his signature to the reports drawn up in his presence, and shall have no right to demand fees of any kind for his official intervention in said matters.

“3. To provide for the sale at public auction of all the movable effects of the estate which may deteriorate, and of those which may be difficult to preserve, as well as of the collections or effects for the disposal of which there may be favorable opportunities.

“4. To deposit in a secure place the effects and securities inventoried; to keep the amount of the debts and incomes received and the proceeds of the sales, in the consular house, or to intrust them to some merchant who gives good security. In both cases he must proceed in concurrence with the local authority who has taken part in the previous operations, if, after the summons referred to in the following paragraph, subjects of the country, or of a third power, should represent themselves as interested in the estate.

“5. To announce the death which has taken place, and to summon, by means of the newspapers of the place and of the deceased's country, such persons as may have claims against the estate, in order that they may send in their respective claims duly approved within the legal period of each country.

“If creditors of the estate should appear, their debts must be paid in fifteen days from the completion of the inventory, if there should be ready money enough for the purpose; and if not, as soon as the funds can be obtained in the most convenient

manner, or within the period fixed by common consent between the consul and the majority of those interested. If the respective consuls should refuse payment of one or more of the claims brought in, alleging the insufficiency of the property of the estate to satisfy them, the creditors may, if they consider it advantageous to their interests, demand of the competent authority the power of constituting themselves as a body.

"Such a declaration having been obtained by the legal means established in each of the two nations respectively, the consuls or vice-consuls must immediately consign to the judicial authority or to the syndics of bankruptcy, as the case may be, all the documents, effects, and securities belonging to the estate, and the said agents will remain as the representatives of the heirs who are absent, minors or incapable.

"6. To administer and liquidate the estate, either themselves or through a person appointed on their responsibility, the local authorities having no power to interfere in those operations, unless subjects of the country, or of a third power, should have to prove rights upon the estate itself, and that in such case difficulties should arise chiefly proceeding from some claim which gives rise to discussion among the parties; the consuls-general, consuls, vice consuls or consular agents, having no right to decide therein, it must be brought before the tribunals of the country, whose place it is to provide for and settle such difficulties.

"The said consular agents will then act as representatives of the estate; that is, they will retain the administration and the right of definitively liquidating the inheritance, as well as that of proceeding to the sale of the effects in the periods before prescribed, they will take care of the interests of the heirs, with the power of appointing advocates to maintain their rights before the tribunals; and it is understood that they must furnish all the papers and documents necessary to explain the question which is submitted to their judgment.

"When the sentence has been pronounced, the consuls-general, consuls, vice-consuls or consular agents must execute it, unless they interpose an appeal; and they will also continue of full right to carry on the liquidation which was suspended until judgment had been passed.

"7. To consign the inheritance or the produce thereof to the lawful heirs or to their agents, but not until the expiration of the term of six months from the date on which the announcement of the death was published in the newspapers.

"8. To constitute, whenever it may be necessary, a guardianship or trusteeship, according to the laws of their own country.

"XVIII. If an Italian die in Spain or a Spaniard in Italy, at a place where there is no consular agent of his nation, the competent local authority shall proceed, in accordance with the laws of the country, to make an inventory of the effects, and to liquidate the property left, under the obligation of rendering an account, as soon as it is possible, of the results of his operations, to the respective embassy or legation or to the consulate or vice-consulate nearest to the place where the property has been left, but from the instant that the consular agent nearest to the place where the property has been left makes his appearance, either in person or by means of any delegate, the intervention of the local authority must be in accordance with the provision in Article XVII of this convention.

"XIX. The consuls-general, consuls, vice-consuls, and consular agents of both nations shall attend exclusively to the inventories and other precautionary measures for the preservation of the hereditary property left by sailors of their nation, dying ashore or on board the vessels of their country, whether during the voyage or in the port of their arrival."

It is clear that under this treaty system between these three Latin countries—Spain, Italy, and France—the consul is to exercise an extraterritorial judicial power and to be the real administrator of the estate, but that disputes in which the country where the death occurred has some special interest, as where its own people or the people of a third country, whom it should protect, are concerned, are to be carved out of his jurisdiction and settled by the local judicial authority, leaving him to resume his functions when these special questions have been determined.

Similar treaties had anciently been made with England. Thus, in Warden's Consular Establishment, page 252, we read:

"In a treaty with Spain, made in 1667, it was stipulated that the goods and estates of Englishmen, dying without will in that Kingdom, were to be put into inventory, with their papers, writings, and books of account by the consul, or other public minister of the King of Great Britain, and placed in the hands of two or three merchants named by the said consul or public minister, to be kept for the proprietors or creditors; and that neither the cruzada, nor any other judicatory whatsoever, should intermeddle therein; which, also, in the like case was to be observed in England toward the subjects of the King of Spain."

Still further light is shed upon our questions, I think, by the consular system of Spain, in which her consuls in foreign countries are authorized to exercise all the

powers of courts of first instance, if permitted to do so by the laws of the country to which they are accredited.

I can not but think, from these and similar considerations, that the privilege intended to be accorded to foreign consuls by article 44 of the alien law was not merely to be present and see that the local judicial authority did what was proper, nor to exercise any part of the judicial power of the country to which the consul was accredited, but to be the administrator and judge in charge of the business of settling the estate and succession.

It seems to me, therefore, that to oust the consul altogether, as was done in the matter of the estate of Don Ramon Marti y Buguet, and proceed without him, was to proceed without jurisdiction, and I therefore answer your third question in the negative.

Respectfully,

JOHN W. GRIGGS,
Attorney-General.

COURTESIES SHOWN U. S. S. "HARTFORD" IN SCOTLAND.

Mr. Hay to Mr. Choate.

No. 669.]

DEPARTMENT OF STATE,
Washington, July 10, 1901.

SIR: I inclose herewith, for a compliance with its request, copy of a letter from the Acting Secretary of the Navy asking that the thanks of the Navy Department be extended to the lord provost of Edinburgh and the provost of Leith, Scotland, for the great courtesies with which the officers and men of the *Hartford* were received on visiting Leith in June last.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Hackett to Mr. Hay.

NAVY DEPARTMENT,
Washington, July 6, 1901.

SIR: I have the honor to request that, if deemed proper by the Department of State, the thanks of this Department be extended to the lord provost of Edinburgh and the provost of Leith, Scotland, for the great courtesies with which the officers and men of the *Hartford* were received on visiting Leith during June last.

Yours, respectfully,

T. W. HACKETT, *Acting Secretary.*

AWARD BY GREAT BRITAIN OF £600 TO CHARLES LILLYWHITE, A NATURALIZED UNITED STATES CITIZEN, ON ACCOUNT OF HIS ARREST, FALSE IMPRISONMENT, AND DEPORTATION FROM NEW ZEALAND TO ENGLAND.

Mr. Choate to Mr. Hay.

No. 640.]

AMERICAN EMBASSY,
London, August 14, 1901.

SIR. I inclose a petition^a addressed to me by Charles Lillywhite, a naturalized American citizen (British born), asking me to present his claim set forth in the petition to the British Government, in respect to which I have the honor to ask your instructions, having myself a strong opinion that he is entitled to have it presented diplomatically.

^a Not printed.

You will observe that it is the case of the arrest in New Zealand of the wrong man for a crime committed in England seven years before, and taken away from his residence and his work; kept in custody for more than 6 months, under circumstances of very considerable hardship; transported to England and there discharged, there being clear proof that he was not the man.

You will also observe that Lillywhite resided in the United States most of the time for nine years, from 1885 to 1894, during which period, in 1890, he became an American citizen, and still claims full rights as such. I inclose copy of a letter just received from Mr. Barratt, his counsel, in answer to my inquiry whether, in the six years since he left the United States, he had any idea of abandoning his American citizenship—which appears to be satisfactory.

What has thus far occurred in respect to the claim is this: About the 1st of July, soon after his release, which occurred on the 26th of June, he called on me to know what he should do. The newspapers had expressed much sympathy for him, and the home secretary, in answer to a question in the House of Commons, had intimated that he was waiting to hear from the claimant. It seemed to me that it was a case which the British Government would prefer to take care of themselves in a liberal spirit, without any formal or official intervention—and I told him that I would say so to Lord Lansdowne unofficially, which I did. He said that he would speak to the home secretary about it, and I asked him to let me know what steps he would suggest the claimant should take. After some time I received the inclosed note of July 23, from Lord Lansdowne—which, as I told him after perusing it, seemed to treat my inquiry as official rather than unofficial, as I had regarded it; but he said that in such a matter he thought that made no difference, and expressed a general disposition to do the fair thing in the matter. I have concluded that, if you regard him as entitled to it, the claimant will be greatly aided by having his case presented officially to the foreign office under your express authority. You will observe that Lord Lansdowne says that, “if any application is made direct by Mr. Lillywhite, it might be addressed to the mayor of Colchester,” but I am of the opinion that a proceeding so initiated would have but a slim chance. I have not, however, felt authorized to initiate officially, without your express instructions, a diplomatic claim.

You will observe that Lord Lansdowne asks for information as to the practice in the United States in such cases, but I do not believe that such a case has ever occurred in the United States. It is not an ordinary case of a false arrest and imprisonment. The man was torn from his place of residence and brought half round the globe, and subjected to great hardships, on a mistake of identity; and I think that Lord Lansdowne and the home secretary both regard it as an unusual case and entitled to exceptional treatment. And I shall be much surprised if investigation should not disclose many cases somewhat similar, which have been presented diplomatically with favorable results (vide cases in Vol. IV Moore's International Arbitration Digest).

I therefore inclose the petition for your perusal and instructions; and, whatever your conclusion may be, I will be obliged if you will return the petition to me, as I have made no copy; and I suppose that the making of copies would entail large expense on the claimant.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure 1.]

*Mr. Barratt to Mr. Choate.*1 TEMPLE GARDENS, TEMPLE, E. C.,
August 13, 1901.

DEAR MR. CHOATE: I have just seen Mr. Lillywhite, and he states that the Labor Party in New Zealand several times approached him about becoming a British subject and standing as a labor candidate for the New Zealand Parliament. He always refused to change his citizenship from American to British.

He also states that when going into the hospital at Wellington, New Zealand, in 1900, he gave his proper description as an American, and it so appeared on the card at the head of his bed in the hospital—that he was well known amongst his fellows there to have strong American sentiments.

The evidence annexed to the petition shows that he went by the name of "Yank" amongst his fellow-workmen.

This, I think, meets the suggestion that he may have abandoned his American citizenship fairly well.

Yours, etc.,

J. ARTHUR BARRATT.

[Inclosure 2.]

*Lord Lansdowne to Mr. Choate.*FOREIGN OFFICE, *July 23, 1901.*

YOUR EXCELLENCY: On the 28th ultimo your excellency made a verbal representation relative to the case of Charles Lillywhite, a United States citizen who was brought to this country from New Zealand on a charge of murder and who was discharged on the ground of mistaken identity. You intimated that Lillywhite had a claim to compensation on account of the mistake made by the British authorities.

I have the honor to inform your excellency that an inquiry has been made and that the following is a summary of the facts bearing on the matter.

On the 11th of January, 1894, a coroner's jury at Colchester returned a verdict of willful murder against one Arthur Blatch. The crime charged was one of special atrocity, and the evidence against Blatch was considered conclusive.

It was at first believed that Blatch had gone to Chicago, and an application was made to the United States authorities for his extradition, but he could not be traced in that town. In February, 1897, the Colchester police received news from the police at Wellington, New Zealand, that Blatch had been seen there, but an endeavor made at the time to arrest him led to no result. In November of last year, however, the man identified as Blatch was arrested at Wellington; the warrants issued by the coroner and the mayor of Colchester in 1894 were sent for execution, together with the evidence taken in the case, and in due course an order was made for the prisoner's return to this country.

On his appearance before the magistrates it was conclusively shown to be a case of mistaken identity, the defendant being Charles Lillywhite and not Arthur Blatch; but it should be mentioned that besides the witness on whose information the prisoner was arrested, 2 police constables specially sent out from Colchester, and another witness, positively identified the prisoner as Blatch.

In cases in this country where one man has been arrested in mistake for another and is discharged by the magistrate, it is not the practice for any compensation to be given from public funds. His Majesty's Government, however, are not aware of any previous case in which a mistake of this kind has led to the defendant being conveyed for so long a distance. If any application for compensation is made direct by Mr. Lillywhite, it might be addressed to the mayor of Colchester; but no opinion can be expressed as to the manner in which it would be dealt with until the precise nature of the claim is known.

In considering any such application it would be of advantage to His Majesty's Government to know whether it is customary for any compensation to be given from Federal funds or from other public sources to persons arrested by mistake, and generally to be furnished with any information as to the practice in the United States with regard to compensation in analogous cases. I shall be grateful if your excellency can assist me on these points.

I have to add that Lillywhite's passage back to New Zealand will be paid to him if he applies to the home office, Whitehall.

I have, etc.,

LANSDOWNE.

Mr. Adee to Mr. Choate.

No. 708.]

DEPARTMENT OF STATE,
Washington, August 27, 1901.

SIR: Your No. 640, of the 14th instant, transmitting the petition of Charles Lillywhite, a naturalized citizen of the United States, for compensation from the British Government for his long and unjust detention on suspicion of being another person who stands charged with murder, has been received.

You indicate that the home secretary and the Marquis of Lansdowne are favorably disposed toward the idea of compensating the petitioner for his long and unjust imprisonment, and you express the opinion that diplomatic interposition in favor of Lillywhite would be of great benefit to him.

Under the circumstances, you are instructed to present Mr. Lillywhite's petition officially to the principal secretary of state for foreign affairs and to ask that such compensation be granted petitioner as may be just and equitable, in accordance with his prayer.

Mr. Lillywhite annexes only an uncertified copy of his certificate of naturalization to his petition. You will demand to see the original which he offers to produce if required.

No such case as the one under discussion is known to the Department.

In accordance with your request, the original petition is herewith returned.

I am, etc.,

LVEY A. ADEE.

Mr. White to Mr. Hay.

No. 714.]

AMERICAN EMBASSY,
London, November 25, 1901.

SIR: Referring to Mr. Choate's dispatch No. 640, of August 14 last, and to previous correspondence, with reference to the claim of Charles Lillywhite, I have the honor to inclose herewith the copy of a note which I have received from the Marquis of Lansdowne, relative to the above case, stating that, in view of the special hardships imposed upon Lillywhite, His Majesty's Government are prepared to grant him the sum of £600, by way of solatium, and also the cost of his return journey to New Zealand.

I have caused the information in question to be communicated to Mr. Barrett, counsel for Mr. Lillywhite, who is not, I believe, in England at present.

I have, etc.,

HENRY WHITE.

[Inclosure.] -

*Lord Lansdowne to Mr. White.*FOREIGN OFFICE, *November 21, 1901.*

SIR: As stated in my note to Mr. Choate of the 1st of October last, I referred to the secretary of state for the home department his excellency's note of September 20, together with the petition and other documents with regard to the case of Mr. Charles Lillywhite, who was brought to this country from New Zealand under the fugitive offenders act, 1881, for a murder committed at Colchester in 1894.

I have the honor to inform you that the matter has received most careful consideration by His Majesty's Government.

The case appears to be one in which Mr. Lillywhite has most unfortunately been the victim of an honest mistake on the part of certain witnesses, and that everything arising out of that mistake has been done in due course of the law to which he was subject in consequence of his residence in a British colony. Theoretically therefore there is no more reason in this case for compensation than in other cases in which persons are subjected to inconvenience or imprisonment in consequence of mistakes of the same character.

Having regard, however, to all the circumstances, which were, no doubt, such as to impose special hardship on Mr. Lillywhite, His Majesty's Government are prepared to grant him the sum of £600 by way of solatium, and also the cost of his return journey to New Zealand.

The compensation offered in this exceptional case must not, however, be regarded as forming any precedent for the grant of compensation to other defendants should any similar case occur.

I have, etc.,

LANSDOWNE.

Mr. White to Mr. Hay.

No. 721.]

AMERICAN EMBASSY,
London, December 10, 1901.

SIR: Referring to my dispatch No. 714, of the 25th ultimo, I have the honor to inclose herewith the copy of a letter which I have received from Mr. Barratt, counsel for Mr. Lillywhite, and to inquire whether I am to make application to His Majesty's Government for an increase in the amount which they have agreed to pay him, £600, as therein requested.

I have, etc.,

HENRY WHITE.

[Inclosure.]

Mr. Barratt to Mr. White.

1 TEMPLE GARDENS, TEMPLE, E. C.

DEAR MR. WHITE: Lillywhite says he will take the £600, but desires us to see whether the Government of His British Majesty will not grant him some increase to help in paying his legal expenses and other disbursements.

He is not ungrateful for the offer made, but has been put to large expenses during the past year, and must pay his relatives who have spent a good deal in helping him out of his difficulties.

These expenses will largely deplete the £600 when received. He has lost a permanent place given him at the time of his arrest. His ankles were broken by the fall from a scaffold, and this permanent place was given him largely for that reason. He has had treatment in hospital here for his feet, which at times are so painful that he has difficulty in walking. Hence he is not in the position of an ordinary, healthy workingman who can actively get about and attend to work.

He had hoped that £1,000 might have been granted him, and trusts that His Majesty's Government can see the way to add to this offer, for he has to start life again greatly handicapped.

With many thanks for the trouble taken already by the ambassador and yourself,

I am, etc.,

ARTHUR BARRATT.

Mr. White to Mr. Hay.

[Telegram.]

EMBASSY, *December 20, 1901.*

Referring to my dispatch No. 721, I have received letter from Lillywhite's counsel, inclosing one from him accepting the sum offered. Shall I inform foreign office that we accept the proposed settlement of the claim, ask for the amount, and hand it over to Lillywhite, who seems anxious for money?

WHITE.

Mr. White to Mr. Hay.

No. 726.]

AMERICAN EMBASSY,
London, December 20, 1901.

SIR: With reference to my dispatch No. 721, of 10th instant, I inclose copies of a letter which I have received from Mr. Barratt, counsel for Mr. Charles Lillywhite, of the one inclosed therewith from the latter, and of the cablegram^a which I thereupon sent you, asking whether I might, in accordance with his wishes, inform His Majesty's Government that we accept the amount offered in settlement of his claim and hand it over to him.

I have, etc.,

HENRY WHITE.

[Inclosure.]

Mr. Barratt to Mr. White.

1 TEMPLE GARDENS, TEMPLE, E. C.,
December 19, 1901.

DEAR MR. WHITE: The solicitors for Charles Lillywhite send me the inclosed copy of a letter from him to them (Messrs. Fladgate & Co.), in which he accepts the offer of £600 made by the British Government in settlement of his claim.

He does this in view of the delay consequent upon the consideration of his application for a further sum contained in my previous letter—which application he withdraws—and also in view of the doubts expressed as to the success of such application.

As he is anxious to close the matter speedily, the solicitors ask me to request you be kind enough to arrange for the payment of the £600 at as early a date as possible.

Again thanking you for your courtesies in the matter,

Yours, etc.,

J. ARTHUR BARRATT.

[Subinclosure.]

Mr. Lillywhite to Mr. Williams.

106 LUDGATE HILL, *December 17, 1901.*

DEAR SIR: Yours of the 16th to hand. In my last letters to you I stated that I accept the terms that the foreign office offer, the reasons being, now as then, that I having no base at law leaves them master of the situation. Again I state in answer to you that being unable to do better I accept their terms, poor as it is, and I require a copy of the settlement.

Yours, etc.,

CHARLES LILLYWHITE.

Mr. Hay to Mr. White.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 21, 1901.

Accept proposed settlement and hand amount over to Lillywhite against full receipt.

HAY.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.

Mr. Lowther, Chargé d'Affaires, to Mr. Hay.

[Telegram.]

BRITISH EMBASSY,
Newport, R. I., September 14, 1901.

I am instructed by Lord Lansdowne to express to you the feelings of deep sorrow and consternation with which His Majesty's Government have received the news of President McKinley's death. They share the feelings of the Government and people of the United States in face of the great national calamity which has befallen them. It is a grievous misfortune not only to the community of which he was the chief officer, but for the whole civilized world in which his personality filled so conspicuous and distinguished a place. In England, where the President was regarded with widespread admiration and good will, his death will occasion universal grief. I am to add the expression of the respectful sympathy of His Majesty's Government with Mrs. McKinley and the members of the President's family in their irreparable loss.

LOWTHER.

Mr. Hill to Mr. Lowther.

DEPARTMENT OF STATE,
Washington, September 25, 1901.

SIR: The pressure of public business attendant upon the death of President McKinley has delayed until now an acknowledgment of your telegram of the 14th instant conveying, by instruction of Lord Lansdowne, an expression of the sympathy of His Majesty's Government with the Government and people of the United States and with Mrs. McKinley and the members of the late President's family in the loss they have sustained by that sad event.

I shall be obliged if you will assure Lord Lansdowne that the condolence of His Majesty's Government is sincerely and gratefully appreciated by Mrs. McKinley and the Government and people of the United States, who have been deeply touched by the innumerable manifestations of sorrow and sympathy they have received from His Majesty's subjects in all parts of the world.

I have, etc.,

DAVID J. HILL, *Acting Secretary.*

INTEROCEANIC CANAL.*

IN THE SENATE OF THE UNITED STATES,
December 19, 1901.

Ordered, That there be published in one Senate document the Clayton-Bulwer Treaty; the Hay-Pauncefote Treaty, with amendments thereto by the Senate at the last session of Congress, and the treaty that was ratified on December sixteenth, nineteen hundred and one, together with amendments proposed thereto, and the votes and pairs on said amendments, and the vote by which that treaty was ratified.

Attest:

CHARLES G. BENNETT, *Secretary.*

* Reprint of Senate Document No. 85, Fifty-seventh Congress, first session.

CLAYTON-BULWER TREATY OF APRIL 19, 1850.

The United States of America and Her Britannic Majesty, being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a convention their views and intentions with reference to any means of communication by ship canal which may be constructed between the Atlantic and Pacific oceans by the way of the river San Juan de Nicaragua and either or both of the lakes of Nicaragua or Managua, to any port or place on the Pacific Ocean, the President of the United States has conferred full powers on John M. Clayton, Secretary of State of the United States, and Her Britannic Majesty on the Right Honorable Sir Henry Lytton Bulwer, a member of Her Majesty's most honorable privy council, knight commander of the most honorable Order of the Bath, and envoy extraordinary and minister plenipotentiary of Her Britannic Majesty to the United States, for the aforesaid purpose; and the said plenipotentiaries having exchanged their full powers, which were found to be in proper form, have agreed to the following articles:

ARTICLE I.

The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal; agreeing that neither will ever erect or maintain any fortifications commanding the same or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to or with any state or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any state or government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other.

ARTICLE II.

Vessels of the United States or Great Britain traversing the said canal shall, in case of war between the contracting parties, be exempted from blockade, detention, or capture by either of the belligerents; and this provision shall extend to such a distance from the two ends of the said canal as may hereafter be found expedient to establish.

ARTICLE III.

In order to secure the construction of the said canal, the contracting parties engage that if any such canal shall be undertaken upon fair and

equitable terms by any parties having the authority of the local government or governments through whose territory the same may pass, then the persons employed in making the said canal, and their property used, or to be used, for that object, shall be protected, from the commencement of the said canal to its completion, by the Governments of the United States and Great Britain, from unjust detention, confiscation, seizure, or any violence whatsoever.

ARTICLE IV.

The contracting parties will use whatever influence they respectively exercise with any state, states, or governments possessing or claiming to possess any jurisdiction or right over the territory which the said canal shall traverse, or which shall be near the waters applicable thereto, in order to induce such states or governments to facilitate the construction of the said canal by every means in their power. And furthermore, the United States and Great Britain agree to use their good offices, wherever or however it may be most expedient, in order to procure the establishment of two free ports, one at each end of the said canal.

ARTICLE V.

The contracting parties further engage, that when the said canal shall have been completed, they will protect it from interruption, seizure, or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said canal may forever be open and free, and the capital invested therein secure. Nevertheless, the Governments of the United States and Great Britain, in according their protection to the construction of the said canal, and guaranteeing its neutrality and security when completed, always understand that this protection and guarantee are granted conditionally, and may be withdrawn by both governments, or either government, if both governments, or either government, should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this convention, either by making unfair discriminations in favor of the commerce of one of the contracting parties over the commerce of the other, or by imposing oppressive exactions or unreasonable tolls upon the passengers, vessels, goods, wares, merchandise, or other articles. Neither party, however, shall withdraw the aforesaid protection and guarantee without first giving six months' notice to the other.

ARTICLE VI.

The contracting parties in this convention engage to invite every state with which both or either have friendly intercourse to enter into stipulations with them similar to those which they have entered into with each other, to the end that all other states may share in the honor and advantage of having contributed to a work of such general interest and importance as the canal herein contemplated. And the contracting parties likewise agree that each shall enter into treaty stipulations with such of the Central American States as they may deem advisable, for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal

as a ship communication between the two oceans for the benefit of mankind, on equal terms to all, and of protecting the same; and they also agree, that the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such treaty stipulations; and should any differences arise as to right or property over the territory through which the said canal shall pass between the states or governments of Central America, and such differences should in any way impede or obstruct the execution of the said canal, the Governments of the United States and Great Britain will use their good offices to settle such differences in the manner best suited to promote the interests of the said canal, and to strengthen the bonds of friendship and alliance which exist between the contracting parties.

ARTICLE VII.

It being desirable that no time should be unnecessarily lost in commencing and constructing the said canal, the Governments of the United States and Great Britain determine to give their support and encouragement to such persons or company as may first offer to commence the same, with the necessary capital, the consent of the local authorities, and on such principles as accord with the spirit and intention of this convention; and if any persons or company should already have, with any State through which the proposed ship canal may pass, a contract for the construction of such a canal as that specified in this convention, to the stipulations of which contract neither of the contracting parties in this convention have any just cause to object, and the said persons or company shall moreover have made preparations, and expended time, money, and trouble, on the faith of such contract, it is hereby agreed that such persons or company shall have a priority of claim over every other person, persons, or company to the protection of the Governments of the United States and Great Britain, and be allowed a year from the date of the exchange of the ratifications of this convention for concluding their arrangements, and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood that if, at the expiration of the aforesaid period, such persons or company be not able to commence and carry out the proposed enterprise, then the Governments of the United States and Great Britain shall be free to afford their protection to any other persons or company that shall be prepared to commence and proceed with the construction of the canal in question.

ARTICLE VIII.

The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle; they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are

by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

ARTICLE IX.

The ratifications of this convention shall be exchanged at Washington within six months from this day, or sooner if possible.

In faith whereof we, the respective plenipotentiaries, have signed this convention and have hereunto affixed our seals.

Done at Washington the nineteenth day of April, anno Domini one thousand eight hundred and fifty.

JOHN M. CLAYTON. [L. S.]
HENRY LYTTON BULWER. [L. S.]

HAY-PAUNCEFOTE TREATY.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING A CONVENTION BETWEEN THE UNITED STATES AND GREAT BRITAIN TO FACILITATE THE CONSTRUCTION OF A SHIP CANAL TO CONNECT THE ATLANTIC AND PACIFIC OCEANS, AND TO REMOVE ANY OBJECTION WHICH MIGHT ARISE OUT OF THE CONVENTION COMMONLY CALLED THE CLAYTON-BULWER TREATY.

To the Senate:

I transmit herewith, with a view to receive the advice and consent of the Senate to its ratification, a convention this day signed by the respective plenipotentiaries of the United States and Great Britain to facilitate the construction of a ship canal to connect the Atlantic and Pacific oceans, and to remove any objection which might arise out of the convention of April 19, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States.

WILLIAM MCKINLEY.

EXECUTIVE MANSION,
Washington, D. C., February 5, 1900.

The United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, and to that end to remove any objection which may arise out of the Convention of April 19, 1850, commonly called the Clayton-Bulwer Treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in

Article VIII of that Convention, have for that purpose appointed as their Plenipotentiaries:

The President of the United States, John Hay, Secretary of State of the United States of America,

And Her Majesty the Queen of Great Britain and Ireland, Empress of India, The Right Honble. Lord Pauncefote, G. C. B., G. C. M. G., Her Majesty's Ambassador Extraordinary and Plenipotentiary to the United States;

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

ARTICLE I.

It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost or by gift or loan of money to individuals or corporations or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present Convention, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

ARTICLE II.

The High Contracting Parties, desiring to preserve and maintain the "general principle" of neutralization established in Article VIII of the Clayton-Bulwer Convention, *which convention is hereby superseded*, adopt, as the basis of such neutralization, the following rules, substantially as embodied in the convention between Great Britain and certain other Powers, signed at Constantinople October 29, 1888, for the Free Navigation of the Suez Maritime Canal, that is to say:

1. The canal shall be free and open, in time of war as in time of peace, to the vessels of commerce and of war of all nations, on terms of entire equality, so that there shall be no discrimination against any nation or its citizens or subjects in respect of the conditions or charges of traffic, or otherwise.

2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it.

3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay, in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

4. No belligerent shall embark or disembark troops, munitions of war or warlike materials in the canal except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

5. The provisions of this article shall apply to waters adjacent to the canal, within three marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than twenty-four hours at any one time except in case of distress, and in such case shall

depart as soon as possible; but a vessel of war of one belligerent shall not depart within twenty-four hours from the departure of a vessel of war of the other belligerent.

It is agreed, however, that none of the immediately foregoing conditions and stipulations in sections numbered one, two, three, four, and five of this article shall apply to measures which the United States may find it necessary to take for securing by its own forces the defense of the United States and the maintenance of public order.

6. The plant, establishments, buildings, and all works necessary to the construction, maintenance and operation of the canal shall be deemed to be part thereof, for the purposes of this convention, and in time of war as in time of peace shall enjoy complete immunity from attack or injury by belligerents and from acts calculated to impair their usefulness as part of the canal.

7. No fortifications shall be erected commanding the canal or the waters adjacent. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

[ARTICLE III.]

[The High Contracting Parties will, immediately upon the exchange of the ratifications of this Convention, bring it to the notice of the other Powers and invite them to adhere to it.]

ARTICLE IV.

The present convention shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Britannic Majesty; and the ratifications shall be exchanged at Washington or at London within six months from the date hereof, or earlier if possible.

In faith whereof the respective plenipotentiaries have signed this convention and thereunto affixed their seals.

Done in duplicate at Washington the fifth day of February in the year of Our Lord one thousand nine hundred.

JOHN HAY.
PAUNCEFOTE.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING A CONVENTION BETWEEN THE UNITED STATES AND GREAT BRITAIN, TO FACILITATE THE CONSTRUCTION OF A SHIP CANAL TO CONNECT THE ATLANTIC AND PACIFIC OCEANS, SIGNED AT WASHINGTON, NOVEMBER 18, 1901.

DECEMBER 4, 1901.—Read; treaty read the first time and referred to the Committee on Foreign Relations and, together with the message, ordered to be printed in confidence for the use of the Senate.

DECEMBER 9, 1901.—Reported without amendment.

DECEMBER 10, 1901.—Injunction of secrecy removed.

DECEMBER 16, 1901.—Ratified; injunction of secrecy removed from proposed amendments and votes thereon, and vote of ratification.

To the Senate:

I transmit, for the advice and consent of the Senate to its ratification, a convention signed November 18, 1901, by the respective plenipotentiaries of the United States and Great Britain to facilitate the construction of a ship canal to connect the Atlantic and Pacific oceans by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the convention of April 19, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in Article VIII of that convention.

I also inclose a report from the Secretary of State, submitting the convention for my consideration.

THEODORE ROOSEVELT.

WHITE HOUSE,

Washington, December 4, 1901.

THE PRESIDENT:

I submit for your consideration and for transmission to the Senate, should you deem it proper to do so, with a view to obtaining the advice and consent of that body to its ratification, a convention signed November 18, 1901, by the respective plenipotentiaries of the United States and Great Britain to facilitate the construction of a ship canal to connect the Atlantic and Pacific oceans by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the convention of April 19, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in Article VIII of that convention.

Respectfully submitted.

JOHN HAY.

DEPARTMENT OF STATE,

Washington, December 2, 1901.

The United States of America and His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the Convention of the 19th April, 1850, commonly called the Clayton-Bulwer Treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in Article VIII of that Convention, have for that purpose appointed as their Plenipotentiaries:

The President of the United States, John Hay, Secretary of State of the United States of America;

And his Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, the Right Honourable Lord Pauncefoot, G. C. B., G. C. M. G., His Majesty's Ambassador Extraordinary and Plenipotentiary to the United States;

Who, having communicated to each other their full powers, which were found to be in due and proper form, have agreed upon the following Articles:

ARTICLE I.

The high contracting parties agree that the present treaty shall supersede the afore-mentioned convention of the 19th April, 1850.

ARTICLE II.

It is agreed that the canal may be constructed under the auspices of the Government of the United States either directly at its own cost, or by gift or loan of money to individuals or corporations, or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

ARTICLE III.

The United States adopts, as the basis of the neutralization of such ship canal, the following rules, substantially as embodied in the Convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal, that is to say:

1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these Rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the Regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

5. The provisions of this article shall apply to waters adjacent to the canal, within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than twenty-four hours at any one time, except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within twenty-four hours from the departure of a vessel of war of the other belligerent.

6. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof, for the purposes of this treaty, and in time of war, as in time of peace, shall enjoy complete immunity from attack or injury by belligerents, and from acts calculated to impair their usefulness as part of the canal.

ARTICLE IV.

It is agreed that no change of territorial sovereignty or of international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

ARTICLE V.

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington or at London at the earliest possible time within six months from the date hereof.

In faith whereof the respective plenipotentiaries have signed this treaty and hereunto affixed their seals.

Done in duplicate at Washington, the 18th day of November, in the year of our Lord one thousand nine hundred and one.

JOHN HAY. [SEAL.]
PAUNCEFOTE. [SEAL.]

GREECE.

LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES UNDER MILITARY AND EXPATRIATION LAWS OF THEIR NATIVE COUNTRY.^a

DEPARTMENT OF STATE,
Washington, January 31, 1901.

NOTICE TO AMERICAN CITIZENS FORMERLY SUBJECTS OF GREECE WHO CONTEMPLATE RETURNING TO THAT COUNTRY.

The information given below is believed to be correct, yet is not to be considered as official, as it relates to the laws and regulations of a foreign country.

The Greek Government does not, as a general statement, recognize a change of nationality on the part of a former Greek without the consent of the King, and a former Greek who has not completed his military service and who is not exempt therefrom under the military code may be arrested upon his return to Greece. The practice of the Greek Government is not, however, uniform, but American citizens of Greek origin are advised to find out before returning what status they may expect to enjoy. Information should be sought directly from the Greek Government, and this Department always refuses to act as intermediary in seeking the information.

There is no treaty on the subject of naturalized citizens between the United States and Greece.

Passports are not required in Greece, but may be useful in establishing American citizenship.

MILITARY SERVICE CASE OF LOUIS (LEONIDAS) ECONOMOPOULOS.^b

Mr. Francis to Mr. Hay.

No. 26.]

TROY, N. Y., *July 13, 1901.*

SIR: I have the honor to report that a careful perusal of the records of the legation at Athens, supplemented by outside inquiries, convinced me it was my duty to secure, if possible, the discharge from the Greek army of Leonidas Economopoulos, a native of Greece, who in 1899 became a naturalized American citizen.

This particular case had been the subject of extensive correspondence between my immediate predecessor and the Greek Government for a period extending over one year and a half; but, owing to the fact that no treaty covering such cases existed between the United States and Greece, the earnest, intelligent and persistent efforts of Mr. Hardy had been unavailing in the premises.

^aSee instruction to Austria-Hungary, December 10, 1900, page 7.

^bSee Foreign Relations, 1900, p. 634.

I beg to submit the following correspondence:

LEGATION OF THE UNITED STATES,
Athens, March 27, 1901.

His Excellency Mr. NICOLAS TZAMADOS,
Minister of War.

Mr. MINISTER: I beg to call your attention to the fact that an American citizen is at present serving in the Greek army, and to request your excellency to give the particulars of the case, which I respectfully submit, your careful consideration.

Leonidas Economopoulos emigrated from Greece to the United States in January, 1893, at the age of 15 years, and, in accordance with the laws of that country, was duly naturalized in 1899. In September of the same year, receiving a telegram informing him of the illness of his father, he hurried to his former home near Sparta without having previously procured royal assent to his expatriation from His Majesty the King of Greece. To his mind the urgency of the summons admitted of no delay. He contemplated an early return to Brooklyn, where he resided.

Shortly after his arrival in Greece, Economopoulos was arrested, and notwithstanding his declaration of American citizenship and against his protest, was compelled to enter the Greek army. In Athens he was assigned to the Fourth Battery, Second Regiment Field Artillery, and he is still in the Greek service.

While there is no naturalization treaty between Greece and the United States, it is believed your sense of justice in this particular case, as well as an act of comity toward the Government I represent, will induce your excellency to promptly order the discharge of Mr. Economopoulos in order that he may return to the country of his adoption where he is in every respect possessed of full citizenship.

In embracing this opportunity to exchange with you felicitations on the very friendly relations so happily existing between our respective Governments, I take occasion, etc.,

CHARLES S. FRANCIS.

[Translation.]

[No. 21759.]

ATHENS, March 29, 1901.

Kingdom of Greece.

The Ministry of War to his excellency the United States Minister.

SIR: In reply to your private and friendly letter of the 27th of March, relative to the dismissal from the Greek army of Leonidas Economopoulos, I have the honor to inform you that although I have the greatest wish to comply with your excellency's wish and to consider this act one of the smallest proofs of my friendly sentiments toward the Government which you represent, unfortunately the laws of this country do not permit me to order that the name of the above-mentioned Economopoulos be removed from the register of the conscripts and to order his dismissal from the Greek army, because he did not observe the formalities required by the Greek laws to obtain foreign nationality, as explained in the correspondence that has been previously exchanged on this subject. If an exception is made in the case of Economopoulos it must be extended as well to all Greeks who are residing in foreign countries.

However, as I am inspired with extremely friendly sentiments toward the Government of the United States, and also toward your excellency, I shall order the discharge of Economopoulos from the ranks of the Greek army if I can find any reason whatsoever (of health or family) permitting me to dismiss him.

I take this occasion, etc.,

N. TZAMADOS, *The Minister.*

MINISTRY OF WAR,
Athens, June 2 (15), 1901.

Mr. MINISTER: I hasten to inform you that the soldier Economopoulos has just been discharged from the army. I have done my utmost since assuming the office of minister of war to expedite a solution of the case in which your excellency has kindly interested yourself, and I am pleased to know that the desired result has not been long delayed.

I beg you to accept, etc.,

B. BOUDOURIS,
Minister of War ad interim.

I have the honor to report that Economopoulos was actually discharged from the military service of Greece June 25, 1901.

I am, etc.,

CHARLES S. FRANCIS.

Mr. Francis to Mr. Hay.

TROY, N. Y., *July 18, 1901.*

SIR: I have the honor to report the receipt to-day of the following letter from Louis (or Leonidas) Economopoulos, the American subject whose discharge from the Greek army after two years' service was secured June 25, 1901:

ATHENS, *June 25, 1901.*

To His Excellency Hon. CHARLES S. FRANCIS,
United States Minister:

SIR: I beg leave to express my profound gratitude for the efforts and energy displayed by your excellency in obtaining my release from the Greek army, an act which few nations' representatives could accomplish from a country with which there does not exist any naturalization treaty. How can I be otherwise than a faithful citizen of my beloved free and glorious adopted country, and for which in support of its Union and Constitution at any time I shall cheerfully shed my last drop of blood.

I pray, honorable sir, convey to our Government my everlasting gratitude.

I have, etc.,

LOUIS ECONOMOPOULOS.

I am, etc.,

CHARLES S. FRANCIS.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.

The Minister for Foreign Affairs of Greece to Mr. Hay.

[Telegram.]

ATHENS, *September 15, 1901.*

The sad news of the death of the President of the United States, victim of an odious crime, has caused the Royal Government profound feeling; and therefore, in its name, I pray you to accept my sentiments of keen sympathy. Greece joins in the profound sorrow which the people of the United States of America suffer on this sad occasion.

ROMANOS,

Minister for Foreign Affairs.

Mr. Hay to the Minister for Foreign Affairs of Greece.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1901.

Our people and Government in their hour of grief are deeply touched by the sympathy shown by the Greek Government and nation.

JOHN HAY.

**RIOT AT ATHENS CAUSED BY THE TRANSLATION OF THE BIBLE
INTO VULGAR GREEK.**

Mr. Francis to Mr. Hay.

No. 39.]

LEGATION OF THE UNITED STATES,
Athens, November 22, 1901.

SIR: I have the honor to report that during the last few days Athens has been the scene of mob demonstration which yesterday almost assumed the proportions of a revolution. Briefly, the reason for this disturbance was the recent translation and publication in Athens of the Bible in vulgar Greek. Expressions were employed by the translators, which the Hellenes regard as unfit to be printed in the Holy Scriptures. The work was inaugurated and completed with the approval of the Metropolitan, the head of the synod of the Greek Church in Greece.

The students of the university at Athens and the Greeks generally are bitterly opposed to any change in the text of their Bible, which, while of ancient origin and dating back to the Byzantine period, is understood by all and is written in the purest Greek. * * *

Mass meetings were held in front of the university buildings on the afternoons of November 19 and 20, at which violent speeches were made in denunciation of the objectionable biblical translation and of all those identified with it. Large crowds of excited citizens paraded the streets, and the signs were ominous of a serious public demonstration.

Yesterday, November 21, was a fête day. The shops and factories were closed and the streets were thronged with all classes of people. A public demonstration was announced to take place in the afternoon, in which it was advertised that the different labor unions would participate. Fearing the result, the Government ordered out all the military troops in the city, and 800 marines were brought to Athens from the Greek men-of-war at Piræus. Infantry, cavalry, and large bodies of gendarmes were posted at different points in the city and a cordon of marines was thrown about the palace.

This show of military force had the effect of aggravating the situation, and late in the afternoon the expected collision took place between the authorities and the aroused Athenians. The mob, now numbering over 25,000, proceeded to the ministry of finance and demolished the windows of the building. Thereupon, shots were fired upon the crowd by police officers and employees of the ministry. The rioters responded with pistols and stones, and were only dispersed after a cavalry charge and several carbine volleys. A few minutes later another mob demonstration was made in front of the residence of the premier, Mr. Theotaky, and again the troops and gendarmes made use of their rifles to clear the streets.

The casualties were as follows: Eight killed and upward of 60 wounded. The dead bodies and 32 of the wounded were carried to the municipal hospital. Probably as many more were wounded, but escaped identification, as they were conveyed by friends to their respective homes. That the casualties were not greater may be explained by the fact that the soldiers were unquestionably in sympathy with the sentiments of the rioters, and did not direct their fire upon the crowds, the effective shooting being done by the police or gendarmes.

After a conference had been held during the night between King George and the members of the ministry and prominent citizens, the resignation of the Metropolitan, the titular head of the church in Greece, was accepted at 4 o'clock this morning (November 22). By royal decree, signed at the same hour, the director of police and the prefect of police were both removed and their positions filled by new appointees. The Government printing office issued an edition of the Official Gazette at 6 o'clock a. m. containing the above announcements.

The burial of the victims of yesterday's conflict took place this afternoon. Many thousands of people followed the single funeral procession to the cemetery, every shop in Athens was closed, and on all sides profound regret and grief were expressed at the outcome of yesterday's tragedy.

I have, etc.,

CHARLES S. FRANCIS.

Mr. Francis to Mr. Hay.

No. 45.]

LEGATION OF THE UNITED STATES,
Athens, December 9, 1901.

SIR: I have the honor to report that yesterday priests read from every pulpit in Athens a decree of the Holy Synod which prohibits, on pain of excommunication, the sale or reading of any translation of the Bible.

This action was evidently taken by the religious authorities in order to completely restore public confidence that no attempt to publish a vulgar version of the Holy Scriptures will be tolerated by the Greek Church. It will be recalled that this question precipitated a conflict in the streets of Athens on November 21 ultimo between a mob of over 25,000 students and workmen and citizens and the Government troops, in which 8 persons were killed and over 60 wounded.

Several years ago Her Majesty Queen Olga, actuated by the best of motives, published at her own expense a translation of the Bible in common use (which is in the Greek of the Byzantine period) into the modern language of Greece. It was not sold, but distributed free among the hospitals and other charitable institutions of this city. While the gracious act of Her Majesty did not meet with public favor, it has never been alleged that the translator of that particular version of the Bible employed any language which could be construed as vulgar. However, in view of the action of the Holy Synod as above stated, this indirect authoritative reflection by the Church of Greece on the act of Queen Olga is likely to produce disagreeable complications.

I am, etc.,

CHARLES S. FRANCIS.

GUATEMALA AND HONDURAS.

CONFISCATION OF SILVER COIN WHICH SIEGFRIED KOENIGSBERGER ATTEMPTED TO SMUGGLE OUT OF GUATEMALA.

Mr. Hay to Mr. Hunter.

No. 299.]

DEPARTMENT OF STATE,
Washington, November 27, 1900.

SIR: I inclose herewith copy of a dispatch from the consul-general at Guatemala City, together with its inclosures, relating to the claim of Siegfried Koenigsberger for certain moneys confiscated by the Guatemalan customs authorities, and for the annoyance and losses attendant upon the action complained of. As nearly as the Department can gather the facts in the case it appears:

That said Koenigsberger and his brother arrived at San José de Guatemala from Guatemala City on December 7, 1899, holding checks for two valises which arrived with them as baggage; that said valises were alleged to contain \$2,300 in silver; that Koenigsberger was called to the office of the commandante of the port at about 9 o'clock in the evening, and upon identifying the valises was commanded to open them, which he refused to do, claiming that it was after business hours for the custom-house, and further that as he still held the checks the valises were in the hands of the railroad company; that on the following morning he was called again to the office of the commandante and ordered to open the valises, and upon his refusal he and his brother were imprisoned for about two hours, when their release was secured by the United States consul; that they were again summoned by the commandante, and in the presence of the consul opened the valises, when, on counting the money, they discovered a shortage of \$508; which amount had been removed "without their knowledge or consent;" that the remainder, \$1,792, was taken by the commandante and deposited in the mint, subject to the order of the minister of finance; that on the following day, while they were returning to Guatemala City, they were arrested by the chief of police of Escuintla and there detained for twenty-four hours, then ordered back to San José, still under arrest; but that on the way they received a telegram signed by the president of the Republic which secured their release.

It further appears that a presidential decree had been issued, prohibiting the exportation of silver, but that said decree "has been practically a dead letter, inasmuch as thousands of dollars weekly has been exported by Government permission."

From the facts as above related it would appear that for the money (\$508) abstracted while in possession of and in course of transportation by the railroad company the remedy, if any, is against said company in the courts. With regard to the remainder of the money, \$1,792,

which it is inferred was confiscated in virtue of a law prohibiting the exportation of silver from the country, it is the opinion of the Department that it was Koenigsberger's duty, when requested to do so, to submit the valises to the customs authorities for the purpose of examining them to ascertain whether they contained silver intended to be smuggled out of the country. The fact that the Messrs. Koenigsberger had applied for permission to embark and were about to leave the country and that the valises stood at the wharf would appear to justify the inference of the officials that they were about to take the valises, with their contents, from the country in violation of law.

The consul-general reports that you are of opinion that the money was unlawfully seized and should be returned to its owners. If you find that the seizure and detention of the money are unlawful, you will bring the matter to the attention of the Guatemalan Government and request the prompt return of the money.

It is also stated in the consul-general's report that the law against the exportation of silver does not authorize imprisonment, but only confiscation, as a penalty for smuggling. If this statement is accurate you may report to the Department whether the Messrs. Koenigsberger have an adequate remedy in damages before the local tribunals for such unlawfu^l arrest

I am, etc.

JOHN HAY.

[Inclosure.]

Mr. McNally to Mr. Hill.

No. 83.] CONSULATE-GENERAL OF THE UNITED STATES,
Guatemala, September 14, 1900.

SIR: I have the honor to acknowledge receipt of the Department's No. 42^a of July 30, 1900, inclosing copy of a memorial of Siegfried Koenigsberger preferring a claim against the Government of Guatemala for \$2,300 pesos silver alleged to have been confiscated by the Guatemalan Government, and \$5,000 United States gold for damages said to have been sustained for loss of the use of the money and annoyance and inconvenience suffered from false imprisonment, and instructing me to make an investigation and report.

Knowledge of this case first came to me through Minister Hunter, who handed me the metal checks for valises left in his care by Siegfried Koenigsberger, saying at the same time that this money must be returned to the Koenigsbergers as the seizure was unlawful. This was the day before the minister left this capital for the United States on leave. I was under the impression that Minister Hunter had made some representation to the Guatemalan Government, and therefore did not consult the Government during my short season as chargé d'affaires.

I beg to inclose letters from our former consular agent at San José de Guatemala as well as from former employees of the railroad and Agencia Maritima, etc., at San José.

A presidential decree was promulgated prohibiting the exportation of silver, which decree has been practically a dead letter, inasmuch as

thousands of dollars weekly has been exported by Government permission. I am not aware of any penalty attached to the decree other than the confiscation of the silver. The arrest of the Koenigsbergers was fully unwarranted and in no sense according to the provision of the decree in question. I am not informed as to the reasons the authorities advance for their arrest. That they were arrested and confined in jail in Escuintla and there detained for twenty-four hours can not be disputed. The two valises in question were checked in Guatemala in a manner indicating that they were to be taken on board the steamer, as is usual with all baggage checked to the pier, and yet it does seem singular that the Koenigsbergers, having full knowledge of the decree against the exportation of silver, and knowing full well the vigilance of the customs authorities in this regard, would attempt to carry out in two valises \$2,300 in silver, which in no event could pass the officials, the weight readily indicating the contents.

I have, etc.,

JAMES C. McNALLY,
Consul-General.

[Subinclosure 1.]

Mr. Vair to Mr. McNally.

No. 22.]

UNITED STATES CONSULAR AGENCY,
San José, August 27, 1900.

SIR: In reply to your No. 20, I will say the only reference I find to the Koenigsberger case in this office is the following unnumbered letter of January 24, 1900:

“UNITED STATES CONSUL-GENERAL, *Guatemala.*

“In reply to your favor of the 19th of January regarding the seizure of valises belonging to Koenigsberger, the facts, as far as I have been able to obtain them, are as follows: The valises were checked from Guatemala to the port, and on the arrival of the baggage on the outer end of the pier the valises with the checks still attached were taken by the comandante. My first information of the affair was on the following morning, when I received a request from Koenigsberger to call on him at the comandancia, where he was detained. I secured his release on my promise to produce him when wanted.

“About noon of the same day I was requested by the comandante to be present at the opening of the valises. The owners were also there, and in order to prevent the locks from being broken opened them under protest.

“UPTON LORENTZ,
“*Consular Agent.*”

As the people in the railroad and on the pier have been changed, I can get no further information there. The factor of the company says that the Koenigsbergers were not on the pier to embark when the baggage was seized. They had applied for their permission to embark, but had not actually received it. I believe the Government claim that as evidence that they were about to embark.

I am, etc.,

ROGER R. VAIR, *Consular Agent.*

[Subinclosure 2.]

Mr. Swan to Mr. McNally

GUATEMALA, *September 3, 1900.*

SIR: In December, 1899, I was agent for the Guatemala Central Railroad Company, being in charge of the station at San José. On the 8th of December a gentleman named Koenigsberger presented two baggage checks, claiming his baggage, which was checked at Guatemala the day before. The numbers on the checks indicated that the baggage had been checked direct to the end of the pier, and I told Mr. Koenigsberger that he would find his baggage on the pier. He then left, but returned in

about an hour saying that his baggage was not on the pier; that he had been informed that it had been seized by the comandante, and that as it was in the care of the railroad company and he held their checks, he wanted me to get his baggage. I told him that while it was true that the railroad company had checked his baggage, it had not been checked to San José station, but to the end of the pier, and had been delivered to the Agencia Maritima direct by the train baggagemaster without even passing through my hands, and that I could do nothing at all; he would have to present his checks to that company, who had received the baggage from the railroad company. He did this, but could not recover his baggage, as it had been seized by officials of the Government

F. S. SWAN.

[Subinclosure 3.]

Mr. Myer to Mr. McNally.

GUATEMALA CITY, *September 3, 1900.*

SIR: I saw and talked with the Koenigsberger brothers on the train from San José de Guatemala to Escuintla on or about the 7th day of December, 1899. They related to me the circumstances of their arrest, and said they intended putting the matter in the hands of the American minister immediately upon their arrival in Guatemala.

I left the train at Escuintla, and before leaving the station I saw them taken off the train by policemen and conducted to jail. I afterwards saw them in jail at Escuintla, and at their earnest request endeavored to help them out of their predicament, but failed to do them any good. They were in jail from about 11.30 o'clock a. m., December 9 or 10, until 11.30 o'clock the next day. I saw them at the train the next day under police guard. They told me they were to be taken back to San José de Guatemala, but before the train left the station at Escuintla, they were taken off and conducted away by policemen.

I did not know them prior to their trouble and have never talked to them since.

J. B. MYER.

[Subinclosure 4.]

Mr. Bellows to Mr. McNally.

GUATEMALA, *August 31, 1900.*

DEAR SIR: In compliance with your request that I write you what I know of the taking of silver from the Koenigsberger brothers on the night of December 7, 1899, I give the following as my part in the affair: On the night in question I was on the pier assisting in the embarking of passengers and baggage for the steamer which was to sail that night, when the chief of the police at San José came to me with an aide and demanded the delivery of two valises, bearing railroad strap-checks, and which I happened to know belonged to the Messrs. Koenigsberger. I refused the delivery, saying that the agencia company was responsible for baggage bearing checks, and that we could only deliver on presentation of corresponding checks, but added that if an order to deliver from the comandante of the port relieving us from all responsibility was presented to the factor of the Agencia Maritima Nacional Limitada, he would in all probability order the packages to be delivered to the comandante.

The police representative left to secure the order, and I reported the matter to the factor. Later I was told by the factor that the comandante had arranged the matter, and that the baggage had been delivered to him.

Very truly, yours,

STUART BELLOWES,

Former employee of the Agencia Maritima Nacional Limitada.

[Subinclosure 5.]

Mr. Lorentz to Mr. McNally.

GUATEMALA CITY, *August 22, 1900.*

SIR: Referring to your request directed to me personally yesterday for a statement of my recollections of the facts in the case relating to the silver coin taken from the Koenigsberger brothers at the port of San José de Guatemala in December, 1899, by the authorities of the Guatemalan Government, I beg to submit below my recollections of the case.

The morning following the seizure of the silver coin I was sent for by the Koenigsberger brothers, who were detained as prisoners at the comandancia, asking me to come and see them and endeavor to secure their release, which I succeeded in doing by application to the comandante of the port, Don Salvador R. Cabrera.

After the release of the elder Mr. Koenigsberger, who exhibited papers certifying that he was an American citizen, he personally made the statement to me that two valises had been forcibly seized by the comandante of the port on the evening previous, and that said valises were his property; that they contained silver coin amounting to something over \$2,000 in silver coinage of the republics of Peru, Chili, and Guatemala. He further stated that these valises containing said coin were checked by the Guatemala Central Railway Company, said checks being in their possession and duplicates on valises. That the seizure was made directly from that company, he not having surrendered the duplicate checks, and furthermore that he had not endeavored or at any time attempted to export said coin, and requested that the valises should be delivered to himself. Notwithstanding said personal request, the comandante of the port took the two valises into his possession and retained the same until the following morning, and also, he stated, the comandante still retained the same.

Some time after the release of Koenigsberger I received a written request from the comandante to call at his office at noon relative to the case. This I did, Mr. Koenigsberger and his brother and some eight or ten persons more being present, most of whom were employees of the Government of the port of San José, such as secretaries and clerks. The comandante then had brought the two valises to the office and told Mr. Koenigsberger to open them, which Mr. Koenigsberger refused to do. The comandante then ordered them broken open; whereupon Mr. Koenigsberger, protesting, proceeded to open them with his keys.

My remembrance now is that the Government officials proceeded to take all the articles out of the two valises, collecting all the coined silver, which amounted to something over \$1,800, which was placed upon the comandante's desk and there counted. After this he remained in possession of the silver, returning the valises and other articles taken from them to Mr. Koenigsberger. This coin was retained by the comandante against the protest of both Mr. Koenigsberger and myself, and presumably on the grounds that it had been the intention of Mr. Koenigsberger to export the silver, though this last was denied by Mr. Koenigsberger.

The next day I had occasion to go to Guatemala City. On the same train were Siegfried Koenigsberger and his brother. When the train arrived at Escuintla the authorities entered the train and arrested both, taking them to the jail at Escuintla. On arriving in the city I immediately notified the United States minister, W. Godfrey Hunter.

I am, etc.,

UPTON LORENTZ,

Late United States Consular Agent at San José de Guatemala.

Mr. Hunter to Mr. Hay.

No. 519.]

LEGATION OF THE UNITED STATES,
GUATEMALA AND HONDURAS,
Guatemala, March 16, 1901.

SIR: Referring to Department's instructions No. 299, of November 27, 1900, with inclosures as stated, relating to the claim of Siegfried Koenigsberger for certain moneys confiscated by the Guatemala customs authorities and for the annoyance and loss attendant upon the action complained of, I have the honor to submit the following report:

It appears that Gustave and Siegfried Koenigsberger, who are brothers, the former a German subject and the latter a naturalized American citizen, have been for the past ten years engaged as partners in the broker business in this city.

On the morning of December 7, 1899, these men left here on the Guatemala Central Railroad for the port of San José, on the Pacific coast of this Republic, having checked their two valises as baggage through to the pier of said port. On their arrival there in the afternoon they applied for permission to embark on the steamer leaving

that evening for Salvador, and having identified their valises, which stood at the end of the pier ready for embarkation, in accordance with instructions given when same were checked in Guatemala City, they were requested by the customs authorities to open them, in order to ascertain whether they contained silver intended to be smuggled from the country. As they refused to comply with this request, they were taken ashore with their valises and detained in the office of the comandante, where, next morning, December 8, 1899, in the presence of the Messrs. Koenigsberger and our consular agent, Mr. Upton Lorentz, the valises were opened under protest and found to contain \$1,792 in silver coins of Guatemala, Peru, and Chile, there being a shortage, according to the claims of the Messrs. Koenigsberger, of \$508, as they affirmed that the valises had contained \$2,300. The amount found, \$1,792, however, was confiscated by the authorities, and an investigation ordered with the view of instituting criminal proceedings against the Koenigsberger brothers, who that morning were released under promise of our consular agent to produce them when needed.

On being released the Messrs. Koenigsberger, without permission from the local authorities, took the first train for Guatemala City, in company with Mr. Lorentz, but were intercepted at Escuintla, where they were arrested and detained twenty-four hours and then ordered back to the port. This order was about to be put into execution when, just as they reached the railroad station en route for the port, they were liberated by virtue of a telegraphic order from the President, which I had secured on the representations of our consular agent, who had arrived in this city the previous evening.

A few days after these occurrences the Messrs. Koenigsberger came to this legation to thank me for their prompt release and to complain of the alleged unlawful seizure of their silver at the railroad depot, exhibiting at the same time two metal checks of the Guatemala Central Railroad as proof that the two valises had been seized while in the care of the said railroad.

In response to their request I brought the matter to the attention of the minister of foreign affairs, who promised an investigation and report at an early date; but before receiving his promised note I left my post for the United States on leave, and among the matters of unfinished business which I left in the hands of Mr. McNally, chargé d'affaires, was this case.

On my return I found that nothing had been done in the matter, and the Messrs. Koenigsberger again having asked my aid in securing the return of their silver, I took the matter up anew, and on investigation discovered for the first time that one of the brothers, Gustave, was a German subject and that he had laid the case before the German minister, who, on hearing the facts, refused to take any action in the matter.

About the same time also Mr. P. Dalglish, a British subject, had a sum of \$13,000 confiscated, which he was attempting to smuggle out in the same way, and had laid his case before the British minister, who also refused to uphold him in the matter.

By way of further comparison of similar cases, I should say that the case of \$3,000 taken from a Chinaman at Champerico was different, in that the money was seized at the railroad depot before same had been transferred to the pier, and that for this reason I was able to secure its return, as the grounds for suspicion were much less. In the present

case, on the contrary, I found upon investigation that the valises had reached the end of the pier, where nothing is ever taken except such things as are intended to go aboard the steamer. I should perhaps explain here that the pier at San José is not in the hands of the railroad company, but is a separate corporation, and is a structure some 900 feet long, extending out from the beach into the deep water of the ocean beyond the breakers, and from the extreme end of which all passengers, baggage, and freight must be transferred to steamers by means of small launches. Anything, therefore, which is sent out to the end of the pier is presumably for exportation, and in the present case this presumption is so strong that no other view can be reasonably taken of it except that it was the intention of the Messrs. Koenigsberger to smuggle out the silver contained in their valises.

While the general merits of this case will be apparent from the foregoing narrative, I beg to mention in a specific way the following points:

1. The belief that it was the intention of the Koenigsbergers to smuggle out of the country the \$2,300 which they affirm to have carried in their valises is greatly strengthened by their confession of their full intention to embark, by their having checked their baggage to the point of the pier, which is only done when such baggage is intended to go aboard, and by their refusal to exhibit the contents of their baggage when requested to do so.

2. That the action of the authorities in the confiscation of the silver and arrest of the Koenigsberger brothers was entirely within the scope of the law, as will be seen from the law itself, translations of extracts from which are hereto attached, marked "1," "2," "3," and "4."

3. The assertion that the law relative to the exportation of silver was a dead letter is, I think, fully controverted by the fact of the very existence of the present case, with its accompanying facts and circumstances, as well as those of Mr. Dalgliesh and the Chinaman referred to.

In view of the foregoing, I am of the opinion that Siegfried Koenigsberger has no ground of complaint, that he is not entitled to recover the silver confiscated, and that he may consider himself fortunate in having escaped penal proceedings, to which he was liable.

I have, etc.,

W. GODFREY HUNTER.

[Inclosure 1—Translation.]

DECREE NUMBER 553.

José María Reyna Barrios, general of division and President of the Republic of Guatemala—

Whereas in consequence of economic difficulties the decrees of May and December last were given out, authorizing the banks to stop the redemption of their notes in the former case and limiting their issue in the latter;

Whereas the problem remaining unsolved which compelled the Government to take measures interfering with the established rules regarding exchange, it is incumbent upon the Government to prevent further evils;

Whereas the really serious obstacle the country has met with has not its origin in natural causes nor in others that affect our essential wealth, but in the lack of currency or circulating medium;

Whereas the gradual redemption of notes being reestablished, on account of the high price of exchange there is an evident tendency to export silver; and although this may be of immediate profit to exporters of said metal, it will bring upon the country an indigence of incalculable results;

Whereas the banks, which must redeem their notes in exchange for their available funds in specie, and find it difficult at present to realize their assets, must necessarily protect themselves against possible difficulties, it is reasonable that they should hold their fiduciary paper in reserve without engaging in new business, thus giving rise to the danger that to the scarcity of the notes now being used as a medium of exchange will be added the lack of the silver that may have been exported:

Therefore, by virtue of the powers with which I am invested, and in the duty of looking after the general interests and welfare of the public, I hereby decree:

Article 1. From this date the exportation of coined silver is prohibited.

Article 2. The violation of the provision of the foregoing article shall be punished as contraband.

Article 3. Let the present decree be reported to the National Assembly at its next session.

Done at the Executive Palace, at Guatemala this 27th day of January, 1898.

JOSÉ MARÍA REYNA BARRIOS.

The secretary of state for the department of finance and public credit.

FRANCISCO C. CASTAÑEDA.

[Inclosure 2.—Translation.]

GOVERNMENT PALACE,
MINISTRY OF FINANCE AND PUBLIC CREDIT,
Guatemala, October 17, 1898.

Whereas, that by decree No. 553 the exportation of coined silver was prohibited, but that said law made no mention of silver in bars and ore;

That according to reports made, with the view of evading said law, foundries for melting silver have been established to export it in bars and ore;

Therefore the constitutional President of the Republic decrees: That under the same penalties which are established in decree No. 553 against those who may try to export coined silver, the exportation of silver in bars or ore is hereby prohibited.

Let it be notified.

ESTRADA C.

The secretary of state for the department of finance and public credit.

RAFAEL SALAZAR.

[Inclosure 3.—Translation.]

SECTION 69, PAGE 20, OF THE PENAL CODE OF THE REPUBLIC OF GUATEMALA, YEAR 1889.

SEC. 69. To perpetrators of a frustrated crime and to accomplices of a consummated one two-thirds shall be inflicted of the penalty assigned to perpetrators of a consummated crime.

[Inclosure 4.—Translation.]

LAWS OF GUATEMALA, VOLUME 12—DECREE 497 OF FEBRUARY 27, 1894—CUSTOM-HOUSE PROCEDURE—SECTION 243, PAGE 819.

SEC. 443. Besides the common penalty of confiscation the persons guilty of contraband or defraudation shall be subject to the following penalties:

When the value of the effects seized or of those that by the procedure may seem to have been the cause of the crime is over \$10 and does not exceed \$20, the penalty shall be two months' imprisonment.

In similar cases, if the value is over \$20 and does not reach \$500, with four months' imprisonment; from \$500 to \$2,000 the penalty shall be one year's imprisonment; from \$2,000 to \$6,000, with two year's imprisonment; and exceeding this last sum, with three years' imprisonment.

Mr. Hay to Mr. Hunter.

No. 333.]

DEPARTMENT OF STATE,
Washington, April 9, 1901.

SIR: I have to acknowledge the receipt of your dispatch No. 519, of the 16th ultimo, containing a report of your investigation of the claim of Siegfried Koenigsberger against Guatemala for certain moneys belonging to him and his brother confiscated by the Guatemalan customs authorities, and for the annoyance and loss attendant upon the action complained of.

You express the opinion that Koenigsberger has no ground of complaint, that he is not entitled to recover the silver confiscated, and that he may consider himself fortunate in having escaped penal proceedings to which he was liable.

The Department concurs in your conclusion. Accordingly a letter has been addressed to Mr. Koenigsberger this day, informing him that after a thorough investigation of the case by both the diplomatic and consular representatives of this Government in Guatemala the Department is of the opinion that the confiscation of the silver, and his arrest by the Guatemalan authorities were in accordance with the Guatemalan law, and that he has no just ground for complaint.

I am, etc.,

JOHN HAY.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.

The President of Guatemala to the President of the United States.

[Telegram.]

GUATEMALA, *September 14, 1901.*

The Government and people of Guatemala profoundly deplore the death of the illustrious President McKinley, and cordially and sincerely share the universal mourning of your great Republic with which this country cultivates the closest relations, for which reason Guatemala and its Government grieve and make their own the sorrow which the noble American people suffer.

MANUEL ESTRADA C.

Mr. Hay to Mr. Hunter.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 17, 1901.

In name of Mrs. McKinley, President Roosevelt, and American Government and people, please express through proper channel to President Estrada sincere estimation of his messages of personal sympathy and of the fraternal sentiment of Guatemala in this hour of affliction.

HAY.

Mr. Bailey to Mr. Hay.

[Telegram.]

LEGATION OF THE UNITED STATES,
Guatemala, September 18, 1901.

The Government of Honduras sends expressions of sympathy.

BAILEY.

Mr. Adee to Mr. Bailey.

DEPARTMENT OF STATE,
Washington, October 9, 1901.

SIR: I confirm your telegram^a of the 18th ultimo.

You will express to the Government of Honduras the grateful appreciation of the Government and people of the United States for its message of sympathy at the death of President McKinley, explaining at the same time that pressure of public business incident to that sad event has prevented an earlier acknowledgment.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

^a Printed ante.

HAITI.

CLAIM OF JOHN D. METZGER & CO. VS. HAITI.

Protocol of an agreement between the Secretary of State of the United States of America and the Envoy Extraordinary and Minister Plenipotentiary of the Republic of Haiti, signed at Washington, October 18, 1899.

Protocol of an agreement between the United States and Haiti, for the arbitration of the question of the liability and amount of damages to be awarded John D. Metzger and Company, signed at Washington, October 18, 1899.

Protocol of an agreement between the Secretary of State of the United States and the Envoy Extraordinary and Minister Plenipotentiary of the Republic of Haiti, for submission to an arbitration of the question of liability and amount of damages to be awarded in favor of John D. Metzger and Company, American citizens, against the Republic of Haiti, signed at Washington.

The United States of America and the Republic of Haiti, through their representatives, John Hay, Secretary of State of the United States of America, and J. N. Léger, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Haiti, have agreed upon and signed the following protocol:—

Whereas, the said John D. Metzger and Company, citizens of the United States of America, have claimed, through the Government of the United States, from the Government of Haiti, indemnity on account of the seizure and sale of their goods at Port-au-Prince for the non-payment of certain license taxes; and on account of the alleged failure to furnish them an adequate supply of water for the operation of their mill at Port-au-Prince; and on account of the alleged liability of Haiti on account of a quantity of lumber alleged to have been sold by them for a Relief Committee on the occasion of devastation by fire at Jacmel, it is agreed between the two Governments:—

I.

That the question of the liability of the Republic of Haiti to pay an indemnity in each of said cases, and, if so found by the arbitrator, the further question of the amount of the said indemnity to be awarded, shall be referred to the Honorable William R. Day, sometime Secretary of State of the United States, and now Judge of the Circuit Court thereof, who is hereby appointed as arbitrator to hear said causes, and to determine the questions of said liability and the amount of said indemnity, if any is found by said arbitrator to be justly due.

II.

The Government of the United States will lay before the arbitrator the claimants' evidence and all correspondence, either between the Haitien Government and the United States Minister at Port-au-Prince, or between the Department of State and the Haitien Minister at Washington, and the despatches with their enclosures from the said Minister, reporting documentary or other evidence to the Department of State in relation to said claims.

Reciprocally, the Haitien Government shall have the same rights of presentation of evidence in its own behalf as are above stipulated for the Government of the United States.

Each Government will furnish to the other a duplicate of the evidence and correspondence at the same time they are by them respectively laid before the arbitrator.

If, in the opinion of the arbitrator, it shall be deemed desirable, in the interests of justice, to take further evidence, he shall communicate to both parties his opinion, and shall indicate the questions of fact on which the same shall be taken. Likewise, either Government, on notice to the other, may apply to him for that purpose. Each Government shall, in case the arbitrator orders the taking, name an agent to take such evidence, in its own behalf, who shall each have the right to be present at the taking thereof, and to cross-examine the witnesses and take copies of documentary evidence offered by the other. All questions of procedure shall be left to the determination of the arbitrator. Each Government agrees to abide by such determination, and in default thereof, the said arbitrator may proceed in such manner and at such times as he may determine, in order to close the proofs and make final award.

III.

The Government of Haiti agrees to pay any amount or amounts which may be awarded by the arbitrator, if he finds that it is liable therefore.

IV.

The evidence is to be submitted to the arbitrator and finally closed on or before the 1st day of March, 1900, and his decision is to be rendered within four months thereafter.

V.

Each Government shall furnish to the arbitrator an argument or brief not later than the 1st day of April, 1900, a copy of which each party shall furnish to the other at the same time as to the arbitrator, and the claimant and the Commune of Port-au-Prince may also file briefs in the cause on the same terms; but the arbitrator need not for such purpose delay his decision.

VI.

The Government of Haiti shall pay the indemnity awarded by the arbitrator, if any, as soon as the Legislative Assembly of Haiti shall authorize the payment; but the time thus allowed shall in no case

exceed six months from the day the decision is pronounced, unless an extension of time of its payment should be granted by the Government of the United States.

VII.

Reasonable compensation to the arbitrator for all his services and expenses, and the other expenses of said arbitration, are to be paid in equal moieties by the said Governments.

VIII.

Any award given by the arbitrator shall be final and conclusive. Done in duplicate in English and in French, at Washington, this 18th day of October, 1899.

JOHN HAY,
J. N. LÉGER.

Award of the arbitrator in the matter of the claims of John D. Metzger & Co. against the Republic of Haiti.

In pursuance of a protocol signed at Washington October 18, 1899, and a supplemental protocol signed June 30, 1900, between the Hon. John Hay, Secretary of State of the United States, and the Hon. J. N. Léger, envoy extraordinary and minister plenipotentiary of the Republic of Haiti, representing their respective Governments, for submission to arbitration of the questions of the liability and amount of damages, if any, to be awarded in favor of John D. Metzger & Co. against the Republic of Haiti, I have investigated the claims of said John D. Metzger & Co. upon the correspondence and testimony submitted in pursuance of said protocols and do now submit the following findings and award:

John D. Metzger & Co., through the State Department at Washington, presented against the Republic of Haiti three separate claims which are the subject-matter of the arbitration, claiming indemnity on account of the alleged liability of the Republic of Haiti for a quantity of lumber alleged to have been sold by them to the relief committee on the occasion of the devastation by fire of the city of Jacmel; also on account of the alleged failure to furnish them an adequate supply of water for the operation of their mill at Port au Prince; also on account of the seizure and sale of their goods at Port au Prince for nonpayment of license taxes. I shall now proceed to consider these cases in the order named.

LUMBER CLAIM.

This claim arises from an undertaking on the part of the firm of John D. Metzger & Co. to furnish lumber for the inhabitants of the city of Jacmel. This city was devastated by fire in the fall of 1896, a large part thereof being destroyed. A relief committee was assembled on the 20th day of November, 1896, to consider methods of relief, in view of the fact that the Government of Haiti had indicated its purpose to allow the sum of \$20,000 for the relief of the people. Prior to the assembling of this relief committee the firm of Metzger & Co. had proposed to furnish lumber to be distributed among the needy

people of Jacmel to the amount of the proposed appropriation. The relief committee, composed of eight citizens, took action upon this proposal, as is evidenced in the following minute or memorandum:

To-day, Monday, November 23, 1896, the ninety-third year of independence, have been assembled, upon convocation of the Government's delegate of the arrondissements of Saltron and Jacmel under date of the 20th of this month, at the hotel of the delegation the citizens, first, D. Bellande, mayor; second, P. Nicholas, deputy; third, St. Paul, deputy; fourth, S. Berrouet, deputy; fifth, I. C. Giordany, military commander; sixth, E. Bellande, dean civil court; seventh, A. Charmant, former deputy; eighth, D. Hilaire, attorney at law, all members of the relief committee formed in this city for the purpose of affording aid to the victims of the fires of September 19 and October 3 last, for the purpose of taking cognizance of a letter addressed to said committee by Mr. Bernard Craft, procurator of the firm of John D. Metzger & Co., established in this city, who offers his services to the population, in case the committee should wish to invest the \$20,000 (gourdes) appropriated ("votées") by the Government in favor of the homeless ("sinistres") of Jacmel, in building material.

Upon lecture of said letter the members of the relief committee have spoken, one after the other, of the importance and the advisability of the proposition of Mr. Craft, and have finally adopted the offer made to them to import from the United States building material for him to hold at the disposition of the relief committee at the rate of 35 gourdes per thousand and to the extent of \$20,000, which the Government has allowed ("accordés") the population to their relief, and which building materials must be held in yard ("dépôt") to the disposal of said committee.

By virtue of all that precedes, this decision shall be submitted to the sanction of the Government, praying the same to give its sanction thereto, and to arrange with the house of John D. Metzger & Co., for the mode of payment.

Done in Jacmel the day, month, and year above written, and have signed.

(Signed)

CHARMANT.	ST. PAUL.
I. C. GIORDANY.	D. BELLANDE.
E. BELLANDE.	N. HILAIRE, JEUNE.
M. P. NICHOLAS.	BERROUET.
MERISIER JEANNIS.	

It thus appears that the relief committee provisionally accepted the offer of Metzger & Co. to furnish material to be held at the disposition of the relief committee, to be furnished at the rate of 35 gourdes per thousand to the amount of \$20,000. This arrangement was not entered into, however, for the purpose of binding the committee either personally or as a committee. It was to be the basis of a contract with the Government, to which the minute recites the "decision" shall be submitted for its sanction and to arrange with the house of Metzger & Co. for the mode of payment. Metzger & Co., recognizing this purpose in the action of the committee, on the 7th of December, 1896, submitted to the secretary of state of the department of the interior of Haiti a copy of the foregoing minute soliciting the Government's sanction of the transaction and an understanding about the mode of payment. This communication is as follows:

PORT AU PRINCE, *December 7, 1896.*

TO GENERAL BUTEAU FILS,

Secretary of State of the Department of the Interior, Port au Prince.

MR. SECRETARY OF STATE: We have the honor to inform you that we have concluded an agreement with the relief committee of the city of Jacmel to furnish them for \$20,000 (gourdes) building material at 35 gourdes per thousand feet.

According to the "procès verbal," copy of which is herewith annexed, we are to obtain the Government's sanction of this transaction and have an understanding about the mode of payment.

We are ready to commence our delivery immediately and to finish them within fifteen days from the day of the first delivery.

In soliciting an early reply as to your decision, especially so on account of a disturbance that again seizes upon exchange,

We remain, Mr. Secretary of State, your most obedient servants,

(Signed)

JOHN D. METZGER & Co.

It will be observed that in this communication the secretary is advised that Metzger & Co. are ready to commence deliveries immediately and to finish them in fifteen days from the first delivery. No written answer to this communication is in evidence in the case. On the 4th of January, 1897, Metzger & Co. addressed the following communication to the President of the Republic and the council of secretaries of state:

PORT AU PRINCE, *January 4, 1897.*

To the President of the Republic of Haiti in Council of the Secretaries of State.

PRESIDENT, MESSIEURS LES SECRÉTAIRES D'ÉTAT: We have concluded with the relief committee of Jacmel a bargain to deliver them for \$20,000 (gourdes) building material, which sum the council of ministers had appropriated to the victims of the fires of that city.

The council having sanctioned the transaction above referred to, the material has been ordered, and has arrived. We wish to make delivery without delay, that we may be reimbursed for our heavy outlays and escape the perils to which these goods are exposed, they being subject to destruction by fire and exposed in every respect.

We therefore have the honor to pray you that you will please put the money in question at our disposal, so we may commence our deliveries.

Accept, President, Messieurs les Secrétaires d'Etat, our most respectful salutations.

(Signed)

JOHN D. METZGER.

The council, it is recited in this communication, have sanctioned the transaction with the relief committee. The material has been ordered and has arrived. Metzger & Co. express their desire to make delivery without delay and ask that the money, \$20,000, be placed at their disposal so that deliveries might begin. To this letter an answer was returned by the secretary of state of finance and commerce of date January 13, 1897, as follows:

DEPARTMENT OF STATE OF FINANCE AND COMMERCE,

Port au Prince, January 13, 1897.

MY DEAR MR. METZGER: I have received your letter, to which I have hardly time to answer, leaving as I do for Cape Haitien by the French boat, to return in about eight days.

As I already told you, the council of ministers has authorized me to try and see whether I could find \$5,000 for you. It would be impossible for me to pay you \$10,000, as I do not even see my way clear to pay half that amount.

I regret, believe me, that your embarrassments coincide with those of the State; so much so that with my best will I can not be agreeable to you.

Please be assured of my personal best sentiments toward you.

Your devoted,

(Signed)

A. FIRMIN.

In this letter it will be observed there is no denial of Metzger & Co.'s statement that the council of ministers had sanctioned the arrangement with the Jacmel relief committee; but the secretary suggests his inability to raise more than \$5,000 for Metzger & Co. This letter may be taken fairly as an admission that the council of ministers had approved of the arrangement made by the relief committee, which was only to be binding on the Government when thus authenticated by it.

In the affidavit of John D. Metzger, filed with the claim in the State Department, it is said "that the Government of Haiti has become a guarantor and principal in the transaction related in the 'process verbal' of the Jacmel relief committee, dated November 23, 1896, by indorsing and accepting the same purely and simply, and that the minister of the interior then in office had given the deponent verbal notice of such acceptance or indorsement, and that the notice was corroborated by the then minister of finance, Mr. C. Fouchard, to the

deponent. What then was the arrangement thus adopted by the council? It was that \$20,000 worth of lumber at a fixed price should be delivered for the relief of the inhabitants of Jacmel.

It does not appear that the part of the "process verbal" which required the mode of payment for lumber furnished to be determined between Metzger & Co. and the Government had been the subject of negotiation and settlement. It was not stated in the preliminary arrangement that the material was to be paid for in cash upon delivery. The provision that the mode of payment should be determined between the Government and Metzger & Co. is strongly indicative of the intention to obtain terms of payment of a different character. In any event and for whatever reason the "process verbal" reserved to the Government the right to negotiate with Metzger & Co. terms of payment which should be mutually satisfactory. There is nothing in the testimony or correspondence to indicate that this important element of the proposed contract had been the subject of negotiation and settlement between the parties. When the matter was taken up an arrangement was effected by which \$5,000 worth of building material was to be delivered to the relief committee upon the payment of \$5,000. The committee, however, declined to receive the building material unless officially advised so to do by the Government, as appears in its note of February 6, 1897, to Metzger & Co. This instruction seems to have been refused by the department of the interior, and on the 10th day of February, 1897, Metzger & Co. addressed the following communication to the secretary of state of finance and commerce:

PORT AU PRINCE, *February 10, 1897.*

To the SECRETARY OF STATE OF FINANCE AND COMMERCE, *Port au Prince.*

MR. SECRETARY OF STATE: We announce to you with regret that our efforts (demarches) near your colleague of the department of the interior have remained fruitless, he refusing to give us the letter demanded by the relief committee of Jacmel under the plea that there is an understanding between you and ourselves that we should deliver for \$20,000 of material before we could collect \$5,000.

As you well know, this is a profound mistake, no affair of credit having been agreed upon between us. Our agreement was that we should deliver for \$5,000 lumber against \$5,000 cash down and that we were to enter upon arrangements for the balance.

Requesting you kindly to enter into communication with your colleague of the interior, and regulate the conditions taken, we are, Mr. Secretary of State,

Yours, etc.,

JOHN D. METZGER.

In this letter we find the first evidence that the matter of the mode of payment had been the subject of consideration and determination between the Government and Metzger & Co. In this letter Metzger & Co. say: "Our agreement was that we should deliver \$5,000 worth of lumber against \$5,000 cash down and we were to enter into agreement for the balance." To this letter no reply appears to have been made and it may fairly be taken as stating the arrangement so far as definitely concluded. There is the distinct admission on the part of Metzger & Co. that arrangements are still to be made as to the mode of payment for the balance of the lumber. As we have seen, Metzger & Co. have advised the Jacmel relief committee of their willingness to furnish \$5,000 worth of lumber for \$5,000 in cash, which proposition the relief committee declined to accept without the sanction of the Government. It is apparent from the testimony and documents in evidence that the difference which arose between Metzger & Co. and the Government as to the terms and mode of payment was never recon-

ciled and no further definite agreement was concluded between the parties interested. It is to be gathered from the documents and correspondence that Metzger & Co., owing to their distrust arising from the unsettled condition of affairs in Haiti, deemed it imprudent to furnish the lumber except for cash, and the Government's declination to receive the same except upon credit led to an irreconcilable difference upon this branch of the proposed contract, upon which the minds of the parties never met on a common basis.

In reaching this conclusion I have not overlooked the fact that when demand for payment from the officials of the Government of Haiti was made, the answer of the Government based the denial of liability upon other grounds than lack of agreement with Metzger & Co. as to the mode of payment. Upon October 6, 1897, Metzger & Co. wrote to the Government officials asking payment for the amount of lumber tendered the Jacmel relief committee. It was answered November 13, 1897, by the secretary of state of the department of the interior, calling for documentary proof showing that the lumber had been placed to the account of the Government. A letter is in evidence, dated June 30, 1898, from Hon. T. August, then secretary of state of the interior, in which the receipt of the letter of Metzger & Co. of the 6th instant, inclosing copy of the minute of the relief committee, and from the minister of the interior, above referred to, is acknowledged. In this letter Mr. August states that the council decided that the claim can not be considered, nothing having been furnished to the population of Jacmel. It must be borne in mind, as shown in the statement of Metzger & Co., filed in the State Department, that four changes of ministers intervened during the time which Metzger & Co. were pressing their claim for settlement. These denials of liability, under the circumstances, I deem consistent with the other proof, which shows that the council of ministers had approved of the arrangement with the relief committee, which left open the manner in which the \$20,000 was to be paid. But no agreement was reached further than herein indicated upon this subject. Upon consideration of all of the documents in evidence submitted I have reached the conclusion that the Government did definitely agree and bind itself through its proper officers to take \$5,000 worth of lumber; that Metzger & Co. tendered delivery of this material; that the Government refused to pay said sum, and that the relief committee declined to receive the same without instructions and sanction of the Government. Therefore there was a breach of contract entitling Metzger & Co. to \$5,000 in consideration of that much worth of lumber. As the result of this default Metzger & Co. were compelled to dispose of said lumber at a great sacrifice. Owing to the conditions of affairs in Jacmel it was almost impossible to sell the lumber there. I find the loss of Metzger & Co. because of this contract to be the difference between the price agreed upon and the price obtainable in the market at the time and place of delivery, namely, \$3,000, which sum, in my opinion, is justly due from the Republic of Haiti to Metzger & Co.

As to the objection interposed by complainant to certain testimony offered by the government of Haiti, to wit, pieces numbered 14 to 27, inclusive, which bear date as of October, 1898, I have concluded to consider said testimony for whatever weight I consider it justly entitled. In my opinion it is not decisive of the real issues in the case, as it tends to show that the relief committee did not make any contract binding

upon the committee. The real question to be determined is, How far did the government of Haiti make itself liable under the circumstances shown? I have, therefore, given this testimony due consideration and declined to exclude it as requested by counsel for the claimant.

WATER CLAIM.

Metzger & Co., having established a business as dealers in lumber and erected a planing mill in connection therewith, in the fall of 1897, discovered that the supply of water furnished by the hydraulic service at Port au Prince was inadequate, and they were not able to obtain water enough for their mill. The mill had theretofore been supplied with a three-quarter inch pipe. Metzger & Co. made application for a 1-inch pipe. This application was entertained by the local authorities, and an agreement was reached with Metzger & Co. by which their firm was to pay for obtaining the pipe and the cost of laying same. The work was estimated to cost \$81.75. This estimate was accepted by Mr. Metzger and indorsed "Approved. Good for \$81.75." It is claimed that Metzger & Co. refused to pay this sum. I find, however, from the testimony submitted, that the mayor of the commune in a report to the minister of foreign affairs of Haiti, stated that he had agreed to make compensation for the \$81.75 on a sum of \$218 on a debt due Metzger & Co. from the commune, which the mayor alleges Metzger & Co. refused to do. This claim, however, is inconsistent with the acceptance of the bill indorsed by Metzger & Co., with approval as above quoted, and with the fact that the commune was embarrassed in the payment of its debts, and Metzger & Co. are likely to have been entirely willing to obtain part of their claim from the commune in this way. The testimony is clear that Metzger & Co. badly needed the water, without which they could not run their mill, the lack of it greatly interfering with their business and practically bringing it to a standstill. It is inconceivable that they would not permit a credit of such a small sum upon their claim to enable them to obtain the much-needed water supply. I am of opinion that this arrangement for the furnishing of water was entered into between Metzger & Co. and the local authorities and should have been carried out in good faith. It appears that this work was begun but was stopped by the communal magistrate, who informed Metzger & Co. that unless they paid certain license taxes a 1-inch pipe could not be laid, but a one-half inch pipe, which had already proved inadequate, would be supplied. Metzger & Co. claimed that the license taxes could not be paid by reason of certain orders of the local courts undertaking to subject the same to payment of creditors of the commune. I do not deem it important in this connection to enter upon the merits of that controversy. I am satisfied that the payment of license taxes had nothing to do with the furnishing of a water supply to Metzger & Co. This demand was probably an afterthought, improperly introduced into the affair, and could have no effect in releasing the authorities from their contract. It also appears that it was claimed that Metzger & Co. were in arrears for water rent. This is contradicted by receipts in evidence in the case. No such claim was made when the contract was entered into with Metzger & Co. for a 1-inch pipe. If such a claim could have been made, it should have been insisted upon at the time. As to the alleged offers to carry out the agreement, it does not

appear that upon the occasion of Mr. Metheun's visit to Metzger & Co.'s works in 1898 he offered to carry out the agreement, which had in fact been made, but only to repair the insufficient service, already in at Metzger & Co.'s expense. Reference is made in the brief filed in behalf of the Republic of Haiti to a private letter of one Hilaire, an attorney, to the mayor of the commune. Hilaire is said to have been the attorney of Metzger & Co. It is of date of June 17, and he says "they (Metzger & Co.) refused to accept the mode of payment proposed by you (Mathon) based as you say on the compensation." No doubt this referred to the offer of Metheun to repair the pipes at Metzger & Co.'s expense. It was not a tender or promise to furnish a 1-inch pipe or such a promise as would put an end to liability under the contract. As I have already found, Metzger & Co. practically agreed to pay the cost by crediting the sum of \$81.75 on the amount of \$218 due from the commune. It only remained for the latter to lay the pipes as agreed. On October 10, 1898, Mr. May advised the American chargé of affairs at Port au Prince that in an interview with the solicitor of the State Department the Haitian minister had said that the commune would furnish the water pipe for Metzger & Co. provided they consent that the cost thereof be credited on the amount of \$218 due Metzger & Co. by the commune. The Secretary advised that Metzger & Co. give their consent and offer in writing to pay for the cost in the manner proposed, at the same time not waiving any claim they might have because of the refusal theretofore to furnish them with an adequate supply of water. Mr. Powell, the American minister, took up the matter on that line and reported, on January 17, 1899, that the council of ministers had agreed to adjust the matter, leaving Metzger & Co. in a position to claim damages for any failure of the water supply theretofore. It appears from the diplomatic correspondence that the attention of the Haitian minister at Washington having been called to the claim of Metzger and Co., as to the inadequate water supply for the mill, the minister at once gave assurances that Metzger & Co.'s grievances in that behalf should be adjusted on an equitable basis. On the 3d of June, 1898, Mr. Léger, the minister of Haiti at Washington, in answer to a note from the Secretary of State of the United States advising the minister that the minister of the United States at Port au Prince reported Metzger & Co.'s mill still deprived of water, said, in his note:

In reply, I must not fail to confirm what I had the honor to state to you in an interview of the 2d instant. According to the agreement reached with the solicitor of the Department, I informed my Government of Mr. Metzger's grievances, and the secretary of state of foreign relations recently wrote to me that the matter had been settled within twenty-four hours.

Afterwards the attention of the minister of Haiti at Washington being called to this agreement, he assured the State Department that it had been attended to for some time. An investigation shows that the honorable minister was laboring under a misapprehension in this regard. A visit was made to the Metzger establishment by the mayor of the commune, who reported that water was furnished to the satisfaction of Mr. Metzger. Doubtless this report misled the minister. An investigation made by Minister Powell shows that there was very little water and the supply at that time was entirely inadequate. Until January, 1899, no successful attempt was made to carry out the contract. I am of opinion that this arrangement agreeing to settle

Metzger & Co.'s grievances, promptly accepted by the secretary of state for foreign relations of Haiti, followed by the assurance of the secretary, conveyed by the minister to the State Department at Washington, that the matter had been settled within twenty-four hours, constituted a diplomatic agreement between the two countries which, upon settled principles of international law, should have been carried into effect. It is claimed, on the part of the Government of Haiti, that this correspondence amounted only to an agreement on the part of Haiti to use its good offices with the commune of Port au Prince. I am of opinion that it amounted to much more than that. When the grievance was called to the attention of the minister at Washington, and through him reported to the secretary, no claim was made that the commune alone was responsible, and no attempt was made to limit the authority or responsibility of the Government. On the contrary, the minister and secretary promptly assumed responsibility for the grievance and assured the Government at Washington that it had been rectified. It can not be that good faith is less obligatory upon nations than upon individuals in carrying out agreements. It is now strenuously urged that the Government of Haiti had no authority over the commune of Port au Prince, and must, in its relations with the commune, have limited its interference to friendly advice and suggestions. I do not understand that the limitations upon official authority, undisclosed at the time to the other government, prevent the enforcement of diplomatic agreements. The question came before the Chilean claims commission created by the convention of August 7, 1892, between the United States and Chile, in which a claim was made upon a contract entered into by the United States minister in Chile, in making which the Government of the United States claimed the minister had no authority and denied responsibility, claiming further that the agreement was in violation of the statutes of the United States, and that the plaintiff had a remedy in the United States courts. The commission decided unanimously that it was immaterial whether the minister had exceeded his authority or not, as he had made the promise as the representative of the United States in the name of his Government, which, according to the rules of responsibility of governments for acts performed by their agents in foreign countries, can not be repudiated. In the present case there is no claim that the minister was unauthorized to make the diplomatic representations stated. On the contrary, he was only carrying into effect the instructions of his Government. The learned commission referred, in support of their decision, to Calvo Dictionaire de Droit International, Volume II, page 170, and Calvo Dictionaire International, Volume I, section 417; Moore's Digest International Arbitration, volume 4, pages 3569-3571. Nor is there any more avail in the argument that the remedy of Metzger & Co. is to be sought in the courts of Haiti against the commune. Even had Metzger & Co. such a right, this would not affect the right to arbitrate the claim as has been done in this case. By the terms of the protocol the arbitrator is competent to take jurisdiction of the claim so far as the liability of the Government of Haiti is concerned (4 Moore International Arbitrations, p. 3571). This view of the case renders it unnecessary to determine whether, as is claimed in argument, the communal authorities are merely the agents of Haiti or whether, as contended by the minister of Haiti, the Government of Haiti had entirely made over the waterworks to Port au

Prince, which alone received the revenues and managed its affairs. A diplomatic arrangement fairly and honorably entered into should, in my judgment, be carried into effect. I have already stated what, in my opinion, were the rights of Metzger & Co. under the arrangements made with the commune to supply them with water. This is the arrangement which should have been carried into effect. It should have been carried out by the Government of Haiti upon the responsibility assumed by it. Because of the failure to give them an adequate supply of water Metzger & Co's. mill was compelled to remain idle, partially for a time and afterwards to entirely suspend operations. Much of the claim for alleged damages on behalf of complainant can not be allowed. The items showing remote and speculative damages do not directly result from the breach of the agreement. The claimants are entitled to compensation for loss of the use of the mill in whole or in part during the time in which they were unable to operate it by reason of the failure to furnish water and its impaired usefulness when an inadequate supply was furnished to them. I am of opinion that damages fairly recoverable in a case of this kind will be compensated by the payment to Metzger & Co. by the Government of Haiti of the sum of \$15,000.

THE TAX SEIZURE.

J. D. Metzger & Co., prior to January 6, 1897, having established a business in the manufacture of doors, sashes, etc., in a planing mill owned by them in Port au Prince, were engaged in carrying on the business, with certain workmen in their employ. On that date several writs were left at the mill for five workmen to appear before a justice of the peace at Port au Prince to pay a year's license, also certain fines and costs for nonpayment thereof. The amount of the sentences thus imposed vary in amount as to the different workmen, from \$86 to \$97. These workmen were summoned to appear June 1, 1897. The proceedings against them were on the ground that they were foreigners employed as engineers or clerks. No attention seems to have been paid to these proceedings. On the 16th of June the substitutes of the justice of the peace, a "huissier," and others appeared upon the premises of Metzger & Co., claiming judgment by default against the workmen. On June 23 the parties again appeared demanding payment of the assessments aforesaid. The same being refused, the goods of Metzger & Co. were seized on the 23d, 24th, and 25th days of June, 1897, and taken from the premises, and, after outcry, an auction being proclaimed and a bell sounded by the crier, goods to the amount and value of \$1,200 were sold, although a much less sum was realized therefor, and certain receipts were left at the factory for the license fees, fines, and costs levied upon the workmen, to wit:

Sampson.....	\$118
Hubert.....	108
McCormick.....	108
Thompson.....	108
Spain.....	216
Lee.....	216

These license taxes were levied under the law of the Republic of Haiti, passed October 24, 1876.

Article 9 provides that "foreigners who shall be permitted to exercise any other industry except commerce, shall pay a tax double of the amount exacted of Haitians exercising the same industry."

Article 11 provides that "foreigners employed as clerks or under any other title in the service of merchants, traders, manufacturers, or artisans, either natives or foreigners, shall be subject to the tax specified by tariff."

"The one who employs them in his service shall be responsible for the payment of the license."

Article 17 provides that "the dues for licenses shall be collected at the office of the receiver of the commune."

Article 18 provides that "the license should be taken out each year from the 1st of October to the 15th of November at the latest."

"All persons subject to a patent, who shall not have taken out within five days after the delay fixed, their licenses shall be, on the denunciation of the communal receiver, condemned by the justice of the peace to a fine of 50 cents for each day's delay, with 10 per cent of the amount of the license that they should have taken."

"The fine, as well as the amount of the license and the expenses, shall be, forty-eight hours after the condemnation, if the fine shall not have been paid, seized by office of the justice of the peace on the merchandise, products, furniture, or whatsoever effects belonging to the delinquent."

"The objects seized shall be under brief delay sold at public auction up to the amount of the sum to be collected, without prejudice to article 36 of the penal code touching arrestation."

Article 34 provides that "the justice of the peace and the public minister are bound under penalty of removal from office to pursue without delay any infraction of the present law, that they may have discovered or that may have been denounced to them."

Article 35 provides that "all fines pronounced either by the justices of the peace or the correctional court, for an infraction of the present law, belongs one-half to the one who shall have discovered or denounced the violation and the other half to the communal funds."

Metzger & Co. strongly protested against this seizure and sale of their property, claiming that the practice had not been to impose fines for nonpayment of licenses; that none of the summonses, writs, or judgments had been recorded, rendering the proceedings null and void; that the seizures are unlawful, being the result of proceedings to which Metzger & Co. were not parties; that articles 11 and 18 of the law of October 24, 1876, have only been applied to foreign clerks. It does not appear that in the early stages of the claim Metzger & Co. predicated a right of recovery upon the ground of infraction of their rights secured to them by the treaty between the Republic of Haiti and the United States. At least as early as August 31, 1897, Mr. Powell, the American minister at Port au Prince, in a communication to the secretary of state of foreign affairs of Haiti, distinctly claimed that the requirements of law were not applicable to all citizens alike as under the treaty between the two countries they should be, and that they could not be enforced. In the diplomatic presentation of the matter, in an interview between the honorable minister of Haiti at Washington and the solicitor of the State Department, the claim was made that the attempt to collect taxes from Metzger & Co.'s workmen was a violation of the treaty rights secured to American citizens under the existing treaty. This position does not seem to have been controverted by the representative of Haiti, but he contended that the redress of Metzger & Co. for their alleged wrongs and grievances could be had in the legal

tribunals of Haiti. The American Government, in view of the disposition of the Haitian minister and the pledge on the part of his Government to observe the rights of American citizens under the treaty, on the 9th day of June sent an instruction to its minister at Port au Prince as follows:

The Government agrees no longer to insist upon the settlement of said claims against the Haitian Government (referring to the license taxes) which, on its part, pledges itself to see that the rights which the treaty grants to American citizens in Haiti be strictly observed. This approval is, however, subordinate to Mr. Metzger's right to demand indemnity for the illegal seizure and sale of his goods, and does not exclude the right of diplomatic intervention in case of a denial of justice.

On October 1, 1898, the Secretary of State of the United States, in an extended note summarizing the position of his Government upon various matters, among other things, said:

If the agreement then made for redress of Mr. Metzger's grievance over the water supply had been promptly and faithfully performed, the Government might have had no occasion to intervene diplomatically in regard to the indemnity confessedly due Mr. Metzger for the illegal seizure and sale of his goods; for the Haitian Government has admitted the illegality of the license taxes, as being in violation of the treaty, and there can, therefore, be no question of the right of Mr. Metzger to such indemnity.

On October 5 the minister of Haiti at Washington replied to this note, and while he maintained the understanding that the remedy of Metzger & Co. should first be exhausted in the local tribunals of Haiti before diplomatic intervention could be considered, he did not deny nor in anywise controvert the statement above quoted from the note of October 1 of the American Secretary of State. Thus the diplomatic correspondence seems to establish the fact that the claim of Metzger & Co. presented conditions which brought it within the provisions of the treaty in existence between the two nations. The stipulations of this treaty, so far as relevant to the present case, in articles 5 and 6 thereof, provide:

Article 5. The citizens of each of the high contracting parties residing or established in the territory of the other shall be exempt from all compulsory military duty by sea or by land, and from all forced loans or military exactions or requisitions; nor shall they be compelled to pay any contributions whatsoever higher or other than those that are or may be paid by native citizens.

Article 6. The citizens of each of the contracting parties shall be permitted to enter, sojourn, settle, and reside in all parts of the territories of the other, engage in business, hire and occupy warehouses, provided they submit to the laws, as well general as special, relative to the rights of traveling, residing, or trading.

It will be seen that by article 5 it is expressly provided that the citizens of the high contracting parties residing or established in the other's territory shall not be compelled to pay any contribution whatever higher or other than those which are or may be paid by native citizens. By the sections of the law passed October 24, 1876, above quoted, it is expressly provided that the license tax imposed upon foreigners shall be double that imposed upon native workmen. This law contains no exception in favor of American citizens residing in Haiti whose rights are thus carefully conserved by the treaty between the two countries. This law, so far as it affects American citizens, is in direct violation of the stipulations of the treaty. In practice it is shown that these license taxes were seldom enforced against workmen in Haiti. By direct enactment of law the solemn obligations of the treaty are ignored and discriminating burdens imposed upon foreign-

ers without exception. When this condition of affairs was diplomatically called to the attention of the authorities of the Republic of Haiti, it is to the credit of that Government that it promptly conceded that American citizens had rights under the treaty which deserve protection and which the Government of Haiti undertook to see were duly guarded, leaving Metzger & Co. to pursue their remedy for the infraction of their rights already sustained. Regarding this state of facts as established by the diplomatic understanding of the two governments, we have a case in which, notwithstanding the provisions of the treaty placing American citizens upon the same plane in this regard as natives, a tax is levied upon them of double the amount of that imposed upon natives, and when not paid the employers of such workmen are subject to a summary seizure and sale of their goods. It is strongly urged in the able argument submitted by the minister of Haiti that the remedy of the claimants should be sought in the local courts of Haiti, and that such remedy is exclusive. Numerous precedents are cited to the proposition that governments will not intervene diplomatically when such remedy is given. As a general proposition, it is settled international law that a government will not intervene in claims against foreign governments when redress may be had in the courts of that country. If there has been a substantial denial of justice, or a gross miscarriage thereof, sanctioned and approved by the opposing government, a nation will then intervene. The arbitrator in this case, however, is given jurisdiction of the differences between the two governments by the terms of the arbitral agreement, giving him jurisdiction and authority to determine certain differences. It is expressly provided in the protocol:

That the question of the liability of the Republic of Haiti to pay an indemnity in each of said cases, and if so found by the arbitrator, the further question of the amount of the said indemnity to be awarded shall be referred to the Hon. William R. Day, sometime Secretary of State of the United States, and now judge of the circuit court thereof, who is hereby appointed to hear said causes and to determine the questions of said liability and the amount of said indemnity, if any is found by said arbitrator to be justly due.

From this agreement the authority of the arbitrator is derived. I can not perceive that the competency of the arbitrator can be limited, because of the fact that Metzger & Co. might have sought judicial remedies in the courts of Haiti. This fact may have weight in the determination of the Government when its attention is called to claims against other governments and may be sufficient reason for declining diplomatic intervention until an attempt has been made to obtain judicial redress in the courts of the country where the claimant is domiciled. The fact that such remedy is afforded may be good ground for withholding consent from an offer to arbitrate differences. I am at a loss to perceive how it can afford a valid objection to the arbitrator exercising powers conferred in the protocol of arbitration. The arbitrator is not called upon to decide the question elaborately argued by the honorable representative of Haiti, that under the constitution and laws of Haiti the commune of Port au Prince is alone responsible for the unlawful collection of the license taxes. The question submitted is, Is the Republic of Haiti liable upon this claim; and if so, to what amount? I do not deem it necessary to inquire as to whether the proceedings of the officials were strictly in accordance with local laws. The law which they were attempting to enforce was a law of the

Republic of Haiti in violation of the treaty between the two nations. It need hardly be stated that the obligations of a treaty are as binding upon nations as are private contracts upon individuals. This principle has been too often cited by publicists and enforced by international decisions to need amplification here. I find that the law authorizing double taxation upon foreigners, so far as it relates to American citizens, was in violation of treaty rights, and that the seizure and sale of Metzger & Co.'s goods under the facts established or conceded in this case was under a law sought to be enforced in violation of treaty rights. About \$1,200 worth of their goods was seized and sold under the circumstances hereinbefore detailed. I am of opinion that the Republic of Haiti, in compensation for the goods and reparation for their seizure and sale in the manner herein found, should pay to the claimants, John D. Metzger & Co., the sum of \$5,000.

AWARD.

In view of the conclusions reached under the several claims submitted to the arbitrator, I do hereby find and award that the Government of Haiti pay to the claimants, John D. Metzger & Co.:

For sale of lumber at Jacmel.....	\$3,000
For the failure to furnish water to the mill.....	15,000
For the illegal seizure and sale of their goods.....	5,000

In all, \$23,000, payable in the gold coin of the United States or its equivalent, within the time provided in the protocol.

Done in duplicate at the city of Canton, Ohio, United States of America, this 27th day of September, A. D. 1900, as witness my hand on said day and date.

WILLIAM R. DAY,
Arbitrator.

TONNAGE DUES ON AMERICAN VESSELS.

Mr. Adee to Mr. Battiste.

No. 432.]

DEPARTMENT OF STATE,
Washington, September 17, 1900.

SIR: I inclose copy of a letter from the Acting Secretary of the Treasury requesting that you will ascertain from the Haitian Government whether, in view of the new Franco-Haitian commercial treaty, it is their intention to impose higher or other tonnage dues upon American vessels carrying merchandise of French origin to Haiti than upon French vessels carrying the same.

You will invite their attention in this connection to article 10 of the treaty of November 3, 1864, between the United States and Haiti guaranteeing the most-favored-nation treatment to American shipping.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

Mr. Spaulding to Mr. Hay.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, September 12, 1900.

SIR: I have the honor to invite your attention to the Franco-Haitian commercial treaty published in No. 831, Advance Sheets Consular Reports, September 12, 1900. The second article of that treaty contains the following:

"The same reduction of the surtaxes of 50 per cent and 33½ per cent shall be accorded in that which concerns the tonnage dues paid by French sailing vessels and on the merchandise debarked from French steamers, on condition that the said merchandise be of French origin. This origin shall be verified, etc."

I have the honor to request that our minister to Haiti be instructed, if you perceive no objection thereto, to bring this article of the treaty to the attention of the Haitian Government, together with article 10 of the treaty of November 3, 1864, between the United States and Haiti, by which it is provided that no higher or other duties upon tonnage or cargo of vessels of the United States shall be levied or collected than shall be levied or collected on vessels of the most favored nation.

This Department desires to ascertain whether it is the purpose of the Haitian Government to impose higher or other tonnage dues upon American vessels carrying merchandise of French origin to Haiti than upon French vessels carrying the same.

Respectfully,

O. L. SPAULDING, *Acting Secretary.**Mr. Battiste to Mr. Hay.*

No. 822.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, October 10, 1900.

SIR: I have the honor to acknowledge the receipt of dispatch No. 432, of September 17 last, transmitting copy of letter of the Assistant Secretary of the Treasury, requesting information relative to intention of the Haitian Government in regard to dues to be paid by American vessels carrying merchandise of French origin to Haiti, and also instructing me to invite the attention of this Government in this connection to article 10, of the treaty of November 3, 1864, between the United States and Haiti guaranteeing the most-favored-nation treatment to American shipping.

Herewith inclosed I beg to transmit the reply of this Government, with a translation, to my dispatch fulfilling such instructions.

I am, etc.,

ALEXANDER BATTISTE, *In charge.*

[Inclosure.—Translation.]

Mr. St. Victor to Mr. Battiste.

DEPARTMENT OF STATE FOR FOREIGN RELATIONS,
REPUBLIC OF HAITI,
Port au Prince, October 6, 1900.

MR. CHARGÉ D'AFFAIRES: By your dispatch of the 27th of the month of September last you request me to inform you whether, in consequence of the new commercial agreement made between Haiti and France, the Government of the Republic has the intention of imposing on American vessels transporting to our ports merchandise of French origin higher tonnage dues than those paid by French vessels loaded with merchandise from the same province.

In reply to this communication I have the honor to announce to you that the minister plenipotentiary of Haiti at Washington will soon be charged to discuss the matter with the Department of State.

You kindly, in concluding, called my attention to Article X of the treaty of November 3, 1864, which provides that there shall not be collected on the tonnage or the cargo of vessels of the United States higher or other dues than those imposed on vessels of the most favored nation.

In the first place, I would beg you to observe that the clearly determined reciprocity character of the new Haitian-French agreement withdraws it from the influence of the "most-favored-nation clause." Then, to the provisions of Article X of the treaty of 1864, that you invoke, I would ask of you permission to oppose the very precise stipulations of Article II of the same diplomatic document, reading thus: "The Republic of Haiti and the United States of America desiring, etc., * * * have agreed that any favor, exemption, privilege, and immunity whatever, in matters of commerce or of navigation, which either of them has granted or may hereafter grant, to the citizens or subjects of any other government, nation, or state, shall extend, in identity of cases and circumstances, to the citizens of the other contracting party; gratuitously, if the concession in favor of that other government, nation, or state shall have been gratuitous, or in return for an equivalent compensation, if the concession shall have been conditional."

Now, you are certainly not ignorant that if certain tariff concessions have been agreed in favor of French merchandise it was on the express condition that our principal products would profit of the lowest duties on their entrance in French ports.

Besides, do you think, Mr. Chargé d'Affaires, that notwithstanding all its kindly dispositions toward the Republic of Haiti, the Federal Government could agree to waive the restrictive clause set forth in the second paragraph of Article II and ever agree, without compensation, not to levy "on the importation into the United States of any article the growth, production, or manufacture of Haiti or her fisheries; and no higher or other duties shall be imposed on the importation into Haiti of any article the growth, produce, or manufacture of the United States or her fisheries than are or shall be payable on the like articles the growth, produce, or manufacture of any other foreign country or its fisheries," with which the United States would be bound by a reciprocity treaty. (Article XIII of the treaty of 1864.)

I think it superfluous, in giving these considerations to the equitable appreciation of your legation, to insist on the provisions so clearly explicative, and take the occasion to renew to you, Mr. Chargé d'Affaires, the assurances of my very distinguished consideration.

B. ST. VICTOR,

Secretary of State for Foreign Relations.

Mr. Hill to Mr. Powell.

No. 452.]

DEPARTMENT OF STATE,
Washington, February 8, 1901.

SIR: Referring to your No. 822, of October 10, last, relative to the alleged right of the Haitian Government to impose higher duties on United States vessels carrying French goods than on French vessels, I have to say that you may advise the Government of Haiti that this Government is of opinion that Article X of the convention of 1864 between the United States and Haiti is quite independent of Article XI and creates absolute rights, which this Government can not fail to insist upon. Should, therefore, any higher charges be collected on American tonnage than that of any other country they will be reclaimed.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Powell to Mr. Hay.

No. 883.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, February 18, 1901.

SIR: In reply to dispatch No. 452 I have the honor to inclose copy of a dispatch forwarded to-day to the Haitian foreign office, according to Department's instruction.

I remain, etc.,

W. F. POWELL.

[Inclosure.]

Mr. Powell to Mr. St. Victor.

No. 416.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, February 18, 1901.

SIR: I have the honor to call your attention to the instructions from my Government as to right of your Government to impose higher charges on American tonnage than is imposed by your Government on French tonnage.

My Government is of the opinion that Article X of the convention of 1864 between the United States and Haiti is quite independent of Article XI and creates absolute rights, which my Government can not fail to insist upon.

Should, therefore, any higher charges be collected on American tonnage than that of any other country they will be reclaimed.

Accept, etc.,

W. F. POWELL.

Mr. Hay to Mr. Powell.

No. 458.]

DEPARTMENT OF STATE,
Washington, March 1, 1901.

SIR: I have to acknowledge the receipt of your No. 883, of the 18th ultimo, and approve your note to the Haitian foreign office in regard to the imposition of higher duties on American than on French tonnage.

You will continue to press the matter.

I am, etc.,

JOHN HAY.

**CITIZENSHIP OF JULIENNE GUILLOID, BORN IN HAITI OF A
MULATTO, FORMER RESIDENT OF LOUISIANA.**

Mr. Powell to Mr. Hay.

No. 860.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, January 26, 1901.

SIR: A gentleman by the name of Julienne Guilloid called and requested to be registered on the books of the legation as an American citizen. He not being able to furnish sufficient evidence that such was the case, I have refused, but stated to him that I would call the attention of the honorable Secretary of State to his request.

The evidence that he produced to support his request for registration is a paper issued to his father forty-one years ago by the State of Louisiana, bearing the name of Julienne, a mulatto, and stating that "the bearer was a resident of that State." Attached thereto was the seal of the State and the signature of the governor, John Whitcliff. In addition to this another paper was produced, bearing the signature of one of the United States consular agents, calling upon this Government to give the bearer protection and the right to move from place to place in the Republic of Haiti as an American citizen. Later there appears an indorsement upon this paper of a similar character, signed by the Hon. J. W. Thompson, at the time the United States minister resident and consul-general here.

I would be glad to send copies of such papers, but Mr. Guilloid refused to leave them without his father's consent. After a further investigation I find that this gentleman has no intention of returning to the United States, nor has he returned within the time he left, forty-one years ago, during the whole of which time he has been a resident of St. Marc, Haiti (I have reference to the father). The son, who is

the applicant for registration, is 23 years of age, has never been to the States at any period of his life, nor was he registered on the books of the legation or the consulate at the time of his birth. As I have stated, I have refused to register him, believing that his father had lost his citizenship, and that the son had not made this request at the time he reached his majority. I do not desire to do injustice to him, and therefore request of the Department to inform me if the action taken by me was correct.

I have, etc.,

W. F. POWELL.

Mr. Hill to Mr. Powell.

No. 455.]

DEPARTMENT OF STATE,
Washington, February 20, 1901.

SIR: I have to acknowledge the receipt of your No. 860, of the 26th ultimo, reporting that Mr. Julienne Guilloid had applied to you for registration as an American citizen. He was born in Haiti, has never been in the United States, is 23 years old, and expresses no intention of coming to this country. He claims through his father, who left the United States forty-one years ago, has never returned, and whose only evidence of American citizenship is a paper under the seal of the State of Louisiana, and signed by the governor thereof, in which he is styled a resident of the State of Louisiana.

In view of the presumption that the father of the applicant has practically abandoned his United States citizenship, if he ever possessed it, and of the further fact that the applicant expresses no intention of ever coming to the United States to reside, the Department considers that your action is correct in declining to register him as a citizen of the United States.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

CONDOLENCES ON ASSASSINATION OF PRESIDENT MCKINLEY.

Mr. Léger to Mr. Hay.

[Translation.]

LEGATION OF THE REPUBLIC OF HAITI,
Washington, September 14, 1901.

MR. SECRETARY OF STATE: Permit me to lament with you the sorrowful loss which the people of the United States have just experienced in the person of its regretted President.

The cowardly attempt of which he dies the victim has, in exciting the indignation of my country, redoubled the sympathy which has been felt there for Mr. McKinley. I should be obliged to you to extend to the Government as well as to the people of the United States the sincere condolences of my Government and of the Republic of Haiti.

I avail myself, etc.,

J. N. LÉGER.

Mr. Hill to Mr. Léger.

DEPARTMENT OF STATE,
Washington, September 25, 1901.

SIR: The pressure of public business attendant upon the death of President McKinley has delayed until now an acknowledgment of your note of the 15th instant conveying an expression of the sympathy of the Government and people of Haiti with the Government and people of the United States in the loss they have sustained by that sad event.

I shall be obliged if you will assure your Government that their condolence is gratefully appreciated by the Government and people of the United States, who are deeply touched by the innumerable manifestations of sympathy which they have received from all parts of the world.

At the same time I beg to thank you for the expression of condolence made on your own behalf.

Accept, etc.,

DAVID J. HILL,
Acting Secretary.

ITALY.

LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES UNDER MILITARY AND EXPATRIATION LAWS OF THEIR NATIVE COUNTRY.^a

DEPARTMENT OF STATE,
Washington, March 18, 1901.

NOTICE TO CITIZENS FORMERLY SUBJECTS OF ITALY WHO CONTEMPLATE RETURNING TO THAT COUNTRY.

The information given below is believed to be correct, yet it is not to be considered as official, as it relates to the laws and regulations of a foreign country.

Italian subjects between the ages of 20 and 39 years are liable for the performance of military duty under Italian law, except in the case of an only son, or where two brothers are so nearly of the same age that both would be serving at the same time, in which event only one is drafted, or when there are two sons of a widow, when only one is taken.

Naturalization of an Italian subject in a foreign country without consent of the Italian Government is no bar to liability to military service.

A former Italian subject may visit Italy without fear of molestation when he is under the age of 20 years; but between the ages of 20 and 39 he is liable to arrest and forced military service, if he has not previously reported for such service. After the age of 39 he may be arrested and imprisoned (but will not be compelled to do military duty) unless he has been pardoned. He may petition the Italian Government for pardon, but this Department will not act as the intermediary in presenting his petition.

There is no treaty between the United States and Italy defining the status of former Italian subjects who have become American citizens.

The Italian law does not require the production of passports by foreign travelers, but they are frequently called upon to establish their identity, and are accordingly recommended to provide themselves with passports. They are often useful in preventing an interference with departure from Italy. They do not require to be viséed or indorsed.

^a See instruction to Austria-Hungary, December 10, 1900, p. 7.

LYNCHING OF PERSONS OF ITALIAN ORIGIN AT ERWIN, MISS.

Signor Carignani to Mr. Hay.

[Translation.]

EMBASSY OF HIS MAJESTY THE KING OF ITALY,
 Washington, July 15, 1901.

Urgent.]

MR. SECRETARY OF STATE: AS I had the honor to tell you a short time ago, two Italians were attacked on the 11th (?) instant and killed by an armed mob, while a third was wounded, under circumstances which constituted a lynching. The names of the victims were Giovanni and Vincenzo Serio, and that of the wounded man is Salvatore Liberto, all of them being natives of Cefalu, Sicily. The crime was committed at Erwin, Miss.

The serious nature of this case will not escape the attention of the United States Government, and, deeply deploring what has occurred, I beg your excellency to be pleased to instruct the proper authorities to the end that an official investigation of this matter may be held at once, if possible, and that the guilty parties may be arrested and punished according to law.

I have, at the same time, the honor to make a warm appeal to the good will and the sentiments of justice and humanity of the Federal Government, and I trust that efficient steps will be taken without delay in the county where the crime was committed with a view to securing to our countrymen the protection to which they are entitled by the treaties in force between Italy and the United States.

Permit me to rely upon the support which you have been pleased to promise me in this unfortunate matter, and I beg you, Mr. Secretary of State, to accept the assurance of my highest consideration.

CARIGNANI.

Mr. Hay to Signor Carignani.

No. 687.]

DEPARTMENT OF STATE,
 Washington, July 17, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 15th instant reporting the lynching of two Italians named Giovanni and Vincenzo Serio, and the wounding of a third, named Salvatore Liberto, by an armed mob at Erwin, Miss.

In reply I have the honor to say that the case has been at once referred to the governor of Mississippi for appropriate action.

Accept, etc.,

JOHN HAY.

Mr. Hill to Mr. Iddings.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
 Washington, July 20, 1901.

(Mr. Hill directs that the Italian minister for foreign affairs be informed that an investigation of the alleged lynching at Erwin of

persons born in Italy is being made by the governor of Mississippi, and that all legal steps to secure justice which may be warranted by the facts will be taken by this Government.)

Mr. Hill to Signor Carignani.

No. 688.]

DEPARTMENT OF STATE,
Washington, July 20, 1901.

SIR: Referring to your note of the 15th instant, in regard to the reported lynching at Erwin, Miss., by an armed mob, of two Italians and wounding of a third, I have the honor to say that the Department at once communicated with the governor of Mississippi and has received from him assurance that the matter will receive his immediate attention, and that he will make a report in regard to it.

In order to assure the Government of His Majesty the King of Italy that no proper course of action will be neglected by this Government, I have to-day transmitted a telegram ^a to the embassy at Rome to inform the minister of foreign affairs that the governor of Mississippi is investigating the alleged lynching of persons born in Italy, and that this Government will take all legal steps to secure justice which the facts may warrant.

I desire to repeat the expression of the regret, already orally stated, which the President entertains at the unfortunate occurrence.

Accept, etc.,

DAVID J. HILL,
Acting Secretary.

Signor Carignani to Mr. Hill.

[Translation.]

EMBASSY OF HIS MAJESTY THE KING OF ITALY,
Washington, July 21, 1901.

MR. ACTING SECRETARY OF STATE: Your excellency did me the honor to inform me, by your note of the 20th instant, No. 688, relative to the lynching of two Italians at Erwin, Miss., and to the wounding of a third, that the Department of State has communicated with the governor of Mississippi, and has received from him the assurance that the matter will receive his immediate attention, and that he will make a report in regard to it.

You add that, with a view to assuring the Government of His Majesty the King of Italy that nothing will be neglected by the United States Government, you sent, on the 20th instant aforesaid, a telegram to the embassy at Rome, instructing it to inform the minister of foreign affairs that the governor of Mississippi is investigating the alleged lynching of persons born in Italy, and that the Federal Government will take all legal steps to secure such justice as the facts may warrant.

Finally, your excellency has been pleased to repeat to me the expression already communicated to me orally, of the regret of the President of the United States on account of the unfortunate occurrence.

I have the honor to acknowledge the receipt of the said communication and to thank you for it.

Be pleased to accept, etc.,

CARIGNANI.

Signor Carignani to Mr. Hill.

[Translation.]

EMBASSY OF HIS MAJESTY THE KING OF ITALY,
Washington, D. C., July 22, 1901.

MR. ACTING SECRETARY OF STATE: A copy of the record of the inquest conducted by W. E. Hunt, sheriff of Greenville, Miss., and embodying the verdict of the jury in the matter of the lynching at Erwin, has just reached me from the royal consulate at New Orleans.

I deem it expedient to communicate to your excellency a copy of that strange document which for the sentiments therein expressed and the manner in which it is worded, deserves, in my opinion, the attention of the Federal Government.

It is scarcely necessary for me to point out the deplorable effects on the people of Washington County, Miss., and the painful impression in all parts that may be wrought by principles such as those that are recognized by a judicial officer and a commission composed of "six good and lawful men" as put in the report of inquest under consideration.

At the present time—that is to say, twelve days after the lynching—I am without advice that its perpetrators have been arrested, and since it is established by experience in the preceding cases of the same nature that the guilty never were punished, I permit myself to ask your excellency whether it may not be feasible for the Federal Government to send "detectives" to the spot on its own account for the detection of the lynchers. Such a step might facilitate the attainment of the object in view; it would also evidence the interest the Government of the United States takes in the triumph of the cause of justice and humanity. That such is the most earnest desire of the Federal Government has been over and again declared by your excellency and his excellency, Mr. Hay.

This absolute necessity of insuring a regular operation of the laws and the punishment of the guilty is also a matter of supreme interest to the Government of the King, my August Sovereign—as I have had many occasions to state it.

A telegram, received by me last night, from the minister for foreign affairs again repeats this sentiment and brings me evidence of the sensation of grief produced by this fifth lynching.

Awaiting the communication that your excellency may be pleased to make in the matter, I renew, etc.,

CARIGNANI.

[Inclosure.]

W. E. HUNT, *sheriff and tax collector of Washington County, Greenville, Miss.*
STATE OF MISSISSIPPI, *County of Washington.*

It having been duly reported to the undersigned justice of the peace of said county that Vincin Cerio and Joe Cerio had, on the night of the 10th of July, 1901, been assassinated by a mob of men unknown, the said justice then proceeded to the dwelling house of one Frank Cassio at Erwin Station, Miss., where the dead bodies of the said above-named parties were found, and proceeded to impanel a jury of six good and lawful men to act, inquest jurors on said bodies. After a due examination of all evidence and examination of the bodies, returned the following verdict:

We, the jury, sitting as an inquest upon the bodies of Vincin Cerio and Joe Cerio, do find that the said Vincin Cerio and Joe Cerio came to their death by the act of God, in that they died from gunshot wounds at the hands of unknown parties to this jury.

Witness our hands this 11th day of July, 1901.

JOHNSON ERWIN.
A. W. MANN.
V. A. STEIN.
T. W. WRENCHER.
G. W. BENNETT.
JERRY HOWE.

The above is a true copy of the proceedings of the inquest of Vincin Cerio and Joe Cerio held by me on the 11th day of July, 1901.

Witness my hand this 11th day of July, 1901.

J. M. BASKET, *J. P.*

STATE OF MISSISSIPPI, *Washington County.*

I, T. H. Hood, clerk of the chancery court in and for said county, do hereby certify that the foregoing one-half of this sheet contains a true and correct copy of the verdict of the jury of inquest upon the bodies of Vincin and Joe Cerio as the same was certified to this office, by J. M. Basket, justice of the peace, of said county, by whose authority said inquest was held.

Given under my hand and official seal this 16th day of July, A. D. 1901.

T. H. HOOD, *Clerk.*

Per copia conforme,
NEW ORLEANS, 18 Luglio, 1901.
[L. S.]

C. PAPINI, *Il Reggente.*

Mr. Iddings to Mr. Hay.

No. 62.]

AMERICAN EMBASSY,
Rome, Italy, July 23, 1901.

SIR: I have the honor to acknowledge the receipt on Sunday, July 21, of the following telegram^a (of July 20).

Pursuant to this instruction, I sought an interview with the minister of foreign affairs which was fixed for this morning, and in the conversation which has just ended I expressed to M. Prinetti the assurances of the Government at Washington as declared in your telegram. I also left with him a memorandum on the subject reading as follows:

The governor of Mississippi is investigating the alleged lynching at Erwin, Miss., of persons born in Italy. The United States Government will take all legal steps which the facts may warrant to secure justice against the guilty persons.

The minister did not express any opinion in regard to the information and assurance which I gave to him. He even omitted to thank me for the communication, but the omission was, of course, unintentional. He did express, however, an earnest hope that in this the fifth case

of lynching (as he said) of Italian subjects in the United States within a few years the guilty persons might be punished, especially since they were known. It seemed singular to him that Congress had not acted upon the President's recent suggestions to pass some law which would authorize the Federal Government to intervene in some way in the proceedings of justice in the individual States of the Union when occasion requires; but he feared that Congress would do nothing. I agreed with him in hoping that the President's suggestions might be acted upon, and explained to him, as has been explained to previous ministers, the difficulty, often on account of local feeling, which exists in certain parts of the United States, as well as in Italy (in Sicily, for instance), of always obtaining exact justice in cases of certain crimes. M. Prinetti contented himself in reply by reaffirming his hope that this last "of a series of lynchings" would be adequately punished.

I may add that we are entirely in ignorance in the embassy of the details of this incident at Erwin. The Italian papers give no particulars, simply saying that another case of lynching has occurred, and as yet the American newspapers which might inform us have not come.

I am, etc.,

LEWIS MORRIS IDDINGS

Signor Carignani to Mr. Hill.

[Translation.]

EMBASSY OF HIS MAJESTY THE KING OF ITALY,
Washington, July 24, 1901.

MR. ACTING SECRETARY OF STATE: With a view to facilitating the search for the authors of the lynching at Erwin, Miss., I deem it my duty to communicate to your excellency some important data collected by the New Orleans consulate upon the spot, by means of persons in whom it has confidence.

Vincenzo Serio, one of the victims, eight months ago had a dispute in regard to a horse of his that was found on the property of an American citizen. The latter, and other citizens of Glen Allen, armed with guns, attempted to murder Serio, whom they left wounded, but who succeeded in escaping to Greenville. Lately, having returned for the purpose of rejoining his father, Giovanni Serio (the other victim), at Glen Allen, the citizens ordered him to leave the village within thirty days. He paid no attention to this order, and during the night of the 10th to the 11th instant the citizens went to the house with the intention of killing him and anyone whom they might find sleeping there.

At Glen Allen no secret was made of the preparations for the lynching. Vincenzo Giglio and Giuseppe Butera, two Italians who got wind of it, attempted three times to telephone to Serio a warning of the danger with which he was threatened, but on each of the three occasions they were denied the use of the telephone. At Erwin, Glenville, and Glen Allen everyone is afraid to speak, but knows that the citizens of Glen Allen are the organizers and authors of the lynching.

The importance of these particulars, which have been forwarded to

us by our consulate at New Orleans, can not escape the attention of your excellency. By their means the Mississippi authorities, if, as may be expected of a civilized country, they have really the cause of justice at heart, will be able beyond doubt to trace the authors of the brutal crime.

Be pleased to accept, Mr. Acting Secretary, the assurances of my highest consideration.

CARIGNANI.

Mr. Hill to Signor Carignani.

No. 691.]

DEPARTMENT OF STATE,
Washington, July 25, 1901.

SIR: Referring to the Department's note of the 20th instant, I have the honor to inclose for your information copy of a letter from the governor of Mississippi showing the action taken by the State authorities for the purpose of discovering the persons engaged in the killing at Erwin of two persons of Italian origin and the wounding of a third.

Accept, etc.,

DAVID J. HILL, *Acting Secretary.*

Governor Longino to Mr. Hay.

EXECUTIVE DEPARTMENT,
Jackson, Miss., July 20, 1901.

SIR: I have the honor to acknowledge the receipt of your favor of the 17th instant inclosing letter from the Italian chargé d'affaires ad interim on the subject of the reported lynching of two Italians named Giovanni and Vincenzo Serio, and of the wounding of Salvatore Liberto, by a mob at Erwin, Miss., and asking to be advised whether the persons named were Italian subjects or had been naturalized American citizens. Replying I beg to say that immediately upon the receipt of advice of the killing a telegram was sent out from this department to the sheriff of the county in which it occurred, as follows:

“JACKSON, MISS., *July 11, 1901.*

“Capt. W. E. HUNT, *Sheriff, Greenville, Miss.*

“Governor absent. Italian consul, Vicksburg, asks for protection of Italian subjects at Erwin station from mob. Please give matter your prompt and effective attention.

“J. J. COMAN, *Private Secretary.*”

On the second day after the unfortunate occurrence I went in person to Washington County, where I learned from the sheriff that promptly on receipt of said telegram he visited Erwin, the scene of the homicide, where he made every endeavor to find out the names of the guilty parties and to obtain such facts as would justify their arrest, but that he was unable to obtain any reliable proof to establish the identity of those concerned in the murder.

It appears that the deed was done under the cover of darkness by unknown men, who quickly and quietly disappeared, leaving no trace of their identity which the sheriff could obtain. I beg to say further that immediately after the said interview with the sheriff I had a conversation with the judge of the criminal court of the district, who expressed his purpose to exercise the full power of his court under the law, so far as possible, for the apprehension and punishment of all concerned in the crime. I feel warranted in the assertion that both the judge and the court officials will do their full duty in the premises, and assure you that all concerned shall receive my unqualified cooperation in the efforts to enforce the law and to have full justice administered in the premises. My private advice is that none of the Italians named were naturalized American citizens, but of this I am not sure and will make

official inquiry thereof and report later. I am pleased to say also that the citizens of Washington County, where the murders occurred, deplore and condemn in unmeasured zeal the action of the guilty parties, as will appear by the following official copy of resolutions passed by a citizens' meeting held in the city of Greenville, the county site of Washington County:

“GREENVILLE, MISS., July 16, 1901.

“RESOLUTIONS PASSED AT A MEETING OF THE CITIZENS OF GREENVILLE, MISS., ON JULY 16, 1901.

“As taxpayers of the State of Mississippi, interested in the good government thereof; as business men of Greenville, interested in the commercial advancement of our community; as citizens of the county of Washington, proud of the good repute that it has enjoyed, we deplore and denounce the cowardly midnight assassination of two helpless Italians that recently occurred on Lake Washington, in this county, as being subversive of the principles of good government, a deadly blow to the commercial success of any community which will condone, acquiesce in, or tolerate such crime, a wanton insult and stigma to a county noted for its law-abiding and honorable citizenship; and deeply impressed with the conviction that not to punish is to condone such crime, and that the stain can only be effectively wiped out by the punishment of the criminals, we respectfully request our governor to order a special session of the circuit court of this county, so that if possible those perpetrating this murder may be discovered and brought to justice; and that the governor be requested to offer a suitable reward for the arrest and conviction of the guilty parties.

“W. A. EVERMAN, *Chairman*.

“L. PINK SMITH, *Secretary*.”

I have the honor to further advise that a reward of \$100 has been offered by me officially for the arrest and conviction of each of those guilty of the said murders, and that there is a general law of the State which further authorizes the payment by the county, wherein murders occur, the sum of \$100 for making the arrests.

I beg to assure you, and through you the Italian Government, that every proper effort will be exercised by me in the attempt to obtain the conviction and punishment of the guilty parties in this case.

Respectfully,

A. H. LONGINO, *Governor*.

Mr. Hill to Signor Carignani.

No. 693.]

DEPARTMENT OF STATE,
Washington, July 27, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 24th instant transmitting statements received by the Italian consul at Erwin, Miss.

A copy of your note has been forwarded to the governor of Mississippi for the information of the State authorities.

Accept, etc.,

DAVID J. HILL, *Acting Secretary*.

Signor Carignani to Mr. Hill.

[Translation.]

EMBASSY OF HIS MAJESTY THE KING OF ITALY,
Washington, D. C., July 27, 1901.

MR. ACTING SECRETARY OF STATE: I have the honor to transmit herewith to your excellency, the duly authenticated copies of the three

certificates proving that Giovanni and Vincenzo Serio, the victims of the lynching at Erwin, Miss., in the night of the 10th to the 11th instant, and Salvatore Liberto, who was wounded in the occurrence, did not acquire American citizenship and remained Italian citizens.

I also inclose the statement of the clerk of the court of Washington County, Miss., in corroboration of the evidence afforded by the certificates.

Be pleased, etc.,

CARIGNANI.

[Inclosure 1.]

STATE OF MISSISSIPPI, *Washington County, ss:*

I, Wm. R. Gildart, clerk of the circuit court of Washington County, Miss., do hereby certify that the following named persons, to wit, Giovanni Serio and Vincenzo Serio have never registered or voted in Washington County, Miss.

Given under my hand and official seal of office this 22d day of July, A. D. 1901.

WM. R. GILDART,

Registrar and Circuit Clerk of Washington County, Miss.

I, the undersigned, acting consul of Italy in this city, do hereby certify that the above is a true and correct copy of the original which is in this office.

New Orleans, July 24, 1901.

C. PAPINI,

Acting Consul of Italy.

Seen in the chancellery of the royal embassy of Italy to the United States for the authentication of the signature, above affixed, of Mr. Carlo Papini, acting royal consul of Italy at New Orleans.

Washington, July 27, 1901.

CARIGNANI,

The Chargé d'Affaires of His Majesty.

[Inclosure 2.—Translation.]

On this 22d day of July, 1901, in Greenville (Mississippi), Washington County, before me, H. H. O. Bannon, a justice of the peace of Washington County, Miss., personally appeared J. V. Roselli, son of the late Domenico, a native of Saponara (Potenza), by occupation a real estate broker, 44 years of age, now resident of Greenville, Miss.; Antonio Conginista, son of the late Giovanni, a native of Siderno (Reggio Calabria), by occupation a wholesale merchant, 44 years of age, now residing at Greenville, Miss.; Luigi Nepote, son of the late Giuseppe, a native of Corio (Torino), by trade a tailor, 49 years of age, now residing at Greenville, Miss.; who, having been sworn by me to tell the truth and nothing but the truth, and warned of the importance of the oath and of the consequences of any inaccurate statement on their part, and thereupon interrogated severally and jointly, have declared:

That they were well acquainted with Vincenzo Serio, son of the late Giovanni, native of Cefalu (Palermo), by trade a peddler, 29 years of age (about 29), a resident of Erwin (Miss.) for about a month, who was lynched in the night of the 10th to the 11th of July instant, about midnight, at Erwin, Miss., and that to their certain knowledge the said Vincenzo Serio (illiterate and impecunious) has never assumed American citizenship.

All of which has been set forth in the present instrument which, having been previously read to the deponents, who confirm it, was signed by them all and by myself.

J. V. ROSELLI.

ANTONIO CONGIUSTA.

LUIGI NEPOTE.

STATE OF MISSISSIPPI, *Washington County*:

Personally appeared before H. H. O. Bannon, a justice of the peace in and for said county and State within named, J. V. Roselli, Antonio Conguista, Luigi Nepote, who, being by me first duly sworn, state on oath that the foregoing affidavit is true and correct.

Sworn to and subscribed before me this 22d day of July, 1901.

H. H. O. BANNON, *J. P.*

I, the undersigned, acting consul of Italy in this city, do hereby certify that the foregoing is a true and correct copy of the original in this office.

New Orleans, July 24, 1901.

C. PAPINI,
Acting Consul of Italy.

Seen in the chancellery of the royal embassy of Italy to the United States, for the authentication of the signature above affixed, of Mr. Carlo Papini, acting royal consul of Italy at New Orleans.

Washington, July 27, 1901.

CARIGNANI,
The Chargé d'Affaires of His Majesty.

[Inclosure 3.—Translation.]

On this 22d day of July, 1901, in Greenville (Mississippi), Washington County, before me, H. H. O. Bannon, a justice of the peace of Washington County, Miss., personally appeared J. V. Roselli, son of the late Domenico, a native of Saponara (Potenza), by occupation a real estate broker, 44 years of age, now resident of Greenville, Miss.; Antonio Conguista, son of the late Giovanni, a native of Siderno (Reggio Calabria), by occupation a wholesale merchant, 44 years of age, now residing at Greenville, Miss.; Luigi Nepote, son of the late Guiseppe, a native of Corio (Torino), by trade a tailor, 49 years of age, now residing at Greenville, Miss.; who, having been sworn by me to tell the truth and nothing but the truth, and warned of the importance of the oath and of the consequences of any inaccurate statement on their part, and thereupon, interrogated severally and jointly, have declared:

That they were well acquainted with Giovanni Serio, son of the late ———, native of Cefalu, Palermo, by trade a peddler, about 55 years of age; a resident of Erwin, Miss., for about a month, who was lynched in the night of the 10th to the 11th of July instant, about midnight, at Erwin, Miss., and that to their certain knowledge the said Giovanni Serio (illiterate and impecunious) has never assumed American citizenship.

All of which has been set forth in the present instrument, which, having been previously read to the deponents who confirm it, was signed by them all and by myself.

J. V. ROSELLI.
ANTONIO CONGUISTA.
LUIGI NEPOTE.

STATE OF MISSISSIPPI, *Washington County*:

Personally appeared before me, H. H. O. Bannon, a justice of the peace of said county and State, J. V. Roselli, Antonio Conguista, Luigi Nepote, who being by me first duly sworn, state on oath that the foregoing affidavit is true and correct. Sworn to and subscribed before me this 22d day of July, 1901.

H. H. O. BANNON, *J. P.*

I, the undersigned, acting consul of Italy in this city, do hereby certify that the above is a true and correct copy of the original in this office.

New Orleans, July 24, 1901.

C. PAPINI, *Acting Consul of Italy.*

Seen in the chancellery of the royal embassy of Italy to the United States for the authentication of the signature above affixed of Mr. Carlo Papini, acting royal consul of Italy at New Orleans.

Washington, July 27, 1901.

CARIGNANI,
The Chargé d'Affaires of His Majesty.

[Inclosure 4.]

On the 22d day of July, 1901, in Greenville (Mississippi), Washington County, before me, H. H. O. Bannon, a justice of the peace of Washington County, Miss., personally appeared J. V. Roselli, son of the late Domenico, a native of Saponara (Potenza), by occupation a real-estate broker, 44 years of age, now resident of Greenville, Miss.; Antonio Conguista, son of the late Giovanni, a native of Siderno (Reggio Calabria), by occupation a wholesale merchant, 44 years of age, now residing at Greenville, Miss.; Luigi Nepote, son of the late Giuseppe, a native of Corio (Torino), by trade a tailor, 49 years of age, now residing at Greenville, Miss., who having been sworn by me to tell the truth and nothing but the truth, and warned of the importance of the oath and of the consequence of any inaccurate statement on their part, and thereupon interrogated severally and jointly, have declared:

That they were well acquainted with Salvatore Liberto, son of the late Vincenzo Liberto, native of Cefalu (Palermo), by trade a peddler, 19 years of age, residing at Erwin, Miss., illiterate and impecunious, who is present at the writing of this instrument and lying in bed by reason of serious injuries received during the night from the 10th to the 11th of July instant, about midnight, at Erwin, Miss., in the same occurrence in which Giovanni and Vincenzo Serio were lynched, and that to their certain knowledge the said Salvatore Liberto has never assumed American citizenship, the law itself not permitting it owing to his being under age.

All of which has been set forth in the present instrument, which, having been previously read to the deponents, who confirm it, was signed by them all and by myself.

J. V. ROSELLI.
ANTONIO CONGUISTA.
LUIGI NEPOTE.

STATE OF MISSISSIPPI, *Washington County:*

Personally appeared before me, H. H. O. Bannon, a justice of the peace in and for said county and State, the within named J. V. Roselli, Antonio Conguista, Luigi Nepote, who, being by me first duly sworn, state on oath that the foregoing affidavit is true and correct. Sworn to and subscribed before me this 22d day of July, 1901.

H. H. O. BANNON, *J. P.*

I, the undersigned, acting consul of Italy in this city, do hereby certify that the above is a true and correct copy of the original, which is in this office.

New Orleans, July 24, 1901.

C. PAPINI, *Acting Consul of Italy.*

Seen in the chancellery of the royal embassy of Italy to the United States for the authentication of the signature above affirmed of Mr. Carlo Papini, acting royal consul of Italy at New Orleans.

Washington, July 27, 1901.

CARIGNANI,
The Chargé d'Affaires of His Majesty.

Mr. Adee to Signor Carignani.

No. 694.]

DEPARTMENT OF STATE,
Washington, July 30, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 22d instant in further reference to the murder of Italians at Erwin, Miss.

You communicate a copy of the record of the inquest embodying the finding of the jury in this regrettable affair, and state that on account of the strange wording of the document you deem it expedient to bring it to the attention of the Department.

While the finding of the coroner's jury is perhaps, as you state, somewhat unusual in phraseology, it is in effect the finding customary in such cases when the evidence at the inquest does not disclose to the jury the authors of the homicide. The effect of the finding is to devolve upon the judicial authorities of the State further investigation

of the case with a view to discovering and punishing the perpetrators of the crime. It leaves the way open for the usual course of justice in endeavoring to ascertain the "parties unknown."

Not being advised up to the time of writing that the perpetrators of the crime had been arrested, you inquire whether it might not facilitate the cause of justice if the Federal Government should send a "detective" to the spot for the "detection of the lynchers."

A suggestion to substantially the same effect was made by Baron Fava pending the consideration of the Tallulah incident in 1899. Baron Fava, in a telegram dated September 21 of that year, expressed the hope that the special agent appointed by the Department would "discover and denounce the criminals." I replied, on the same date, that "in the actual status of the matter and in the absence of Federal jurisdiction over an offense committed in a State," the agent sent to Tallulah could not assert any part in the local administration of justice, but was sent merely to collect information for the Department's consideration and such action as might be in order.

* * * * *

The governor of Mississippi has assured me of his purpose to enforce the laws by all means within his power, and I am informed that the universally expressed sentiment of the community where the murders occurred deplores the crime and shows a determination to aid in the discovery and punishment of the perpetrators.

Be pleased, etc.,

ALVEY A. ADEE,
Acting Secretary.

Signor Carignani to Mr. Hill.

[Translation.]

EMBASSY OF HIS MAJESTY THE KING OF ITALY,
Washington, D. C., July 30, 1901.

MR. ACTING SECRETARY OF STATE: I have the honor to acknowledge the reception of and to express my thanks for the copy of the investigation made by the governor of Mississippi concerning the lynching at Erwin and courteously communicated to me with note No. 691 of the 25th instant.

As I had occasion to tell you yesterday and now permit myself again to observe, the statements made in the investigation do not afford evidence that the Mississippi authorities have brought into play all the means at their disposal for detecting the perpetrators of that cruel crime.

It grieves me to note that thus far, many days after the crime, it does not appear that there has been made, nor even instituted, a judicial inquiry, the first step to be taken immediately upon the commission of an offense of any character. Nothing in that direction has been done by the State's attorney or any other authority, with the exception of the first jury convened by the local sheriff and the result of which was so much unlooked for that I deemed it my duty to send you a copy of the document in my note of the 22d instant.

On the other hand, the embassy has been able to conduct an investigation of its own, and in compliance with the wish you expressed yes-

terday, I have the honor to transmit its result as an addition to that furnished with my note of the 24th.

1. The deposition of the Italians Vincenzo Giglio and Giuseppe Butera to the effect that they were denied, three times at least, the use of the telephone on the day preceding the lynching, when they wanted to tell Vincenzo Serio (one of the victims) about the organized conspiracy and the peril he was in, according to the advice they had from one Liberto, a brother of the wounded man, who had it himself from one Dr. Hanna or Hollow, is fully corroborated. The latter is said to have warned young Liberto not to go to Erwin that night, because the Italians were to be killed.

2. The name of the person with whom Vincenzo Serio had the quarrel about the horse (see my note of the 24th instant) appears to be Mr. G. B. Allen, residing at Glen Allen, manager of a large "plantation." This man, according to many who have been interrogated on the spot, must, beyond a doubt, have been the organizer and instigator of the crime. Save that horse incident, there is no other known cause for which the lynching could have been brought about.

3. On the evening before the crime, it is asserted there was noticed an unusual stir in Erwin and some Italians who inquired what was the reason, were told that a church meeting was to be held.

These advices afford a sufficient basis for an earnest and efficient investigation. Since it was possible for the embassy and the consular officers of New Orleans and Vicksburg to secure them with the limited means at their disposal, it will have to be admitted that the Mississippi authorities have not thus far done to detect the guilty that which is demanded by the principles of humanity and justice which the Governments of Italy and of the United States have equally at heart.

The honest agitation created in the country by the fell deed, and which is confirmed even by the governor's investigation, ought to stimulate the authorities to energetic action, if only as satisfaction to public opinion.

Besides examining the persons hereinbefore named and the employee at the railroad station of Erwin, which is quite close to the scene of the crime, it seems that there might be at hand sufficient presumption of Mr. G. B. Allen's guilt, for whose arrest it is to be regretted that a warrant should not have been already issued. The point of capital interest is also that the witnesses be put in a position to give their testimony freely and that provisions be made for their safety. It is to be inferred from the difficulties met by our agents in their investigation that strong intimidation is brought to bear on the spot; the wounded man himself has declared that he knew little or nothing.

Be pleased, etc.,

CARIGNANI.

Mr. Iddings to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Rome, July 31, 1901.

(Mr. Iddings acknowledges receipt of Department's telegram of July 29, and reports that he communicated its contents to the Italian minister for foreign affairs, who received it politely but expressed

some doubt that justice could be obtained. The Department's attitude in regard to detectives is evidently disappointing to the Italian ministry for foreign affairs. Their desire is that the Department employ private detectives and, should they discover persons whom they consider guilty, that the Department say to the Mississippi authorities: "These are probably the guilty men. Prosecute them.")

Mr. Iddings to Mr. Hay.

No. 70.]

AMERICAN EMBASSY,
Rome, Italy, July 31, 1901.

SIR: I have the honor to confirm my telegram^a of July 27, and your reply^a of the 29th, received on the morning of the 30th.

Later in the day, by appointment, I took with me to the foreign office the contents of your instruction in the form of a note. The minister was absent, having been called to the King; but I saw the secretary-general, M. Malvano. He received the communication, read it, and then, remarking that what he said, of course, was not official, expressed disappointment that the State Department would not pursue private detective investigations itself, so that if the Mississippi authorities did not do their full duty, the Federal Government would be prepared to urge them to do so with effect. He thought that hesitation to take such a course was open to suspicion of lack of interest. I referred him again to the correspondence with Baron Fava, as explaining the attitude and powers of the State Department, reassuring him of the desire of the Federal Government to see that complete justice was done to the guilty persons. I am sending you to-day a cable^a which expresses M. Malvano's views, because, while he does not speak with authority, his opinions probably are representative of the real feeling in the foreign office. They are undoubtedly very sore, there, declaring that it is extraordinary that for five cases of lynching no one suffers.

LATER.—I have this morning seen the minister for foreign affairs, who thanked me for the assurances of the note of yesterday. While hoping that justice would be done, he said he might confess that he doubted the expressed intentions of the authorities of the State of Mississippi, in view of past experiences. And he read a dispatch from the Italian chargé d'affaires at Washington, saying that, according to his best information, the investigations of the local and State authorities in this matter were feeble. I explained that police investigations were not made manifest until something had been accomplished, and again called his attention to the assurances in your cabled instruction, that the governor of Mississippi was resolved to execute justice if possible, and that the sentiment of the local community sustained him in his purpose.

I have, etc.,

LEWIS MORRIS IDDINGS.

^a Not printed.

Signor Carignani to Mr. Adee.

[Translation.]

EMBASSY OF HIS MAJESTY THE KING OF ITALY,
Washington, D. C., August 9, 1901.

MR. ACTING SECRETARY OF STATE: I deemed it expedient, for the purpose of facilitating the measures taken to find the principals of the lynching at Erwin, Miss., to sum up, in my notes of July 24 and 30, the result of the investigations conducted on the spot by the direction of the royal consulate at New Orleans. Dr. Hill assured me that these notes had been promptly communicated to the governor of Mississippi. These notes, by reason of the important data they contain, place the local authorities in a position to detect the murderers.

Being still without a reply, I beg your most illustrious lordship to be good enough courteously to call upon the governor for information concerning the outcome of the action taken by him.

As you will understand, every delay in the execution of such action makes it more difficult to attain the end desired by the Government of the King and that of the United States.

Be pleased, etc.,

CARIGNANI.

Mr. Adee to Signor Carignani.

No. 700.]

DEPARTMENT OF STATE,
Washington, August 12, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 30th ultimo, giving certain information obtained by the Italian consular authorities relating to the killing of two Italians and the wounding of a third at Erwin, Miss.

This information has been communicated to the governor of Mississippi.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Hay to Signor Carignani.

No. 701.]

DEPARTMENT OF STATE,
Washington, August 16, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 9th instant, requesting the Department to ask the governor of Mississippi for information concerning the outcome of the action of the State authorities in view of the data transmitted in your notes of the 24th and 30th ultimo, in regard to the killing of the Italians at Erwin, Miss.

In reply, I have the honor to say that a communication addressed by the Department to the governor on the 13th instant recalls the matter to his attention.

Accept, etc.,

JOHN HAY.

Mr. Hay to Signor Carignani.

No. 702.]

DEPARTMENT OF STATE,
Washington, August 20, 1901.

SIR: Referring to your note of the 30th ultimo in regard to the killing of two Italians at Erwin, Miss., I have the honor to state that I have received a letter from the governor of Mississippi, in which he states that he has communicated to the district attorney the information contained in your note.

The governor adds that a special term of the circuit court has been called by Judge Larkin, to convene in Greenville on the second Monday of September, to investigate the crime.

Accept, etc.,

JOHN HAY.

Signor Carignani to Mr. Hay.

[Translation.]

EMBASSY OF HIS MAJESTY THE KING OF ITALY,
Washington, November 14, 1901.

EXCELLENCY: Inasmuch as the grand jury of the circuit court of the district of Mississippi, called in the case on the 9th of last month, has also adjourned after five sittings, with a statement that, owing to the manifest reticence of intimidated or suborned witnesses, it had been unable to gather sufficient evidence against the guilty in the Erwin outrage, the Government of the King has been once more constrained to adhere to its conviction that the State judiciary of the Union is not in a position to insure for aliens, at all times and under all circumstances, the protection to which they are entitled by treaty. In view of the fact that in this instance previous investigations had, even before judicial proceedings had been developed, already secured not a few data concerning those who could be presumed to be principals or accessories in the crime, and that it was in every way ascertained that two persons at least—Dr. Hanna and the telephone operator of Glen Allen—had previous knowledge of the misdeed, it is obvious that if the grand jury did not overcome the conspiracy of silence or reach a final conclusion, it, too, did not know how to free itself from baneful surrounding influences and resolutely do its duty.

In this condition of things the Government of the King has sent me express instructions to enter the most energetic protest against what is, all at once, a denial of justice, a flagrant violation of contractual conventions, and a grave offense to every human and civil sentiment.

The Federal Government itself admitted after the preceding lynching that in this respect the judiciary organization of the country is deficient, and that the defect calls for a prompt remedy, since it is thereby placed in the irksome position of being unable to keep faith with the treaties that bear its signature. The illustrious President recently carried off by a tragic death had earnestly recommended in one of his messages that provisions be made therefor, but the bills introduced in both Houses of Congress at the suggestion of the President did not come to the test of a vote.

Until the desired reform shall have become an accomplished fact the Government of the King not only will have grounds of complaint for

violation of the treaties to its injury, but will not cease to denounce the systematic impunity enjoyed by crime, and to hold the Federal Government responsible therefor.

Italy has always cherished the warmest friendship for the United States, and felt the most profound liking and admiration for the institutions of the Union, but the Italian Government can not conceal that its long standing and constant sentiments are subjected to a very severe ordeal when it sees its own people fall repeatedly and with impunity victims to such barbarous assaults.

Be pleased, etc.,

CARIGNANI.

Mr. Meyer to Mr. Hay.

No. 122.]

AMERICAN EMBASSY,
Rome, Italy, December 23, 1901.

SIR: I beg leave to inclose herewith, with translation, an extract from the Roman newspaper, *The Tribune*, of December 21 last. It gives some account of a question, put in the Italian Senate, to the minister of foreign affairs in regard to the present relations of Italy and the United States, as affected by such occurrences as the lynchings of Italians in the South. The point of interest lies in the reply of M. Prinetti, the minister for foreign affairs.

I have, etc.,

G. V. L. MEYER.

[Inclosure.—Translation.]

IN THE SENATE. (SITTING OF DECEMBER 20, 1901.) SIGNOR SARACCO PRESIDING.

The Senate met at 2 p. m., and after some unfinished business had been attended to proceeded to the consideration of the question proposed by Senator (Baron) Fava to the ministry of foreign affairs as to the present conditions of the difficulty with the United States in the matter of the lynching at Erwin, Miss., and as to the intentions of the ministry in connection with the settlement of this difficulty.

Senator Fava rehearsed the story of the lynching, and blamed the Government for having kept secret for some time this so grave crime. In regard to an indemnity, he declared that it would be more decorous for Italy to refuse absolutely to accept it; remarked, also, that for the four preceding lynchings the Federal Government had never given proper satisfaction to Italy by arresting and punishing the guilty persons. He concluded by inquiring what the intentions of the ministry were as to the solution of this most important matter.

M. Prinetti (minister for foreign affairs) in reply said that he had supposed he had previously explained the attitude of the Government toward the lynching at Erwin, and declared that absolutely nothing had been done to keep the fact of the crime secret. The Government, he continued, had instructed its diplomatic agents to use all its efforts to identify and bring to justice the criminals, but he added (comments from the senators) that all these efforts had been in vain. He described the course taken, saying that the Italian Government had, in a note to the Federal Government, rehearsed the details of the facts of the case and insisted upon the necessity of providing a remedy. The Federal Government had received the note with promises for the future to use all possible efforts to prevent the repetition of similar occurrences. He was not of the opinion of the Senator (Fava) about refusing the indemnity offered by the Federal Government to the families of the murdered men; the Government of the King would not demand an indemnity, because it could not admit that money could compensate for the shedding of the blood of Italian citizens, yet the Government would accept an indemnity for the families of the victims, if spontaneously offered. M. Prinetti concluded by saying that while Italy should maintain a proper attitude toward its colonists abroad, she should not appear too vigorous on their behalf, because it was a fact that in those far regions the Italians were received with a great measure of benevolent hospitality. (Cries of "good" and other indications of approval.)

Baron Fava accepted the declaration of the minister and thanked him.

Mr. Hill to Signor Mayor des Planches.

No. 8.]

DEPARTMENT OF STATE,
Washington, January 2, 1902.

EXCELLENCY: I have the honor to acknowledge the receipt of Signor Carignani's note of November 14 last, in which, under the instruction of the Royal Government of Italy, he presents its protest against the failure of the authorities of the State of Mississippi to identify and punish the persons who committed the assault upon certain Italian subjects at Erwin in that State.

The Department has taken note of the views presented by Signor Carignani and will forward copies of his note to the committees of the Senate and House of Representatives having under consideration the President's recommendation that indemnity be graciously tendered to the families of the victims and that legislation be enacted to give the Federal courts original jurisdiction of treaty offenses against aliens.

Accept, etc.,

DAVID J. HILL,
Acting Secretary.

**SOVEREIGNTY OF ITALY OVER SOMALILAND RECOGNIZED BY
SULTAN OSMAN MAHMUD.**

Mr. Adee to Mr. Iddings.

No. 32.]

DEPARTMENT OF STATE,
Washington, July 31, 1901.

SIR: * * * I inclose copy of a letter^a from the attorneys of the United States Lloyds, who are anxious to ascertain exactly what the relations between Italy and the Sultan Osman Mahmud are.

You will investigate the matter and report.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Iddings to Mr. Hay.

No. 81.]

AMERICAN EMBASSY,
Rome, August 29, 1901.

SIR: I have the honor to acknowledge the receipt of your instruction No. 32, of July 31 last, directing me to obtain information in regard to the relations between Italy and the Sultan, Osman Mahmud.

Italy, since 1889, has included Somaliland within her sphere of influence in Africa, and the Sultan apparently accepted her sovereignty, but some months ago he rebelled, influenced, perhaps, by the Mad Mullah, who is making trouble within the neighboring English sphere. But soon after the *Indra* was wrecked, and before the *Asturia* went ashore near Cape Guardafin, Italy, backed by two gunboats, had persuaded Osman so effectively that, when the *Asturia* foundered, the

^a Not printed.

Sultan had so far returned to his allegiance that his aid was used, it is alleged, in protecting the stranded ship and cargo.

Within two or three days the Italian Government has received from S. Pestalozza, its consul-general at Zanzibar, who has charge of this region, dispatches indicating that Osman Mahmud has quieted down to loyalty, and fully recognizes Italian sovereignty. He has signed an agreement which binds him to protect, by all means in his power, wrecked ships and their cargoes; to prevent trade in firearms and intoxicating liquors; to consent to the erection of light-houses on his coast, and to fly the Italian flag over all his people's vessels—the sambucii—sailing boats of 300 or 400 tons. For this work and sub-
 mission Italy will allow him about \$5,000 a year in monthly payments.

* * * * *

I am, etc.,

LEWIS MORRIS IDDINGS.

Mr. Hay to Mr. Iddings.

No. 50.]

DEPARTMENT OF STATE,
 Washington, October 21, 1901.

SIR: Referring to your No. 81, of August 29 last, I have to say that the Department will be pleased to have you send to it three copies of the recent Italian convention with the Sultan of Somaliland as soon as it shall have been published by the Italian Government.

I am, etc.,

JOHN HAY.

Mr. Meyer to Mr. Hay.

No. 121.]

AMERICAN EMBASSY,
 Rome, December 11, 1901.

SIR: * * * I have the honor to send you herewith three copies of the treaty between Italy and Sultan Osman Mahmud of Somaliland.

I am, etc.,

G. V. L. MEYER.

[Inclosure.]

TREATY.

[Translated from the Italian, the Italian text having been translated from the Arabic.]

In the name of God, the Gracious, the Merciful.

On the basis of the previous convention between the powerful Italian Government and the Sultan Osman Mahmud, Sultan of the Mijurtines, bearing date of Shaaban 6, 1306, corresponding to April 7, 1889, and likewise on the basis of the declaration made in writing by the aforesaid Sultan to the above-mentioned Government under date of Jamed-el-Ewel, 1313, corresponding to November 16, 1894, the aforesaid Sultan Osman Mahmud, in view of the misunderstanding that has occurred between him and the Government of Italy, has recognized that he has contravened the orders of the said Government, and at the request of the same, which is understood

to have been made with a view to elucidating the situation and to removing every cause of misunderstanding, both parties have agreed to the stipulations hereinafter stated. To this effect the Government of Italy has appointed as its special delegate the Chevalier Giulio Pestalozza, its consul-general, and the Sultan Osman Mahmud, Sultan of the Mijurtines agrees for himself, personally, and also in the name of his own sons or of his relatives who may succeed to the sultanate, and with the full consent of all the sheikhs and notables of the aforesaid Mijurtines, who are present on this occasion, to the following articles:

ARTICLE I. The Sultan Osman Mahmud, Sultan of the Mijurtines, places his own person, his sultanate, and the entire territory of the Mijurtines, under the protection and flag of the powerful Government of Italy; he hoists the Italian flag in all the ports of call of the coast, and assumes the custody thereof, as do likewise all his dependents.

ART. II. All sambuks and all Mijurtine vessels belonging to persons under his administration must be registered by the Government and carry the Italian flag, according to the laws and maritime regulations. This they are to do through the medium of the royal consul.

ARTICLE III. The sultan of the Mijurtines shall afford protection and assistance to all Italians and foreigners who shall arrive in his country either for pleasure or for the purpose of engaging in trade. He shall be responsible for any harm or injury that may be done them in his territory. Every jurisdictional act concerning such persons shall, however, be reserved for the Royal Government.

ARTICLE IV. If, which God forbid, any vessel shall be stranded or wrecked on the Mijurtine coasts, it shall in no wise be permissible to plunder the cargo or to molest the crews and passengers of such vessels, but it shall be the duty of the sultan and of the sheikhs of the district nearest to the scene of the disaster to lend all aid and protection immediately, facilitating the transportation of the persons to Aden, or to another seat of government to which the interested parties may desire to be taken. The sultan shall order the cargo and all the appurtenances of the vessel to be well guarded until the arrival of the owner or owners, to whom said cargo and appurtenances shall be delivered. On this ground the sultan shall be entitled, both for himself and for his coadjutors, to an adequate reward from the owner or owners of the vessel and cargo. The amount of such reward shall, if necessary, be fixed by the royal consul at Aden as the circumstances may seem to him to warrant, he having first heard the arguments of the sultan.

ARTICLE V. In confirmation of his aforesaid written declaration, and in pursuance of the agreement now made, Osman Mahmud, sultan of the Mijurtines, formally pledges himself under oath, before God, to prohibit the importation of firearms and of ammunition therefor, such as balls and cartridges, on all the Mijurtine coast, as also by land. Consequently, not a single gun or a single cartridge shall be imported, either for the sultan himself or for others, unless the permission of the Royal Government or its representative shall previously have been obtained in writing. If the aforesaid provisions shall be violated either by the sultan or by one of his dependents, or by any inhabitant of Mijurtina, the sultan shall be responsible therefor, and it shall be his duty to deliver such guns or cartridges as may have been clandestinely introduced to the Royal Government; furthermore, the offender shall be liable to imprisonment, or to a fine, which shall not be less than 100 rupees for each gun and 300 rupees for each box of cartridges that shall be ascertained to have been clandestinely imported; and, in case of the escape of the offender, the fine shall be imposed upon his tribe, or shall be chargeable to the sultan. The Royal Government hereby grants to the sultan the privilege of retaining such guns as he now has; the said arms shall be numbered and registered as belonging to the sultan. When the Government shall desire it, such guns may be exchanged for guns of Italian manufacture. The prohibition to import firearms in all Mijurtina shall be announced by the sultan in writing or in such other way as may be deemed most suitable.

ARTICLE VI. When the Royal Government shall desire to erect a light-house on Cape Assir (Guardafui), having its base in the sea, in the village of Ollok, or in that of Damo, as likewise another light-house in another locality, such as Alula or Bandar Felek, it shall be at perfect liberty to do so. The Royal Government shall have the right to keep in the localities selected by it for the erection of light-houses such number as it may deem necessary of soldiers, employees, and of persons having charge of said light-houses and engaged in keeping them in running order. In such localities the administration and government thereof shall belong to Italy. It is understood that in the localities of Bandar Alula and Bandar Felek and their dependencies the rights heretofore exercised shall still be exercised by the same party as in the past.

This convention, drawn up in duplicate, has, after having been read and explained, been confirmed, approved, and signed by Sultan Osman Mahmud, sultan of the

Mijurtines, and by the sheiks who were present with him on the occasion, and whose names appear below:

Done at Bandar Ollok, this 3d day of Jamad-el-Ewel, 1319, corresponding to August 18, 1901.

(Signed)

SULTAN OSMAN MAHMUDYUSSEF,
Sultan of the Mijurtines.

AHMED MAHMUD.

YUSSEF MAHMUD.

YUSSEF NUR.

AHMAD SAMANTAR.

MAHMUD SHARMAKA.

OMAR ISMAÏL.

MAHMUDSHARWA.

YUSSEF OMAR.

BEIR MOHAMUD.

OMAR MOHAMMED GURE.

AHMUD SHARWA.

ABDI SHURA.

And all the Mijurtine notables.

Year 1319, Jamad-el-Ewel the third.

Witnesses:

SAÏD YUSSEF, *Dragoman.*

MOHAMMED ISMAÏL, *Dragoman.*

G. PESTALOZZA,
Consul-General on a Special Mission.

We hereby certify that we took part in the negotiations.

V. RICHERI,
Captain, Commanding the Royal Steamer Colomba.

F. SOLA,
Royal Consul-General of Italy at Aden.

DIPLOMATIC IMMUNITIES.—TESTIMONY OF UNITED STATES DIPLOMATIC REPRESENTATIVES IN FOREIGN COURTS.

Mr. Iddings to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Rome, August 1, 1901.

(Mr. Iddings inquires if he shall give testimony against a pickpocket, which is desired by an Italian court.)

Mr. Adee to Mr. Iddings.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 1, 1901.

(Mr. Adee states that Mr. Iddings's testimony may be given on terms consistent with representative dignity. Unless interrogatory in open court is indispensable, personal deposition at the embassy is preferable.)

Mr. Iddings to Mr. Hay.

No. 72.]

AMERICAN EMBASSY,
Rome, August 10, 1901.

SIR: I have the honor to confirm my telegram^a sent to you on August 1, and your reply^a received on the 2d instant, both in reference to my giving my testimony against a pickpocket. My deposition is to be taken at the embassy by the judge before whom the case has come. With thanks for the courtesy of your permission in this matter, I am, etc.,

LEWIS MORRIS IDDINGS.

**CITIZENSHIP OF A CHILD BORN IN THE UNITED STATES OF
ALIEN PARENTS.**

Mr. Adee to Mr. Iddings.

No. 33.]

DEPARTMENT OF STATE,
Washington, August 8, 1901.

SIR: I inclose herewith copy of a dispatch from the consul-general of the United States at Rome requesting instructions in regard to issuing passports to minors residing in Italy and born in the United States of alien parents, the particular case in point being that of a minor, Francesco Guarino, to whom a passport was issued by you against the consul-general's representations.

The question raised by the consul-general is, in his own words, as follows:

Can a minor residing temporarily or permanently abroad, but born in the United States of alien parents who have never been naturalized nor intimated their intentions of becoming naturalized, be considered an American citizen? And is such minor entitled to an American passport?

The position of the Department is that birth in the United States, irrespective of the nationality of the parents, confers American citizenship; that no act of the parent can deprive the child of the status thus acquired, and that consequently such children, even though taken abroad by their parents, are entitled to be treated as citizens of the United States. In view of the decisions of our Federal courts, there can be no doubt of the correctness of this position. It has been almost uniformly held by our Federal courts that birth within the dominions and jurisdiction of the United States confers citizenship irrespective of the nationality of the parents. The question was squarely presented to the Supreme Court in 1897 in the case of Wong Kim Ark, who was born in the United States of parents who were subjects of the Emperor of China. In 1890, when he was 17 years of age, he went to China for a visit, returning to the United States the same year. He was permitted to enter the United States, and remained here until 1894, when he again went to China for a visit. He returned to the United States in 1895, but the collector of customs at San Francisco denied his application for admission on the ground that he was not a citizen of the United States. Upon habeas corpus the United States district court ordered him to be discharged on the ground that he was a citizen of

^a Printed ante.

the United States. The United States appealed to the United States Supreme Court, and that court (169 U. S., 649) affirmed the judgment of the lower court, thus authoritatively settling the question.

The question whether the father by removing the child from the jurisdiction of the United States or otherwise can deprive him of the citizenship conferred upon him by birth has also been passed upon by the Federal courts. In *ex parte Chun King* (35 Fed. Rep., 354) Judge Deady, in delivering the opinion of the United States circuit court, said:

In my judgment, the father can not deprive his minor child of the status of American citizenship impressed upon it by the circumstances of its birth under the Constitution and within the jurisdiction of the United States. This status once acquired can only be lost or changed by the act of the person when arrived at majority and the consent of the Government.

Your action in granting the passport was correct.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

Mr. de Castro to Mr Hill.

No. 99.]

CONSULATE-GENERAL OF THE UNITED STATES,
Rome, Italy, June 20, 1901.

SIR: I have the honor to report the following: A minor, named Francesco Guarino, born in the United States of Italian parents, not naturalized, applied to our embassy in Rome, through our consul at Palermo, where he is now residing, for a passport. The application was granted by the *chargé d'affaires*, Mr. Iddings, against my representations, under the plea that the boy was born in the United States and was to be considered a United States citizen, although a minor and his parents being at the time of his birth and still are Italian subjects.

As the question may arise again, I deem it my duty, with the agreement of Mr. Iddings, to respectfully request the Department for a strong legal opinion upon the subject, in order to settle the controversy and to guide our action in the future.

The point is this: Can a minor residing temporarily or permanently abroad, but born in the United States of alien parents who have never been naturalized nor intimated their intentions of becoming naturalized, be considered an American citizen? And is such minor entitled to an American passport?

No. 864, section 992 of title 25 of the Statutes of the United States relating to citizenship reads as follows: "All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States." It would therefore appear clear to me that a child born in the United States of alien parents can not be considered to be a United States citizen, especially when said child is outside of the United States, no more than a child born abroad of American parents could be considered a citizen of the country where he happened to be born.

Then again, Prof. Alexander Porter Morse, in No. 7 of the Treaties of Citizenship, published in Washington, considers "the country of the father is that of the children, at least during their minority."

This point involves the right of a United States legation or embassy abroad to make aliens American citizens, that right lying, I believe, solely within the power of the United States courts.

All of which is respectfully submitted.

I am, etc.,

HECTOR DE CASTRO,
United States Consul-General.

INDEMNITY SUIT OF MRS. FENICE FERRARA, AN ITALIAN SUBJECT, IN A COLORADO COURT. REMEDIES IN LOCAL COURTS MUST BE EXHAUSTED BEFORE DIPLOMATIC ACTION MAY PROPERLY BE TAKEN.

Signor Carignani to Mr. Hay.

[Translation.]

EMBASSY OF HIS MAJESTY THE KING OF ITALY,
Washington, D. C., August 16, 1901.

MR. SECRETARY OF STATE: In the action brought against the Auric Mining Company, of Hinsdale County, Colo., by Mrs. Fenice Ferrara, for indemnity by reason of the death of her husband, an employee of the said company, caused by a disaster in the mines, the district court of Pueblo, Colo., is said to have decided that the plaintiff had no right to sue in justice, owing to her quality of resident and subject of the Kingdom of Italy.

This decision seems to be in contradiction of the treaty of February 26, 1871, between Italy and the United States, and I have the honor to submit to the high judgment of your excellency a copy (which, I pray, be eventually returned) of the proceedings and of the decision in said case, accompanied by a letter of Mr. M. J. Galligan, counsel of Mrs. Ferrara, for such measures as the Federal Government, custodian of and responsible for the international compacts, will see fit to take.

While asking that you will in the meanwhile acknowledge the receipt of this note, I renew, etc.;

CARIGNANI.

[Inclosure.]

STATE OF COLORADO, *County of Hinsdale*, ss:

FENICE FERRARA, PLAINTIFF,

v.

THE AURIC MINING COMPANY, A CORPORATION. }

In the district court thereof.

AMENDED COMPLAINT.

Comes now the above-named plaintiff, Fenice Ferrara, and, leave of court being first had and obtained, files this her amended complaint, and alleges:

(1) That the defendant is, and at all times herein mentioned was, a corporation organized and existing under and by virtue of the laws of the State of Colorado, and doing business therein.

(2) That the plaintiff, Fenice Ferrara, is the wife and widow of Pietro Ferrara, deceased.

(3) That on or about the 26th day of June, A. D. 1897, the above-named defendant, the Auric Mining Company, was operating a mine at or near Henson, in Hinsdale County, Colo.; that in such operation they were operating the Ute mining claim, the Ulay Lode mining claim, and other lode mining claims, all being situated in Galena mining district, said county and State. That in the operation of such mines they employed several men.

(4) That on or about the 26th day of June, A. D. 1897, and for about twenty days prior thereto, said Pietro Ferrara was in the employ of said defendant as a miner underground in said Ulay mine, which was then and there being operated by said defendant as aforesaid.

(5) That the said Pietro Ferrara, in the regular course of his employment as such

miner for the said defendant, was at work in said mine as an employee of the said defendant.

(6) That it was the duty of the said defendant to use reasonable and ordinary care in providing a reasonably safe and suitable place for the said Pietro Ferrara to work in, in the regular line of his duty, but that the said defendant, negligently disregarding its duty, and disregarding the rights of the said Pietro Ferrara, carelessly and negligently failed and neglected to use reasonable and ordinary care in timbering the mine where the said Pietro Ferrara was at work as such employee in the regular line of his duty, and by reason of the carelessness and negligence of said defendant, and without any fault or negligence of the said Pietro Ferrara, a large rock fell from the roof or foot wall of said mine and struck the said Pietro Ferrara with great force and violence, inflicting severe and fatal injuries upon him, from the effects of which he died shortly after. That the said Pietro Ferrara received said injuries, as aforesaid, on the said 26th day of June, A. D. 1897.

(7) That said Pietro Ferrara was only working in said mine for a short time prior to receiving said injury and was wholly unaware of the dangerous and unsafe condition of said mine, and did not have the knowledge, or equal means of knowledge, of the dangerous condition of said mine which the said defendant had.

(8) That the said Ferrara had been at work in the said Ulay mine for the period of twenty days prior to the date of such injury.

(9) That the said defendant knew, or, by the use of ordinary care, might have known, of the unsafe and dangerous condition of said mine which resulted in said injury to the said Pietro Ferrara.

(10) That it was the duty of the defendant to use reasonable and ordinary care in providing a reasonably safe and suitable place for said Pietro Ferrara to work in, and to use reasonable and ordinary care in furnishing timber and timbering said mine so as to keep it in a reasonably safe condition for said Pietro Ferrara to work therein; but that said defendant negligently failed to do so and negligently failed to keep said mine in good repair, and by reason of such negligence the said Pietro Ferrara received said injuries, and it was no part of the duty of said Pietro Ferrara as such employee to see after the timbering and repairing said mine.

(11) That said Ferrara was employed at about the end of a drift in said mine, the exact location of which is to plaintiff unknown. That blasts had been discharged, and about one hour thereafter the superintendent of said mine, acting under and by authority of said defendant, ordered the said Pietro Ferrara to commence work therein in the way, to wit, of drilling for new blasts. That no precaution had been taken by said superintendent against falling rock, although said superintendent well knew the dangerous condition of the spot where he had ordered the said Pietro Ferrara to commence work.

(12) That the said Pietro Ferrara left surviving him this plaintiff, who was his wife. That at the time of his death, caused by such injuries as aforesaid, he was 30 years old, and in good health and able to work and earn money, and was, and for a long time prior to his said injuries was, earning the sum of \$3 per day. That the said plaintiff relied upon said wages of the said Pietro Ferrara for sustenance, having no other assets, and is now destitute by reason of the death of the said Pietro Ferrara.

(13) That, by reason of the premises, said plaintiff has been damaged in the sum of \$5,000.

Wherefore the plaintiff demands judgment against the said defendant, the Auric Mining Company, for the sum of \$5,000 and the costs of this action.

M. J. GALLIGAN,
BORDWELL & KOHN,
Attorneys for Plaintiff.

STATE OF COLORADO, *County of Hinsdale, ss:*

G. D. Bordwell, being first duly sworn, upon oath deposes and says that he is one of the attorneys for the plaintiff in the above entitled cause; that he has read the above and foregoing amended complaint, knows its contents, and that the matters and things therein stated are true, as he verily believes; that he makes this verification for and on behalf of the plaintiff, for the reason that the said plaintiff is not a resident of Hinsdale County, Colo., and now absent therefrom.

G. D. BORDWELL.

Subscribed and sworn to before me this 12th day of January, 1899.

[SEAL.]

JAMES C. GATES.

Filed January 18, 1899. James C. Gates, clerk.

FENICE FERRARA, PLAINTIFF,

v.

THE AURIC MINING COMPANY, A CORPORATION, DEFENDANT.

} Amendment to defendant's answer.

Comes now the defendant, leave of court having been first had and obtained, and files this its amendment to its original answer herewith, and for a further and fourth defense to the plaintiff's amended complaint says:

Defendant is informed and believes, and so alleges, that the plaintiff is, and at all times heretofore has been, a resident citizen and subject of the Kingdom of Italy, and that the plaintiff is not now, and never has been at any time, a resident or citizen of the State of Colorado or of the United States of America, and is not entitled to bring or prosecute this action in any courts of the State of Colorado.

Wherefore the defendant prays that it may be hence dismissed, and that it recover its costs laid out and expended in this behalf.

WOLCOTT & VAILE,
H. H. DUNHAM,
Attorneys of Defendant.

Said court granted the said motion and allowed the said amendment to be filed over the objection of the said plaintiff, and dismissed the said jury and abandoned the then trial of the said cause before the said jury.

That afterwards the said plaintiff filed a demurrer, which said demurrer is in words and figures as follows, to wit:

In the district court.

STATE OF COLORADO, *County of Pueblo, ss.*

FENICE FERRARA, PLAINTIFF,

v.

THE AURIC MINING COMPANY, DEFENDANT.

} Demurrer.

Now comes the plaintiff and demurs to the amendment to defendant's answer filed herein, on the ground that said amendment does not contain facts sufficient to constitute a defense to plaintiff's complaint of cause of action.

M. J. GALLIGAN,
Attorney for Plaintiff.

That afterwards the said defendant moved to strike the said demurrer from the files, which said motion was sustained by the court over the objection of the said plaintiff, and the said plaintiff then and there moved to have the said action set down for hearing and trial, and the said court overruled the said motion, to which ruling due exception was taken by the said plaintiff.

That thereupon the said defendant, by its attorney, moved for judgment upon the pleadings, for the reason that no reply had been filed to the said amendment to the defendant's answer, the said motion being oral and without any previous notice to plaintiff or her attorney. And the court sustained said motion and rendered judgment in favor of the said defendant for costs of suit, when the record in this case shows that the plaintiff was allowed to prosecute without the payment of costs as a poor person, and dismissed the said action at the costs of said plaintiff as aforesaid.

That the said judgment dismissing the said action and denying the said plaintiff the right to prosecute this action, for the alleged reason that the said plaintiff is and has been a resident and subject of the Kingdom of Italy, and that the plaintiff is now and never has been at any time a resident or citizen of the State of Colorado, or the United States of America, and is not entitled to bring or prosecute this action in any of the courts of the State of Colorado, as alleged in the said amendment to defendant's answer, is in violation of the treaty of 1871 between the Federal Government of the United States of America and the Kingdom of Italy, which said treaty provides as follows:

"ARTICLE III. The citizens of each of the high contracting parties shall receive, in the States and Territories of the other, the most constant protection and security for their persons and property, and shall enjoy in this respect the same rights and privileges as are or shall be granted to the natives, on their submitting themselves to the conditions imposed upon the natives.

"They shall, however, be exempt in their respective territories from compulsory military service, either on land or sea, in the regular forces, or in the national guard, or in the militia. They shall likewise be exempt from any contribution whatever, in kind or in money, to be levied in compensation for personal services.

"ARTICLE XXIII. The citizens of either party shall have free access to the courts of justice in order to maintain and defend their own rights, without any other conditions, restrictions, or taxes than such as are imposed upon the natives; they shall, therefore, be free to employ, in defense of their rights, such advocates, solicitors, notaries, agents, and factors as they may judge proper in all their trials at law; and such citizens or agents shall have free opportunity to be present at the decisions and sentences of the tribunals in all cases which may concern them, and likewise at the taking of all examinations and evidences which may be exhibited in the said trials."

Which said treaty and said provisions are in full force and effect.

And the court erred in the premises, as aforesaid, and a new trial should be granted the plaintiff in accordance with the provisions of the said treaty, as the said court was bound to take judicial notice of the provisions of the said treaty.

II.

The judgment of the said court is against law.

M. J. GALLIGAN,
Attorney for Plaintiff.

Filed in the office of the clerk of the district court this 11th day of May, 1901.
L. B. Strait, clerk, by E. F. Nichols, deputy.

And afterwards: That on the 29th day of June, 1901, the same being one of the regular days of the May, 1901, term of said court, there was among the proceedings had and done and entered of record the following order, which said order is in words and figures as follows, to wit:

FENICE FERRARA
v.
THE AURIC MINING COMPANY. }

On this day it is ordered that the plaintiff's motion for a new trial herein be and the same is hereby overruled and denied. To which ruling of the court the said plaintiff excepts.

Mr. Hay to Signor Carignani.

No. 704.]

DEPARTMENT OF STATE,
Washington, August, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 16th instant presenting for the consideration of this Government the complaint of the Italian subject, Mrs. Fenice Ferrara, that she has been denied justice in the district court of Pueblo, Colo.

In reply, I have the honor to say that it appears from the transcript of the record of judicial proceedings transmitted by you that Pietro Ferrara, an Italian subject, an employee of the Auric Mining Company, a corporation of the State of Colorado, while working in a mine belonging to said company near Henson, Colo., on June 26, 1897, was injured by the falling of a large rock from the roof of the mine, and died shortly thereafter. The widow of the deceased brought an action against the mining company in the district court of the county of Hinsdale, to recover damages for the death of her husband, on the ground that the same was due to the negligence of the company. She claimed damages in the sum of \$5,000. By agreement of the parties a change of venue was had to the district court of the county of Pueblo. In the course of the proceedings a motion was made by the defendant that the case be dismissed on the ground that the plaintiff was a nonresident alien and not entitled to prosecute the action in any of the courts of Colorado. The court granted this motion and rendered judgment dismissing the case on May 6 last. The plaintiff, through her attorney, excepted and gave notice of an appeal to the court of appeals (supreme court) of Colorado. The appeal was granted upon condition that the plaintiff files an appeal bond. It

appears that the plaintiff did not perfect the appeal, however, but instead, on May 11, filed a motion for a new trial in the same court, one of the grounds of such motion being that the judgment was in violation of the treaty of 1871 between the United States and Italy, the pertinent portions of which are as follows:

“ARTICLE III. The citizens of each of the high contracting parties shall receive, in the States and Territories of the other, the most constant protection and security for their persons and property, and shall enjoy in this respect the same rights and privileges as are or shall be granted to the natives on their submitting themselves to the conditions imposed upon the natives. * * *

“ARTICLE XXIII. The citizens of either party shall have free access to the courts of justice in order to maintain and defend their own rights, without any other conditions, restrictions, or taxes than such as are imposed upon the natives; they shall, therefore, be free to employ, in defense of their rights, such advocates, solicitors, notaries, agents, and factors, as they may judge proper in all their trials at law; and such citizens or agents shall have free opportunity to be present at the decisions and sentences of the tribunals in all cases which may concern them; and likewise at the taking of all examinations and evidences which may be exhibited in the said trials.”

On June 29 last the court denied the plaintiff's motion for a new trial.

The plaintiff, through her attorneys, appeals to the Italian Government to make demand upon the Government of the United States for the sum of \$5,000, “for which,” they allege, “she was deprived the right of litigation in violation of the said treaty between the two countries, and such other or further sum as may be just and equitable for the affront and indignity which she received by being thus discriminated against.”

You submit the matter to this Department for such measures as the Federal Government may see fit to take.

In the opinion of the Department the case, in its present stage, is not one for diplomatic intervention, for the reason that the plaintiff has not exhausted her judicial remedy. It frequently happens that litigants are denied rights by the decisions of inferior courts and are obliged, in order to establish such rights, to carry the case to the courts of last resort.

The plaintiff in the present case should pursue the judicial remedy afforded by our laws, perfecting her appeal to the court of appeals (the supreme court) of Colorado, and, if necessary thereafter, by appropriate proceedings, bring the case before the Supreme Court of the United States.

Furthermore, under the laws of the United States, the circuit courts of the United States have original jurisdiction of civil suits like the present one to which an alien is a party. It is suggested for the consideration of the attorneys of the plaintiff whether an original suit should not be brought in the circuit court of the United States for the district of Colorado.

Until the remedy of recourse to the civil tribunals has been exhausted by the plaintiff and justice is finally denied her, there appears to be no ground for the presentation of a diplomatic claim.

The inclosures in your note are returned as requested.

Accept, etc.,

JOHN HAY.

Signor Carignani to Mr. Hay.

[Translation.]

EMBASSY OF HIS MAJESTY THE KING OF ITALY,
Washington, October 3, 1901.

MR. SECRETARY OF STATE: I have the honor to acknowledge the receipt of your excellency's note of August 24, 1901, No. 704, relative to the claim of Mrs. Fenice Ferrara, and to thank you therefor. It is stated in said note that, in the present state of the question, the Department of State is of the opinion that there is no ground for diplomatic intervention, inasmuch as the claimant has not exhausted all legal means of redress.

The contents of the aforesaid note has been communicated to Mrs. Ferrara and her lawyer by the royal consul at Denver, and said lawyer has sent a letter to the consul containing certain explanations which appear to be of special importance.

I decided to lay the matter before the Department of State only after a careful examination of the evidence produced in the case, from which I thought that there appeared to be no doubt that the claimant had in reality exhausted all legal means for the assertion of her rights before the courts. The letter^a of Mr. M. J. Galligan, a lawyer of Pueblo, Colo., a copy of which I herewith inclose, confirms and explains the situation more satisfactorily.

It consequently becomes my duty again to submit the case to your excellency's consideration, and I feel confident that the considerations stated in the letter of Mrs. Ferrara's legal adviser, and the inquiries which you will think proper to make on the subject, will cause the question to be decided in favor of an unfortunate woman who, in addition to having lost her husband, who was killed while at work, has been left in the most abject poverty.

Thanking you for the kind attention with which you will, I am sure, be pleased to examine this note, I have the honor, etc.,

CARIGNANI.

P. S.—I herewith inclose the papers in the case, requesting that they may be returned to me.

CARIGNANI.

Mr. Adee to Signor Carignani.

No. 708.]

DEPARTMENT OF STATE,
Washington, October 10, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 3d instant, with inclosed letter from M. J. Galligan, attorney for Mrs. Fenice Ferrara, relative to her complaint that she had been denied justice in the district court of Pueblo, Colo.

The Department has given careful consideration both to your note and its inclosure, but without being led thereby to alter the conclusion expressed in its note of August 24 that Mrs. Ferrara had not exhausted her judicial remedies and hence that there was no ground for the presentation of a diplomatic claim in her behalf.

^aNot printed.

Mr. Galligan states that when Mrs. Ferrara was denied the right to prosecute her action in the district court of the State her judicial remedy was practically exhausted; and he asserts, also, that she was, by her poverty, practically prevented from taking further proceedings.

The Department's note of August 24 points out the particulars in which the plaintiff failed to avail herself of the judicial remedy afforded her when the district court denied the motion for a new trial.

The poverty of the plaintiff, which, it is alleged, prevented her from taking the necessary legal proceedings to establish her rights, affords no basis for a claim of a denial of justice.

It is a rule practiced not only by many American courts, but also by those of other civilized states, that the plaintiff shall, as a condition to the prosecution of his case, give a bond to secure the costs (*caution judicatum solvi*) he may thereby occasion. Such requirement can not be treated as a denial of free access to the courts, nor as a denial of justice giving ground for diplomatic intervention. Nor in any case could this Government be expected to perform the function of *parens patriæ* by providing even a meritorious foreign claimant with pecuniary aid which his own government might decline to afford. Much less could the United States be expected to pay outright this claim, considering that the Government was not in the remotest degree connected with the transaction out of which the claim arose, and that justice has not been judicially denied.

"The stranger, in all countries, is subject to the local law, as respects either the prosecution or defense of his case. In both aspects, he stands upon the same footing as the natives, save *la caution judicatum solvi*, very frequently imposed upon the alien plaintiff." (2 Calvo, *Int. Law*, sec. 865.)

"Though the plaintiff foreigner be thus allowed to bring his suit, he is, by the laws of the States, compelled to give bail (*fournir caution*) for costs and damages." (4 Phillimore, *Int. Law*, p. 643.)

While the Department has before enunciated its views in this case, it has been at pains to set forth fully in this note the grounds of its decision, which is so fully sustained by reason and authority, that it should be considered as final.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

CONDOLENCES ON ASSASSINATION OF PRESIDENT MCKINLEY.

Signor Carignani to Mr. Hay.

[Telegram — Translation.]

ITALIAN EMBASSY,
Manchester, Mass., September 15, 1901.

I am in receipt of the following telegram from the minister of foreign affairs:

I learn with profound sorrow of the death of the President, the victim of an assassination which has excited the greatest horror in Italy. I beg that you will immediately convey to the Federal Government and the family of the lamented President these sentiments in the name of the Government of the King and in my own.

PRINETTI.

CARIGNANI,
Chargé d'Affaires of Italy.

Mr. Hay to Signor Carignani.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1901.

I have made direct acknowledgment of the touching message of condolence of his excellency the minister of foreign affairs. Our people deeply appreciate such tributes from a nation they so truly esteem.

JOHN HAY.

Mr. Hay to the minister of foreign affairs of Italy.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1901.

I have received through Signor Carignani the feeling message of sympathy conveyed by your excellency on behalf of the Italian Government. The American Government and people are especially grateful in this hour of sorrow for the condolence of a nation which has so recently suffered through a like horrible crime.

JOHN HAY, *Secretary of State.*

Cardinal Rampolla to Mr. Hay.

[Telegram.]

ROME, *September 15, 1901.*

His Holiness, having been with deep sorrow apprised of the death of President McKinley, condemns the heinous attempt which was attended with such baneful results, and very keenly shares the mourning of the American nation.

M. CARDINAL RAMPOLLA.

Mr. Hay to Cardinal Rampolla.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 19, 1901.

I have the honor to request you to convey to His Holiness the deep appreciation here felt for his expression of sympathy with the sorrowing people of this country.

JOHN HAY, *Secretary of State.*

JAPAN.

REGISTRATION OF TITLES TO PERPETUAL LEASES IN JAPAN.

Mr. Buck to Mr. Hay.

No. 338.]

UNITED STATES LEGATION,

Tokyo, Japan, July 29, 1899.

SIR: I have the honor to inclose herewith translations of various new regulations and notifications issued by the Japanese Government recently, which are of interest as relating to foreigners.

I have, etc.,

A. E. BUCK.

[Inclosure 1.]

IMPERIAL ORDINANCES.

The chairman of the international committee has forwarded the following translations by Dr. Lönholm for publication.

Imperial ordinance No. 329, of July 7, 1899.

1. If a right in an immovable which might be set up against third persons has been duly acquired by an alien or a foreign juridical person before the time fixed in the imperial ordinance, No. 251, of the thirty-second year of Meiji,^a but has not been registered before the said time, it can not be set up against third persons registered within one year from such time.

2. For the immovables mentioned in article 1, special registry books shall be opened and kept at the respective registry offices within whose jurisdiction the places are where such immovables are situated.

3. Each folio of a registry book mentioned in the preceding article is divided in a column for the number of registration, a division for the designation of the immovables, and four sections headed respectively Kō, Otsu, Hei, Tei.^b The division for the designation contains a column for the description. Each of the four sections contains a column for the subject-matter of the registration and a column for the number of the order.

In the column for the number of registration as to each piece of land or building is entered the order in which it has first been registered in the registry book.

In the column for the description the land, buildings, or out-buildings are described and alterations of the same are entered. In the column for the number of the description the order of priority of the matters entered in the column of description is entered.

In the column for the subject-matter of section Kō are entered:

(a) In the land registry book-matters relating to superficieses.

(b) In the building registry book, matters relating to ownership.

In the column for the subject-matter of section Otsu are entered matters relating to preferential rights, pledges, and mortgages.

^aThat is the time fixed for the taking effect of the new treaties, either the 17th of July or the 5th of August, 1899.

^bThat is A, B, C, D.

In the column for the subject-matter of section Hei are entered matters relating to leases.^a

In the column for the subject-matter of section Tei are entered matters relating to rights not mentioned in the three preceding paragraphs.

In the column for the number of the order is entered the number indicating the order of priority of each matter registered in the column for subject-matters.

4. When an application for registration is made, all facts which can be set up against third persons must be mentioned in the application, and the documents necessary to prove such facts must be annexed.

5. A copy of the registry book of a foreign consulate relating to an immovable, mentioned in article 1, has the same effect as the registry book.

When an application for registration as to an immovable-registered in a foreign consulate is made after this ordinance takes effect, the provisions of article 163^b of the law concerning the registration of immovables apply correspondingly.

The minister of justice may make necessary rules in regard to matters mentioned in the foregoing two paragraphs.

6. As to matters not provided for in this ordinance the provisions of the law concerning the registration of immovables apply correspondingly.

ADDITIONAL PROVISIONS.

This ordinance takes effect on July 17, 1899.

Imperial ordinance No. 333, of July 7, 1899.

1. When a Japanese subject or Japanese juridical person acquires a superficies or lease intended to be perpetual, which has been created for an alien or for a foreign juridical person, in land which belongs to the Government, such person acquires the ownership of the land.

2. If in the case mentioned in the preceding article the land does not belong to the Government, the superficiary or lessee may acquire ownership of the land on paying a proper sum to its owner.

If a superficiary or a lessee, on the demand of the owner, gives notice of his intention not to acquire the ownership as above provided, or if he does not within one year after such demand proceed as specified in the foregoing paragraph, the owner may apply to the court to have the duration of the superficies or the lease determined in accordance with the provisions of the civil code on paying a proper indemnity.

3. The provisions of the preceding two articles shall not affect any rights which third persons may have in such land.

ADDITIONAL PROVISION.

This ordinance takes effect on July 17, 1899.

[Inclosure 2.]

NOTIFICATION NO. 41 OF THE JUDICIAL DEPARTMENT.

JULY 10, 1899.

The following procedure is established for dealing with registration of immovables which are subject to the rights of foreigners or foreign judicial persons.

(Signed)

KIYOURA KEIGO,
Minister of Justice.

ARTICLE I. The provisions of the detailed regulations for carrying out the law of registration of immovables shall, except when there is a special provision to the contrary in this notification, apply, mutatis mutandis, in the case of registration governed by the provisions of Article I of imperial ordinance No. 329, of 1899.

ARTICLE II. The local courts shall prepare land registers relating to the rights of

^a Properly "hiring," chintaishaku.

^b That article relates to the forms on which registrations are to be made in the registry book.

foreigners or foreign juridical persons in accordance with the forms Annex No. 1, and registers of buildings relating to the rights of foreigners or foreign juridical persons, in accordance with the forms Annex No. 2.

ARTICLE III. Copies of the registers of foreign consulates shall be bound together and kept separately, according to each country, by the local courts, and the president of a local court shall note on the back of the covers the number of pages they contain and write thereon his official title and name and affix his seal of office; and having also sealed keiin, shall transmit them to the registration office, which has control in the matter.

ARTICLE IV. The local courts shall make translation of the copies of the registers of foreign consulates, and the procedure laid down in the preceding article shall also be followed in the case of these translations.

ARTICLE V. The local courts shall annex, in the copies of the registers of the foreign consulates, numbers to all the registrations, according to the order of the registrations in the various volumes, and shall also affix the same numbers to translations of copies of registers.

ARTICLE VI. When the certificate to be attached to an application in accordance with the provisions of Article IV of imperial ordinance No. 329, of 1899 is written in a foreign language, the applicant shall attach to it a translation thereof.

ARTICLE VII. In transferring the registrations of foreign consulates to the registers, in accordance with the provisions of the second clause of Article V of imperial ordinance No. 329, of 1899, it shall be made according to translation of them.

ARTICLE VIII. When the registrations of foreign consulates have been transferred to the registers, the fact that they have been transferred to page No. — of volume No. — of the registers, the numbers of the registrations and the dates shall be noted on the copies of the registers of foreign consulates and on the translations of them, and they shall be sealed by the registrar.

ARTICLE IX. In the case of registration made in accordance with imperial ordinance No. 329, of 1899, index books of registrations of land and of registrations of buildings shall be specially kept. Matters relating to the registrations of foreign consulates shall also be inserted in these index books.

ARTICLE X. In cases where Japanese subjects or juridical persons acquire rights of superficies or rights of lease, which were established with the intention of their continuance in perpetuity for foreigners or foreign juridical persons, the registrar shall, when he registers them in land registers relating to the rights of foreigners or foreign juridical persons, close the entries of registration relating to those rights.

Under the circumstances mentioned in the preceding clause, when there are among those registration entries registrations relating to other rights, which have as their subject rights of superficies or rights of lease registration of cancellation of such, registration shall be effected and the registration entries shall be closed after the registrations relating to other rights have ceased to appear among the registration entries.

ARTICLE XI. In cases where Japanese subjects or juridical persons acquire rights of ownership of land in accordance with Article I or II of imperial ordinance No. 333 of 1899, when there are among the entries of registration of the land registers relating to the rights of foreigners or foreign juridical persons, registrations relating to other rights which have as their subject rights of superficies or rights of lease, and when those registrations remain uncanceled, registration of such rights of ownership only shall be effected in the general register.

ARTICLE XII. In cases where there are registrations relating to the same land in the general register and in the land register relating to the rights of foreigners or foreign juridical persons, or in the copies of the registers of foreign consulates, the registrar shall, in a convenient manner, put marks of mutual reference in suitable places among the registration entries (including, in the case of copies of the registers of foreign consulates, the translations) of each register.

Mr. Buck to Mr. Hay.

No. 364.]

UNITED STATES LEGATION,
Tokyo, October 4, 1899.

SIR: I have the honor to inclose herewith a copy of a note addressed by me to the Japanese minister of foreign affairs concerning the registration of transfers by assignment of titles to property held under perpetual leases in the foreign settlements of the country.

It seems to me that the requirement of payment, as a revenue to the Government, of $2\frac{1}{2}$ per cent of the value of any property held under a perpetual lease, confirmed by the treaty, is inadmissible—that such a burden placed upon the property should not be borne by the assignee, who should stand in the same position in respect to such property, in all respects, as the original holder.

That a title to property under a perpetual lease should be registered as a superficies, thereby restricting the uses of the property, and, perhaps, the duration of its use, seems to me clearly inadmissible, as it certainly would change the conditions contained in the original lease.

Though I may possibly be in error in my position in respect to the registration tax of $2\frac{1}{2}$ per cent of the value of the property since there is no law compelling an assignee to register, I am confident that I am correct in my opinion as to the registration of property as a perpetual superficies being in violation of treaty stipulations in respect of such property.

Awaiting notification of the decision of the Japanese Government in reply to my note, I have the honor to ask instructions upon the questions involved, that I may make no mistake should I insist upon the Japanese Government recognizing the correctness of the position I have already taken.

I have, etc.,

A. E. BUCK.

[Inclosure.]

No. 164.]

LEGATION OF THE UNITED STATES,
Tokyo, September 30, 1899.

SIR: Referring to the brief conversations we have had recently in respect of the registration tax of $2\frac{1}{2}$ per cent upon the value of property held by foreigners in the respective foreign settlements in Japan under perpetual leases by the Government, which, as I am informed, is required by the registering officers to be paid in registering any transfer or assignment of such leases; and also in respect of such registration of such perpetual leases being required to be made as perpetual superficies, I have thought it best to express to your excellency in writing, in short, some views touching these matters now entertained by me.

By the stipulations made in Article XVII of the treaty between the United States and Japan in respect of the several foreign settlements whereby such settlements are incorporated with the respective Japanese communes, it appears that existing leases in perpetuity in foreign settlements must be confirmed, and that any new conditions whatever imposed by the Government are in contravention of the rights of the holders of real property under such leases. If I correctly understand the full import of the foregoing stipulations, the $2\frac{1}{2}$ per cent of the value of the property so held, if imposed in registering a transfer of title, is a tax upon the property not contemplated, and, as it would seem, is inadmissible. The imposition of such a tax by so much reduces, in effect, the value of the property and changes the original conditions of the lease itself, which stipulates a certain sum to be paid annually to the Government—an annual tax upon the land, and the only tax, as it appears to me (except certain municipal taxes provided for in the leases themselves and in the agreements entered into between the Government and the representatives of the treaty powers), that, under the provisions of the treaty, can rightfully be levied upon it by the Government. It seems that the leaseholder fully complies with the terms of the contract of lease made between the Japanese Government and himself when he annually pays his stipulated rent; and in registering a transfer or assignment of a perpetual lease, such additional sum to be paid to the Government by the assignee on the value of the property so transferred, though called a registration tax, is an additional tax upon the property for revenue, which, however, would not be the case if a fixed registration fee only was required, without regard to value, upon all transfers of property alike in compensation for the work done in registering, in which no additional income to the Government from the property was to be derived.

I may add that while the forms of the deeds of title giving leases of perpetuity in the foreign settlements vary in their wording in some nonessential particulars, the titles in all cases are granted by the Government not only to the original holders,

but, in terms, to their heirs and assigns as well, and, as I conceive, no tax should be imposed by the Government upon the heirs or assigns of the original lease in addition to that imposed upon the original lessee. It may be claimed that the registration of a transfer of an assignment of title to an assignee is not made obligatory by law and is to be registered or not at the option of the assignee; but to protect his title against a third party (who through fraud by the original holder of the property might acquire a second assignment of title which would be good if first registered), he must have his assignment registered for his protection and is thereupon compelled to pay $2\frac{1}{2}$ per cent of the value of the property not contemplated in making the original grant of the title, which was made, as already stated, not only to the original holder but to his heirs or assigns, thus, in my view, imposing in effect an additional condition upon the title confirmed under the treaty.

The registration of such perpetual leases at the Saibansho by which, if I am correctly informed, such leases are to be registered as perpetual superficies, will also, in my opinion, change the conditions of the original contracts of lease, inasmuch as a superficies, if I correctly understand the meaning of that term, restricts the holders of such a lease to uses of the land in certain respects, and in some contingencies, though declared perpetual, will restrict its duration also, and consequently impairs the value of the property. By the terms set out in the original perpetual leases the leaseholders have the perpetual use of the lands for all purposes whatever and for all time, provided they keep up their annual payments as stipulated in the original contracts of lease.

Knowing that your excellency's Government does not intend or desire to put any additional burden upon citizens of the United States holding property in the foreign settlements under their perpetual leases not warranted by the treaty between the two countries, I have the honor to submit to your excellency the foregoing statement for such consideration as the merits of the questions involved will warrant.

I avail, etc.,

A. E. BUCK.

Mr. Buck to Mr. Hay.

No. 365.]

UNITED STATES LEGATION,
Tokyo, October 6, 1899.

SIR: Referring to my dispatch No. 364 of the 4th instant, concerning the registration tax of $2\frac{1}{2}$ per cent of the value of property held in the foreign settlements, under perpetual leases, required to be paid on registering transfers of such leases, I have the honor to call attention to the fact that the laws of Japan in respect to real property held under perpetual lease or otherwise are peculiar, especially in this, that land and buildings upon the land are regarded as separate and distinct property, and that a sale or transfer of lease of land does not include structures upon it as a matter of course, but may be sold or transferred apart from the structures and the structures likewise apart from the land.

My note to the minister of foreign affairs, it will be observed, makes no reference to the registration tax upon the value of the buildings that may have been erected by the lessees, but only upon the value of the lands for the use of which perpetual leases were granted by the Government. That, under the general law applying as well to Japanese subjects as to foreigners, I could rightfully claim exemption from such tax upon the value of the buildings, I had so much doubt that I omitted to do so, though I understand that some of the representatives here of other countries make that contention as well as for the exemption of the tax upon transfers of perpetual leases of the lands.

Thinking it proper to make the above explanatory statements to avoid any possible misunderstanding as to the extent of the claim of exemption from the registration tax presented by me to the Japanese Government,

I have, etc.,

A. E. BUCK.

Mr. Hay to Mr. Buck.

No. 260.]

DEPARTMENT OF STATE,
Washington, November 6, 1899.

SIR: I have to acknowledge the receipt of your dispatches Nos. 364 and 365, of the 4th and 6th ultimo, respectively, concerning the registration tax of $2\frac{1}{2}$ per cent of the value of property held in the foreign settlements in Japan under perpetual leases required to be paid on registering transfers of such leases.

With the former dispatch you inclose a copy of your note to the Japanese minister for foreign affairs, maintaining that such a tax is not warranted by the treaty between the United States and Japan.

The Department concurs in your view that under Article XVII of our treaty with Japan existing leases in perpetuity are to be confirmed without other conditions or burdens than those imposed by existing leases at the date of the treaty. All lands previously granted free of rent for the public purposes of the settlements remain free. In the confirmation of leases no change in vested rights can be effected by requiring them to be registered as "perpetual superficies," if such would be the effect. But in the assignment of leases between private parties for private purposes citizens of the United States are subject to the same registration fee or charge as is imposed on Japanese subjects, unless the original leases stipulate to the contrary. This is indicated by Article II of the treaty.

I am, etc.,

JOHN HAY.

Mr. Buck to Mr. Hay.

No. 392.]

UNITED STATES LEGATION,
Tokyo, Japan, December 29, 1899.

SIR: I have the honor to acknowledge the receipt of instruction No. 260, of the 6th ultimo, in reply to my dispatches Nos. 364 and 365, of the 4th and 6th of October last, in respect to perpetual leases in foreign settlements in Japan being confirmed, under the treaty, without other conditions being imposed than are prescribed in existing leases, stating that, in the confirmation of such leases, no change in vested rights can be effected by requiring them to be registered as perpetual superficies, if such would be the effect, thus approving the position taken by me in that regard. Concerning the assignment of such leases, however, I am instructed that, as between private parties for private purposes, citizens of the United States are subject to the same registration fee or charge as is imposed upon Japanese subjects, unless the original leases stipulate to the contrary.

I now have the honor to report that by imperial ordinance (copy inclosed) the Japanese Government has so amended the law of registration as to recognize that perpetual leases of property in foreign settlements can be registered as such without change, instead of as perpetual superficies as heretofore required, thus substantially though indirectly conceding my claim in that particular.

In respect to the requirement that a registration tax of $2\frac{1}{2}$ per cent on value to be paid by the assignee of a perpetual lease in foreign settlements between private parties, I infer from a conversation which I have had with the minister of foreign affairs that such registration

tax is not to be enforced—conceding my contention that such tax ought not to be required to be paid in consideration of the stipulations of the leases themselves and the provisions of Article XVII of the treaty—though it will be enforced upon registration of mortgages and other liens on such property.

I have, etc.,

A. E. BUCK.

[Inclosure.]

THE TRANSFER OF LAND.

Imperial ordinance No. 458 of December 27, 1899.

[Translated by Dr. L. LÖNHOLM.]

The imperial ordinance No. 329, of the year 1899, is amended as follows:

ARTICLE I. When a superficies (perpetual lease) created in a foreign settlement is transferred, such transfer can not be set up against third persons unless it is entered in the title deed by the *chihōchō*^a of the place where such land is situated.

If an application according to the foregoing provision has been made by the parties concerned, or if a notification concerning a superficies (perpetual lease) has been made, the *chihōchō* must, without delay, give notice thereof to the registry office within whose jurisdiction the land is situated.

When a *chihōchō* gives notice of the transfer of a superficies (perpetual lease) a copy of the title deed must be annexed; but in case of a second or subsequent notice it is sufficient to add the designation of the land, the names of the parties concerned, their nationality and domicile, the ground of the transfer of the right, and the date.

If a right other than that mentioned under paragraph 1, which might be set up against third persons, has been duly acquired by an alien or a foreign juridical person before the time fixed in the imperial ordinance No. 251 of the thirty-second year of Meiji,^b but has not been registered before the said time, it can not be set up against third persons, unless it is registered up to the 31st of December, 1900.

ARTICLE IV. When an application for registration is made, all facts which can be set up against third persons must be mentioned in the application, and the documents necessary to prove such facts must be annexed.

When a registry office has received a notice of the transfer of a superficies (perpetual lease) it must register it *ex officio*, and the same applies when in case of a notification concerning a superficies (perpetual lease) an alteration in a registration is to take place.

If when an application for the registration of a right whose subject is a superficies (perpetual lease) is made, such superficies (perpetual lease) is not yet registered, such registration must be made *ex officio*.

ADDITIONAL PROVISIONS.

Entries as to the transfer of a superficies (perpetual lease), made in a title deed by a *chihōchō* or a consulate before the taking effect of this ordinance, have the same effect as entries made by a *chihōchō* according to the provisions of this ordinance; but this does not affect the rights of third persons which have been registered after the time fixed in imperial ordinance No. 251 of the thirty-second year of Meiji.

Mr. Buck to Mr. Hay.

No. 394.]

UNITED STATES LEGATION,
Tokyo, January 12, 1900.

SIR: Referring to my dispatch No 392 of the 29th ultimo, relating to the imperial ordinance recently published concerning the law of registration of land title, permitting perpetual leases of property in

^a That is, for Yokohama and Kobe, the *kencho*.

^b That is, the time fixed for the taking effect of the treaties.

the foreign settlements to be registered as such without change, I have the honor to state that in an interview with his excellency the minister for foreign affairs yesterday I learned that the requirement of the ordinance that the registration of such leases or transfers thereof in the chihōchō (local government office) instead of the registry office proper, as also the use of the term "perpetual lease" as synonymous with "perpetual superficies" was because the law had made obligatory the payment of 2½ per cent of value as a registration tax or charge on such property at the registry office, and the law did not recognize the registration of perpetual leases as such. As an ordinance could not directly repeal or annul the provisions of the law in those respects, it became necessary in order to meet the objections made by me and others to indirectly by ordinance recognize perpetual leases in parenthesis only and by changing the place of registration to relieve perpetual leaseholders from the registration charge of the 2½ per cent of value.

I am informed by our consul-general at Yokohama that registration of perpetual leases as such and transfers thereof at the local government office is going on without charge other than the nominal sum in stamps in payment of a proper fee for registration.

I have, etc.,

A. E. BUCK.

Mr. Hay to Mr. Buck.

No. 271.]

DEPARTMENT OF STATE,
Washington, January 24, 1900.

SIR: I have to acknowledge the receipt of your dispatch No. 392 of the 29th ultimo, reporting the present attitude of the Japanese Government respecting the registration of perpetual leases in foreign settlements in Japan.

In reply I have to say that the attitude of the Japanese Government in the matter, as it is now reported by you, is unobjectionable.

I am, etc.,

JOHN HAY.

Mr. Buck to Mr. Hay.

No. 398.]

UNITED STATES LEGATION,
Tokyo, February 5, 1900.

SIR: For the information of the Department, and as a matter of some importance, I have the honor to inclose herewith a copy of resolutions adopted at a meeting of foreign residents in Yokohama concerning the registration of titles of perpetual leases in the former foreign settlements there, together with a copy of a communication from Mr. John Lindsley, an American resident, transmitting the resolutions to Consul-General John F. Gowey; also the dispatch (copy) of the consul-general in forwarding them, and also a copy of my instruction to the consul-general in respect to the resolutions and the request made by Mr. Lindsley.

Considering the information I had received as to the attitude of our people in Yokohama concerning the registration of titles of perpetual leases, upon the promulgation of the imperial ordinance No. 458 of the 27th of December last, which, at the time, was published and discussed in the newspapers, and the fact that no complaint had reached me, and no inquiry had been made in respect to the effect of the ordinance, I had assumed that the ordinance was regarded by them as measurably satisfactory, and was surprised that the American residents there should join with foreigners of other nationalities in passing the resolutions and that my efforts with the Imperial Government should be solicited in their behalf, without first hearing what, if anything, had already been done by me in the direction of their suggestions.

While the imperial ordinance No. 458 of December 27 last (copy inclosed with my despatch of the 29th of December, No. 392), in providing for the registration of titles of perpetual leases as "superficies" (perpetual leases), was not entirely satisfactory, yet, as stated in my despatch No. 392, I regarded it as indirectly in accord with treaty provision.

I understand that the resolutions do not express the views of all American residents holding titles of perpetual leases in Yokohama, though they probably do of a majority of them, as the meeting passing the resolutions, I am informed, was fairly representative.

I have, etc.,

A. E. BUCK.

[Inclosure 1.]

COPY OF RESOLUTIONS PASSED AT A MEETING OF LAND RENTERS OF THE FORMER YOKOHAMA FOREIGN SETTLEMENT, HELD ON JANUARY 19, 1900.

It is resolved by this meeting of land renters of the former foreign settlement of Yokohama that the following facts be brought to the notice of the Imperial Japanese Government:

1. That although the revised treaties provide that the existing Government leases in perpetuity of foreign-settlement property shall be confirmed, steps have not yet been taken by the Government to confirm them, and the laws of Japan appear to contemplate their compulsory conversion into a new and different kind of right, which is called "superficies."

2. That under existing laws the right of perpetual lease is not recognized, and since the coming into operation of the revised treaties the holders of such leases have been unable to sell or mortgage their land except on the terms of allowing the leasehold interest to be registered as a "superficies," which they have been and are unwilling to do.

3. That the nonrecognition of what foreigners conceive to be a right plainly secured to them by their title deeds and by treaty has resulted in a general feeling of insecurity, and in stopping all sales and mortgages of former foreign-settlement property and is threatening such property with a very serious depreciation in value.

4. That in order to remedy the evils of the situation and to restore confidence it is most desirable that the Imperial Japanese Government shall at once confirm the aforesaid leases in perpetuity and make all necessary provisions for their recognition by law, and for the registration of them under a separate designation.

5. That properties held by foreigners in the former foreign settlements have been made subject to new conditions and taxes and charges from which in the opinion of this meeting the revised treaties were intended to exempt them.

And it is further resolved that copies of the foregoing resolutions be forwarded to His Imperial Majesty's minister for foreign affairs through the usual channels.

[Inclosure 2.]

Mr. Lindsley to Mr. Gowey, United States Consul-General.

YOKOHAMA, January 24, 1900.

SIR: Acting on behalf and by authority of a representative body of citizens of the United States of America, all of whom are holders of perpetual leases of property in the former foreign settlements, granted and confirmed by the Imperial Japanese Government in accordance with treaty stipulations, I have the honor to inclose a copy of certain resolutions passed unanimously at a duly convened and largely attended meeting of foreign landowners held in Yokohama on the 19th instant, in which the said citizens took part, and to request that the same be forwarded to his excellency the minister of the United States, in Tokyo.

It is hoped by American landowners that his excellency the minister of the United States will support the views expressed in the resolutions, and that he will use his good offices in assisting them to obtain the relief so necessary and so earnestly desired.

I have, etc.,

JOHN LINDSLEY.

[Inclosure 3.]

Mr. Gowey to Mr. Buck.

No. 1685.]

UNITED STATES CONSULATE-GENERAL,
Yokohama, Japan, January 24, 1900.

SIR: I have the honor to inclose herewith a copy of a letter of this date addressed to me by Mr. John Lindsley, an American merchant of Yokohama, accompanying a copy of a resolution passed at a meeting of certain foreigners at Yokohama relative to land titles.

I have, etc.,

J. F. GOWEY.

[Inclosure 4.]

*Mr. Buck to Mr. Gowey.*LEGATION OF THE UNITED STATES,
Tokyo, January 31, 1900.

SIR: I have to acknowledge the receipt of your dispatch No. 1685, of the 24th instant, inclosing a copy of a communication to you from Mr. John Lindsley with a copy of resolutions passed at a meeting of holders of perpetual leases of property in the former foreign settlement in Yokohama in respect to their titles. The resolutions set forth the leaseholders' complaint that the Imperial Government has not yet confirmed their titles as provided by treaty, but have imposed new conditions in contravention of treaty stipulations and declare the necessity, for the protection of the leaseholders, that the Imperial Government should at once confirm titles and register them accordingly as perpetual leases; and in Mr. Lindsley's communication the hope is expressed that I support the views given in the resolution and use my good offices to obtain the relief so necessary and so earnestly desired.

The American holders of perpetual leases in Yokohama in joining in passing the resolutions were not aware, it would seem, of what action I had taken to secure them protection of their property rights guaranteed by treaty, since, until the receipt of the resolutions and letter accompanying your dispatch, I have had no inquiry from any of them for information as to what I had done or proposed to do for their protection or request to take any action whatever in that respect.

That our fellow-citizens in Yokohama may know of what attention I have been giving to this important matter I proceed to give a résumé of what has been done and the real situation in respect to registration of land titles as I understand it.

In September last, learning that a British subject holding a perpetual lease in Yokohama in the foreign settlement had been denied its recognition as such and was required to have it registered, if at all, as a superficies, anticipating that the same course would be taken in respect to registration of titles of American citizens, I addressed a note to the minister of foreign affairs, calling attention to the treaty stipulations prohibiting the imposition of any condition whatever in addition to those

set out in the leases themselves, in which note I claimed that the registration of such perpetual leases at the Saibansho, by which, if I was rightly informed, such leases were to be registered as perpetual superficieses, would, in my opinion, change the conditions of the original contracts of lease, inasmuch as a superficies, as I understood, restricted the holders of such lease to uses of the land in certain respect and—in some contingencies, though declared perpetual—would restrict the duration also and consequently impair the value of the property.

Before addressing the official note to the minister of foreign affairs I had in person earnestly expressed my views as to the registration of perpetual leases as superficieses, and since have had several interviews with the minister, expressing my opinion of such a requirement as violative of treaty provisions. In all our interviews the minister has expressed himself as fully conceding that perpetual leases and their transfers must be registered without change of their conditions.

On the promulgation of imperial ordinance No. 458, concerning the registration of perpetual leases in question, he assured me then, as he has since, that, by that ordinance requiring such leases to be registered as superficieses (perpetual leases), the Imperial Government made no change in the character of the titles whatever; that the courts must recognize the ordinance as providing for the registration of perpetual leases without change of conditions of such leases by the registration therein provided for; and that he would give me in an official note an explanation of the purpose and real effect of the ordinance as intended and understood by his Government, which note would be a duplicate of that already sent to the British minister. Awaiting the receipt of the minister's note, which I now have, has caused some delay in acknowledging the receipt of your dispatch and in responding to the accompanying resolutions and the request of Mr. Lindsley.

To be accurate in giving the views of the Japanese Government in this matter, I quote from a translation of the minister's note as follows:

"The Imperial Government is of the opinion that, though the rights of perpetual leases are registered as superficieses according to the above-mentioned imperial ordinance (No. 329), such action is not in violation of the treaty; because it is provided in article 45 of the law for the operation of the civil code that, 'As to a superficieses created for an alien or a foreign legal person the provisions of the civil code apply only so far as it is not otherwise provided by treaty or regulation;' therefore the right of perpetual lease, i. e., the right of superficieses created for foreigners, is considered a kind of special superficieses, and it is clear that it is not the right of superficieses according to the civil code.

"Again, the interpretation given by the Imperial Government is, that even after the right of perpetual lease has been registered in accordance with the above imperial ordinance, the said title-deed has the same validity as before. However, that imperial ordinance was amended by imperial ordinance No. 458, of December 27, of last year, as appeared in the Official Gazette (copy of which is herewith inclosed), in which the words 'perpetual lease' were specially inserted in brackets after the word 'superficies,' by which it is made still more clear that the so-called right of 'superficies' is the right of 'perpetual lease.' It is provided therein also that the transfer of a perpetual lease can not be set up against a third party unless the fact of such transfer is indorsed upon the title deed, and that indorsements of transfer hitherto entered upon the title deed shall have the same effect as an indorsement made in accordance with the above ordinance. The validity of the title deeds having thus been confirmed, there is, in my opinion, no room left for such doubts as are expressed above."

While the fact that the ordinance does not simply state that these titles are to be registered as perpetual leases by omitting the term superficieses altogether may be disappointing, yet the fear expressed in the resolutions that the question may be raised in the courts as to whether such registration may not in effect impair the titles of perpetual leases seems to be met by the assurances and interpretation given by the Imperial Government, and should such question by any possibility be so raised treaty stipulations will control. No ordinance in respect to registration of titles can successfully impair rights specifically guaranteed by treaty; and in registering titles, as prescribed by the ordinance of December 27 last (No. 458), American citizens do not lose thereby any treaty right in respect to property so registered, the titles to which were originally guaranteed by the Imperial Government.

On communicating to American holders of perpetual leases in Yokohama what has been done the last four months concerning the registration of their land titles, I am confident that they will appreciate the fact that I have not been unmindful of their interests or have failed to make proper representations to the Imperial Government in their behalf in respect of their property rights as guaranteed by treaty.

Having already, before the receipt of the resolutions accompanying your dispatch,

in conversation with the minister of foreign affairs, informally made reference to them as published in the newspapers, I do not see how I can do more at this time, or hereafter, than I have already done, unless some additional reason should appear requiring further representations to the Imperial Government, or unless so instructed by our Government, which has full information in respect to this matter.

I am, etc.,

A. E. BUCK.

Mr. Hay to Mr. Buck.

No. 272.]

DEPARTMENT OF STATE,
Washington, February 17, 1900.

SIR: I have to acknowledge the receipt of your dispatch No. 394, of the 12th ultimo, in which you report that in an interview with the Japanese minister for foreign affairs, you have learned that the requirement of the ordinances that the registration of perpetual leases of property in the foreign settlements or transfers thereof should be made in the chihosho (local government office), instead of the registry office proper, as also the use of the term "perpetual lease" as synonymous with "perpetual superficies" were because the law had made obligatory the payment of $2\frac{1}{2}$ per cent of value as a registration tax or charge upon such property at the registry office, and also because the law did not recognize the registration of perpetual leases as such, and that as an ordinance could not directly repeal or annul the provisions of the law in those respects, it became necessary in order to meet the objections made by you and others, to indirectly, by ordinance, recognize perpetual leases in parenthesis only and by changing the place of registration to relieve perpetual lease holders from the registration charge of the $2\frac{1}{2}$ per cent of value.

In reply I have to say that as a practical solution of the difficulty, the course described is unobjectionable, so far as appears, especially so, as it is not shown that this solution works any hardships.

I am, etc.,

JOHN HAY.

Mr. Buck to Mr. Hay.

No. 417.]

UNITED STATES LEGATION,
Tokyo, April 7, 1900.

SIR: I have the honor to inclose herewith copies of a communication^a and a memorandum^a received from Mr. John Lindsley and Rev. E. S. Booth, claiming to act under instructions of the executive committee of the American Asiatic Society of Yokohama, in which they set out at length many reasons for complaint that the Japanese Government have failed to protect American perpetual leaseholders of property in the former foreign settlements in that port in their rights guaranteed by treaty. Their numerous complaints may be summarized in general as follows:

1. That leases in perpetuity held by Americans in the foreign settlements have not been fully confirmed by the Japanese Government as stipulated by treaty, but rather avoided instead by requiring their registration as superficies (perpetual leases).

^a Not printed.

2. That in requiring their leases of land to be registered at the *kencho* (prefectural office) and the buildings thereon at the *saibansho* (local court), and the charge of 2½ per cent of value of buildings on registration of a transfer of titles to such buildings, are in conflict with treaty provisions.

3. That the tax now levied or any tax to be levied by the Japanese authorities on the buildings upon the land held under perpetual leases is a violation of treaty stipulations, properly construed; and that the method employed in estimating the value of buildings for taxation and the taxes so levied are unjust, and with other taxes are a hardship.

4. That in consequence of long tenure and use of their lands and buildings under extraterritorial jurisdiction, not taxed and not disturbed by the Japanese Government or the local authorities, prescriptive rights have been acquired and now the Japanese Government, on assuming jurisdiction over their property, should be estopped from enforcing her tax laws upon the building as well as upon the lands.

5. That in consequence of the failure of the Japanese Government to comply with treaty obligations in respect of their property rights, their holdings have depreciated in market value, and transactions in selling or mortgaging property are paralyzed.

1. In respect of the first ground of complaint, as summarized above, I have the honor to refer to my previous dispatches upon that subject—No. 364 of October 4 and No. 392 of December 29, 1899; also No. 394 of January 12 and No. 398 of February 5, last, and inclosures; also to the inclosed copy of a note of the minister of foreign affairs to the minister of France; also the inclosed cuttings^a from most of the newspapers published by foreigners in Yokohama and the leading newspaper of Kobe, which in respect to this matter are supposed to voice to a large degree the prevailing opinion of foreign residents in those cities, though not to be taken as evidence in coming to a conclusion on the merits of the case, and all except the *Herald* regard the course taken by the Government as substantially complying with treaty provisions, to wit: the *Japan Weekly Mail* of February 3 and 17, last (the latter a republication from the *Daily Mail* of February 12 and 14); the *Daily Mail* of the 2d and 5th ultimo; the *Japan Daily Herald* of February 5 and 12, last; the *Daily Advertiser* of the 1st ultimo, all published in Yokohama, and the *Kobe Chronicle* of the 5th ultimo.

In this connection I also respectfully refer in particular to "Regulations relating to foreigners in Japan," a copy of which accompanied my dispatch No. 338 of July 29, last, under the head of "Registry of immovables" (imperial ordinances Nos. 329 and 333 of July 7, last), in which is prescribed the books of registry of land and other immovables; and with the same dispatch a "Notification of the department of justice (No. 41 of July 10, last) respecting registration; also the authority for the issuance of imperial ordinance No. 458, found in law No. 71 of March 18, 1899, which reads as follows:

With respect to the acquisition, loss, or transfer of property rights in immovables and ships, made by aliens or foreign legal persons before the operation of the revised treaties, the cases in which the registration of the said rights is necessary and the process of registration may be specially determined by imperial ordinance.

Also copies of pages^a of the register books of Yokohama; also copies of two reports, Nos. 1822 and 1829, from George H. Scidmore, esq., deputy consul-general at Yokohama, made on my request. (Mr.

^a Not printed.

Scidmore is a member of the executive committee of the American Asiatic Society, with Mr. Lindsley and Mr. Booth, who present these complaints. Mr. Scidmore is regarded a good lawyer. He has been in the consular service in Yokohama since May, 1876, as consular clerk and then deputy consul-general, and has a good knowledge in respect to what he reports.)

Since the Japanese Government itself executed the leases and, so long as such leases should be held by foreigners, guaranteed their perpetuity, and in case such leases should be transferred to Japanese subjects (imperial ordinance 333 with dispatch 338) they are to acquire actual ownership—which latter fact may be taken as additional evidence of the recognition on the part of the Government of their perpetuity—and since actual ownership is now vested in the Government, it would seem that, so long as such leases were held by foreigners, no one but the Government itself could question the rights guaranteed by it, independent of the fact of treaty stipulations to hold inviolate and confirm all rights guaranteed by the terms of such lease.

Hence, in consideration of imperial ordinance 458 and the interpretation put upon it by the Japanese Government, as given by the minister of foreign affairs, together with the ordinances and regulations above cited, also the facts and opinions presented in inclosures herewith, have or have not leases held in perpetuity been confirmed as required by treaty?

Can rights under leases held in perpetuity, entered in the register provided for the registration of superficies, and entered as “superficies (perpetual leases”) be impaired by that method incident to registration, when the Government, the party of the first part, has guaranteed the rights specified in the leases and has declared by imperial ordinance that method of registration and has interpreted it to mean full compliance with treaty provisions in respect of such leases? If they are to be so impaired, the claimants are right in their contention.

What force there may be in the claim that by the expiration of the present treaty the Government or any individual who may possibly at that time have acquired the ownership of land held under perpetual lease will interpose in any way, so far as to work a denial of any right solemnly guaranteed by the Government in the leases themselves, seems to be speculative.

2. Concerning the second cause of complaint, the “notification (No. 41) of the department of justice” in Article II (with my dispatch No. 338, of July 29 last), in carrying out the law of registration in respect of land and buildings being separate and distinct kinds of property to be separately registered, applying to foreigners and Japanese alike, provides that “The local court shall prepare land registers relating to foreigners and foreign juridical persons and registers of buildings relating to the rights of foreigners and foreign juridical persons.”

It is claimed that the buildings, equally with the lands, are included in the word “property” in the provision of Article XVII of the treaty with the United States providing for the confirmation of existing leases; that any transfer of a perpetual lease of the land in conformity with the laws in the United States and in other countries carries with it all buildings upon it as a matter of course, as is clearly to be understood by a proper construction of treaty provisions. That the requirement in case of transfer of property, that the land and buildings are to

be registered separately and in separate offices, will cause much inconvenience and vexation to foreign leaseholders I have no doubt; but the question arises whether Japanese or foreign laws should control in this respect. I think all foreigners object and naturally to this requirement as a hardship and an annoyance apart from any charge for registering a transfer of buildings. (See Scidmore's statement No. 1822, above referred to, paragraph 8.) But in event that objection should be removed and land and buildings were included in one instrument of transfer and entered at one office in the same register, and the charge of $2\frac{1}{2}$ per cent on value of buildings as now required to be paid should still be imposed, the most important cause of complaint would still exist, because the chief contention is that the buildings should equally be exempt from any form of taxation as the lands.

3. This leads to the third matter of complaint: That any tax whatever, whether the charge of $2\frac{1}{2}$ per cent of value of buildings on transfer of lease, or any other public charge or tax on buildings for municipal purposes, is inadmissible under the treaty, and business and other taxes to be levied are cumulative and a hardship.

To fully understand what basis there is for such contention in respect to "house tax," I beg to refer to the inclosed copy of the "Land regulations for the port of Yokohama," the only regulations for foreign settlements not contained in the book of "Treaties and conventions of Japan," which book is presumed to be in the library of the State Department; also copies of two titles of perpetual leases^a of property in Yokohama. (Forms of such leases at other ports are to be found in the book of "Treaties, etc.")

It will be observed that the regulations of the several foreign settlements vary in terms, as also do the conditions set out in the forms of perpetual leases. In Yokohama and Nagasaki failure to comply with the conditions of annual payment of rent, etc., forfeits the land, and in addition the buildings thereon; while in Tokyo, Kobe, and Osaka, in case of failure of the annual payment of rent, proceedings are to be instituted against the leaseholder. Since in Yokohama and Nagasaki the leaseholders were required by regulations to erect buildings, and in case of default in the annual payment of rent they were to forfeit their leases and their properties, including buildings, were to revert to the Government, which fact is argued to be an additional reason to claim that the buildings are a part of the property and should, under the treaty, be exempt from taxation as well as is the land, may it not be to some degree reasonable and as fair, perhaps, to suppose that this provision was made because, under Japanese law, the land and buildings are distinct and separate properties, and the disposition of the land without specification as to the buildings does not include the buildings? And the buildings, being the absolute properties of leaseholders while the lands are not, may it not be inferred that the Japanese Government provided that on reentering into possession of the land the buildings thereupon should also revert as a penalty for the nonperformance of contracts by the leaseholders?

How much force should be given to the contention that since, in Article XVII of the treaty with the United States, the word "property" is used as applying to leases held by foreigners in perpetuity and the word "land" as applying to grants in perpetuity for public purposes, "reveals the fact in the one case that land and something

^a Not printed.

attached to it was meant" and land only in the other, would seem to depend upon the intention of the high contracting parties to the treaty and the interpretation the two Governments may now put upon the text of that article.

It is contended that under articles 86, 87, and 242 of the civil code,^a copied in full on page 18 of the memorandum under discussion, buildings are accessory to the land. Hence, under Japanese law as well as treaty stipulations, a transfer of a lease held in perpetuity necessarily, unless stipulated to the contrary, carries with it a transfer of the buildings, and for that reason no separate registration nor any charge therefor should be imposed upon them as separate and distinct properties. As to whether such argument is sound, as it would be under the laws of the United States perhaps, the opinions of some Japanese authorities will throw some light.

Interpreting article 87 of the civil code, Dr. Umé, professor of law in the Imperial University of Tokyo, and member of the code investigation committee, states: "An accessory has two necessary requisites, according to this article (87): 1. It must be for the constant use of its principal thing, as a key to a box or a bucket to a well. A thing used for a time is not an accessory, as a table or chair, to a house. 2. An accessory must be owned by the owner of the principal thing; that is to say, the owner of the two must be the same, else the accessory can not follow the disposal of the thing to which it is attached. This article of course shows the general rule that an accessory follows the principal thing. If there should be any contract or promise to the contrary, such contract or promise must be followed."

Also the opinion of Mr. Okamatsu, lecturer on the civil code at the Tokyo Law School, the Meiji Law School, the Semmon Gakko, etc.: "To be an accessory a thing must fulfill the following five conditions: 1. It must be another thing than the principal thing. 2. It must be attached to another thing. 3. An accessory must belong to the owner of the principal thing. This provision is not found in foreign codes; but if the tenant of the land or the occupant of a building attaches to the land or building his own things for his own use, it is unjust that he should thereby forfeit his ownership of the things so attached. 4. An accessory must be for constant use. 5. The constant use must be for the sake of the principal thing."

Interpreting article 242 of the civil code, Mr. Okamatsu states, after summarizing the provisions of the laws of most foreign countries relating to land and buildings thereon: "To acquire an accessory immovable with the principal immovable according to this article (242), the said accessory must fulfill the following conditions: 1. It must be attached fixedly and permanently to the immovable. 2. It must be attached to the immovable as an accessory (subordinate) to it. An 'accessory' (subordinate) here means a thing that is joined to another

^a Memorandum not printed. Articles referred to are as follows:

Article 86. Land and things fixed to it are immovable (*fudō-san*, the word used in the Japanese text of the treaty with France). All other things are movables. Obligations performable to bearer are deemed to be movable.

Article 87. If the owner of a thing attaches to it another thing owned by him for permanent use in connection with it, the thing attached becomes an accessory. The accessory thing is subject to all dispositions made of the principal thing.

Article 242. The owner of an immovable thing (*fudō-san*) acquires the ownership of a thing which is attached to it as an accessory, but this does not affect the rights of a person who by virtue of a special title has attached the thing to the other.

thing, is used for the same economical purpose, and can be regarded as one thing in the everyday life. If, therefore, there is no relation of superior and subordinate between the two immovables, and they are independent of each other, then they are two separate things, both in fact and in law, and can not be said to be attached to an immovable. *Take, for example, a house. It is in nature attached to the land. But the ideas of our country up to the present day have regarded it as a thing independent of the land and not as belonging to the land. Hence the question of attachment to an immovable can not here arise.*"

The closing lines of the opinion of Mr. Okamatsu, in respect to article 242, underlined as above, if a proper interpretation of that article of the code, would seem to destroy the argument of the complainants based on their interpretation of the code in respect of accessories. I know of no Japanese decision or opinion in conflict with the opinions of Mr. Okamatsu and Dr. Umé upon the subject of accessories under Japanese law.

If the interpretation of Article XVII of the treaty must be interpreted in the light of and in conformity with the laws of the United States, then it would seem that the argument of the complainants should hold good.

Further, it will be observed that the land regulations for Yokohama provide for the foreign holders of perpetual leases to levy taxes upon their lands and buildings for lighting and cleaning streets and for a police force. Since, under extraterritorial jurisdiction, it was provided that they might tax their own property, including buildings, for the purposes stated, now that their power to tax has ceased to exist, can the claim that the Japanese authorities, under whose jurisdiction they now are, have no right to tax their buildings for municipal purposes hold good? Are foreign leaseholders, in consequence of now having come under Japanese jurisdiction, free from any obligation to pay taxes levied by the Japanese authorities though they may not have levied a tax upon themselves as provided by the regulations while under extraterritorial jurisdiction?

The French treaty with Japan is cited and Article XXI is quoted in support of the claim of exemption from tax on buildings as well as land. While that article of the French treaty is considered somewhat stronger in expression, as implying that the word "propriétés" was intended to include buildings, than Article XVII of the United States treaty, yet the French minister here, who contends for exemption from the "house tax," expresses much uncertainty of success. The matter is still pending and he is awaiting instructions, in doubt whether he will be supported by his Government in his claim. Neither the German nor the British minister has confidence of the success of such contention, and, I understand, have not objected formally to the imposition of the tax on buildings. Both have stated that they did not see much hope of success of such claim of exemption. Meantime the Japanese Government has not announced any decision upon the question.

In my dispatch No. 365, of October 6 last, it will be remembered that I stated that I had made no claim of exemption from the registration tax on value of buildings because of doubt of the grounds upon which to base such a claim. In instruction No. 260, of November 6 last, acknowledging the receipt of both that dispatch and my No. 364, of October 4, I was not directed in respect of what action, if any, I was to take upon that question in particular; but the clause of that instruc-

tion which stated that, "in the assignment of leases between private parties for private purposes, citizens of the United States are subject to the same registration fee or charge as is imposed on Japanese subjects, unless the original leases specify to the contrary," I understand to mean, not only that the charges made on the registration of buildings when transferred with or without the land (which is hereinbefore discussed), but also that other taxes by the Japanese authorities on buildings on the property of a foreign holder of a perpetual lease for municipal or other purposes could be required to be paid, the same as if a Japanese subject held the property instead, since the leases themselves do not stipulate to the contrary.

As to the manner of estimating the value of buildings for taxation and the taxes so levied being unjust, and numerous other taxes and charges a hardship, there seems to be, under treaty stipulations, no legal ground of complaint. The same method, as I am informed, is employed in estimating the house tax of Japanese subjects and the same rate of tax levied, the tax law applying to Japanese and foreigners the same. In this respect it seems that no charge of discrimination against foreigners can successfully be made, and it will be observed that no such charge is specifically made in the memorandum of complaints. Whether these taxes may be unjust, and with numerous other taxes a hardship or excessive, is shown in some respects by the following inclosures: The statement^a of Mr. John McLean, vice and acting consul-general of the United States at Yokohama, giving value of land and buildings owned by him in the foreign concession of the Bluff; also in respect to the property which is now occupied by the consulate and the taxes paid thereon; also the statement of Mr. Scidmore, No. 1822, above cited, in respect of the value of the property of the Grand Hotel, the Yokohama Club, and the Oriental Hotel, all on the Bund and within the foreign settlement, and the taxes paid on the land of each, respectively. As to other taxes sought to be levied being cumulative or excessive—the business tax, income tax, and other charges complained of—laws No. 32 and 33, inclosed with my dispatch No. 359,^a of September 27, 1899, in respect of "business tax" and "revised income tax law," will furnish definite information.

4. In the matter of prescriptive rights claimed to have been acquired by long tenure and use of property in the foreign settlements under extraterritorial jurisdiction, while my opinion is that that contention is not well founded, I need not discuss the question pending instruction from the Department.

5. Finally, in respect of the fifth subject of complaint—that because of the failure of the Japanese Government to comply with treaty obligations, about which statements of grievance in general and particular are set forth and because of which it is claimed that property has depreciated in value so much that no real estate transactions are made—my information on inquiry is that, of American residents, property holders, in Yokohama only about one-third are in support of this and other complaints, and not a majority even of the American Asiatic Society, for which the two gentlemen addressing me speak, except the complaint touching the requirement for separate registration of buildings and lands at separate offices in a transfer of perpetual leases including buildings. The president of that society, Mr. J. R. Morse, and Mr.

^aNot printed.

Scidmore, a member of the executive committee in whose behalf these complaints are submitted, and others have personally expressed to me their impatience with the course taken by the complainants in general, but have submitted to it that the questions raised might, once for all, be settled at the Department of State. They say that the reason for the paralysis of trade in perpetual lease property is largely due to the agitation by the leaseholders themselves, and that of course property can not have the market value it should have when the holders discredit their titles.

In remarking generally on these complaints I think I am justified in saying that some of our American residents in Yokohama who hold perpetual leases, together with a large proportion, perhaps a majority, of property holders among the British and German subjects, have from the first been opposed to treaty revision by which extraterritoriality has now been abolished. They have constantly been apprehensive concerning their fate when the new treaty should go into operation. They have been looking for and expecting trouble under Japanese control; and it is not to be wondered at when it is considered for how many years they have lived in Japan but not of it, so independent and free from vexatious taxes and many other burdens incident to city life in their own country. They have regarded the Japanese as inferiors and now, being under the control of Japanese law and Japanese officials, some of them, though unwittingly no doubt, are inclined to exaggerate their troubles. Having little confidence in the purposes of the Japanese Government and local authorities, it is hard for them to adjust themselves to their new conditions. That they already have had and will continue to have some reason to complain of inefficient local officials is not to be denied; but in my opinion they have no sufficient reason to suspect the good faith of the Government, which seems to be earnest in the desire and purpose to demonstrate to the world that Japan has not been received into the family of nations too soon.

Though of some specific claims and items of complaint set forth in the memorandum no special mention has been made, I think they are substantially covered by my statements in respect to the various classes of complaints, together with the inclosures and the laws and regulations to be found at the Department.

That imperial ordinance No. 458 is disappointing, and that the term "superficies" (perpetual lease) is used instead of simply "perpetual lease" gives occasion of complaint because of ambiguity of definition is true; and if the conclusion of the State Department should be that, in consideration of treaty stipulations, there is sufficient ground for further appeal to the Japanese Government for a more specific and direct confirmation of leases held in perpetuity, I shall, of course, press the matter with vigor, as I also shall in event of instructions to do so in respect of any other of the matters of complaint. I desire to do all in my power to protect American interests and that every right guaranteed to them by treaty shall be made secure; and I would be pleased if it were possible for American residents to remain as free from taxation as they were under extraterritorial jurisdiction.

I have, etc.,

A. E. BUCK.

[Inclosure 1.—Translation.]

*Viscount Aoki to Minister of France.*TOKYO, *February 26, 1900.*

MONSIEUR LE MINISTRE: I have examined the letter which your excellency did me the honor to write me on the 9th of the current month on the subject of the title to lease in perpetuity. As I told you in my letter of the 3d, the provisions of the civil code which may be in conflict with those of the treaties are, naturally, not applied to the title to lease in perpetuity. The provision which, in article 268 of the civil code, limits the titles of holders of superficies, it goes without saying, and, as a general rule, all the provisions which imply conditions other than those which are written in the titles to leases in perpetuity, do not apply to these.

Accept, etc.,

VT. AOKI.

[Inclosure 2.]

Mr. Scidmore to Mr. Buck.

No. 1822.]

UNITED STATES CONSULATE-GENERAL,
Yokohama, Japan, March 28, 1900.

SIR: Agreeably to the request contained in your letter of March 26, 1900, I have the honor to submit the following in response to your questions relating to the status of land tenures in the late foreign settlements of Japan:

1. Since the promulgation of the Japanese imperial ordinance No. 458, of December 27, 1899, I have not heard of any instance in which there has been any specific complaint by foreigners or controversy with the authorities concerning the registration of transfers of property.

2. It is my opinion that that ordinance, as interpreted by the Japanese minister of foreign affairs, secures foreign holders of property their rights under the treaties.

3. The interpretation of the Japanese Government, as given by the minister for foreign affairs, of that ordinance is a reasonable one.

4. The judge of the Yokohama Ku Saibancho, who ignored the treaty provisions, and who apparently took the view that the civil code of Japan contained all of the law applicable to such registration, has very recently "resigned" and has retired to private life. What his successor may do is uncertain, but in view of the requirement of the ordinance that he shall register "a copy of the title deed in question," it strikes me that it is of very little importance what his opinion in the matter may be. The assurance of the minister of foreign affairs amounts to a pledge of the good faith of the Japanese Government.

5. The civil code provisions do not, and evidently were not intended to, cover the registration of the foreign settlement titles. They are exceptional titles. The term "superficies," whether alone or bracketed with "perpetual lease" is unscientific and inaccurate. Strictly speaking, these tenures appear to be of the nature of determinable fees, but, all things considered, it is not a matter of vital importance that they be known by any particular name. What is of importance is that their nature or character be preserved in the manner stipulated in the original title deeds from the Japanese Government. This will be done, I believe, by recording "a copy of the title deed in question."

6. Your sixth question reads:

"Does a proper construction of Article XVII of the treaty between the United States, or treaties of other powers, with Japan, exempt foreign holders of perpetual leases in the foreign settlements from any tax on buildings erected on their leased land?"

Reading Article XVII with the aid of Article II of the treaty, a fair construction appears to be that the tax on buildings is payable, unless we can find an exemption in a treaty with another power. The treaty with France has been cited in this connection, and until the French and Japanese Governments determine what and how much they mean by the word "propriétés" in Article XXI, our position must remain uncertain.

7. I have not heard of, and do not believe that there is, any unfair discrimination made against foreigners in the mode of levying taxes on buildings or in the amount of such tax.

8. To require a separate registration of the transfer of buildings where they are sold with the land would be, in my opinion, in the case of foreign-settlement property a manifest violation of precedents in connection therewith; and an evasion of the intention of the treaty provisions. For purposes of taxation the land and the buildings may be regarded separately, but in passing title they are, under American, English, and most continental laws, considered as united. Previous to July 16, 1898, the date of the coming into force of the civil code, there was no general law of real property in Japan. Local customs prevailed, and the modes of tenure were of great variety. The American treaty with Japan was promulgated in 1895.

9. The $2\frac{1}{2}$ per cent tax on registration of transfers ought not to be levied on the value of buildings if they are conveyed with foreign-settlement land. If they are conveyed separately, I can see no reason for their exemption from such tax. The Japanese Government, by ordinance No. 458, has, in effect, conceded the exemption of the land from this tax.

10. I can find no express treaty stipulation under the recent extraterritorial jurisdiction whereby foreigners in Japan were exempted from taxation. The Japanese Government then refrained from taxing foreigners, probably under motives of policy. To enforce collection in every case would have involved resort to about seventeen different consular courts, and would have produced endless petty squabbles and friction. Other reasons, if any, should appear in the legation records.

11. I do not believe that any sovereign State would be bound to admit the force of prescription as applicable to exemption from taxation.

12. Between the years 1865 and 1868, by arrangement with the Japanese authorities, the foreign landholders of Yokohama selected a committee known as the municipal council of the foreign settlement, for the purpose of regulating police, street, and other local affairs. This council derived its income from 20 per cent of the ground rents donated by the Kanagawa kencho and from monthly licenses for the sale of liquors. The revenue from these licenses was soon lost, by reason of the refusal of some of the dealers to pay it, and in 1868, it being found that expenses were in excess of income and the Japanese being anxious to resume control, the so-called municipal system came to an end. No taxes other than for liquor licenses and ground rent were ever paid by foreigners here previous to treaty revision. Expenses for street lighting and sprinkling have been met by voluntary contributions.

13. At the time of the first allocation of lots of land to foreigners here, Yokohama was a small fishing village, and tenures were governed by local custom. So far as I can learn, these tenures were of a feudal nature. The Japanese Government obtained the lands required from the original holders and became the direct landlord vis à vis the foreigners. At the time of the recent revision of the treaties the classification of native-owned land in Yokohama had assumed in most respects the forms now existing—that is, so far as taxation is concerned.

14. Lot No. 4, B, Bund, Yokohama, occupied by the new Yokohama United Club, contains 540 tsubos, and the annual ground rent thereon amounts to yen 151.06. With the new building this property is estimated to exceed yen 250,000 in value.

Lot No. 11, Bund, Yokohama, occupied by the Oriental Hotel, contains 498 tsubos, and the annual ground rent thereon amounts to yen 139.31. The property is capitalized at yen 300,000.

Lots Nos. 18, 19, and 20, Bund, Yokohama, occupied by the Grand Hotel, contain 1,735 tsubos, and the ground rent thereon amounts to yen 485.35. The property is capitalized at yen 250,000.

No purchase money whatever was paid for these lands by the original foreign holders, to whom they were allotted upon application approved by the consuls and upon the payment of a certain amount of ground rent in advance.

I may be able in a few days to add further information of interest in the premises. Meanwhile, I trust that these hastily written observations may be of some value to you.

I have, etc.,

GEO. H. SCIDMORE,
Deputy Consul-General.

N. B.—See supplementary report of Mr. Scidmore attached, giving full value of the Yokohama Club and the Oriental Hotel properties. Club land value, yen 75,000; tax, yen 151.06; rate, a little more than 0.002. Oriental Hotel land value, yen 50,000; tax, yen 139.31; rate, a little less than 0.003.

CONSULATE-GENERAL OF THE UNITED STATES,
Yokohama, April 3, 1900.

DEAR MINISTER BUCK: The Yokohama Club property is valued thus:

	Yen.
Ground.....	75,000
Building.....	160,000
Machinery.....	30,000
Furniture, etc.....	50,000
Billiards and bowling.....	12,000
Library.....	10,000
Total.....	337,000

The Oriental Hotel property is estimated as probably worth:

	Yen.
Ground.....	50,000
Building.....	150,000
Furniture, good will, etc.....	100,000
Total.....	300,000

I shall send you figures for the Grand Hotel later.

Yours, respectfully,

GEO. H. SCIDMORE.

[Inclosure 3.]

Mr. Scidmore to Mr. Buck.

No. 1829.]

UNITED STATES CONSULATE-GENERAL,
Yokohama, March 30, 1900.

SIR: I have this morning had a long interview with Judge Watanabe, president of the Yokohama Chiho Saibansho, relative to the land titles of the foreign settlement, and the following are the leading items of information then obtained by me:

1. Not a single transfer of foreigners' property here has been presented for registration since the issuance of the ordinance No. 458, of December 27, 1899.

2. When a case arises it will be disposed of in accordance with that ordinance, and registration will be made in the form directed by ordinance No. 329, of July 6, 1899. (See Lonholm's translation of law concerning registration of immovables, pp. 77, 88, and 90.)

3. A deed from a foreigner conveying land with buildings thereon must be registered in the land register and the buildings register, separately. The fact of such registration will appear by two indorsements on the deed.

4. The saibansho, under ordinance No. 458, will receive through the kencho and register a transfer of land only. The registration of the transfer of, or any right affecting, the buildings can be obtained only by separate and direct application to the saibansho.

5. The registration fee (a percentage on the value of the property) will be exacted in all cases except actual transfer of land. On mortgages, I am informed by the kanagawa kencho, this fee will be six one-thousandth of the value.

6. Judge Watanabe will send to me a copy of the register showing how a transaction will be treated. I am sorry that I can not get it to-day.

I have, etc.,

GEO. H. SCIDMORE,
Deputy Consul-General.

N. B.—In my letter No. 1822 of the 28th instant, paragraph 12, "one-third of the ground rent" should read "20 per cent of the ground rent." Kindly make this correction.

[Inclosure 4.]

PORT OF YOKOHAMA LAND REGULATIONS.

I. *Mode of acquiring land.*—Any person desiring to lease land within the location fixed upon for foreign renters must first apply to the consul or consular agent of his nation, officially and in writing, or if there be none appointed, to the consul of any

friendly power, specifying as nearly as can be ascertained the locality and boundaries of the said land, and the said consul or consular agent will thereupon inquire of the land officer and the other foreign consuls whether any impediment exists to its settlement by reason of previous negotiation or application by third parties, or otherwise, provided always that if such impediment do exist, then and in such case a reasonable time shall be allowed the first claimant to settle for the said land; and the failing to do so within such reasonable time shall be considered and held a virtual surrender of such prior right of settlement, and the same shall revert to the foreigner next applying, on notice to that effect being given to his consul, and no good cause shown why it should not revert as aforesaid.

II. *Only bona fide residents eligible to rent land.*—Allotments of land will be made only to bona fide residents, and renters of land will be required, under penalty of forfeiture of title deed, to erect within six months after date of title deed, and in accordance with these regulations, buildings of a value of not less than: On water lots, \$150 for each 100 tsubo measurement; on rearage lots, \$50 for each 100 tsubo measurement.

III. *Final settlement and title deeds.*—The priority of the individual claimant having been determined as aforesaid, a note, under the hand and seal of the consul, will be furnished him for delivery to the land officer, who will without delay proceed with him to measure the land in question.

The measurement having been ascertained, the money for one year's rental will be immediately paid to the chief land officer, who will give a receipt in triplicate, with translation, for the same, stating also the measurement and boundaries of the said land. Two copies of the said receipt will be handed by the renter to his consul, who will transmit one copy to the governor. The governor will forthwith issue a title deed in triplicate in the form agreed upon and hereunto annexed, one copy to be archived by the governor, one by the consul, and one copy to be delivered to the renter.

The governor will also notify the other consuls of the issue of such title deeds, specifying the measurements and boundaries of the land.

IV. *Boundary stones to be placed.*—When land is rented a time will be appointed, and stones having the number of the lot distinctly cut thereon to define the boundaries will be fixed in the presence of an officer deputed by the consul, or the land officer, or his deputy, and of the renter, in such manner that they may not interfere with the lines of road or the boundaries, or in any other way give cause for litigation or dispute hereafter.

V. *Streets, roads, sewers, and jetties.*—It is clearly understood and agreed to that land devoted to public use as streets, roads, etc., is not included in the measurement of rented lots, and is not to be infringed on in any way.

In the acquirement of new lots of land provision shall be made for the requisite extension or creation of streets, roads, and jetties.

The proprietorship of the soil being in the Japanese Government, the streets, roads, and jetties will at all times be kept in thorough order, and sewers or drains will be made when necessary by the Japanese Government, and no tax will be levied on renters of the foreign quarter for this purpose.

VI. *Rent, when payable.*—The annual rent payable to the Japanese Government on all land rented within the foreign quarters will be payable in advance on the — day of the — month of each year.

The governor will address the several consuls ten days previous to the said date, stating when, where, and to whom the said rent must be paid, and the said consuls will give notice to the renters. The officer appointed to receive the rent will give a receipt in triplicate, with translation, for the same, one copy of which shall be archived by the governor, one copy by the consul, and one to be delivered to the renter.

Should a renter neglect to pay the rent on the day fixed, the governor will acquaint the consul under whose jurisdiction the defaulter is, who will enforce immediate payment.

VII. *Transfer of lots.*—The interest in a lot shall always be held in law and equity to reside in that person in whose name the title of record appears, and no title shall pass unless the deed is lodged for record within three days from the date of the conveyance, but no lot can be transferred within one year after the date of title deed.

Within the said foreign quarter no Japanese shall erect new houses or sheds so near the residences or places of business of foreigners as to endanger them in case of fire, and if he does the governor will abate the nuisance.

No Japanese shall open a place of public entertainment within said location without the unanimous consent of the consular authorities under the penalties hereinafter provided against maintaining a nuisance.

VIII. *Extent of lot and usage to which applied.*—Straw sheds, bamboo or wooden

houses, or buildings of inflammable kinds shall not be erected in the settlement, nor shall any trade or profession be carried on within its limits dangerous to the safety of life or property, or obnoxious to the general health, under a penalty of \$25 for every twenty-four hours such nuisance shall remain unabated. Nor shall contraband goods or merchandise likely to endanger life or property—such as gunpowder, saltpeter, sulphur, large quantities of spirits, and such like—be stored in the premises of any individual, under a penalty of \$25 and \$25 for every twenty-four hours the nuisance shall remain. The place where such trades or professions may be carried on or which such merchandise may be stored must be sufficiently distant from either dwellings or warehouses to prevent all risk of damage or inconvenience, and be fixed upon by the authorities after consultation together.

The public roads must not be encroached upon or obstructed, as by scaffolding for the purpose of building or by building materials of any kind, beyond the time essential for the completion of the work, or in such manner as shall at any time block up or materially interfere with the thoroughfares, or by projecting eaves of houses, or fences, or gates, or doorsteps, or entrances; by the heaping up of goods for any length of time, and such like, under a penalty of \$10 for each twenty-four hours they shall remain after a notification by the Japanese or consular authorities to remove them.

The public or individuals must not be inconvenienced by the accumulation of filth in gutters or upon the roads, by the firing of guns, carelessly creating noise or disturbance, furious riding or driving, or leading horses up and down the chief thoroughfares for exercise, or by any act coming legitimately within the meaning of the term nuisance, under a penalty of \$10 on commission of either of said offenses. All fines shall be recovered before the consul of the nation to which the offending party belongs, or if there be none in the port then they may be recovered before the Japanese authorities, and shall be paid over to the committee appointed under clause 9 of these regulations, to be used for the purpose therein stated and for which said committee is appointed.

IX. *Street lamps and police.*—It being expedient and necessary that some provision should be made for the lighting and cleaning of streets and for a watch or police force, the foreign consuls aforesaid shall, at the beginning of each year, convene a meeting of the renters of land within the said foreign quarter to devise means of raising the requisite funds for these purposes; and at such meeting it shall be competent to the said renters to declare an assessment in the form of a rate to be made on the said land or buildings, and in the form of wharfage dues on all goods landed at any place within the said quarter, and to appoint a committee of three or more persons to levy the said rates and dues and apply the funds so realized to the purposes aforesaid, or in such manner as may be agreed and determined upon at the said meeting. And to that end the said committee shall be empowered to sue all defaulters in the consular courts under whose jurisdiction these may be; and in case the said defaulters have no consular representative at this port, then the governor of Yokohama shall, upon application of the committee to the foreign consuls, recover from such defaulters the amount due from them for land assessment or wharfage dues and pay the same to the said committee.

Moreover, at such yearly meeting the accounts of the committee for the past year shall be laid before the assembled renters for their approval and sanction.

It shall be competent for the foreign consuls collectively or singly, when it may appear to them needful, or at the requisition of the renters of land, to call a public meeting at any time, giving ten days' notice of the same, setting forth the business upon which it is convened, for the consideration of any matter or thing connected with the land; provided always such requisition shall be signed by not less than five of the said renters and that it set forth satisfactory grounds for such request.

The resolutions passed by a majority at any such public meeting on all such matters aforesaid shall be valid and binding upon the whole of the renters of land within the said limits, if not less than one-third of them are present. The senior consul present at any such meeting shall take the chair, and in the absence of a consul then such renter as the majority of voters present may nominate.

If renters of land in public meeting assembled as herein provided decide upon any matter of a municipal nature not already enumerated and affecting the general interest, such decision shall first be reported by the chairman to the consuls for their joint concurrence and approval, without which approval officially given such resolution can not become valid and binding upon the renters as a body.

X. *Sale of spirits or liquors, opening of public houses, etc.*—No foreigner or Japanese shall sell spirits or liquors or open a house of entertainment within the foreign quarter without a license to do so from the said consuls, or the majority of them, and if a Japanese, also from the governor, and upon good and sufficient security given for the maintenance of order in their establishments.

XI. *Breach of regulations.*—Should any one of the consuls at any time discover a breach of the regulations, or should information thereof be lodged with him, or should the local authorities address him thereon, he shall in every case within his jurisdiction summon the offender before him and, if convicted, punish him summarily.

Should any foreigner who has no consular authority at this port commit a breach of the regulations, then and in such case the Japanese chief authority may be appealed to by any one or more of the consuls to uphold the regulations in their integrity and punish the party so infringing them.

XII. *Provisional clause.*—Hereafter should any correction be requisite in these regulations, or should it be necessary to determine on further regulations, or should doubts arise as to the construction of or powers conferred thereby, the same must be consulted upon and settled by the consuls and governor in communication together, who shall equitably decide thereon, the consuls submitting the same for confirmation to the representatives of their respective countries in Japan.

The consuls referred to in these regulations are consuls (or persons duly acting as such) of powers having treaties with Japan.

F. HOWARD VYSE,
H. B. M. Acting Consul.
E. M. DORR,
United States Consul.
D. DE GRAAF VAN POLSBROCK,
H. N. M.'s Vice-Consul.

A true copy;
PHILIP BUCHANAN WALSH,
Acting Junior Assistant.

[Inclosure 5.]

STATEMENT OF MR. M'LEAN.

APRIL 14, 1900.

What is the size of the lot occupied by the consulate-general in Yokohama, and what is the present estimated value? What is the amount of annual ground rent?

(Answer.) The lot measures 627 tsubos. The estimated value is 150 yen per tsubo. The annual ground rent is yen 175.40, payable in advance. Value of lot as above, yen 94,050. Ground rent, 0.0018 of value.

What is the value of the building occupied by the consulate, and what is the amount of house tax?

(Answer.) The estimated value of the building is yen 5,000. The house tax paid for six months amounted to yen 31.89. House tax for six months, 0.006 of value.

What is the estimated value of the lots on the Bluff owned by you, and what is the amount of annual ground rent?

(Answer.) Lot No. 206 Bluff contains 989 tsubos, and its estimated value is yen 15 per tsubo. Value of lot as above, yen 14,835. Ground rent, at 0.12 per tsubo, yen 118.68, 0.008 of value.

What is the value of the buildings on the said lots, and what is the amount of house tax levied thereon?

(Answer.) The present value of the buildings is yen 14,000. The house tax amounted to yen 14 for six months. House tax for six months, 0.001 of value.

JOHN McLEAN.

Mr. Buck to Mr. Hay.

No. 450.]

LEGATION OF THE UNITED STATES,
Tokyo, Japan, July 6, 1900.

SIR: Referring to my dispatch No. 417, of the 7th of April last, transmitting complaints of Mr. John Lindsley and Rev. Eugene S. Booth, of the executive committee of the American Asiatic Society of Yokohama, respecting leases of land in perpetuity in the foreign settlements not having been confirmed as provided by treaty, and in

respect to buildings thereon being taxed in violation of the true intent and meaning of treaty provisions, I have the honor to transmit herewith a communication and accompanying memorandum^a from N. W. McIvor, esq., attorney for Messrs. Bower & Martin, giving a case in point involving the same questions, this day received. Having as yet received no instruction upon the general subject which was discussed at length in my No. 417, and the next outgoing mail closing to-day, without attempting to discuss in detail the argument submitted by Mr. McIvor, that the papers in the case may possibly be received at the Department in time for consideration before instruction is prepared in consequence of my dispatch No. 417, I forward them at once with a few observations only.

1. In respect to "Form of title and registration," nothing in the argument set out in the inclosed memorandum, not heretofore presented in the memorandum forwarded with my dispatch No. 417, seems to be presented. The argument, however, is more able and is more forcibly presented. The reference to the position lately assumed by the British Government that the registration of titles as "superficies (perpetual lease)" is not entirely satisfactory (not that it is "not in any sense satisfactory," as stated in the memorandum) as a substitute for titles held in perpetuity is true and the chargé d'affaires of Great Britain here has now been so instructed and has made such representation to the Japanese Government.

I may add in this connection that since the position taken by the British Government has become known a larger number of American property holders in Yokohama believe that titles held under leases in perpetuity have not been sufficiently confirmed.

2. As to "Separation of houses from lands for purposes of registration and taxation:"

On page 9 of the memorandum, paragraph marked "X," in discussing the Japanese text of the treaties the words "fudosan" and "jisho" are dwelt upon to prove that the Japanese text, more closely than the foreign texts, establishes the conception of the union of the land and its buildings (fixtures). Notwithstanding the logic of the argument in that respect presented, that "there can be therefore no possible doubt as to what is included in its meaning"—to wit, the union of both land and buildings as one immovable, as claimed—is still in question. This point is discussed under summary No. 3 of memorandum of complaints in my dispatch No. 417. The opinion of the two Japanese law commentators therein cited were their interpretation of articles 86, 87, and 242 of the civil code, quoted on pages 12 and 13 of the memorandum herewith, and the question involved turns upon whether their interpretation is the correct one. The two Japanese were interpreting the provisions of those respective articles of the code since its adoption and as it now stands. Mr. Umé, one of the two commentators referred to, was one of the compilers of the code.

On page 16 of the memorandum is the statement that "it is admitted that the properties have always been freely sold and recorded, even at the ken-cho, as whole properties (including land and its improvements)."

I think that one would draw an erroneous inference from this statement, because until the new treaties went into operation I understand

^aNot printed.

that the registry was made only at the respective consulates, and in case of registry of titles at the American consulate they were registered in full. Even if recorded at the ken-cho, they were entered as properties in land, giving metes and bounds, making no reference to and taking no cognizance of improvements whatever.

In respect to the position taken by Great Britain, as stated in closing paragraph (page 18) of the memorandum, it is true, as I am informed by the British chargé d'affaires, that his Government holds that the buildings on property held under perpetual lease should be considered as included with the land in making transfers, and should not be subject to taxation on registration any more than the land itself. Whether the French Government has yet made an interpretation of its treaty with Japan to the same effect I am not yet advised, though stated in the closing line of the memorandum as having been announced.

There seems to be some force in the general argument of Mr. McIvor, he having made as strong a statement in behalf of his client as possible, and if the treaties are to be interpreted in the light of law and custom in the United States, and if, when the treaty was made with Japan, it was understood and intended by the contracting parties that the status of property held under perpetual lease was to remain unchanged in any respect, touching taxation and registration when extraterritorial jurisdiction was given up, it would seem that the contention against separate registration of building and taxes thereon should prevail.

That the requirement that transfers of property should be registered as superficies (perpetual lease) is disappointing to some degree, is true, as I have stated in previous dispatches, and in conversation with the minister for foreign affairs on this subject he expresses a desire that some arrangement should be made by which actual ownership of property now held under lease in perpetuity can be effected to the satisfaction of the complaining leaseholders. I anticipate that at the next session of the Diet some law to that effect will be urged to be enacted.

I have, etc.,

A. E. BUCK.

Mr. Buck to Mr. Hay.

No. 526.]

LEGATION OF THE UNITED STATES,

Tokyo, Japan, December 14, 1900.

SIR: Referring to my dispatches of December 24 last, of April 7 last, and of July 6 last, Nos. 392, 417, and 450, respectively, concerning the various questions which have arisen as to registration and taxation of property held under leases in perpetuity in the former foreign settlements by American citizens in Japan, as also of the buildings erected thereon, I have the honor to invite attention to imperial ordinance No. 458, accompanying my dispatch No. 392, and especially to that paragraph of Article I which reads as follows:

If a right in an immovable other than that mentioned under paragraph 1, which might be set up against third persons, has been duly acquired by an alien or a foreign juridical person before the time fixed in imperial ordinance No. 251 of the thirty-second year of Meiji (viz, the time of the operation of the new treaties), but has not been registered before that time, it can not be set up against third persons unless it is registered before the 31st of December, 1900.

Also to the inclosed copy of a note from the Japanese minister for foreign affairs, of date the 10th instant, addressed to the British min-

ister in answer to formal representations made by the British chargé d'affaires ad interim, and furnished me as a reply also to similar representations informally made by me upon the same subject.

In view of my interpretation of the above-transcribed paragraph, and in view of the fact that doubt on the part of the property holders whether they should be required to pay the 2½ per cent registration fee on registration of buildings, few if any registrations of buildings were being made; and the time being short in which compliance with the ordinance respecting registration would afford protection to property rights, I was on the point, October 1, of preparing a note to the minister for foreign affairs asking an extension of time for registration beyond December 31 of this year, when, incidentally discussing the subject at the foreign office, I was informed that an extension of six months was to be granted in which to perfect registration. Hence I made no formal request.

It now appears from the answer of the minister for foreign affairs that it has been discovered that no right of registration is to be lost and no property right is to be jeopardized in consequence of failure to register property on or before the 31st instant, and that no necessity exists for the extension of the time for registration as provided in ordinance No. 458. The reasoning seems to be somewhat involved and I am not entirely convinced that the conclusion reached is not a questionable one. While the Japanese Government's own interpretation of their ordinances is supposed to govern, it is difficult in this instance to reconcile the text of the paragraph of ordinance 458 in question with the interpretation given by the minister for foreign affairs, and it remains to be seen whether the Japanese courts will give effect to the views of the Japanese Government as expressed in his excellency's note.

In this connection I am glad to be able to say that I am informed at the foreign office that a bill will be introduced and doubtless passed by the diet very soon to be convened providing for the registration of perpetual leases as such, leaving out the word "superficies," as now provided for by ordinance No. 458, and thus eliminating any question as to change of form or character of leases in perpetuity by registration.

This, I understand, could have been done by ordinance No. 458, and would now be done by ordinance but for the reason that there is no authority to change a law by ordinance. Perpetual leases not being known to the law, the ordinance could only couple the term "superficies" with "perpetual lease," the latter in brackets, which at the time was supposed to give recognition of such leases and protection of all rights otherwise guaranteed by treaty, but which has not proved satisfactory to leaseholders.

I understand that the proposed bill is also to provide for registration of buildings constructed prior to the date of the operation of the new treaties on property held under perpetual leases and not since transferred without payment of the 2½ per cent on value now chargeable under the registration law. This will afford great relief, as heretofore registration of such leases at the consulate made no reference to buildings, since under foreign jurisdiction the buildings were supposed to be included with the land in any transfer without special mention, while by Japanese law they are not so included as a matter of course, and buildings must be registered separately.

I have, etc.,

A. E. BUCK.

[Inclosure.—Translation.]

Mr. Takaaki, Japanese minister for foreign affairs, to Sir Claude Macdonald, British minister.

DECEMBER 10, 1900.

No. 40.]

SIR: I have the honor to acknowledge the receipt of the note No. 52 of October 4 of this year, addressed by Mr. Whitehead, Her Majesty's chargé d'affaires, to my predecessor, Viscount Aoki, in which he states that the imperial ordinance No. 458 of 1899 provides in the first clause of Article I that the transfer of a perpetual lease established in the former foreign settlements may be set up against third persons by having the fact indorsed on the title deed by the *chihō-chō*, but that the last paragraph of the said article provides that "if a right in an immovable other than that mentioned under paragraph 1, which might be set up against third persons, has been duly acquired by an alien or a foreign juridical person before the time fixed in imperial ordinance No. 251 of the thirty-second year of Meiji (1899), but has not been registered before the said time, it can not be set up against third persons unless it is registered before the 31st of December, 1900."

The British subjects who own perpetual leaseholds in the former foreign settlements, it appears, not only know that Her Majesty's Government and other treaty powers have objections to the separation of land and houses as regards immovables therein, but as they would have to pay no small registration fee if they registered their houses separately from their lands, they have hitherto hesitated to obtain registration of the immovables owned by them within the settlements. Mr. Whitehead is therefore desirous that the Imperial Government should, if possible, until the question of perpetual leases is settled, extend the limit of time for registration, which is fixed by the above imperial ordinance as the 31st of December of this year.

The Imperial Government have given careful consideration to the question of whether or not they ought to extend the limit of time fixed by the above imperial ordinance, as requested by Mr. Whitehead, and they have unavoidably been compelled to come to the conclusion that there is no reason for extending it. I have accordingly the honor to inform you that their reasons are as follows:

The rights determined by the last clause of Article I of the said imperial ordinance, which are able to be set up against third persons if registration is effected by the 31st of December of this year, are special rights of priority pledges, mortgages, and leases, etc., established on the perpetual leases, as well as rights of ownership, special rights of priority, pledges, and leases, etc., of buildings such as were acquired by foreigners or foreign juridical persons prior to the date fixed by the imperial ordinance No. 251 of 1899—that is to say, the time of the coming into operation of the new treaties—and are limited to such as can be set up against third parties in accordance with the laws governing the act of establishment of the said rights. In other words, rights in immovables acquired by foreigners or foreign juridical persons prior to the coming into operation of the new treaties (with the exception of perpetual lease) which could be set up against third persons without being registered in accordance with the laws governing the act of their acquirement could up to the time of the operation of the treaties be set up against third persons without registration being necessary; yet, as from the time of the coming into operation of the treaties they came under the control of the laws of Japan, they could not, according to article 177 of the civil code, without the special regulations of this imperial ordinance, be set up against third persons unless registered on the day of the coming into operation of the treaties. (Translator's note: Article 177 reads as follows: "Where an immovable is concerned the acquisition or loss or any change in the nature of a right in rem can not be set up against a third person unless registration has taken place in accordance with the provisions of the law of registration.") The last clause of Article I referred to therefore extended the limit of time during which the preferential order of rights in immovables duly acquired by foreigners or foreign juridical persons (with the exception of perpetual lease) prior to the operation of the new treaties should follow the order of the act of their establishment and not the order of registration till the 31st of December this year.

Such being the meaning of the last clause of Article I of that imperial ordinance, the limit of time for the registration of rights acquired by foreigners prior to the operation of the new treaties is not absolutely determined by the last day of this year, and rights in immovables acquired by foreigners prior to the operation of the new treaties may be registered at any time. But if they are registered in or after January next year the order of the preferential rights in them will follow the order of registration and not the order of the acts establishing them.

I am of opinion that, in deciding whether proper reasons exist for again extending the time during which preferential rights could be contended for according to the

order of the act establishing them, and not according to the order of registration, it is necessary to examine the difference or similarity of the protection which they enjoy by a comparison of the rights established prior to the operation of the treaties and the rights subsequently established.

It goes without saying that persons who have acquired, subsequent to the operation of the new treaties, rights, such as mortgages established upon perpetual leases within the former foreign settlements, as well as ownership of buildings erected on such properties, and other rights in the buildings, such as mortgages, leases, etc., can not set them up against third persons without registering them. That is, these rights from the first are in order preferential according to the order of registration, and do not follow the order of their establishment; and leaving for the time out of the question the propriety or otherwise of the Imperial Government having applied the term "superficies" to perpetual leases within the foreign settlements, and of the contention of the Imperial Government that the guaranty in the fourth clause of Article XVIII of the Anglo-Japanese treaty simply refers to land on perpetual lease, and does not extend to houses erected thereon, without reference to the propriety or otherwise of these things, the acquirement or loss and change in the nature of rights in rem with regard to immovables after the operation of the treaties, with the exception of the case of the transfer of perpetual leases, can for the first time be set up against third parties by registration; and the Imperial Government has so far neither determined nor seen reason to determine special regulations providing that the order of preference with regard to these rights should follow the order of establishment and not the order of registration.

In a word, if we compare the rights in immovables acquired prior to the operation of the new treaties and the rights subsequently acquired, and the different degree of protection they enjoy, we see that the former have the privilege up till the 31st day of December this year of contending for preference in accordance with the order of their establishment, while the latter have not from the first enjoyed this privilege, but have from the date of the establishment of such rights at once obtained order of preference in accordance with the order of registration.

If we inquire into the origin of the time specified in the last clause of Article I of the imperial ordinance No. 458 of 1899; that is to say, of the period of grace during which preference can be contended for in accordance with the order of the establishment of the rights, we find in the first article of imperial ordinance No. 329 of July 6, 1899, which was amended by that imperial ordinance, "If a right in an immovable which might be set up against third persons has been duly acquired by an alien or a foreign juridical person before the time fixed in imperial ordinance No. 251 of the thirty-second of Meiji (1899), but has not been registered before the said time, it can not be set up against third persons unless it is registered within one year from such time." However, according to the text of the title deeds by which perpetual leases have been established, in cases of transfer of perpetual leases they can be set up against third persons if the fact has been indorsed on the title deed by the *chihôchô* having jurisdiction over the place where the land is situated. Imperial ordinance No. 458, therefore omitted from the provisions of the first article quoted above the case of the transfer of a perpetual lease, and so provided that rights other than rights of perpetual lease acquired by foreigners in immovables which had not undergone registration prior to the date of the operation of the new treaties could not, unless registration was effected within a fixed period of grace, be set up against third persons; and it extended such period of grace, which, according to the previous imperial ordinance was one year, altering it to reach to the 31st of December this year.

The questions of the propriety or otherwise of the Imperial Government applying the term "superficies" (perpetual lease) to perpetual leases, and of whether or no any conditions other than those written on the title deeds should or should not under the fourth clause of Article XVIII be attached to houses erected on properties held on perpetual lease, have not yet been settled; but I do not consider that there is any reason on this account to extend the time during which rights acquired by foreigners in immovables, with the exception of perpetual leases, prior to the operation of the new treaties, can be claimed in accordance with the order of their establishment. For rights acquired by foreigners in immovables, excepting perpetual leases, after the coming into operation of the treaties have preference in order in accordance with the order of registration, notwithstanding that the above two questions have not yet been settled. That is to say, rights acquired prior to the operation of the treaties as compared with rights acquired subsequent to the operation of the treaties enjoy special privileges, as a result of the above imperial ordinance, up to December 31 of this year, but they lose these privileges on the 1st of January next year, and thus for the first time occupy an equal position with rights acquired after the operation of

the treaties; and I therefore see no reason that the nonextension of this time should, as Mr. Whitehead fears in his note of October 4, cause very great inconvenience to British subjects holding perpetual leases, or occasion loss to them.

The Imperial Government therefore regret to be unable to consider the question of extension of the above period, in spite of Her Majesty's chargé d'affaires' request to that effect. Again, the construction placed upon the last clause of the first paragraph of imperial ordinance No. 458 seems to me, from Mr. Whitehead's note, to be that when the time mentioned therein has elapsed rights in immovables acquired by foreigners prior to the operation of the treaties can not be registered. But, as I have already had the honor to state, there is no objection to the registration after the 1st of January next year of rights acquired by foreigners in immovables prior to the operation of the treaties. The only thing is simply that preference for rights registered after that date can not be contended for in accordance with the order of their establishment. I have no doubt, therefore, that your excellency will agree with the view of the Imperial Government that there is no reason for extending the time mentioned in the last clause of Article I of the above imperial ordinance.

In conclusion, there is a matter to which I wish to call your excellency's attention, namely, that the case of the attempted transfer of a perpetual lease and the buildings erected on the property between Mr. T. R. Brewer and Mr. C. K. M. Martin, cited in Mr. Whitehead's note, seems to be considered (by Her Majesty's chargé d'affaires) as a case not within the limits of the application of the last clause of Article I of the imperial ordinance No. 458. I do not know for certain the date of that transaction, but I believe, to judge from the terms of the above note, that it was after the operation of the new treaties. If this is really so, that transaction would not be affected, even if the time fixed in the said imperial ordinance were extended by such extension. That is to say, as I have had the honor to state at length above, the last paragraph of the said first article refers only to rights in immovables acquired by foreigners prior to the operation of the new treaties, with the exception of perpetual leases, and no rights acquired after the operation of the treaties, with the sole exception of cases of the transfer of perpetual leases, can be set up against third persons without registration being effected, notwithstanding the time mentioned in the clause of the article mentioned.

I take, etc.,

KATO TAKAAKI,
Minister for Foreign Affairs.

Mr. Buck to Mr. Hay.

[Telegram—Paraphrase.]

LEGATION OF THE UNITED STATES,
Tokyo, December 26, 1900.

(Mr. Buck reports that he has information that the Japanese Government will very soon announce its final decision in the matter of separate registry of and tax on buildings in the foreign settlements, etc., which matter was discussed in his dispatches of April 7 last and July 6 last, and in which some governments have entered protests; and that he is unable to understandingly represent the position of the United States in the absence of definite instructions on the subject.)

Mr. Buck to Mr. Hay.

No. 528.]

LEGATION OF THE UNITED STATES,
Tokyo, Japan, December 28, 1900.

SIR: I have the honor to confirm my telegram^a of date the 26th instant, relating to registration and taxation of houses in the former foreign settlements.

Having received no instructions in respect of the matters discussed

in my dispatch of April 7 and July 6 last, and much anxiety being expressed by American residents in the late foreign settlements and many inquiries made as to the position the United States assumed, pending action by the Japanese Government upon the protests of Great Britain, France, and Germany, expected very soon, I thought it necessary to telegraph as above.

I have, etc.

A. E. BUCK.

Mr. Buck to Mr. Hay.

No. 532.]

LEGATION OF THE UNITED STATES,
Tokyo, Japan, January 7, 1901.

SIR: Referring to my dispatch No. 526, of date the 14th ultimo, concerning the registration of immovables of United States citizens on property held under leases in perpetuity in the former foreign settlements in Japan for protection against third parties, especially the limitation in time for the registration of such immovables under ordinance No. 458, I have the honor to inclose herewith a copy of a note to the Japanese minister for foreign affairs upon that subject.


The note was written to remind the minister of our interviews in which I had expressed doubt whether, if a case in point should be brought before the courts, they would sustain in their rulings the construction put upon the clause apparently limiting the time to the 31st of December last, as given in his note to the British minister, and to put on record a reservation in my acceptance of the construction he had given the ordinance.

While I do not anticipate any case to arise in which, in consequence of fraud, a claim to any building will be set up by a third party, yet possibly one might arise, bringing in question whether owners of buildings not registered before January 1 of this year might not have lost priority of title against some claimant holding a subsequent title through fraud of the original owner.

I have, etc.,

A. E. BUCK.

[Inclosure.]

Mr. Buck to Mr. Takasaki. 

LEGATION OF THE UNITED STATES,
January 1, 1901.

SIR: Referring to my previous conversations with yourself and my correspondence with your excellency's predecessor on the subject of the property rights held by citizens of the United States in the former foreign settlements under titles of perpetual lease, as guaranteed by treaty, and particularly in respect to the provisions of that clause of Article I of imperial ordinance No. 458, of December 28, 1899, which stated, "If a right in an immovable other than that mentioned under paragraph 1, which might be set up against third persons, has been duly acquired by an alien or a foreign juridical person before the time fixed in imperial ordinance No. 251, of the thirty-second year of Meiji, but has not been registered before that time, it can not be set up against third persons unless it is registered before the 31st of December, 1900," I have the honor to state that, by courtesy of my colleague, the minister of Great Britain, I am informed that by a note of your excellency to him—as I have before been informed by your excellency personally—the interpretation put by the Imperial Government upon the paragraph of the ordinance above cited is to

the effect that the limit of time for the registration of the rights in question is not thereby absolutely determined by the first day of this year, but that the said rights may be registered at any time, the only question involved being simply that if they are registered on or after January 1 of this year the order of preferential rights in respect thereto will follow the order of registration and not the order of their establishment; and that such being the construction put upon the ordinance by the Imperial Government they have unavoidably been compelled to come to the conclusion that there is no reason for extending the limit of time fixed by the above ordinance for the registration of such rights, and that they are therefore unable to consider the question of such extension.

While accepting provisionally the construction put upon the ordinance in question, I nevertheless deem it proper to make reservation in behalf of citizens of the United States respecting the rights involved, should, perchance, at any time a different construction be put upon the said ordinance by a Japanese court of law.

I avail, etc.,

A. E. BUCK.

Mr. Hay to Mr. Buck.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 28, 1901.

(Mr. Hay states that the registration as superficies of titles to perpetual leases is not acceptable to this Government without some authoritative interpretation of the Japanese Government that title under that style is not inferior to that of the perpetual lease; and that, so far as advised, this Government is not prepared to concede that buildings on perpetual leases are subject to taxation not specified in original lease. Instructions sent by mail.)

Mr. Hay to Mr. Wilson.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 31, 1901.

(Mr. Hay acknowledges receipt of Mr. Buck's dispatch No. 532, and directs Mr. Wilson to request the Japanese Government to withhold its decision until the Department can have time to prepare and forward its views on questions of property leases, their registration, etc.)

Mr. Hill to Mr. Wilson.

No. 338.]

DEPARTMENT OF STATE,
Washington, February 7, 1901.

SIR: Mr. Buck's Nos. 364, 394, 398, 417, 450, 526, and 528, dated, respectively, October 4, 1899, and January 12, February 5, April 7, July 6, December 14, and December 28, 1900, concerning land tenure in the former foreign settlements, were duly received.

The Department telegraphed to Mr. Buck on the 28th ultimo as follows:^a

This was followed on January 31 by my telegram reading as follows:^a

Complaint is made by American holders of perpetual leases in foreign settlements that their right, title, and estate in said leases are in effect impaired by reason of Japanese laws requiring—

First. The registration of the transfer of land titles in perpetual leases as “superficies.”

Second. Separate registration, in distinct offices and records, of the transfer of lands and of the buildings thereon, and imposing a charge in the nature of a tax for the registration of the latter of 2½ per cent of their value.

It is claimed that both requirements are in contravention of the guaranty of the treaty of November 22, 1894, between the United States and Japan.

The attitude of the Japanese Government in relation to these questions is set forth in an extract from the note of the Japanese minister to the British minister, contained in Mr. Buck's letter to Consul-General Gowey, inclosed in his No. 398, of February 5, 1900, to the Department, which is in substance that “the right of perpetual lease, i. e., the right of superficies created for foreigners, is considered a kind of special superficies, and it is clear that it is not the right of superficies according to the civil code;” that even “after the right of perpetual lease has been registered in accordance with the imperial ordinance (No. 329) the title deed has the same validity as before; but that said ordinance was amended by imperial ordinance No. 458, in which the words ‘perpetual lease’ were specially inserted in brackets after the word ‘superficies,’ in order to make it more clear that the so-called right of superficies is the right of perpetual lease. As to the form or mode of confirmation, it is also stated that it is provided in the ordinance that the transfer of a perpetual lease can not be set up against a third party unless the transfer is indorsed upon the title deed; and that such indorsement hitherto made shall have the same effect as an indorsement made in accordance with the above ordinance; that the validity of the title deeds has thus been confirmed.”

Forms of title deeds are given in the inclosure in Mr. Buck's No. 417, one described as in “Foreign settlement, Bluff,” and the other in “Foreign settlement of Yokohama.” They are alike in all essential respects, the former running as follows:

“The Kanagawa Ken Rei leases to Mrs. V. T. Lindsley, an American citizen, her heirs, executors, administrators, and assigns, the lot of land described, as long as she or her heirs, executors, administrators, or assigns shall pay or cause to be paid to the Japanese Government the ground rent named, payable in advance on June 1 in each and every year to the Japanese Government; that said lot or any parcel thereof shall be transferable to no person other than a subject or a citizen of a power having a treaty with Japan.

“That no parcel of such lot, or building thereon, shall be sold or leased to any Japanese subject, unless authorized by both Japanese and consular authorities, legalizing each transfer or lease.

“That the grantee, her heirs, executors, administrators, and assigns

shall conform to the regulations made and to be made by the Japanese local authorities and consuls in conjunction.

“That nonperformance of said conditions renders the title deed null and void; the lot shall revert to the Japanese Government, and the buildings thereon shall become their property.”

The above lease contains no stipulation for any exemption from further charge, and if any existed it was solely in virtue of the law of the extraterritorial jurisdiction, which has been abolished.

This view is confirmed by the form of a receipt, stated in Mr. Lindsley's brief given at the time of the original purchase, that the sum paid “is in full of purchase money of lot.”

An inclosure in said dispatch states that the land regulations of Yokohama provide that the proprietorship of the soil being in the Japanese Government no tax will be levied on renters of the foreign quarter for the purposes of streets, roads, jetties, sewers, and drains; that foreign holders are authorized to levy taxes for lighting, street cleaning, and police purposes; that the interest in a lot shall always be held to reside in the owner of record (which is stated in the inclosure to be at the consulate); that no title shall pass unless the deed is lodged for record within three days from the date of the conveyance, but no lot can be transferred within one year after date of title deed.

It is to be observed that the taxes thus leviable are in the nature of taxes for municipal purposes.

It is also observed that the registration of a transfer within three days from the date thereof is essential to the validity of the conveyance.

In the treaty between the United States and Japan, of November 22, 1894, it is provided, in Article II, that citizens or subjects of each of the high contracting parties in any part of the territories of the other “may there own or hire and occupy houses, manufactories, warehouses, shops, and premises which may be necessary for them, and lease land for residential and commercial purposes, conforming themselves to the laws, police and customs regulations of the country like native citizens or subjects.”

They “shall enjoy, respectively, the same treatment in matters of commerce and navigation as native citizens or subjects, or citizens or subjects of the most favored nation, without having to pay taxes, imposts, or duties of whatever nature or whatever denomination levied in the name or for the profit of the Government, public functionaries, private individuals, corporations, or establishments of any kind, other or greater than those paid by native citizens or subjects or citizens or subjects of the most favored nation.

Article XVIII stipulates that “existing leases in perpetuity upon which property is now held in the said settlements shall be confirmed, and no conditions whatsoever other than those contained in such existing leases shall be imposed in respect of such property.” * * * “All lands which may previously have been granted by the Japanese Government free of rent for the public purposes of the said settlements shall, subject to the right of eminent domain, be permanently reserved free of all taxes and charges for the public purposes for which they were originally set apart.”

Imperial ordinance No. 329, of July 7, 1899, provides: “If a right in an immovable which might be set up against third persons has been duly acquired by an alien or a foreign juridical person before the time fixed in the imperial ordinance No. 251 of the thirty-second year of

Meiji, but has not been registered before the said time, it can not be set up against third persons unless it is registered within one year from said time."

This ordinance was amended by imperial ordinance No. 458, December 27, 1899, as follows: "When a superficies (perpetual lease) created in a foreign settlement is transferred, such transfer can not be set up against third persons unless it is entered in the title deed by the chihoco of the place where such land is situated. If a right other than that mentioned under paragraph 1 which might be set up against third persons has been duly acquired by an alien or a foreign juridical person before the time fixed in the imperial ordinance No. 251 of the thirty-second year of Meiji, but has not been registered before the said time, it can not be set up against third persons unless it is registered up to the 31st of December, 1900."

It is clear that under the terms of the above lease and treaty the Japanese Government can not alter, impair, or diminish the title and estate in the perpetual lease. And the attitude of the Japanese Government mentioned in Mr. Buck's said letter to Consul-General Gowey, as well as the amendatory ordinance No. 458, evince that understanding and construction of the treaty by the Japanese Government.

If it be true, as contended, that the superficies is a different and inferior estate to that of the perpetual lease, the registration laws applicable to the former could not apply to the latter. Whether the amendatory ordinance cures the defect of the registration laws depends on its validity and authoritative construction by the Japanese Government.

But the Department concurs in the construction given by the Japanese minister, that a perpetual lease may, without, however, altering the title or estate, be styled by a certain analogy a special kind of superficies not defined or provided for by the code, and for this reason and under the express terms of the last paragraph of Article I of the amendatory ordinance the failure to register the transfer of perpetual lease within the period therein prescribed could not affect the rights of the transferee by precluding him from setting up said transfer against third persons.

The objection of the leaseholders, when analyzed, lies not to a mere law requiring registration of perpetual leases, nor to the mere ideal severance of the estate into lands and buildings for the purposes of registration, but to the effect of the required form of registration on the title to the land.

Mere acts or omissions of ministerial officers, unauthorized by law, in omitting essential or adding superfluous words in the recording of the instrument, or by recording the transfers in an improper book, or under an improper description of title, should be subject to redress by the courts in an action of mandamus or for damages. If not, such acts and omissions would appear to be an abuse of power justifying refusal to offer the transfers for registration and the bringing of a test case for an authoritative decision of the question.

In the United States the courts lean against that construction of a grant by a State which implies exemption from the ordinary powers and burdens of taxation as belong in the nature of a renunciation of sovereignty. Such exemption must be clearly and expressly given, and is in general strictly construed.

This view is reenforced by the consideration that, as is stated, no

buildings were on the lands at the time of the original grants, in consideration of which the ground rents were payable; and by the further consideration that improvements are ordinarily assessed for taxation in the United States on account of the increased value of the land.

It does not, therefore, seem clear that under the terms of the said lease and treaty, alien holders of the perpetual leases can object to a law merely requiring their assignees to register and have recorded separately lands and houses; nor to the $2\frac{1}{2}$ per cent tax on houses erected since the coming into operation of the treaties, nor even to such tax on houses before erected.

Article II of the treaty puts them in respect of taxes on a footing of equality with the subjects of Japan or with the citizens or subjects of the most-favored nation; unless it can be successfully maintained that the treaty stipulation for the confirmation of the leases, without other conditions than those contained therein, implies *ex vi termini* exoneration of land and buildings from all taxes or charges other than the annual payment of the ground rent.

The treaty provides for the confirmation of leases in perpetuity without conditions other than those contained in leases then existing.

The only condition of the kind named is the payment of the ground rent. It does not prohibit the segregation of the leasehold estates into lands and houses for the mere purpose of registration, so long as the title and estate is not diminished or impaired; and unless the original lease stipulates expressly or by implication a perpetual exemption from registration and taxation other than ground rent, the treaty between the United States and Japan does not seem to forbid it. The Department, however, appreciating the force of the arguments adduced in support of such exemption in virtue of the treaty, reserves its decision for further consideration of this point.

Mr. Buck's No. 417 states that the regulations of the several settlements vary in terms, as do also the conditions in the forms of the perpetual lease; that the land regulations for the port of Yokohama provided that foreign holders might levy taxes upon their lands and buildings for police, lighting, and street cleaning, but now, with loss of extraterritorial jurisdiction, they do not have this power, and the question stated by Mr. Buck is relevant, whether the Japanese authorities may not now have the right to tax, at least for these municipal purposes.

Article I of ordinance 458 inhibits the transfer of a superficies (perpetual lease) from being set up against third persons unless the transfer has been registered; but as above shown, under the construction by the Japanese minister of the amendatory ordinance, and under the terms of the first paragraph of Article I, and under the express terms of the last paragraph of Article I, there is no period limited for the registration of the transfer.

The wisdom of the policy of registration laws is too well settled to admit of question. In the United States they are found in most, if not all, of the States. While no explanation has been made to the Department (except Mr. Buck's report that there is no law compelling a transferee to register) of the effect as stated in Article I of ordinance 458 of the failure to register transfers, it is presumed that the article is intended to accomplish substantially the same object in this regard as is contemplated by registration laws in the United States. The

ordinance does not profess to invalidate unrecorded transfers, but to prevent their being set up against third persons.

But the case of the leaseholders seems to be clearer and stronger under the French treaty. Article 21 of the treaty between France and Japan provides that "leases in perpetuity in virtue of which foreigners actually possess property in settlements shall be confirmed, and properties of this nature shall be subject to no impost taxes, charges, contributions, or conditions whatsoever other than those expressly stipulated in the lease in question." This stipulation expressly exempts the said properties from all taxes or charges other than the single one of the payment of the ground rents or compliance with any other conditions expressly stipulated in the leases; and if the word "properties" includes buildings on the lands as fixtures, they are equally exempt. The question is, therefore, one of construction of the juridical meaning of the word "properties" as used in the text.

Messrs. Lindsley and McIvor, in their briefs, contend "that for the word 'propriétés' in the French text, the word 'fudo-san' is used in the Japanese text, and that the words 'terrains' and 'jisho' are correspondingly used, evincing a discriminating legal use of the terms, the former word meaning in the Japanese civil code 'real estate or immovables,' in the sense of article 86 of the civil code, 'land and things fixed to it are immovables;' while the words 'terrains' and 'jisho' mean vacant lands." If their interpretation is correct, the word "properties" would include land and fixtures.

It is not stated whether, during the pre code era, the word "fudo-san" was in use and expressed the same legal conception as that attributed to it by the code; but if so, the exemption stipulated in the lease would seem clearly to apply also to the buildings, even if the treaty provisions be interpreted in the sense of the words of the Japanese text and laws.

But it may well be contended that the treaty should be construed according to the laws and usages of the country of the holders' origin; that is to say, according to the law of the extraterritorial jurisdiction in force and there applicable at the time the treaty was formed; that the treaty should be construed according to the laws, usages, and customs in force at the time when and at the place where it was to be carried into execution, under which land and its fixtures constituted a juridical entity; and that it could not be justly interpreted in the light of Japanese laws not then and there in force, the provisions of which, in derogation of existing rights, were not in the contemplation of both high contracting parties. The rights then vested and existing in all their extent could not be presumed intended to be impaired, and certainly could not be impaired without express treaty provision authorizing it; and especially could it not be done by any doubtful construction.

American holders would therefore be entitled to the same exemptions as the French holders, in virtue of the favored-nation clause of the treaty between the United States and Japan.

It is impracticable for the Department at present to attempt to give a final construction of the rights of the foreign holders of the leases owing to its unfamiliarity with the laws, usages, and legal terminology of Japan, and to its want of information as to the arguments urged *in extenso* by the Japanese Government in support of its contention. But it is hoped that a mutually friendly discussion of the questions

involved may lead to their final and satisfactory elucidation and settlement. The apparently favorable disposition of the Japanese Government is evinced by the statement in Mr. Buck's No. 526 of December 14, 1900, that a bill will doubtless be passed by the Diet for the registration of perpetual leases as such and for the registration of buildings constructed prior to the coming into operation of the new treaties without payment of the 2½ per cent tax. In the meantime you will lend your assistance to the American holders of leases in respect of the freedom of fixtures from other charges than those imposed on the lands to which they are attached, and you will seek, if necessary, a clearer act of confirmation of these titles than appears to have been made.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Wilson to Mr. Hay.

No. 539.]

UNITED STATES LEGATION,
Tokyo, Japan, February 8, 1901.

SIR: I have the honor to confirm your telegraphic instruction^a of the 28th ultimo.

On the 31st ultimo I handed to the minister for foreign affairs a signed memorandum, copy of which is herewith inclosed, embodying the contents of the above instruction. I also inclose a copy of Mr. Kato's reply, in which he expresses his preparedness to enter into an examination of the questions indicated when a detailed expression of the views of the Government of the United States shall have been received.

Viscount Aoki's note of January 15 to the British minister (quoted in inclosure with Mr. Buck's No. 398, of February 5, 1900), and his note to the French minister, dated February 26, 1900 (inclosure with Mr. Buck's No. 417, of April 17, 1900), seem to contain in effect such an authoritative interpretation. I apprehend that the minister for foreign affairs would willingly give a still more emphatic and unequivocal interpretation, which, whatever might be the future rulings of law courts, would protect leaseholders from damage by making the Government of Japan responsible. However, it is probable that, to end the great dissatisfaction on this score, exact registration of perpetual leases in terms as such and only such will be provided for by law.

I believe that the Japanese Government will not concede that buildings which stand on land held under perpetual lease should for that reason be exempted from the house tax or from any other charges to which buildings in general are liable.

I have the honor to confirm also your telegraphic instruction^a received the 2d instant.

Accordingly, in a note dated the 5th, copy of which is herewith, I made the above request to the Japanese Government.

In reference to Mr. Buck's No. 532, no reply has yet been received to his note to Mr. Kato dated January 1, designed to hold the Japanese Government to the foreign office's interpretation of the last clause of article 1 of ordinance No. 458, which interpretation (in inclosure with Mr. Buck's No. 526, of December 14) appears to be authoritative.

^a Printed ante.

Shortly before January 1 the British, French, and German ministers sent three practically identical notes on the same subject, but further strongly protesting against the Japanese Government's refusal to prolong the time beyond December 31. Day before yesterday they received Mr. Kato's replies. That to the British minister, which I have read, points out that the clause objected to was inserted as an act of grace, upon the written request of Sir Ernest Satow, for the purpose of allowing ample time for absentees to secure by registration the priority of such rights as subleases, mortgages, etc., already held.

The Japanese Government are now engaged in preparing for presentation to the present session of the Diet (which terminates on March 24) a bill whose object is said to be to clear up, so far as possible, those points in all matters connected with the immunities and obligations of holders of perpetual leases in the former settlements, which, under the new treaties, are now uncertain or disputed. What the bill will decide—which it will concede by its provisions and which it will refuse by silence—of all the changes asked for by the foreigners is not shown, since the authorities insist that the bill remain secret until actually laid before the Diet.

* * * * *

Many months ago the French, German, and British representatives, under instructions from their Governments, claimed, as well as immunity from all charges against lands held under perpetual leases, immunity from the house tax and from all other charges against buildings standing on such lands. Their position remains unchanged. They contend that the buildings are "part and parcel of the lands."

The present French position differs from the British and German in that the French minister goes so far as to claim that income tax may not be levied on income derived from property held under the perpetual leases, probably meaning the houses included.

In the German position there is a point not dwelt upon by others, based on the fifth paragraph of Article XVIII of the German treaty. It is: That the perpetual leaseholds may now be sold to Japanese without becoming, by the process, titles in fee simple (as well as to any foreigners). If the German treaty secures this right contrary to the conditions of the original leases, then Imperial ordinance No. 333, of July 7, 1899, appears to conflict with that treaty. It seems that this right would widen the market for selling the leases and would prevent the settlement properties from getting irrevocably out of the hands of foreigners, who could not own them in fee simple.

The Germans rely upon paragraph 4 of Baron von Marschall's note of April 4, 1896, to secure forever, irrespective of the lapse of their treaty, any rights acquired before or during its operation.

Neither the British, French, nor German representative has yet received a definite reply to his representations.

An unfortunate misunderstanding, by which it has been widely believed that buildings must always be registered, has been brought about by a mistake in Dr. Loenholm's translation of the law of registration and by the fact that there are separate registry books for land and for buildings. I have the honor to inclose herewith the translation of law^a referred to, with the mistake indicated. From that

^a Not printed.

law—particularly from article 106, for example—it appears that the holder of a perpetual lease to a lot who owns the house thereon is quite safe in the ownership of his house without registering it. I may here add that the Japanese themselves ordinarily do not register their houses if they own the land upon which those houses stand.

The best support of the argument that the houses and lands are regarded by the treaties as one is thought to be contained in Article XXI of the French treaty. But as the houses were not in existence when the leases were made, and never belonged to the Japanese Government, it is difficult to understand how they can be considered as properties held under (*en vertu de*) leases in which the Japanese Government is the lessor.

Since under the old system the foreign communities assessed themselves for keeping the streets in order and for lighting, policing, etc., it may be claimed that with the transfer of that duty to the Japanese authorities there goes also a certain right to tax; and since the necessity of such expenditure depends upon the buildings, house taxes may perhaps be regarded to some extent as moneys to meet those expenditures. It is certain that the foreign quarters cost the authorities much more than the Japanese quarters do.

It is of interest to note that, even with the present taxable valuation, shrunk by the settlement properties increase in value to only about one-sixth of the actual value, the land tax alone would be much greater than the ground rent. I hope soon to be able to give some statistics on this point.

Then, if it should be decided that the land only is referred to in the treaties, it is to be subject to no imposts, etc., further than those expressly stipulated in the leases, i. e., than the annual rent.

Under ordinance No. 458 transfers of property held under perpetual leases are registered without charge.

It is understood that transfers of such property by bequest are likewise registered free. As the title deeds were granted to those who originally received them, and to their heirs and assigns, this seems to be secured by the terms of the leases.

It may possibly be questioned, on the ground that registration is part of the general municipal system under which foreigners have come, whether the registration of mortgages upon and of subleases of property held under perpetual leases should be free. Under the old treaties equitable mortgages were mostly made use of, but ordinary mortgages could be registered at the consulate, the parties thus acquiring a secondary protection in case the original documents could not be produced. As a satisfactory degree of safety was obtained in the old way, although the new way, involving, like all Japanese registration, which is after the Torrens system of Australia, the courts affirming the validity of the right registered, provides the greatest degree of safety, yet the imposition of taxes upon any registrations in which property held under perpetual leases is alone concerned seems to be an additional burden on such property and to be contrary to the treaties.

From what I hear I think that the Japanese Government will exempt lands held under perpetual leases from all charges of every kind; but that they will not admit that houses standing upon such lands are for that reason to be exempted from the various charges to which any other houses are liable.

I have, etc.,

HUNTINGTON WILSON.

[Inclosure 1.]

Mr. Wilson to Mr. Kato, Japanese minister for foreign affairs.

[Memorandum.]

Pending the receipt of fuller expression of the views of his Government, the undersigned chargé d'affaires ad interim of the United States, has the honor to hand this memorandum to his excellency His Imperial Japanese Majesty's minister for foreign affairs.

The registration as superficies of title to perpetual leases is not acceptable to the Government of the United States without some authoritative interpretation of the Japanese Government that the title under that style is not inferior to that of the perpetual lease.

The Government of the United States are not now prepared to concede that buildings on perpetual lease are subject to taxation not specified in the original lease.

HUNTINGTON WILSON.

[Inclosure 2.]

Mr. Kato to Mr. Wilson.

Tokyo, February 2, 1901.

The minister for foreign affairs has the honor to acknowledge the receipt of a memorandum which the chargé d'affaires of the United States was good enough to hand to him on the 31st ultimo, in anticipation of a fuller expression of the views of the United States Government on the subject of the registration of perpetual leases and the taxation of buildings on perpetual lease.

Upon the receipt of such detailed expression of views, the minister for foreign affairs will be prepared to enter into an examination of the questions which are briefly described in the memorandum under acknowledgement.

[Inclosure 3.]

Mr. Wilson to Mr. Kato.

FEBRUARY 5, 1901.

MONSIEUR LE MINISTRE: Under telegraphic instructions from the Secretary of State, I have the honor to request, through your excellency, on behalf of the Government of the United States, that the Imperial Japanese Government be so good as to further withhold their decision on the questions of property leases, their registration, etc., until the Department of State can have time to prepare and forward its views.

Trusting that I shall soon be able to make to your excellency more detailed communication of my Government's position on all the allied questions indicated above, I avail, etc.,

HUNTINGTON WILSON.

Mr. Wilson to Mr. Hay.

No. 540.]

UNITED STATES LEGATION,
Tokyo, Japan, February 19, 1901.

SIR: Referring to my dispatch No. 539, dated the 8th instant, on the subject of the settlement property questions, I have the honor to inclose herewith a copy of the reply to Mr. Buck's note of January 1, relating chiefly to imperial ordinance No. 458.

A copy of the reply to my note of the 5th instant, conveying the Department's request that the decision of the questions about the leases,

etc., be withheld until they shall have had time to forward their views, is also inclosed. While all these questions may be now under consideration by the Japanese Government, internally, yet as they say, technically, perhaps, or at least officially, no decision is pending. It appears that several Governments are making representations which must be answered in turn; and that a bill is to be sent to this Diet.

A memorandum prepared in the legation chancery is likewise inclosed. It is an effort to set down concisely some points as to what was the condition of settlement property before the new treaties, what is its present condition, and what may still be desired.

I have, etc.,

HUNTINGTON WILSON.

[Inclosure 1.—Translation.]

Mr. Kato to Mr. Wilson.

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, February 12, 1901.

SIR: In a note which his excellency the minister of the United States has done me the honor to address to me under date of January 1, 1901, he refers to his correspondence with my predecessor, Viscount Aoki, and the conversation which he subsequently had with me, on the subject of the property rights held by citizens of the United States in the former foreign settlements, and states that he has been informed that according to a note addressed by me to the minister of Great Britain the interpretation put by the Imperial Government upon the provision of the last clause of Article I of the Imperial ordinance No. 458 of the thirty-second year of Meiji (1899) is, as he had already been informed by me personally, to the effect that the limit of time for the registration of rights therein mentioned is not absolutely determined by the aforesaid article, but that the only question involved is that if such rights are registered before such limit of time their order of priority will be in accordance with the order of their establishment, whereas if they are registered after the expiration of the term fixed in that article they rank in accordance with the order of their registration. Mr. Buck provisionally accepts the construction placed upon the ordinance in question by the Imperial Government, but he has nevertheless deemed it proper to make reservation on behalf of citizens of the United States respecting the rights involved, should, perchance, a different construction be put upon the same ordinance by a Japanese court of law.

In reply to the above-mentioned note of the minister of the United States, I have the honor to confirm the interpretation of the last clause of Article I of the said ordinance, and to declare that there is nothing to prevent registration being made after the period fixed in that ordinance.

The grave in question was solely for the purpose of allowing all rights other than perpetual leases, which had been acquired by foreigners in immovables before the date the revised treaties went into operation, the exceptional privilege of taking the order of priority in accordance with the order of their creation and not of their registration.

In regard to the reservation which Mr. Buck makes on behalf of the citizens of the United States respecting the rights involved, having in view the contingency of a construction different from the one declared by me being placed by a Japanese court of law upon the said ordinance, I beg to say that while, on the one hand, I am unable to admit the necessity of Mr. Buck's reservation, I do not feel, on the other, that I can properly enter upon an examination of the question of the value to be assigned to interpretations placed by the Imperial Government on the laws and ordinances of the Empire.

Accept, etc.,

KATO TAKAOKI.

[Inclosure 2.—Translation.]

*Mr. Kato to Mr. Wilson.*DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, February 16, 1901.

SIR: I beg to acknowledge the receipt of your note No. 263, dated the 5th instant, in which you inform me that you have been instructed by telegraph by the honorable the Secretary of State to request the Imperial Government "to further withhold their decision on the questions of property leases, their registration, etc., until the Department of State can have time to prepare and forward its views."

While it is not clear what kinds of leases are referred to by the words "property leases," assuming them to refer to perpetual leases of land in the former foreign settlement, I may at once state that when the Imperial ordinances Nos. 329 and 458 of the thirty-second year of Meiji (1899) were promulgated in aid of the treaty stipulations bearing on the subject of such perpetual leases, the Imperial Government were well satisfied that nothing contained in those ordinances were out of harmony with the terms of the revised treaties. This decision having been arrived at at the time those ordinances were promulgated, there is now no decision pending on the part of the Imperial Government, although further consideration of the questions involved may possibly at any time lead to an alteration or modification of the views which have been entertained by the Imperial Government. Nevertheless, I have no hesitation in assuring you that any expression of the views which the Government of the United States may see fit to formulate in reference to those questions will at all times receive that careful consideration which the Imperial Government have always been ready to extend to the representations of your Government.

Accept, etc.

KATO TAKAOKI.

[Inclosure 3.]

A memorandum relating to:

- (1) The conditions under which property in the foreign settlements was formerly held;
- (2) Japan's new treaty obligations in respect thereto;
- (3) The steps already taken by the Japanese Government to meet their treaty obligations; and
- (4) Points still requiring attention.

MEMORANDUM.

I. *What was.*—The Japanese Government set aside and rented to foreigners, for building purposes, certain lots of ground on leases in perpetuity. These lots were leased to bona fide residents only, and the leaseholders were required in some cases, under penalty of forfeiture of their titles, to erect within a fixed period of time buildings of a substantial character.

The proprietorship of the soil was expressly reserved to the Japanese Government. The leases specified certain "lots of land," and the chief condition was the payment of a stipulated annual ground rent, in consideration of which the Japanese authorities engaged to keep the streets, roads, sewers, etc., in good repair without additional charge, the "ground rent" thus being in lieu of the ordinary Japanese land and municipal taxes. Provision was made for further assessments for special purposes, if required, either by the leaseholders themselves or by the authorities with their consent.

The rate of annual ground rent varied with different places, and was fixed at times, as in Nagasaki and Yokohama, in terms of Mexican dollars; and elsewhere, as in Hiogo, Osaka, and Tokyo, in terms of the native coin "bu." The value of the latter was variously determined, sometimes "weight for weight" with foreign coins, and sometimes by convention (as in the tariff convention of 1866 and the Austro-Hungarian trade regulations). Both these forms of currency fluctuated considerably in value with the rate of silver, but specially the "bu," which was also subject to deterioration in recoinage. Thus the actual amount of ground rent was variously reckoned in different places, and even in the same locality the rent might be fixed at a different rate at different times, according to the value of the "bu" when the leases were issued.

On the lots so leased foreigners erected buildings for residence and business. "They had absolutely nothing to show for their title to the houses but their deeds to the land," and this, under consular jurisdiction, was considered a sufficient showing. Transfers of the land generally included the buildings, unless there was a special agreement showing a contrary purpose. Transfers were indorsed on the title deed by the kencho and registered at the respective consulates without any charge other than notarial fees. Such registration was simply notarial and not *ex officio*.

Transfer of title to a Japanese subject had to be sanctioned officially by the consular and Japanese authorities jointly.

In case of forfeiture of a lease the lot reverted to the Japanese Government, and in some cases the buildings thereon also became the property of the Japanese Government.

Provision was made for the enlargement of the districts occupied by foreigners, when necessary. Such extra settlement properties might be let at a fixed rate, as the Bluff property in Yokohama, or be subject to the ordinary Japanese Imperial and municipal taxes, as in Tokyo, and in Kobe until 1888, or be charged a fixed rental based upon the average of the ordinary Japanese taxes for a few years previous—including also taxes on the buildings—as was the case with the Kobe Hill lots after 1888.

II. *The new treaty provisions.*—The United States treaty provides (Article XVII):

(1) That the several foreign settlements in Japan shall * * * be incorporated with the respective Japanese communes and shall thenceforth form part of the general municipal system of Japan. * * *

(2) That existing leases in perpetuity upon which property is now held in the said settlements shall be confirmed, and no conditions whatever other than those contained in such existing leases shall be imposed in respect of such property. * * *

By Article XVIII:

(3) That the present treaty shall * * * be substituted in place of all former treaties and conventions, and all arrangements and agreements subsidiary thereto, which shall cease to be binding; and in consequence,

(4) That the jurisdiction exercised by courts of the United States in Japan, and all the exceptional privileges, exemptions, and immunities enjoyed by citizens of the United States as a part of, or appurtenant to, such jurisdiction shall absolutely and without notice cease and determine.

(NOTE.—It would seem from the provisions of Article XVIII of the United States treaty, and the corresponding articles of the other treaties, that property rights in the former foreign settlements, e. g., buildings on lands held under perpetual lease, in so far as they are based on previous arrangements or upon the application of foreign law under consular jurisdiction, definitely terminate with the old treaties, and that the property rights in question are now determined solely by the terms of the original leases themselves, as provided in the new treaties, and by the application of Japanese law.)

The French treaty stipulates (Article XXI) that:

Leases in perpetuity in virtue of which foreigners actually possess property in the settlements shall be confirmed, and property of that nature shall not be subject to any imposts, etc., or conditions whatever other than those expressly stipulated in the leases in question.

The German treaty provides further (Article XVIII) that:

Leases to lands in the settlements may in the future, as in some cases in the past, be transferred freely, either to a Japanese or a foreigner, without the consent of the consular or Japanese authorities.

The German note of April 4, 1896, provides that—

(1) As the ownership of the soil is vested in the Japanese Government, neither the holder of the lease nor his successors shall be required to pay any charges on the said land other than the stipulated ground rent.

(2) Rights acquired before or under the present treaty shall be valid after the expiration of the said treaty.

III. *What the Japanese Government has done.*—By law No. 71 of March 18, 1899:

Provided that matters relating to the registration of rights of foreigners in immovables and ships, acquired before the operation of the new treaties, should be determined by imperial ordinance.

Imperial ordinance No. 329, of July, 1899:

(1) A right in an immovable acquired by an alien or foreign juridical before the operation of the new treaties, if not registered before the date of the operation of the said treaties, can not be set up against third persons unless registered within one year thereafter. (Amended by imperial ordinance No. 458, which see.)

(2) Special registry books for such rights were opened and a copy of the registry

book of a foreign consulate relating to such rights given the same effect as a Japanese registry book. The provisions of the law of registration of immovables are applied to such registrations.

(NOTE.—The effect of this last provision is to give the consular registrations so taken over the value, not only of claims of title, as before, but of the titles themselves; and, moreover, under the Japanese law (and practice) of registration, the title to the land carries with it presumptively the title to the buildings thereon as well unless there is a specific agreement to the contrary, very much as was formerly the case under consular jurisdiction.)

Imperial ordinance No. 333, of July, 1899:

Rights of perpetual lease, when acquired by a Japanese or a Japanese juridical person, are converted into holdings in fee simple or ordinary superficiesies.

Imperial ordinance No. 458, of December, 1899 (amending ordinance No. 329):

- (1) The leases are termed "superficies (perpetual lease)."
- (2) Transfers of title must be indorsed on the title deed by the *chichocho* (*kencho*), which office must report the fact of such transfer to the registry office. (This provision removes the one-year limit of ordinance No. 329, as respects the registration of these leases.)
- (3) On receipt of the above notice the registry office must register such transfers *ex officio* (i. e., without charge).

(4) The term for registration of existing real rights other than perpetual leases is extended to December 31, 1900, and entries of previous transfers by the *kencho* or consulates are confirmed.

Viscount Aoki's notes of January and March, 1900, to the British and French ministers, respectively, give an authoritative assurance that the interpretation of the Japanese Government is that the said leases (in perpetuity) would still have the same validity as before after their registration under ordinance No. 329, and that the words "perpetual lease" inserted in brackets in ordinance No. 458 make it clear that the right is a perpetual lease and not a superficies under the provisions of the civil code. (See article 45 of the law for the operation of the civil code.)

Mr. Kato's notes of December, 1900, and thereafter give an official assurance that the terms of ordinance No. 458 do not cut off the right to register existing rights in reality, other than perpetual leases, after December 31, 1900; that such rights may be registered at any time, only that when registered after the said date they follow the order of their registration and not of their establishment as regards priority of rights.

IV. *Points still requiring attention.*—(1) That titles to settlement properties be confirmed as "perpetual leases" without qualification or change of form.

(2) That imperial ordinance No. 458 be amended to harmonize with the interpretation given by the Imperial Government and to avoid a possible difference of interpretation by the Japanese courts.

(3) That ordinance No. 333 conform to the terms of the German treaty.

(4) That mortgages and subleases of property held on perpetual leases be registered without charge, as their security was satisfactorily guaranteed in the past by their registry or authentication at the consulates.

(5) That the value of the "bu" be again fixed by international agreement and the rate of exchange of the Mexican dollar be determined in the same manner.

(6) That the meaning of the words "property in the former foreign settlements" as used in the treaties be defined. As a matter of fact, a considerable portion of the property in Japan held by foreigners under perpetual leases lies wholly outside the limits of the foreign settlements, properly so called—e. g., the Bluff lots in Yokohama, the Hill lots in Kobe, and some lots at Nagasaki. Such outlying properties, though in reality constituting what might be called "mixed zones," have been treated by the local authorities as if within the settlements, but acting under instructions from the central Government and not wholly without question.

(It is interesting to note in this connection that the rental of the Hill lots in Kobe, fixed by agreement in 1888, was determined on the basis of the amount of taxes, imperial and municipal, the property would have paid were it owned by Japanese, including taxes upon the buildings erected on the lots, and that it is understood that the Japanese Government has no intention of charging house tax on such buildings.)

(7) In one or two places the rent which has regularly been collected and which is now well established by custom is considerably less than that which, according to the terms of the leases, could be claimed for example in Tokyo. It seems desirable that the customary rate in such places be definitely guaranteed for the future.

Mr. Wilson to Mr. Hay.

[Telegram—paraphrase.]

LEGATION OF THE UNITED STATES,
Tokyo, March 26, 1901.

(Mr. Wilson reports, in connection with his dispatch of February 8, that a new law has been passed by the Diet recognizing perpetual leases real rights, applying to them code provisions relating to ownership. Provision is made for unequivocal registration of leases free of charges, and for all rights of which lease is the object. The exemption of houses in any way is not indicated.)

Mr. Wilson to Mr. Hay.

No. 550.]

UNITED STATES LEGATION,
Tokyo, Japan, April 1, 1901.

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 338, of February 7 last, on the subject of the settlement properties questions.

I have the honor, also, to confirm my telegram of the 26th ultimo.

An accurate translation of the law above mentioned is herewith inclosed. Articles I, II, and VII of the law seem effectually to remove all grounds for dissatisfaction as to the confirmation, past or future, of the titles. The law further appears to guarantee to the property freedom from all charges other than the rents, including free registration of transfers, subleases, mortgages, bequests, etc.

I am quite sure that the law supposes the property held under the perpetual leases to be the lands only. Article IV is designed, I believe, merely definitely to connect these properties, unique in Japan—that is, lands held under perpetual lease and, secondly, buildings standing upon such lands as well as subsidiary rights in the perpetual leases—with the machinery of registration. There is reason to believe that an imperial ordinance in that sense will very soon be issued. It will probably provide for the registration of transfers of perpetual leases at the kencho, and for that of subordinate rights and of houses, when their registration is desired, at the courts of registry. It will be noticed that there is to be indorsement of transfers upon the title deeds themselves in addition to registration.

It has been observed that the application to these properties of the laws relating to ownership makes them liable to be the object of servitudes, such as right of way. Even if this is not a natural consequence of the termination of extraterritorial jurisdiction, it could hardly have any practical importance or be a disadvantage on the whole to the leaseholders in the settlements proper. On the Yokohama Bluff, for instance, where there are also holdings of Japanese, should there be objection, if the question were raised it might possibly be claimed that the bluff was not within the settlements of the treaties. The point seems to me to have no importance.

Recent consultation with some of the American holders of perpetual leases in Yokohama, since the passage of this new law, leads me to believe that they are entirely satisfied with the confirmation of their

titles, and that they find the condition of lands is quite free from objection; but that they adhere on the other hand to their belief that buildings should likewise be exempt. I invited any new arguments in support of that belief, and any possible objections to the law in its other two bearings, but nothing has been communicated.

* * * * *

I have, etc.,

HUNTINGTON WILSON.

[Inclosure.—Translation.]

LAW RELATING TO RIGHTS OF PERPETUAL LEASE.

ARTICLE I. A right of perpetual lease established for a foreigner or a foreign juridical person by a deed of perpetual lease from the Government shall be regarded as a right in rem, and the provisions of the civil code relating to ownership shall be correspondingly applicable thereto.

A right of perpetual lease may be made the object of other rights in accordance with the provisions of the civil code.

In cases otherwise regulated by the title deeds, treaties, laws, or ordinances the provisions of the two preceding paragraphs shall not apply.

ARTICLE II. When a right of perpetual lease is transferred (or transmitted), such transfer (or transmission) can not be set up against third persons unless the fact has been recorded on the title deed by the local government office (chihochō) within whose jurisdiction the land is situated.

ARTICLE III. The registration tax shall not be imposed on the registration of a right of perpetual lease, nor on the registration of rights that have a right of perpetual lease for their object.

ARTICLE IV. Special provisions may be enacted by imperial ordinance with respect to the registration of a right of perpetual lease, or to the registration of rights that have a perpetual lease as their object, or to the registration of buildings on lands held under a perpetual lease.

SUPPLEMENTARY REGULATIONS.

ARTICLE V. This law shall take effect from the date of its promulgation.

ARTICLE VI. The provisions of article 45 of the law for the operation of the civil code* shall be annulled from the date of the operation of this law.

ARTICLE VII. A right of perpetual lease, or rights having a perpetual lease as their object, that have been registered before the operation of this law as superficies, or as rights having a superficies as their object, respectively, shall have the same validity as a right of perpetual lease, or rights having a perpetual lease as their object, duly registered as such.

Mr. Buck to Mr. Hay.

No. 587.]

UNITED STATES LEGATION,
Tokyo, October 2, 1901.

SIR: I have the honor to inform you that an imperial ordinance regulating matters relating to rights of perpetual lease was promulgated on the 21st of last month.

This ordinance was referred to in dispatch No. 550, of April 1, as likely soon to appear, supplementary to the new law, a translation of which accompanied that dispatch; but the issuance of the ordinance and regulations was delayed by a change of cabinet.

It will be observed that there is no pronouncement in the ordinance or regulations respecting the tax on buildings erected upon property held under leases in perpetuity; and it is supposed that the Japanese

* Reference: Article 45 of the law for the operation of the civil code reads as follows: "45. As to a superficies created for an alien or a foreign juristic person the provisions of the civil code apply only so far as it is not otherwise provided by treaty or regulation."

Government will continue to hold that the matter of such tax is not covered by treaty stipulations, and will continue to adhere to the law and regulations under which that tax is to be levied, notwithstanding the opposition made by Great Britain, Germany, and France.

I have, etc.,

A. E. BUCK.

[Inclosure.]

IMPERIAL ORDINANCE.

We hereby sanction the regulations relating to rights of perpetual lease and order the same to be promulgated.

[Imperial sign manual, great seal.]

September 20, thirty-fourth year of Meiji.

Countersigned:

BARON UTSUMI TADAKATSU,
Minister of State for Home Affairs.

KIYOURA KEIGO,
Minister of State for Justice.

SONE ARASUKE,
Minister of State for Foreign Affairs.

IMPERIAL ORDINANCE NO. 178.

Article 1. When an application for entry in the title deed of a transfer or transmission of a right of perpetual lease or any notice relating to a right of perpetual lease has been received at the local government office within whose jurisdiction the land leased in perpetuity is situated, notice thereof shall be given without delay to the registry office having jurisdiction over the locality in which the land is situated.

In giving notice (to the registry office) of a transfer or transmission of a perpetual lease a copy of the title deed shall be sent together with the notice; but when notice to be given relates to a right of perpetual lease in respect of which notice has already been given, it is not necessary that a copy of the title deed should accompany the notice. In this case the designation of the land leased in perpetuity, the names, nationalities, and domicile of the parties concerned, the cause of the transfer or transmission of the right, and its date should be given in the notice.

Article 2. For the land leased in perpetuity and the buildings erected thereon special registry books shall be opened and kept at the respective registry offices.

Article 3. The registry books shall be of two kinds, one for land leased in perpetuity and the other for buildings erected on land leased in perpetuity.

Article 4. Each folio of the registry book for land leased in perpetuity shall be divided into a registry number column, a caption space, and five sections, marked A, B, C, D, E. The caption space shall contain a designation column and a designation number column. Each of the five sections shall contain a fact column and a rank number column.

In the registry number column shall be entered the order in which each piece of land leased in perpetuity has first been registered in the registry book.

In the designation column, land leased in perpetuity shall be designated, and alterations of the same shall be entered. In the designation number column shall be entered the order in which a matter registered in the designation column has been entered.

In the fact column of section A shall be entered matters relating to a right of perpetual lease.

In the fact column of section B shall be entered matters relating to superficies, emphyteusis, and other rights having these rights as their object.

In the fact column of section C shall be entered matters relating to servitudes.

In the fact column of section D shall be entered matters relating to preferential rights, pledges, and mortgages.

In the fact column of section E shall be entered matters relating to leases.

In the rank number column shall be entered the order in which a matter registered in the fact column has been entered.

Article 5. Each folio of the registry book for buildings erected on land leased in perpetuity shall be divided into a registry number column, a caption space, and four sections marked A, B, C, D. The caption space shall contain a designation column and a designation number column. Each of the four sections shall contain a fact column and a rank number column.

In the registry number column shall be entered the order in which a building has first been registered in the registry book.

In the designation column the building and accessory building shall be designated, and alterations of the same shall be entered. In the designation number column shall be entered the order in which a matter registered in the designation column has been entered.

In the fact column of section A shall be entered matters relating to ownership.

In the fact column of section B shall be entered matters relating to servitudes.

In the fact column of section C shall be entered matters relating to preferential rights, pledges, and mortgages.

In the fact column of section D shall be entered matters relating to leases.

In the rank number column shall be entered the order in which a matter registered in the fact column has been entered.

Article 6. When an application is made for the registration of a right having as its object a right of perpetual lease which has not been registered, the application must be accompanied by documents proving the right of perpetual lease.

Article 7. When a registry office has received a notice of the transfer or transmission of a right of perpetual lease, registration of such transfer or transmission shall be made *ex officio* by the registry office, whether such right of perpetual lease has already been registered or has remained unregistered.

When, in case a registry office is notified of a receipt at the local Government office of a notice relating to a right of perpetual lease, the notice is of such a character as to necessitate alteration in the register, such alteration shall be registered *ex officio*.

When an application is made for the registration of a subsidiary right having as its object an unregistered right of perpetual lease, the right of perpetual lease itself must be registered *ex officio*.

Article 8. Registration made at a foreign consulate in respect of land leased in perpetuity or buildings erected thereon before the date fixed in the imperial ordinance No. 251 of the thirty-second year of Meiji, shall have the same value as registration made under this ordinance, in so far as the registry book or copy thereof has been delivered by the foreign consulate to the registry office.

Article 9. In case registration is to be made after the operation of this ordinance in respect to an immovable which has been registered in accordance with imperial ordinance No. 329 of the thirty-second year of Meiji, the registration made in the old registry book shall be transferred to the registry book kept under this ordinance in the following manner:

In the registration-number column of the folio of the new registry book shall be entered a new number following the order in which registrations are being made in the same registry book, and the registration number appearing in the old registry book shall be entered on the left side of the new number. In the designation column of the new registry book shall be entered the designation of the immovable appearing in the old registry book, and registration made in the old registry book shall be transferred to the rank-number column and fact column of the corresponding section in the new registry book. The folio of the registry book from which registration has thus been transferred shall then be closed.

The provisions of the foregoing paragraph shall be correspondingly applicable to cases where registration is to be made after the operation of this ordinance in respect to an immovable which has been registered at a foreign consulate.

Article 10. In making registration in accordance with the provisions of the preceding article a right of perpetual lease shall be entered as a right of perpetual lease, even though it has been registered under a different name.

Article 11. If in registering a subsidiary right having as its object either a right of perpetual lease or the ownership of buildings erected on a piece of land leased in perpetuity, the right to be registered does not correspond to the provisions of articles 4 or 5, it shall be registered in that section of the folio of the registry book in which rights most similar to it are to be registered.

Article 12. In respect to matters not provided for in this ordinance the provisions of the law of registration of immovables shall apply correspondingly.

SUPPLEMENTARY REGULATIONS.

Article 13. This ordinance shall take effect from the day of its promulgation.

Article 14. Imperial ordinance No. 329 of the thirty-second year of Meiji (1899) is hereby repealed.

IMPERIAL ORDINANCE.

We hereby sanction the regulations relating to cases of acquisition by Japanese subjects or Japanese juridical persons of rights of perpetual lease created in favor of

foreigners or foreign juridical persons by title deeds of perpetual lease issued by the Government, and order the same to be promulgated.

[Imperial Sign Manual, Great Seal.]

September 20, thirty-fourth year of Meiji.

Baron UTSUMI TADAKATSU,
Minister of State for Home Affairs.

KIYOURA KEIGO,
Minister of State for Justice.

SONE ARASUKE,
Minister of State for Foreign Affairs.

IMPERIAL ORDINANCE NO. 179.

Article 1. When a Japanese subject or a Japanese juridical person has acquired a right of perpetual lease created in favor of a foreigner or foreign juridical person by a title deed of perpetual lease issued by the Government, the acquirer shall without delay present the title deed of perpetual lease to the local Government office within whose jurisdiction the land is situated and ask for cancellation of the title deed.

A Japanese subject or a Japanese juridical person for whom the title deed of perpetual lease has been canceled in accordance with the provisions of the preceding paragraph shall acquire the ownership of the land concerned.

Article 2. When a title deed of perpetual lease has been canceled for a Japanese subject or a Japanese juridical person, in accordance with the first paragraph of the preceding article, the local Government office shall notify the fact to the registry office within whose jurisdiction the land is situated.

Article 3. If, in the case provided for in article 1, there should be a third party having a right which has as its object a right of perpetual lease, that right of the third party shall continue to exist as a right having as its object the ownership of the land.

SUPPLEMENTARY REGULATIONS.

Article 4. This ordinance shall take effect from the day of its promulgation.

Article 5. Imperial ordinance No. 333 of the thirty-second year of Meiji (1899) is hereby repealed.

Article 6. A right of perpetual lease created in favor of a foreigner or foreign juridical person by a title deed of perpetual lease issued by the Government, which has been acquired by a Japanese juridical person before the operation of this ordinance, shall continue to exist as a right of perpetual lease except in cases where the right of ownership has been registered in respect of the land in question. This, however, shall not prevent the acquisition of ownership in accordance with article 1.

DEPARTMENTAL ORDINANCE NO. 15 OF THE DEPARTMENT OF JUSTICE.

The undersigned minister of state for justice prescribes the following procedure in regard to the registration of land leased in perpetuity and of buildings erected thereon.

KIYOURA KEIGO,
Minister of State for Justice.

September 21, thirty-fourth year of Meiji.

Article 1. In regard to the registration of land leased in perpetuity or of buildings erected thereon, the provisions of the regulations for the enforcement of the law of registration of immovables shall correspondingly apply, unless otherwise provided for in this ordinance.

Article 2. Registry books for land leased in perpetuity and for buildings erected on land leased in perpetuity shall be prepared in the *chiho saibansho* in the form respectively prescribed in Schedule A and Schedule B.

Article 3. Copies of the registry book of foreign consulates and their translations shall be kept in the registry office.

Article 4. When a document accompanying an application for registration is written in a foreign language, the applicant shall supplement it with a Japanese translation.

Article 5. In transferring registrations made at foreign consulates to the registry books their transcription shall be made in accordance with Japanese translations.

When a registration made at a foreign consulate has been transferred to the registry book, the number of the volume and the folio of the registry books to which it has been transcribed, the registration number and the date, shall be recorded in the copy of the registry book of foreign consulates and also in its translation, and the registry officer shall affix his seal.

Article 6. When the local Government office has notified the registry office of the cancellation of a title deed of perpetual lease in accordance with article 2 of imperial

ordinance No. 179 of the thirty-fourth year of Meiji, the registry officer shall close the folio concerned in the registry book for land leased in perpetuity.

When, in the case provided for in the preceding paragraph, there are registrations of subsidiary rights having as their object a right of perpetual lease, the registry officer shall record in the designation column the fact that the title deed has been canceled. When registration of cancellation has been made in respect of all registrations relating to those subsidiary rights, or when registrations relating to subsidiary rights have been transferred to the ordinary registry book in making registration for the preservation of ownership, then the registry officer shall close the folio concerned in the registry book for land leased in perpetuity.

Article 7. When upon receipt of notice mentioned in the first paragraph of the preceding article there are registrations relating to buildings erected on land leased in perpetuity the registry officer shall transfer those registrations to the ordinary registry book and shall close the folio concerned in the registry book in which those registrations appeared.

SUPPLEMENTARY REGULATIONS.

Article 8. This ordinance shall take effect from the day of its promulgation.

Article 9. Departmental ordinance No. 41 of the department of justice, of the thirty-second year of Meiji, prescribing procedure in regard to the registration of immovables which are the objects of rights of foreigners or foreign juridical persons, is hereby repealed.

SCHEDULE A.

This registry book contains — folios.
 — president of the
 — district court.

Registry book for land leased in perpetuity.
 — local court.

		No. —.	Reg. N.
Section A.	Right of perpetual lease.	Caption space. Designation of land leased in perpetuity.	
	R. N.		D. N.
	Fact column.		Designation column.
	R. N.		D. N.
	Fact column.		Designation column.
	R. N.		D. N.
	Fact column.		Designation column.

Reg. N.—Registry number column.

D. N.—Designation number column.

R. N.—Rank number column.

N. B.—This schedule also gives the forms for sections B (superficies and emphyteusis), C (servitudes), D (preferential rights, pledges, and mortgages), and E (leases), which are exactly the same as for section A.

SCHEDULE B

This registry book contains — folios.
 — president of the district court.

Registry book for buildings erected on land leased in perpetuity.
 — local court.

Section A. Ownership.		No. —.	Reg. N.
		Caption space. Designation of building.	
	R. N.		D. N.
	Fact column.		Designation column.
	R. N.		D. N.
	Fact column.		Designation column.
	R. N.		D. N.
	Fact column.		Designation column.

Reg. N.—Registry number column.
 D. N.—Designation number column.
 R. N.—Rank number column.
 N. B.—This schedule also gives the forms for sections B (servitudes), C (preferential rights, pledges, and mortgages), and D (leases), which are the same as for section A.

DEPARTMENTAL ORDINANCE NO. 16 OF THE DEPARTMENT OF JUSTICE.

As regards the fees to be levied upon an application for a copy of or for an extract from the registry books for land leased in perpetuity or for buildings erected thereon, or upon an inspection of the registry books or documents accessory thereto, the provisions of departmental ordinance No. 14 of the department of justice, of the thirty-second year of Meiji (1899), shall correspondingly apply.
 This ordinance shall take effect from the day of its promulgation.
 Departmental ordinance No. 42 of the department of justice, of the thirty-second year of Meiji (1899), is hereby repealed.

KIYOURA KEIGO,
Minister of State for Justice.

September 21, the thirty-fourth year of Meiji (1901).

DEPARTMENTAL ORDINANCE NO. 17 OF THE DEPARTMENT OF JUSTICE.

The following amendments are introduced into the regulations relating to the enforcement of the law of registration of immovables, issued as departmental ordinance No 11 of the department of justice, of the thirty-second year of Meiji.
 KIYOURA KEIGO,
Minister of State for Justice.
 September 21, the thirty-fourth year of Meiji (1901).

The following article is inserted after article 46:

Article 46 b. In applying for registration for the preservation of ownership in cases where ownership has been acquired by a Japanese subject or a Japanese juridical person in accordance with paragraph 2 of article 1 of imperial ordinance No. 179, of the thirty-fourth year of Meiji (1901), the fact that ownership has been acquired through the cancellation of title deed of perpetual lease must be stated in the letter of application.

The following two articles are inserted after article 71:

Article 71 b. When upon receipt of application mentioned in article 46 b there are in a folio of registry book for land leased in perpetuity registrations of subsidiary rights, having as their object a right of perpetual lease, and such registrations have not yet been canceled, then the registry officer shall transfer those registrations of subsidiary rights to the ordinary registry book after he has completed the registration of the ownership in the same book.

Article 71 c. In transferring to the ordinary registry book registration relating to subsidiary rights, in accordance with the provisions of the preceding article, or in transferring to the ordinary registry book registration relating to buildings erected on land leased in perpetuity, the registry officer shall enter in the registration number column of the folio of the ordinary registry book a new number following the order in which registrations are being made in that book. He shall then enter on the left side of that number the registry number appearing in the registry book from which it has been transcribed.

In the case provided for in the preceding paragraph the registry officer shall record at the end of registration transcribed in the designation column and the fact column the folio, the volume, and the title of the registry book from which the foregoing registration has been transcribed. He shall also enter the date of the transcription and affix his seal.

SUPPLEMENTARY REGULATION.

This ordinance shall take effect from the day of its promulgation.

DEPARTMENTAL ORDINANCE NO. 24 OF THE DEPARTMENT FOR HOME AFFAIRS.

When a Japanese subject or a Japanese juridical person, who was acquired a right of perpetual lease created in favor of a foreigner or foreign juridical person by a title deed of perpetual lease issued by the Government, has obtained the cancellation of such title deed according to article 1 of imperial ordinance No. 179, of the thirty-fourth year of Meiji (1901), and has thus acquired ownership of the land concerned, the local government office must notify the fact without delay to the taxation office having jurisdiction over the place where the land is situated.

BARON UTSUMI TADAKATSU,
Minister of State for Home Affairs.

September 25, the thirty-fourth year of Meiji (1901).

INSTRUCTION NO. 34 OF THE DEPARTMENT FOR FINANCE.

To the revenue administration bureau (those at Hakodate, Sapporo, Nemuro, and Nawa excepted):

Upon receipt of notice prescribed by the departmental ordinance No. 24 of the department for home affairs, of the thirty-fourth year of Meiji, the taxation office shall make all necessary entries in the cadastre (tochi-daicho) in respect of the land to which the notice refers.

SONÉ ARASUKÉ,
Minister of State for Finance.

September 25, thirty-fourth year of Meiji (1901).

DETENTION AT SEATTLE, WASH., AND DEPORTATION OF JAPANESE IMMIGRANTS.

NOTE VERBALE.

JAPANESE LEGATION, *April 30, 1901.*

According to the information brought to the attention of Japanese minister by Mr. Shimiza, His Imperial Japanese Majesty's consul at Vancouver, it appears that a party consisting of 13 Japanese subjects,

who started from Victoria on the 15th of March last for Seattle, State of Washington, arriving there on the following day, was refused landing at the latter port, and after having been imprisoned in a jail from the day of arrival until their reembarkation finally ordered to be deported on board the vessel which had carried them thither to the place whence they came. It was not disputed in any way that every one of the Japanese was in good physical condition, holding a health certificate prepared by a licensed physician just before his departure, and being in bona fide possession of the amount of money required by law; and the only ground for the refusal of his landing and subsequent deportation seems to be that he would be unable to support himself. Another group of Japanese subjects of 7 in number who arrived at Seattle from Vancouver on the 17th of the same month met the same fate, receiving exactly similar treatment. The consul adds that upon an examination of the persons concerned, which was conducted at the consulate after their deportation, they were all found well clad, robust, and of sound mind.

In view of the foregoing facts, the Japanese minister begs leave to say that these Japanese subjects having possessed the necessary qualifications and fulfilled all conditions required by law, he is at a loss to find the reason why they should have been refused landing, inasmuch as no more qualifications or conditions, by virtue of the treaty between the two countries, are to be imposed on the Japanese subjects than those required of other alien citizens or subjects for landing at the United States ports; and even admitting that the Japanese now under consideration were refused to land at the port for the lack of certain qualifications or conditions to meet the requirements of law, he can not perceive any reason for the restriction of personal liberty imposed upon them without due process of law by confining them in a jail, where, according to a statement made by some of them, they were compelled to share company in the same apartment with certain convicts under the sentence of imprisonment.

Under these circumstances the Japanese minister has the honor to request that the honorable the Secretary of State will have the goodness to cause investigations to be made upon the matter to the end that proper measures may be taken should the facts reported be found correct.

Mr. Hill to Mr. Takahira.

No. 26.]

DEPARTMENT OF STATE,
Washington, May 9, 1901.

SIR: Referring to your note verbale of the 30th ultimo, regarding the deportation from Seattle, State of Washington, of two parties of Japanese immigrants arriving at that place on March 15 and 17, respectively, I have the honor to inform you that the Department is in receipt of a letter from the Secretary of the Treasury, dated the 3d instant, in which he says that the matter has been referred to the collector of customs for the Puget Sound district, with instructions to make report of the circumstances of the deportations.

Accept, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Hill to Mr. Takahira.

No. 28.]

DEPARTMENT OF STATE,
Washington, May 27, 1901.

SIR: Referring to your note verbale of the 30th ultimo, regarding the deportation from Seattle, State of Washington, of two parties of Japanese immigrants arriving at that place on March 15 and 17 last, respectively, I have the honor to inclose herewith for your information a copy of a letter and inclosure received by the Commissioner-General of Immigration from the special deputy collector of customs at Port Townsend, Wash., containing reports on the subject.

These reports were communicated to the Department by the Secretary of the Treasury, with his letter of the 20th instant.

Accept, etc.,

DAVID J. HILL,
Acting Secretary.

[Inclosure.]

Special deputy collector of customs at Port Townsend, Wash., to the Commissioner-General of Immigration.

OFFICE OF THE COLLECTOR OF CUSTOMS,
DISTRICT OF PUGET SOUND,
Port of Port Townsend, Wash., May 14, 1901.

SIR: I have the honor to return herewith a communication from the Department of State under date of the 2d instant and a copy of the note verbale of the Japanese minister therein inclosed complaining of the deportation from Seattle of two parties of Japanese immigrants arriving at that place on March 15 and 17, respectively, referred to this office for report and return. Replying thereto I beg to state that the examination of these immigrants was conducted in an impartial manner in strict accordance with the immigration laws and regulations. No appeal was taken from the decision of the board of inquiry refusing them admission, and they were fully informed of their right to appeal under the law.

In regard to their detention in jail, pending the decision of the board of inquiry, the jail was simply used as a lodging house and no greater restraint was placed on them there than at any other place, as they were certainly not entitled to be at large until landed, and the jail was a more desirable place of detention, in view of the inclemency of the weather at that season of the year, than an exposed steamship dock. They were comfortably housed and cared for, and at no time were they associated or confined with any convicted prisoners. A communication of the sheriff of King County in regard to the matter, addressed to Immigrant Inspector Lavin, under date of the 11th instant, is respectfully transmitted herewith.

Respectfully,

HENRY BLACKWOOD,
Special Deputy Collector.

[Subinclosure.]

Mr. Cudihee, sheriff, to Mr. Lavin, immigrant inspector.

SHERIFF'S OFFICE,
King County, Wash., Seattle, May 11, 1901.

DEAR SIR: In regard to the complaint of the Japanese minister concerning confinement of Japanese immigrants in jail at Seattle, beginning March 15 and 17, 1901, I desire to state that there were 24 Japanese immigrants in my custody during the time mentioned.

Sixteen of them were kept in the apartment in the county jail where prisoners awaiting trial are held. This apartment is spacious and clean; each cell in it has a closet, two hammocks and blankets for same, and is heated by steam.

The eight other immigrants were kept in the hospital ward or apartment where prisoners awaiting trial and in delicate health are held. This room is large and clean and is supplied with a cot and blankets for each occupant, and has good water and closets.

At no time were any of the immigrants associated or confined with any convicted prisoner.

Yours, respectfully,

EDWARD CUDIHEE,
Sheriff of King County, Wash.

Mr. Takahira to Mr. Hay.

No. 13.]

LEGATION OF JAPAN,
Washington, June 7, 1901.

SIR: I have the honor to acknowledge the receipt of the communication of the honorable Acting Secretary of State dated the 27th ultimo, and of the two inclosures therewith, in reply to my note verbale of the 30th of last April, regarding the deportation of Japanese immigrants from Seattle in March last.

I beg that you will tender to the honorable the Secretary of the Treasury my thanks for the steps he has taken to ascertain the facts in the case, as shown by the letter of Mr. Blackwood, deputy collector of customs at Seattle, and that of Mr. Cudihee, sheriff of Kings County, Wash., copies of which were transmitted with the communication under reply. I regret to add, however, that the statements made in those letters do not, in my opinion, completely answer the questions suggested by my note verbale.

The points to which I desired to especially draw attention by that note were, first, that a number of Japanese who appeared to be legally entitled to enter the United States had been turned back without apparent cause; and, second, that these persons, while awaiting the decision of their case, had been confined in jail under circumstances which, to say the least, were not in harmony with the treatment ordinarily accorded to immigrants to the United States. In connection with what Mr. Blackwood and Sheriff Cudihee say on this latter point, I beg to state that His Imperial Majesty's consul at Vancouver made a careful personal investigation of the matter on the return of the deported immigrants to that place. As a result he reports that while undergoing detention at Seattle some of them were confined in small rooms, 4 together, and the rest in the common room of the jail in company with other prisoners. Some of the latter, the immigrants believed, had been convicted of crimes or offenses. That, however, is not particularly material, since it is not denied that these Japanese subjects, although not accused of any offense, were treated like ordinary criminals and confined with people of that class. In addition they complain that they were supplied with poor and insufficient food, of which, in some cases, they were robbed by the other prisoners. And they assert also that from among the personal effects which they were obliged to surrender on entering the jail, a watch and an overcoat were missing when they were deported. The report of His Imperial Majesty's consul contains other details similar to the foregoing, but I have no desire to dwell upon this disagreeable feature of the case further than to call it to the attention of the honorable the Secretary of the Treasury, which, I feel assured, is the most certain way of preventing the recurrence of similar treatment of Japanese subjects resorting to this country.

With reference to the first point mentioned in my note verbale (the eligibility of the immigrants), I had the honor to state that according to the information given to me these persons did not belong to any of the classes whose immigration is forbidden by United States law, and that they were healthy, well clad, and in possession of sufficient funds to provide against their becoming public charges. Since, therefore, it appeared that these Japanese subjects possessed the necessary qualifications and fulfilled all the conditions required by law, I added that I was at a loss to discover why they had not been permitted to enter the United States. The plain inference from the admitted facts appeared to me to be that they were entitled to land under the provisions of United States law, and, also, as I stated, by virtue of the stipulations of the treaty between Japan and the United States.

I find in Mr. Blackwood's letter the statement that "the examination of these immigrants was conducted in an impartial manner in strict accordance with the immigration laws and regulations." Without any intention of questioning the accuracy of this explanation, I would respectfully submit that, as it stands, it does not furnish a complete answer to the statements contained in my note verbale.

A reasonable explanation of the failure of the immigrants to appeal from the decision of the board of inquiry, to which Mr. Blackwood further alludes, may be found in the circumstances of their detention already described. If they had appealed they would have been compelled to submit for an indefinite period to the humiliation and discomforts of confinements in jail, and it was only natural that they should have preferred to take the quickest way out of the dilemma.

In again calling attention to this case I beg to state that I have no intention of asking for the Japanese subjects immediately interested, or for others who may come to the United States, any special favor or immunity from the operation of the United States laws relating to immigration. All that such Japanese subjects can rightfully expect, and all that the Imperial Government expects on their behalf, is the same treatment as is accorded under similar conditions to the citizens and subjects of other foreign countries. This measure of justice, I feel convinced, it is the purpose of the United States Government to extend to them; and if in the present instance it shall prove, as appears to be the case, that Japanese subjects have been deprived of their right to enter this country by a construction of the law by local immigration officers not justified by the facts, I trust that I may rely upon the good offices of the honorable the Secretary of the Treasury to prevent the repetition of such action.

Accept, etc.,

K. TAKAHIRA.

Mr. Hay to Mr. Takahira.

No. 30.]

DEPARTMENT OF STATE,
Washington, June 22, 1901.

SIR: Referring to your note No. 13, of the 7th instant, in further relation to the deportation from Seattle, State of Washington, of two parties of Japanese immigrants in March last, I have the honor to inform you that the Department is in receipt of a letter from the Secretary of the Treasury, dated the 17th instant, in answer to the Department's letter of the 12th instant, sending to him for his consideration a copy of your said note.

In his letter the Secretary of the Treasury says:

In response to the further statement of the minister the Department can only reiterate its original averment to the effect that, so far as it is aware, there is no discrimination made between immigrants from Japan and those from other countries, the provisions of the law giving authority for no such discrimination, and the Department itself having no justification to offer therefor if such discrimination is shown by its officials. It submits, furthermore, that the accompanying note of the Japanese minister, while it offered just cause of complaint upon other grounds, failed to show such a discrimination with respect to the points suggested.

Respecting the present grounds of complaint, further inquiry will be made and the result thereof, in due course of time, will be transmitted to the Japanese minister through your Department.

Accept, etc.,

JOHN HAY.

Mr. Hill to Mr. Takahira.

No. 31.]

DEPARTMENT OF STATE,
Washington, July 25, 1901.

SIR: Referring to your No. 13, of the 7th ultimo, in further relation to the deportation from Seattle, State of Washington, of two parties of Japanese immigrants in March last, I have the honor to inclose herewith for your information a copy of a letter from the Secretary of the Treasury inclosing copies of reports in the matter from the immigrant inspector at Seattle, and others.

Accept, etc.,

DAVID J. HILL,
Acting Secretary.

[Inclosure.]

Mr. Gage to Mr. Hay.

TREASURY DEPARTMENT,
Washington, July 13, 1901.

SIR: I have the honor to further acknowledge your letter of the 12th ultimo, inclosing copy of a note from the Japanese minister at this capital with reference to the detention and deportation of two parties of Japanese immigrants arriving at Seattle, Wash., in March last.

I inclose herewith copy of report and certain correspondence concerning the alleged irregularities in the treatment and hearing of the cases of these immigrants, from which it appears that the reports which have been made to the Japanese minister have failed to establish the real state of the case.

Respectfully,

L. J. GAGE, *Secretary.*

[Subinclosure 1.]

Report of immigrant inspector at Seattle to the collector of customs at Port Townsend, Wash.

CUSTOM-HOUSE, PORT OF SEATTLE, WASH.,
Deputy Collector's Office, July 3, 1901.

SIR I have the honor to return, with my report thereon, the letter of the Commissioner-General of Immigration and the Japanese minister.

I inclose letters from the agents of the S. S. *Rosalie* and the S. S. *Mainlander* which answer the inquiry of the Hon. T. V. Powderly. The letters show that it was not only for the convenience of the steamship companies but for the comfort of the immigrants; besides it was an absolute necessity, in the absence of a suitable secure place for their detention.

The immigrants were treated no differently from any citizen of the United States subpoenaed as a witness in a case and unable to give bond for his appearance.

I also inclose letters from Sheriff Cudihee, Attorney Fred H. Petersen, and our interpreter, Charles Sasahe, which explain themselves, and answer, I believe conclusively, the charges of ill treatment and robbery.

I will also add my statement that I was present when the secretary of the Japanese consulate at Seattle, the agent of the Oriental Trading Company, and Mr. Petersen conversed with the immigrants at the custom-house, just before they were removed to the Vancouver S. S. *Mainlander*, and at no time did they complain of insufficient food or of being robbed. If they had been so treated they would have reported it to some of the above-named representatives before leaving here, instead of waiting until they returned to the consul, who could do nothing but report the matter.

This omission is not only suspicious, but convinces me that their charges are groundless. As these letters may be referred to the Japanese minister, it may be proper to explain the character and standing in the community of Sheriff Cudihee, Attorney Petersen, and Charles Sasahe, and Dr. A. P. Mitten, president of the board of inquiry. Sheriff Cudihee was one of two men elected by an overwhelming majority over the candidate of the dominant party here, so he must be highly respected and reliable and credible. Mr. Petersen's standing as a gentleman and lawyer has never, to my knowledge, been questioned. Charles Sasahe, a native Japanese, is a successful business man of integrity. Dr. Mitten, besides being deputy collector, was a practicing physician and at one time treasurer of this county; so these gentlemen, being above suspicion, would not misinterpret the case of excluded Japanese immigrants.

The other members of this board of inquiry are the customs inspectors who may happen to be detailed for that duty when occasion requires it.

As I stated in my letter of April 8, 1901, that as we had no stenographer and as there was no appeal, the oral testimony was not reduced to writing, so I again send the manifests^a of the steamship *Rosalie*, March 16, 1901, and the steamship *Mainlander*, March 17, 1901, as all the record of the case under consideration. It will be shown, however, that on each manifest, with one exception, all of the immigrants were farmers, had only about \$30, and gave their destination as Seattle.

The exception on the *Rosalie* manifest was a tailor, and he was admitted, as he could probably support himself at his trade. This was also true of the exception on the *Mainlander* manifest, because he was a coal miner. I mention this to prove that the action of the board was not arbitrary; they only excluded those whom they did not believe could earn a living here. In March many of the Japanese were out of work; the boarding houses were crowded, many having been discharged from the section gangs of the Great Northern Railway, the place where hundreds had been induced to work under contract. The court records will show that the wages of these men are not drawn by themselves, but by contractors who receive a percentage of their wages.

The Japanese were the dupes and victims of the steamship runners who prevailed on them to come here under representations of plenty of work at good wages. In the case of the Japanese from Victoria, they had to pay \$3.50 to a Japanese named Ohashi for a 25-cent ticket.

To prove that the board acted wisely in excluding these Japanese, I will state that the sudden tide of immigrants that was started up without an apparent cause immediately subsided, and the surplus Japanese laborers have been returning to British Columbia for the past three months.

If this unnatural influx had not been checked much destitution would have ensued.

Under section 5, act of March 5, 1893, I had no alternative but to hold for special inquiry "every person who may not appear to him clearly and beyond doubt entitled to admission," so my discharge of duty is not "a construction of the law by local immigration officers not justified by facts."

I understand that the Japanese Government has recognized the evil of induced and unrestricted immigration to this coast by limiting the number of passports to be issued in each province. As a result a more intelligent class of immigrants arrive direct from Japan by the Nippon Yusen Kaisha steamships, and, with the exception of stowaways, no Japanese have been deported to Japan in the past eight months. I only mention this to show that no Japanese is excluded without cause, and there is no intention or desire to discriminate against them. Only a very small percentage of Japanese even from British Columbia (where they have no such regulations about passports) are excluded by an impartial, intelligent, disinterested board of inquiry.

The deliberations of this board are surely judicial proceedings by sworn officials, and their decisions, in the absence of any appeal, should be presumed to be just and based on sufficient evidence, and to be preferred to the garbled statements of irresponsible, humble, interested persons. I use the word irresponsible advisedly, because

^a Not printed.

the immigrants were not free agents, but the dupes and victims of those who purchased their tickets, coached them in the statements they were to make, and probably debtors to the extent of \$30 to those who undertook to land them legally and afterwards collect their money and their wages, as has been done in other cases.

Owing to the conditions prevailing in Seattle in March, and considering all suspicious circumstances of the two lots of Japanese who failed to secure cards from the United States commissioner of immigration at Victoria and Vancouver, British Columbia, and who did not even buy their own steamship tickets, I think it was merciful of the board of inquiry to return them to the place where they came from at the expense of the steamship companies. Time has demonstrated the wisdom of this course, as hundreds of Japanese have since voluntarily returned to Vancouver.

In conclusion, I wish to state that at my last official station, Key West, Fla., it is the custom to hold in jail for deportation Cuban contract laborers, even those who hail from an island under the protection of the United States flag.

It is explained in my letter of the 8th of April that it was more humane to detain the immigrants in a warm room in a jail than in the damp hold of a ship or on an exposed steamship dock.

Hoping that the foregoing statements will be sufficient explanation, I am,
Very respectfully,

JAMES P. LAVIN,
Immigrant Inspector.

[Subinclosure 2.]

Mr. Sasahe, interpreter, to Mr. Lavin, immigrant inspector.

SEATTLE, WASH., July 3, 1901.

SIR: Regarding the reported loss of valuables by the Japanese immigrants confined in jail last March, will state that I was present with you on both occasions when you delivered the Japanese on board the steamship *Rosalie* and the steamship *Mainlander*. I then, in your company, returned their money to them. At no time did they complain that they had lost any personal property.

In the case of the Japanese who were deported on the steamship *Mainlander* to Vancouver, I will say that they were taken direct from the custom-house after a conference with the secretary of the Japanese consul, the manager of the Oriental Trading Company, and their attorney, Mr. Fred Petersen. I was with the above-named in company of the immigrants, and they made no complaint of being robbed.

Very respectfully,

CHARLES SASAHE,
Japanese Interpreter.

[Subinclosure 3.]

Mr. Cudihee, sheriff, to Mr. Lavin, immigrant inspector.

SHERIFF'S OFFICE, KING COUNTY, WASH.,
Seattle, June 29, 1901.

DEAR SIR: In regard to complaint about treatment of Japanese in my custody March 17, 1901, I desire to say that the Japanese were not placed with convicted criminals, but were kept in the "hospital ward," an apartment of the jail given up to boys under commitment to the reform school, inmates of the jail who are sick, and men charged with misdemeanors.

As to the food furnished them, it consisted of bread freshly baked every day, mush, potatoes—the best in the market—beef soup, fresh boiled beef, tea and coffee, with sugar, and pork and beans.

When these men were brought to the jail they were accompanied by yourself and a Japanese interpreter, and you and the interpreter searched them. The interpreter kept the valuables found upon them, including watches and money. When they were in jail and during all the time they were in my custody, there was never any complaint made by them, or by any of them, or by anyone else, of any missing coat or watch.

I believe the steamship company desired to have these people held in custody, as upon presentation of the bill for their board and keep the company cheerfully paid the same.

Respectfully, yours,

ED. CUDIHEE, *Sheriff.*

[Subinclosure 4.]

Mr. Petersen to Mr. Lavin, immigrant inspector.

SEATTLE, WASH., July 1, 1901.

DEAR SIR: As per your request of this date you are hereby informed that in March, 1901, I was employed as attorney by a number of Japanese who had been debarred from landing by the board of special inquiry at Seattle, and pursuant to that employment I called at the custom-house and was present when the Japanese consul's secretary and the secretary of the Japanese Association were present. We had a consultation with the immigrants and they concluded that they would not go to the expense of employing an attorney, and that they would prefer to return to British Columbia, and that it was not to their interest to appeal their cases, and so stated to me through a Japanese friend of theirs. Thereupon I informed the secretary of the board that it was my clients' wishes to abandon the appeal, and that no further steps should be taken. The men stated that they would be glad to return on the boat on the next trip to British Columbia, and I have personal knowledge of their returning by such boat. I am further satisfied that these immigrants while at Seattle were properly treated, although there was some objection made in that they had been confined in the county jail, but upon inquiry I learned that there was no place whatever to have cared for them properly except at the jail, and I explained this to my clients and they made no further complaint.

I desire to say further that every courtesy was extended to me as their attorney, and to the aforesaid officers of the Japanese consulate and association as well. The immigrants were also treated in a kindly manner, and they were all informed through their interpreter by the officers what their legal rights were, but they unanimously concluded that they would not insist upon landing, but return to British Columbia. The interpreter chosen was a countryman of the immigrants, and he explained to them their rights and the law in my presence and also in the presence of the Japanese officers, and I personally had a conversation with the Japanese consul and his secretary concerning these immigrants. I remember distinctly that the Government officers told the immigrants that if they had presented cards from the commissioner of immigration at the port from which they sailed they would then have had little difficulty, as such a card would have entitled them to enter after passing a medical examination. In view of all that was done concerning these immigrants, I fail to see why any complaint should have been made, as the officers of the Government certainly did not otherwise than their duty, and what annoyance may have been caused to these immigrants could not have been avoided under the circumstances.

I remain, etc.,

FRED H. PETERSEN.

[Subinclosure 5.]

Mr. Chapman, agent for steamer Mainlander, to Mr. Lavin, immigrant inspector.

SEATTLE, WASH., June 28, 1901.

DEAR SIR: Regarding the care of the nine Japanese that arrived on the steamer *Mainlander* from Vancouver, British Columbia, would state:

After consultation with Colonel Fisher, it was thought advisable to take them to the county jail for safe-keeping, as well as for their own comfort, there being no suitable place on the dock for them, as the weather was very cool.

We paid all bills for their care at the jail March 8, 1901.

Yours, very truly,

H. P. CHAPMAN,
Agent Steamer Mainlander.

[Subinclosure 6.]

Mr. Peabody, manager Alaska Steamship Company, to Mr. Lavin, immigrant inspector.

SEATTLE, WASH., June 28, 1901.

DEAR SIR: Regarding the matter of proper and safe care of Japanese from Victoria, British Columbia, per our steamer *Rosalie* some time ago, I beg to state that as the accommodations on the wharf and the facilities for furnishing them with meals are very limited we thought it advisable to take them to the county jail, where they would be more comfortable and receive proper attention. The expenses for their care were paid by us to the county sheriff.

Yours, truly,

CHARLES E. PEABODY, *Manager.*

ALLEGED DISCRIMINATION IN THE UNITED STATES AGAINST
JAPANESE IN THE MATTER OF QUARANTINE.^a

Mr. Takahira to Mr. Hay.

No. 14.]

LEGATION OF JAPAN,
Washington, June 13, 1901.

SIR: Referring to the memoranda dated respectively the 4th and 13th of last October, which passed between us in relation to the quarantine measures enforced in San Francisco and Colorado last year, I have the honor to state that I communicated the same to His Imperial Majesty's Government, and that I am now in receipt of a reply embodying its views upon the subject.

In conformity with the directions of his excellency the minister for foreign affairs I beg to transmit herewith for your information a copy of the instruction in question.

Accept, etc.,

K. TAKAHIRA.

[Inclosure.]

THE GAIMUSHO,
Tokyo, 17th day of the 5th month of the 34th year of Meiji.

SIR: I have to acknowledge receipt of your dispatch of the 17th day of the 10th month of the 33d year of Meiji, inclosing copies of the memoranda dated respectively the 4th and 13th October last, which were exchanged between your legation and the Department of State in regard to the measures of quarantine taken against Japanese subjects by the city of San Francisco and the State of Colorado.

The position in which the correspondence now under examination has left the question is not, I regret to say, entirely satisfactory to the Imperial Government, and you are accordingly instructed to again approach the Government of the United States on the subject.

The measures which gave rise to the recent discussion established, within the circumscriptions indicated, a clear discrimination against Japanese subjects in the matter of quarantine, and it has in consequence been the contention of the Imperial Government that those measures were not only subversive of the accepted principles of international law and comity by which the equal intercourse between nations is regulated and the rights of aliens are determined, but were at variance with those express provisions of the treaty of 1894 which in reciprocity extended to Japanese subjects in all parts of the territories of the United States both national and most-favored-nation treatment in whatever relates to rights of residence and travel. In this situation the Imperial Government had entertained the hope that the Government of the United States might see their way to take such action against the persons responsible for the enforcement of the measures as could fairly be regarded as an assurance that similar discriminatory regulations would not again be put into operation.

Accordingly the announcement, contained in the memorandum of October 13, to the effect that for reasons of a purely domestic character, springing from the peculiar relations existing between the Federal and State governments, the United States were unable either to accord redress for the past grievances or to give guaranties against the recurrence of similar grievances in the future, was a source of disappointment to the Imperial Government. If, as is firmly believed, the discriminations in question were actually invasive of rights belonging to the subjects of His Imperial Majesty in virtue of a just application of the principles of the law of nations, it can hardly be said that reference to the distribution of power among the various departments of national authority constitutes a satisfactory answer to the complaint of the Imperial Government, which is based upon an alleged disregard of such international rights.

As the Imperial Government in the present case are on the one hand denied the opportunity of seeking adequate redress from the subordinate administrative units which go to make up the supreme Government of the United States, so they are on the other justified in looking to the Federal Government for the fulfillment of the

^aSee Foreign Relations, 1900, p. 737 et seq.

sum of the nation's international duties and obligations. And in advancing as applicable to this question the proposition that in the presence of international rights and duties opposing municipal rules and arrangements are silent, I find myself merely restating a principle of public law which the Government of the United States have, on more than one occasion, as frankly admitted on the one hand as they have strenuously and conclusively maintained on the other.

In the Cutting case it was declared by the then Secretary of State, Mr. Bayard, "that a Government can not appeal to its municipal regulations as an answer to demands for the fulfillment of international duties." A similar rule was laid down by the United States before the Geneva Arbitration Tribunal, and in the Van Bokkelen case, while in the case of McLeod, and in other more recent cases, the Government of the United States have, with a consistency which does equal credit to their sincerity and high sense of justice, acknowledged the supremacy of the same principle.

If I have, in citing precedents, limited myself to cases in which the United States were interested, it is not because the doctrine which they illustrate is peculiar to that power, but because the Government of the United States have enunciated the rule with a clearness and precision which leave nothing to be desired.

The cases cited, especially those relating to McLeod and Cutting, seem to suggest the manner in which causes of complaint such as those now under discussion may be avoided, and the Imperial Government therefore indulge the confident hope that the Government of the United States, upon further consideration of the question in the light of what has been said, will adopt the necessary legislative measures to effectually safeguard for the future the rights of Japanese subjects who are lawfully within the territorial limits of the United States, and to prevent any repetition of discriminations such as those complained of.

In presenting these views to the Government of the United States, you are authorized to deliver to the honorable the Secretary of State a copy of these instructions.

TAKAAKI KATO.

JAPANESE LEGATION, November 14, 1901.

Explanatory statement presented in connection with a note of the Japanese legation of the 13th of June, 1901, with a view to request an early answer to the instructions therein inclosed.

"Defective or erroneous municipal legislation, by which a sovereign claims to be unable to perform his international obligations, is no defense to a demand by another sovereign for redress for a violation of international duty. This position was taken by Great Britain against the United States in the McLeod case; by the United States against France in respect to French spoliations; by the United States against Great Britain in respect to the *Alabama* and other cognate claims; and by the United States against Mexico and other States in denying their right to impose by statute restrictions or disabilities not sustainable in international law on citizens of the United States." (Wharton's Digest.)

The McLeod case was that of a British subject arrested and held for trial in a State court (New York) for an offense which the British Government avowed was committed in conformity with authority conferred upon the said McLeod by itself. The British Government therefore contended that the case was one which could only be settled directly between the Government of the United States and itself; that consequently the State court had no jurisdiction, and that McLeod should be released.

The case resolved itself into one of conflict of authority between Federal and State jurisdiction as regarded an alien. On this head Mr. Webster, in a dispatch to Lord Ashburton dated August 6, 1842, expressed the following opinion:

"It is for the Congress of the United States, whose attention has been called to the subject, to say what further provision ought to be made to expedite proceedings in such cases; and, in answer to your lordship's question toward the close of your note, I have to say that the Government of the United States holds itself not only fully disposed but fully competent to carry into practice every principle which it avows or acknowledges, and to fulfill every duty and obligation which it owes to foreign governments, their subjects, or citizens."

In order to prevent complications like that which had occurred in this case, the Congress subsequently passed a law (Revised Statutes, sections 752, 753, and 754) which gave to Federal courts power to issue writs of habeas corpus whereby such cases could be brought directly within their jurisdiction.

The Cutting case was that of a citizen of the United States arrested, tried, and convicted in Mexico in violation, it was claimed by the United States, of the law of nations. Notwithstanding the fact that the Mexican Government claimed "that the local or State jurisdiction over Cutting's case did not allow interference by the National Government of Mexico in the matter," the United States Government persisted in its demand, and Cutting was finally released. It was during the discussion of this case that Secretary Bayard declared that "citizens of the United States when abroad will be protected from discrimination aimed at them on account of their nationality."

It is a well-settled principle in American law and jurisprudence that treaties are a part of the law of the land, and that, as such, they can not be overridden by the laws or enactments of the several States. In the case of *McCulloch* against the State of Maryland the Supreme Court held that "the States have no power by taxation, or otherwise, to retard, impede, burden, or in any manner control the operation of the constitutional laws enacted by Congress to carry into effect the powers vested in the National Government." The same principle, as other decisions of the Supreme Court show, has been held to apply to treaties negotiated with foreign powers under the authority vested by the Constitution in the Federal Government.

The treatment accorded to Japanese subjects by the quarantine measures adopted at San Francisco and in Colorado was manifestly in violation of this principle. As regarded the San Francisco case, the United States circuit court decided that the measures in question were unconstitutional because manifestly discriminatory against certain classes of the population. In respect to the Colorado case, no result of any kind has been reached except that the governor of that State was invited to give appropriate consideration to the representations of the Japanese legation in this matter. The obnoxious regulations of the State government are no longer in force, but there is no guarantee that similar infractions of the rights of Japanese subjects may not be put into effect there or elsewhere in the United States. If this case is allowed to stand as a precedent, it may easily follow that municipal legislation will have the appearance at least of having been permitted to be paramount, not only to principles announced in the decision of the circuit court above referred to, but also to the specific rights of travel and residence guaranteed to Japanese subjects in accordance with treaty stipulations. It is not believed that this result will be in harmony with the theory or the practice of the United States, either as regards its own citizens abroad or the subjects or citizens of friendly States within its territories.

The situation is clearly one which calls for a remedy whereby similar violations of the rights of aliens may be prevented, or, if they occur, may be susceptible of prompt and effective remedy. Such a remedy was afforded in the *McLeod* case by the passage of an act of Congress. The case under review involves principles sufficiently important to justify the hope that some action of the kind may be taken to protect the rights of Japanese subjects guaranteed both by law and by treaty.

Mr. Hay to Mr. Takahira.

No. 43.]

DEPARTMENT OF STATE,
Washington, November 26, 1901.

SIR: Referring to your note of June 13 last in relation to certain quarantine measures of San Francisco and Colorado, and to the explanatory statement in connection therewith which you handed to me on the 14th instant, I observe that, in view of the explanations heretofore furnished by the Department, there remains apparently only one point on which you ask further satisfactory assurances, namely: That some action may be taken to protect Japanese subjects against the recurrence of discriminatory quarantine measures. This assurance I am happy to be able to give you; not, indeed, in the precise form in which it is requested, but in a way which will substantially and effectually accomplish the end in view.

It is in the nature of things impossible to prevent by Federal legislation the enactment of improvident and unconstitutional laws by local authorities, whether State or municipal. But it is entirely feasible to afford prompt and complete redress against such regulations whenever

their enforcement is sought to the detriment of personal rights. The individual affected may at once avail himself of the writ of habeas corpus before the Federal courts and obtain his deliverance from any illegal imprisonment, confinement, or restraint. He may also avail himself in such cases of the writ of injunction to prevent the enforcement of such illegal regulations. This was done in this very affair in the case of *Wong Wai v. Williamson* (103 Fed. Rep., 1); and the act of Congress, which was passed in consequence of the exigencies of the *McLeod* case, was adopted, not with a view to prevent the passage of illegal local legislation and regulations, but to nullify their effects by empowering the Federal courts, on proper application, to deliver and discharge from the operation of such laws all persons injuriously affected by them, thereby nullifying them for all practical purposes. The remedy thus afforded was and is equally applicable in all cases where quarantine regulations restrain personal liberty (including freedom from interference with the right of personal locomotion or the exercise of any restraint upon the person) in breach of constitutional or treaty rights.

The remedies already afforded are, therefore, complete; and since it is physically impossible by any act of legislation to prevent at all times and in all places illegal action of local authorities, the demands of civil justice and of national good faith are reasonably met when ample and speedy remedies for the redress of such grievances or of wrongs of any kind are afforded by the laws.

In case, however, of the passage of local regulations alleged to be in violation of a treaty, the Department would, if the same would be brought by you to its attention, cause the matter to be investigated, and if proper would request the Attorney-General to cooperate in taking the necessary legal steps to enforce the due observance of treaty obligations.

Accept, etc.,

JOHN HAY.

**MONUMENT ERECTED IN JAPAN IN COMMEMORATION OF THE
ADVENT OF COMMODORE PERRY, UNITED STATES NAVY, IN
JULY, 1853.**

Mr. Buck to Mr. Hay.

UNITED STATES LEGATION,
Tokyo, Japan, July 20, 1901.

SIR: I have the honor to report the coming to Yokohama of Rear-Admiral Frederick Rodgers with his flagship, the *New York*, accompanied by the United States ships, *New Orleans* and *Yorktown*, comprising a part of the Asiatic squadron, and also to remark upon the courtesies extended to the admiral and the officers of his ships.

Acting under instructions of the Navy Department to represent the United States Navy upon the occasion of the ceremonies attending the unveiling of a monument at Kurihama, erected by the Japanese "American Association of Japan" in commemoration of the advent of Commodore Perry forty-eight years ago, which ceremonies were to take place on the 14th instant, Rear-Admiral Rodgers arrived at Yokohama with his ships on the 7th instant. He with his officers have been most cordially received by the officials of the Japanese Government and by the people, as also by their majesties, the Emperor and the

Empress, to whom I have had the honor to present them. The governor of Kanagawa-Ken and the mayor of Yokohama have extended courtesies of entertainments at banquets, as have also the governor and the mayor of Tokyo, the minister of marine and several admirals of the Japanese navy, and more of such entertainments are announced to be given, to all of which the admiral is responding in like manner and spirit.

On the morning of the 14th instant the three United States war vessels steamed to the harbor of Kurihama, where there were already five Japanese war vessels.

I inclose herewith cuttings from the Japan Times (a Japanese publication), on the 16th and 17th instants, giving a detailed account of the proceedings incident to the unveiling of the monument.

The imposing monument of granite is itself a testimony of gratitude for what Commodore Perry did, and the extraordinary and spontaneous welcome accorded Rear-Admiral Rodgers and his officers and ships will doubtless be appreciated by the people of the United States as significant proof of the deep feeling of friendship of the Japanese Government and people for the United States and our people.

I have, etc.,

A. E. BUCK.

[Inclosure.—The Japan Times, Tokyo, Tuesday, July 16, 1901.]

THE UNVEILING OF THE PERRY MONUMENT.

Imagine a slightly sloping and open sand beach with a frontage of say 400 yards. Imagine intermittent showers coming down, now in torrents now in drizzling mist with short intervals of what can only be called a suspicion of sunshine struggling out through the thinner portions of the overhanging clouds. Imagine, excepting a fairly wide pathway in the center ending seaward in an improvised pontoon bridge, the whole frontage consisting of a continuous wall of humanity standing 30 or 40 deep and consisting of all ages and both sexes with the younger ones bathing their feet in the soft rippling sea—this human wall being made picturesque by karakasa and umbrellas of all shapes and shades overhead, and by a full display of the rustic taste for striking and fantastic contrasts in the way of colors in the dresses. Imagine once again thousands upon thousands of wondering eyes all looking anxiously seaward where, a mile or so off, lie three white men-of-war majestically riding at anchor together with our *Shikishima*, *Hatsuse*, and *Amagi* at short distances from each other, while nearer shore torpedo boats and catchers, racing yachts and innumerable other small craft dot the surface, looking smart with flags in full rig. Imagine all this and you have a rough picture of how Kurihama looked for a good part of the morning of the 14th at the particular part where the Perry celebration took place.

About 11 o'clock the good ship *Hakuai Maru*, with some 300 ladies and gentlemen, Japanese and foreign, from Tokyo and Yokohama, and which had started from the Yokohama pier, hove in sight of the beach. The anchor having been dropped soon after, landing by steam launches and steam-towed junks began. It was raining then, and the proceedings were, to say the least, tedious, even unpleasant. But good humor prevailed everywhere, and nothing failed to provoke merriment, which was indeed the supreme feature of the two hours' voyage, and which was now prolonged for another hour, during which time the landing was completed. From launches on to the pontoon, then between the staring and wondering crowds, the landing parties came to a big gate of evergreens, which was in the shape of a double cross—one by the side of the other. Inside the gate they were most courteously received by Baron Kaneko, president of the Beiyu Kyokai, and other members of the association, who politely ushered them into the curtain-fenced inclosure. The inclosure must have measured at least 100 by 100 yards or so, and in the center, and somewhat to the rear, rose the object of the day's celebration, still veiled in a piece of light white cloth. On the right of the monument were seen Rear-Admiral Rodgers and his fellow-officers, in full uniform, and other American officials, seated under a tent. Similarly to the left were the ministers of state, and high naval and army officers. Then, leaving a good-sized hollow square in the center, rows of tents formed the two sides where

the guests were variously distributed, the foreigners being all housed in the tents next to that of the American officers; while fronting the monument, and with their backs to the entrance, a naval band took up their post, behind which two companies of marines from our warships formed guards.

A few minutes after 12, when the last man had taken his seat, Baron Kaneko appeared in a little improvised green bowered stage at the foot of the monument and announced the commencement of the ceremony. Then walking up to Admiral Rodgers he led that officer to the monument, from the top of which a white rope hung. In the midst of impressive silence the admiral gave a pull at the rope and down came the white veil, and there stood in full view a huge slab of granite with inscriptions in bright gold, cut deep into it and telling in seventeen Chinese characters, chosen and penned by Marquis Ito, what the stupendous rock pillar was for. The unveiling formed a signal for loud and enthusiastic applause which took some time to subside. Hardly had the hand-clapping ended when Baron Kaneko was again on the stage and began to read an address from a scroll of paper. But by this time the news of the unveiling had reached the United States and Japanese warships out in the sea, and they now commenced to fire salutes. While boom! boom! went on the guns, the Baron continued to read his speech, and the scene did not fail to make a most thrilling impression on the vast assembly. We give below a liberal translation of the baron's address.

PRESIDENT KANEKO'S ADDRESS.

"Here it was at Kurihama in the district of Miura Kanagawa that on the 14th of July, 1853, Commodore Perry, of the United States of America, by order of his Government, first landed and opened negotiations with the special commissioner of the Shogunate to conclude a treaty of amity and commerce between Japan and the United States. It was at this spot that the modern civilization of our Empire had its beginning. Rear-Admiral Beardslee, who was a midshipman under Commodore Perry, came a second time to Japan last year, and on that occasion he one day revisited this place led by the memories of the past. Subsequently at a meeting of the American Association of Japan he, giving his reminiscences of our country as it was forty-nine years ago, said that he had found the Empire strictly maintaining the policy of stern seclusion and forming by herself a world of her own. But, he continued, his second visit had revealed to him an entirely different country almost able to compete with the great powers of the world in the onward march on the path of civilization.

The progress made by Japan during the half century had been so rapid and vast that the admiral could but think that his two visits had been separated by ages. The admiral also remarked that Kurihama was the gate through which Western civilization was introduced into Japan, and that it was his earnest wish that this important spot should have some lasting mark so that it might be remembered by posterity. The members of the association then present were greatly impressed by the narration and at once passed a resolution to erect a monument marking the places of Commodore Perry's landing at Kurihama. But the association from the very beginning never meant to erect a monument of great cost and grandeur, but on the contrary we decided upon as simple and modest a design as possible to mark for the future one of the most important places in the history of Japanese Empire. Therefore only a small area of ground has been allotted for the purpose. When, however, our intentions became public, the people of the United States at once showed a most keen interest and moreover the Government of that country ordered Rear-Admiral Rodgers, commander in chief of the United States fleet in the East, to attend the unveiling ceremony with three men-of-war. Our most August Emperor having also heard of our undertaking was most graciously pleased to make us a grant in money toward the monument fund, a grant which the association acknowledged as an unexampled honor.

"But the construction of a monument of a national event is necessarily a national work, and should not, we thought, be carried out by a private association, but by the whole country. Particularly so, when it was so warmly taken up both at home and abroad. We therefore decided to enlarge the scope of our original design so as to comprise all ranks and classes of the Japanese people. But the time was too short to fully put in practice all the ideas entertained by the association, and besides when we made the change in our programme we found that the stone had already been cut and engraved and did not allow any alteration, so we were compelled to adhere as we have done to our original plan.

"To-day is the forty-ninth anniversary of the first landing of Commodore Perry at this place. We have selected the day to unveil the monument. Four decades and

some years ago when Commodore Perry set his foot on this shore, the Japanese Empire was enshrouded in the fogs of a seclusion of nearly three hundred years and all intercourse with foreign countries was strictly forbidden. But since the restoration of 1868, our Government has introduced the laws and customs of Western nations and the nation has undergone a complete and wonderful change, and to-day we behold the Japanese Empire in a prominent position among the civilized powers of the world, the country having concluded treaties on equal footing with the Western powers and having also adopted the constitutional form of government. All these marvelous changes have indeed flowed from the enlightened policy wisely adopted by our most revered Emperor, yet nobody will deny the great obligation we owe to the Government of the United States, which, of all the Western powers, first induced us to open our country to foreign intercourse. Moreover, the United States being the nearest of our Western neighbors, there is reason why our diplomatic and commercial relations with her should always be most amicable.

"Rear-Admiral Rodgers is the grandson of Commodore Perry. What a delightful coincidence that the grandfather sowed the seeds of the modern civilization at Kurihama and to-day the grandson unveils the monument built to the memory of his grandfather. This monument is erected to preserve on the stone our determination never to forget the friendship of the United States that sent Commodore Perry to induce us in a peaceful way to have intercourse with foreign powers and also to show to the whole world that our amicable relations with the great powers so happily maintained and all our Western civilization so securely implanted in our soil have had their beginnings at this humble little spot.

"The presence of the distinguished naval officers from the country most friendly to us, and of the ministers of states and of all the ladies and gentlemen present here has given a great luster to the occasion to-day. We only regret that the limits of space and time have prevented us from extending an invitation to all whose presence would have been a great honor to us. Considering that this place is lacking in facilities of communication both by land and sea, that so many should have favored us with their presence must be deemed a very great honor to us. On behalf of the monument committee I have the honor of giving this brief history of the facts and circumstances which led to the building of this monument, and, in conclusion, I hereby beg to express my sincere thanks to all present."

At the conclusion of the baron's speech the guards of honor presented arms while the band struck up the national anthem. Next followed the reading by Mr. J. M. Ferguson, second secretary of the United States legation, the address prepared for the occasion by Col. A. E. Buck, United States minister, who, owing to illness, was unable to come.

COLONEL BUCK'S ADDRESS.

"Had some wise man of prophetic vision, a half century ago, foretold that Commodore Perry's coming to Japan with his ships, landing at this place and having intercourse with the Japanese Government would be followed by so momentous consequences within fifty years as are now manifest, he would have been treated with derision. Nothing would have been more incredible. And yet, if the Commodore had never approached these shores some other similar incident might have followed with like result. The time was opportune and conditions were favorable for such a departure from the old and the beginning of a new era.

"That a nation with its peculiar civilization of more than two thousand five hundred years, existing wholly within itself, with little if any contact with the outside world, should have changed its feudal system of government to a constitutional government, entirely by its own initiative and by the grace of a wise Emperor within thirty-five years, is a marvel to the civilized world.

"Since the advent of Commodore Perry the Empire of Japan has, within herself and of her own volition, ceased to be a hermit nation; has made treaties of amity and commerce with the nations of the world; has opened the country to the people of all nations, welcoming them within her borders and throughout the land, granting to them like immunities and protection as given to native subjects. She has now become a world power, accepted in full fellowship into the family of nations on an equality with Western countries.

"In such a short period of time to have evolved an army so disciplined and efficient as to command the admiration of the world; to have built a navy of such strength as to force her recognition as one of the great sea powers, speaks volumes for the wonderful enterprise and ability of this the youngest in the family of recognized civilized nations.

"One can only understand this when he comes to know the people—their mental activity, their energy, their endurance, their independent and progressive spirit,

their ambition, their pride of country, and their loyalty to their Emperor—then one will understand how it is, not only that such an army has been created and disciplined and such a navy built, but also the causes that have brought into existence their constitutional form of government; their modern educational system, so enlarged as to provide for all the youth of the Empire; their modern financial system; their new judicial system; their complete postal and telegraph systems; their extended railway and light-house systems; their hospitals, so well equipped; their Red Cross Society, so well conducted; their extensive textile manufactories and other thousand and one new industries by which they are successfully competing with Western nations in many articles of commerce; their large merchant ships traversing the seas, exchanging products with every country; and the many other evidences to be seen of changed conditions in so short a time, so astonishing to the world.

“For her progress in the direction of a new civilization the Empire of Japan has had no precedent. No conquering power has ever overrun this country or devastated its coast cities. No foreign power has attempted to conquer her, or has coerced or in any direction has shaped her course. She does not owe her marvelous progress and prosperity and her constitutional form of government to the control or direct influence of any other country. These grand results have been wrought out by the evolution of a wise people with inspiring impulses and great aspirations, possessed of that intelligent conviction and masterful courage that overcome the greatest difficulties and that insure to a people independence and power. Nowhere in the history of the world can be found a parallel. No one can foretell or set the limit to that degree of advancement the nation is yet destined to reach. The scroll of her future is not yet open to moral vision. Of that one can only judge from what her aspirations and ambition have already accomplished.

“As an American citizen I express my profound congratulations that these and other wonderful and beneficent consequences have followed Commodore Perry’s visit, and I am proud of the fact that from that time the most friendly relations have existed between the United States and Japan, and that the ties binding the two countries have been growing stronger the passing years.

“Mr. President and gentlemen, this shaft of granite that marks the spot where Perry landed, erected by your people in the honor of his memory, is the strongest evidence, not only of the recognition of the benefits following his coming, but of the friendship existing between your people and mine.

“I thank you and your people for this great tribute to the memory of that heroic naval commander, an American citizen, a tribute unprecedented and unaccountable to those not familiar with the character of your people and the spirit which animates them.

“Under the beneficent rule of a wise sovereign may your people ever continue in prosperity and happiness, and may everlasting peace and good will exist between the United States and the Empire of Japan.”

Colonel Buck’s address over, Prime Minister Viscount Katsura stepped on the stage and read an address, which was in substance as follows:

THE PREMIER’S ADDRESS.

“On this auspicious occasion, on which the Beiyu Kyokai carry out the ceremony of unveiling the Perry monument, one naturally turns his thoughts to the coming of Commodore Perry, of the United States Navy, four decades and some years ago. Since those days the civilization originally possessed by this country has greatly advanced under the benign influence of Western civilization, and it gives me boundless joy to participate in this grand celebration at this moment when the light of our progress is sending forth its rays with increased brightness. Furthermore, we have to-day with us the United States fleet, dispatched hither for the special purpose of taking part in the celebration. This act of friendship, always characteristic of the American nation, will be most highly appreciated and will never be forgotten by our people, high and low.

“Considering it a matter of honor to be present on this felicitous occasion, I have great pleasure in saying these few words of congratulation.”

After the premier, Rear-Admiral Rodgers was led to the stage and made the following speech, a report of which we borrow from the Japan Mail:

ADMIRAL RODGERS’ SPEECH.

“As I stand here to-day, honored by this occasion, and representing, together with the officers and men under my command, the Navy of the United States, and appreciating as I do the courtesy and hospitality extended to us by the Imperial Government of Japan, realizing also the sentiments of good will and friendship which

inspired, under the leadership of Baron Kaneko and his committee, the generous originators of this event, I feel for many reasons that it is for me an especially happy occasion.

Looking back for nearly half a century, I remember the departure from home of my grandfather, Commodore Perry, upon his diplomatic mission to Japan. I remember his return, bringing with him the first specimens of Japanese handiwork and art that ever reached the United States, and many of these are still treasured in my family. Naturally, the Perry family has always cherished sentiments of affection for Japan and the Japanese, and I have been impressed with them from childhood. I also remember the honor tendered to Commodore Perry by his fellow-citizens upon his return to the United States, including handsome presents, among others, a magnificent service of silver plate, in recognition of his successful execution of a delicate diplomatic mission. I believe it to be an interesting fact that Japan in 1854 received the first fully accredited ambassador from the United States. Commodore Perry had the honor to be the first diplomatic representative of our country empowered with the functions of an ambassador. The Navy of the United States has always cherished a warm and cordial feeling for Japan and its people. My inclinations have led me to know Japan, perhaps, as well as anyone could who never visited her shores, and no one could be more impressed than I am with the characteristics which have brought Japan with rapid strides to be the peer of the leading military and naval powers of the world. The presence of my friend, Rear-Admiral Beardslee, is a happy incident of this occasion. We all know of his connection with it, and of the interesting fact that he is one of those who landed here nearly half a century ago. May he long be a survivor of that expedition. That the cordial feeling which exists and has always existed between the United States and Japan may continue undisturbed is my earnest hope, and I believe that from no country will Japan receive more hearty good wishes than from that in which Matthew Galbraith Perry was born."

Mr. Hill to Mr. Buck.

No. 358.]

DEPARTMENT OF STATE,
Washington, July 30, 1901.

SIR: At the instance of the Secretary of the Navy, as expressed in his letter of the 20th instant, I have now to instruct you to express to the Government of Japan the cordial appreciation and thanks of this Government for the unusual courtesy shown by Japanese officials and subjects to the squadron of United States ships which was present during the unveiling of the Perry monument on the 14th instant.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Adee to Mr. Buck.

No. 362.]

DEPARTMENT OF STATE,
Washington, August 21, 1901.

SIR: I have to acknowledge the receipt of your unnumbered dispatch of the 20th ultimo reporting the arrival of part of the United States Asiatic Squadron at Yokohama on the occasion of the ceremonies attending the unveiling of a monument at Kurihama, erected by the Japanese "American Association of Japan" in commemoration of the advent of Commodore Perry forty-eight years ago. You state that Rear-Admiral Rodgers and the officers of the squadron had been most courteously received by Their Majesties the Emperor and Empress, by the officials of the Japanese Government, and by the people.

The Government of the United States highly appreciates the courtesies shown on this occasion to the representatives of the Navy Department, and is much impressed by the friendly intention shown in the erection of the monument to celebrate the entry of Commodore Perry into the ports of Japan.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.

[Telegram received from the Japanese minister for foreign affairs, September 14, 1901, and communicated to the Department of State by the Japanese minister at Washington.]

Painful news of Mr. McKinley's death at the time when his speedy recovery was confidently expected caused profound affliction to His Majesty, and he commands you to convey to the family of the late President the expression of his sympathetic condolence.

Mr. Hill to Mr. Takahira.

DEPARTMENT OF STATE,
Washington, September 25, 1901.

SIR: The pressure of public business attendant upon the death of President McKinley has delayed until now an acknowledgment of the telegram from the Japanese minister for foreign affairs (copy of which was left by you at the Department), conveying an expression of His Imperial Majesty's sympathy in view of that sad event.

I shall be obliged if you will assure his excellency, in the name of the Government and people of the United States, as well as in the name of the family of the late President, that this message of sympathy on the part of His Majesty was received with sincere and grateful appreciation.

Accept, etc.,

DAVID J. HILL,
Acting Secretary.

EXPIATORY MISSION TO JAPAN OF NA TUNG, SPECIAL ENVOY OF THE EMPEROR OF CHINA.

Mr. Buck to Mr. Hay.

No. 586.]

UNITED STATES LEGATION,
Tokyo, September 30, 1901.

SIR: I have the honor to report that Mr. Na Tung, special envoy of the Emperor of China, to apologize for the murder by Chinese soldiers during the Boxer troubles last year of Mr. Sugiyama, chancellor of the Japanese legation at Peking, arrived in Tokyo accompanied by a retinue of some twenty persons on the 5th instant.

On the 13th the envoy, with his suite in attendance, was received in audience by the Emperor of Japan and discharged his mission of apology.

The Japanese court bestowed upon Mr. Na the First Class Order of the Rising Sun, and upon the members of his suite various lower orders.

During his sojourn in Tokyo Mr. Na has been entertained on several occasions by bankers, business men, and others; and, in general, his reception seems to indicate the hope that his visit may have the effect of improving the commercial and political relations between Japan and China.

The envoy is to depart on his return to China on the 2d proximo.

I have, etc.,

A. E. BUCK.

**ASSISTANCE RENDERED UNITED STATES TRANSPORT HANCOCK
BY JAPANESE NAVY.**

Mr. Buck to Mr. Hay.

UNITED STATES LEGATION,
Tokyo, Japan, November 26, 1901.

SIR: I have the honor to report that on the 16th instant, on receipt of a telegram from Capt. John Baxter, United States quartermaster at Nagasaki, that the United States transport *Hancock* was aground near Moji, in the Shimonoseki Strait, and requesting that I obtain immediate assistance of a Japanese warship from Kure, if possible, I at once communicated with the navy department, which promptly dispatched a ship equipped with the necessary appliances for relieving the vessel.

Receiving a telegram from Quartermaster Baxter on the 17th instant announcing the floating of the *Hancock* uninjured, and expressing his great appreciation of the prompt action of the navy department in sending a ship to her aid (copy of telegram herewith), I addressed through the minister for foreign affairs a note of thanks to the minister of the navy (copy herewith).

I have, etc.,

A. E. BUCK.

[Inclosure 1.—Telegram.]

Captain Baxter to Mr. Buck.

NAGASAKI, *November 17, 1901.*

Advised that Japanese admiralty sent two warships with salvage appliances to help *Hancock* near Moji. *Hancock* floated high tide 16th uninjured, and sailed same day to relieve *Warren* at Kobe. Action Japanese admiralty greatly appreciated. This office will promptly pay admiralty's bill of expense.

BAXTER.

[Inclosure 2.]

Mr. Buck to Mr. Komura Jutaro.

UNITED STATES LEGATION,
Tokyo, November 20, 1901.

Mr. MINISTER: I have the honor to express, through your excellency, to his excellency the minister of the navy my high appreciation and thanks for his great kindness in so promptly dispatching two vessels with salvage appliances to the assistance of the United States transport *Hancock*, aground near Moji a few days ago.

In pursuance of a telegram received from the United States quartermaster at Nagasaki, I have the honor to express his grateful acknowledgments also, and to say for him that his office will promptly pay the bill of expenses for the two vessels when known.

I avail, etc.,

A. E. BUCK.

Mr. Buck to Mr. Hay.

UNITED STATES LEGATION,
Tokyo, Japan, December 9, 1901.

SIR: I have the honor to inclose a copy of a communication from the minister for foreign affairs in response to the note, a copy of which accompanied my dispatch of the 26th ultimo, on the subject of the steps taken by the Japanese navy to assist the transport *Hancock*.

In acknowledging the expressions of thanks for the sending of vessels to the *Hancock's* assistance, the minister for foreign affairs' note is to the effect that the minister of the navy, while appreciating the quartermaster's desire to reimburse the expenses involved, states that the expenses for the vessels are not expected to be refunded.

The quartermaster has been informed accordingly.

I have, etc.,

A. E. BUCK.

[Inclosure.—Translation.]

Mr. Komura Jutarō to Mr. Buck.

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, December 5, 1901.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's note dated the 20th ultimo, expressing through me to the minister for the navy your high appreciation and thanks for two Japanese vessels having been dispatched to the assistance of the United States transport *Hancock*, aground near Moji, and at the same time desiring that the bill of expenses for the two vessels be made known.

Having at once communicated to the minister for the navy upon the subject, I am now in receipt of a reply from him requesting me to state that he profoundly appreciates your excellency's courtesy, but that the expenses for the said vessels are not expected to be refunded.

I avail, etc.,

KOMURA JUTARŌ,
Minister for Foreign Affairs.

KOREA.

TREATY RIGHTS OF UNITED STATES CITIZENS IN INTERIOR OF KOREA.

Mr. Allen to Mr. Hay.

No. 318, Diplomatic.]

LEGATION OF THE UNITED STATES,
Seoul, Korea, March 5, 1901.

SIR: I have the honor to hand you a statement in regard to the ill treatment of two American missionaries at Taiku, the capital of the province of North Kyung Sang, to which I alluded in my No. 306 of December 14, 1900.^a

The facts are briefly as follows:

Messrs. Adams and Johnson, American missionaries residing under passport at Taiku, had some trouble over a contract for tiles to cover a house they were preparing for themselves at that place in the name of a Korean. The matter was brought to the attention of the local governor, who is reported as being a man of conservative and rather independent ideas. Upon the order of this governor the Korean writer employed by the Americans, who had written the contract with the tile burner, was arrested, the police forcibly entering the domicile of the Americans to make the arrest. The man was taken before the governor and most inhumanly beaten. When the Americans went to the governor's yamen to inquire into the case, the governor refused to see them, pronounced their official Korean passports valueless and treated them with great indignity, compelling them to stand in the courtyard with the rabble, and refusing to hear their explanations though they were the principal parties to the transaction under discussion.

Mr. Adams telegraphed me upon December 5 and I sent him immediately a long telegram en claire in which I stated that the governor was at fault and that I would take up the matter with the Korean Government. I saw the foreign minister as soon as possible and obtained from him an order for the release of the Korean writer, Kim, which however did not reach Taiku for some days, owing to a sudden break in the telegraph lines. The governor had in the meantime presumably read while in transmission my telegram to Mr. Adams, for he at once announced that his mother had died and left his post to go into mourning. On December 17 I formally addressed the foreign minister as per inclosure No. 1, detailing the case upon information received from the Rev. Mr. Adams by letter, and contending that the treaty had been violated in four particulars. I saw the foreign minister several times and insisted on his replying to my letter. On

^aNot printed.

January 25 he replied by quoting from a report of the acting governor, who was one of the chief culprits. This reply was not satisfactory and was almost if not quite discourteous. The principal points in this reply are included in a letter which I prepared on February 1.

In 1890 a French priest was very badly treated at this same city of Taiku, his property was stolen and he himself was imprisoned. This incident formed the subject of a dispatch, No. 141, of April 2, 1891, from Mr. Heard, to which Mr. Adee replied in No. 95 of May 19, 1891, instructing him to demand equal rights and privileges for Americans. No such demand has had to be made, as our people have kept "within the letter" of the treaties, but I thought I might well use these instructions in this case. I wrote, therefore, another letter, referred to above as having been prepared upon February 1, replying to the chief points of the letter of the acting governor of Taiku and inclosing a memorandum of the French case of 1890-91. In this communication I informed the foreign minister that I was compelled reluctantly to fall back upon instructions my predecessor had received in connection with the above-cited French case, and that in view of the fact that the action of his Government had rendered practically inoperative the treaty provisions restricting the residence of foreigners to the open ports, I should inform my people that they were at liberty to live anywhere in the interior where foreigners of other nationalities were sojourning. * * *

My object in writing this letter was that I might lay the whole matter before His Majesty and have the position of the Americans at Taiku made more comfortable. His Majesty has requested me to consult with him personally before taking any decisive action with the foreign office. I wrote this letter, therefore, with the intention of sending it informally to the Emperor to read before delivering it. I felt certain that His Majesty would not permit it to go officially to the foreign office, a surmise in which I proved to be correct when the translation of the letter was returned me with the request that I retain it for a few days while His Majesty had the foreign minister adjust the matter to my satisfaction.

The foreign minister called upon me twice and arranged with me that he should write a careful instruction to the governor of North Kyung Sang Do, who had meantime succeeded the former one, and that he should send me a polite and satisfactory letter on the subject. He offered to punish or dismiss the chief culprit, Noh Chusa, but in discussing the matter he begged that I would allow the new governor to examine first the said Noh. This suggestion met with my approval, as I did not desire the man to be punished without a hearing. I agreed to send the foreign minister an unofficial copy of my withheld letter of February 1, that he might give it to the new governor for his guidance.

On February 26 the foreign minister sent me, therefore, a letter, a translation of which I inclose. It proved to be unsatisfactory, as it did not include a copy of the instruction of the foreign minister to the newly appointed governor of North Kyung Sang Province and said nothing in regard to the examination and punishment of Noh Chusa. I had my interpreter return it in person, with a verbal statement as to the omissions, and upon the same day I received a satisfactory reply, a translation of which I inclose, handing me a copy of the foreign minister's instructions to the governor, a translation of which instructions I inclose also.

I consider this settlement of the case to be satisfactory. The actual money loss was made good finally by the local officials at Taiku. The Americans themselves were not harmed, and for the violation of their treaty rights their presence at Taiku is now officially recognized and sanctioned. I think they will experience no further difficulty.

In the discussion of this case I have had to allude to the robbery by highwaymen of the Americans near Taiku, which occurred on October 14 last, and which I have referred to in my No. 301, of November 25. This case is also now in process of settlement. I have received one note from the foreign minister upon the subject, and I think he will do all he can to secure justice. I do not consider it necessary to ask for instructions in regard to the matter, and I will report upon it at length when I have brought it to a settlement or if I fail to obtain satisfaction.

I have, etc.,

HORACE N. ALLEN.

[Inclosure 1.]

Mr. Allen to Pak Chai Soon, minister for foreign affairs.

LEGATION OF THE UNITED STATES,
Seoul, Korea, December 17, 1900.

SIR: I have the honor to inform your excellency, that I am now in receipt of a full report in detail from the Americans at Taiku with regard to the violation of their domicile and arrest of their employee by the police under orders of the governor of North Kyung Sang Province, in regard to which I saw your excellency and secured your telegraphic instruction to the governor to release the prisoner and stop proceedings pending a settlement of the case at Seoul.

The report I have received is so long that I must content myself with quoting extracts from it, touching only upon the main points.

In the first place I am entirely willing to admit that by the provisions of the treaties the permanent residence of Americans in Korea must be at the ports or places opened to trade or within the treaty limits thereof. At the same time, by Article IV, section 6, of the British treaty (which is applicable to the United States as well, by virtue of the "most-favored-nation clause" of the treaty with the United States), it is expressly provided that Americans may freely travel in the interior of Korea on passport, for purposes of pleasure, trade, or the transport and purchase of goods. If my people are thus able to travel and reside temporarily in the interior on passport, they are certainly at liberty to secure food and lodging while so sojourning in the country. I admit also the fact that, without special permission, they are not at liberty to own real estate in the interior, and for that reason, when it has become necessary to secure a dwelling house, owing to the absence of a system of rentals in Korea, my people have always done this in the name of a Korean, so as not to violate the treaty provisions. I have personal knowledge that persons of other nationalities do not put themselves to this inconvenience, but actually acquire such property outright, with the sanction of the local Korean authorities. This being well known to be the case, I can not well forbid my people from following the harmless custom of which the case in point is an illustration.

The whole matter of the residence of the Americans in the interior on passport may be discussed separately, if you desire. I have alluded to it here in this place as a preliminary to the following representation in regard to the particular matter under discussion.

The facts in this case are that these Americans, Messrs. Adams and Johnson, desiring to stop in Taiku on passport, and not being able to rent suitable quarters, loaned money to a native Korean with which to erect a suitable building for their accommodation.

I may mention that at this city there is a regular station of Japanese guards under an officer who remain there permanently in connection with the protection of the Japanese telegraph line. There is also one French establishment there, which has been maintained for some time and seems not to be objected to by the local authorities.

There has been no opposition to the presence of the Americans at Taiku; in fact, the people and most of the officials have seemed to welcome them. For some reason they began to experience more or less official interference last spring, which was

currently rumored to be because the Americans did not make it pecuniarily profitable for the officials to assist them. I have no written proof of this latter, and my statement is based on verbal remarks made to my people, which remarks I personally believe to be true.

This autumn the Americans experienced much trouble in buying some tiles with which to cover the house they are about to occupy, and in trying to enforce a contract they had made with a native tile burner, the matter came to the ears of the governor. The tile burner, a man named Soh, seems to have persuaded the governor that he himself was the aggrieved party, and instead of interrogating the foreigners or their servants on the subject the governor on November 25 sent his police into the quarters of the Americans and arrested their employee, Kim Tek Yung, who had written the contract for the tiles. The Americans tried to see the governor at once, but he excused himself. They did see the prefect, and showed him the contract and explained the circumstances; that Kim had only written from their dictation, and was in no way responsible for the document; whereupon the prefect discharged the man Kim.

On December 1, without any warning or permission, a policeman and a runner from the governor's yamen forced their way into the innermost quarters occupied by the Americans in search of the man Kim, whom they afterwards found and arrested. The next day he was beaten to compel him to surrender the contract he had written for the tiles. He hadn't it, and after being beaten till he was all bleeding and exhausted he was thrown into jail.

As soon as possible next day the Americans called upon the governor, but were refused admittance. They insisted that they would remain until the governor should see them, whereupon he had them admitted. They offered the governor the contract, for the possession of which he had so inhumanly beaten their employee the day before, but he would not receive it from them. He used them rudely and insultingly and told them that Kim was a Korean and he would do with him as he pleased. He ridiculed their passports when they called the next day and sent them in on his refusing to see them. He sent the documents back, declaring that while Americans usually carry such passports "they are of no value." He refused to see the Americans. This same day the governor again sent police to the quarters of the Americans to arrest another employee, but the man was out of town. My people then telegraphed me, and I saw your excellency on the subject.

When this case was called for trial, the Americans attempted to be present, as was their right, and also that they might give any evidence that might be required. They were not admitted except upon great importunity and after being kept outside for over half an hour. When admitted, they were compelled to stand down in the courtyard with the coolies and runners. The evidence, without anything from the Americans, was so damaging to Soh, the tile burner, that the governor had him stripped and beaten. Instead, however, of dismissing Kim on finding no evidence against him, he ordered him bound and whipped for "writing the contract for the foreigners." When Kim was stripped his body was found to be so lacerated and his condition so weak from his beating that even the governor was moved to let him off because—to quote the governor's language—"because of your pitiable condition." He was obliged to promise not to repeat the act of which he was accused, namely, assisting foreigners in ordinary business transactions.

Your excellency will note that this prisoner was not released upon your order, but before your telegram could reach Taiku. He was released in a most pitiable condition because of the illegal application of torture to him before his trial and in violation of the published laws of your country. No case was proved against him and the other man was found to be at fault. Furthermore, Kim would have been again beaten for serving an American had he been able to stand another beating without dying in the act.

After the trial the governor did condescend to see the Americans and listen to their case. The justice of their complaint against the tile burner was so evident that he ordered the man to pay back to the Americans \$120 out of \$210 remaining in his (Soh's) hands of an advance. He thus showed the justice of the cause of the Americans even if he was unwilling to do them full justice. He also admitted that he had arrested and inhumanly beaten their servant for no cause whatever. The total money loss of the Americans in this case has been \$960.

But worse than all is the insult and humiliation caused by the governor's acts in thus violating the solemn treaty provisions. To quote from the letter of the Rev. Mr. Adams: "Words fail me when I think of the humiliation and indignities to which we have been subjected as Americans. To-day I asked another employee to write a business letter for me and he refused, frankly acknowledging that he was afraid to do so."

Section 1 of Article IX of the British treaty says: "The British (American) authorities and British (American) subjects in Korea shall be allowed to employ Korean subjects as teachers, interpreters, servants, or in any other lawful capacity without any restriction on the part of the Korean authorities."

In beating this servant of a foreigner for doing the latter's bidding in perfectly legal matters, and in forcing him at what was practically the point of death to promise not to repeat the "offense," this governor most flagrantly violated the above provision of the treaty upon which these people are here in Korea.

By forcibly entering the quarters of the Americans without permission the governor violated section 9 of Article III of the same treaty, which says: "But, without the consent of the proper British (American) consular authority, no Korean officer shall enter the premises of any British (American) subject without his consent." This term "premises" would apply even to a room in a hotel which an American was for the time in possession of. Not having permission from me, the governor should have asked the consent of the Americans themselves. They would have assisted him in any proper manner. He evidently did not want their consent, and cared not for treaties any more than he did for passports.

Section 8 of Article III of the same treaty says:

"In all cases, whether civil or criminal, tried either in Korean or British (American) courts in Korea, a properly authorized official of the plaintiff or prosecutor shall be allowed to attend the hearing, and he shall be treated with the courtesy due his position. He shall be allowed, whenever he thinks it necessary, to call, examine and cross-examine witnesses, and to protest against the proceedings or decision."

I was not communicated with and my people were not allowed to be present at the trial, and when they secured an entrance to the courtyard they were treated with gross indignity. When they offered their official passports these were treated with great disdain and pronounced worthless, though they were but recently obtained from your excellency's office and bear the great seal of the foreign office of Korea. The provisions of the treaty regarding passports are as follows: *Ibid.*, Article IV, section 6. "British (American) subjects are also authorized to travel in Korea for pleasure or for the purpose of trade, to transport and sell goods of all kinds, except books and other printed matter disapproved of by the Korean Government, and to purchase native produce in all parts of the country under passports which will be issued by their consuls and countersigned or sealed by the Korean local authorities. These passports, if demanded, must be produced for examination in the districts passed through." A penalty of a fine of \$100 is attached to this provision to be inflicted for the violation of the provision. All Americans are provided with passports before going into the interior. Now, a governor of one of the great provinces of the land pronounces them worthless and declines to recognize them.

I must respectfully but firmly call your excellency's attention to the unmistakable fact that this high officer of Korea has treated my people with marked disrespect and insult. He has denied them their treaty rights in the enjoyment of the services of Korean subjects. He has forcibly entered their domicile and arrested their employee without their permission. He has refused to see or hear them when trying a case in which they were the real defendants, and he has violated your own published laws in inflicting inhuman torture upon an innocent man, a servant of the Americans. By this action he has published to the inhabitants that he is unfriendly to Americans and has aroused a spirit that may well lead to serious results if not to the endangering of the lives of my people in that region.

What I have related to you comes to me from two witnesses, both of whom are American gentlemen of education and ability, and whose testimony I have perfect faith in. I have not repeated to you the many Korean rumors which have also come to me in this connection.

I shall be obliged to refer this matter in detail to my Government, and I must ask for an early reply from your excellency with a statement as to what sort of punishment shall be meted out to this official who has so grossly violated solemn treaty rights, and what steps will be taken to show to the natives of that region that the governor acted without the sanction of the central Government.

My Government can not pass lightly over such a breach of treaty provisions, and I trust I may have some satisfactory proposition as to measures to be taken for the satisfaction of this breach that I may report to my Government when sending them the official account of the same.

I have, etc.,

HORACE N. ALLEN.

[Inclosure 2.]

*Mr. Allen to Pak Chai Soon, minister for foreign affairs.*LEGATION OF THE UNITED STATES,
Seoul, February 1, 1901.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's dispatch of January 25, replying to my dispatch of December 17, in which I complained of the treatment accorded certain Americans at Taiku.

Your excellency's letter is chiefly taken up with quoting a reply you have received from the acting governor of North Kuing Sang, to whom you applied for a report, upon the sudden departure of the governor at the close of the disturbances in question.

The acting governor devotes much of his letter to, first, an attempt to prove that the Americans by going to Taiku and furnishing a Korean with the money with which to build them a dwelling, which he falsely calls a church, were violating the treaty; second, he appears to feel hurt by the accusation repeated to my people by Koreans that this trouble was due to the fact that they did not make it pecuniarily profitable for the officials to support them; third, he accuses the Americans of falsehood in their statements as to the violation of their domicile, the insulting manner in which they were left in the courtyard of the yamen with the coolies, and the haughty manner in which the governor refused to receive their passports; fourth, he tries to prove that Kim, the employee of the Americans, was at fault in trying to "force and threaten a poor fellow" in obtaining money from the tile burner; fifth, he dismisses the whole statement of the Americans as "false and without proof." Your excellency's letter, omitting the above-cited quotation, is of little importance and is not satisfactory to me. You seem to disregard my dispatch entirely and to base your few explanatory remarks wholly upon the statements of the acting governor, whom I shall attempt shortly to show to be a man whose unsupported word I can not accept.

In reply I will mention briefly the chief points brought up in the letter of the acting governor, taking his last point first.

I assured your excellency that I had a written account of the matter of which I complained as witnessed by two credible American clergymen. What further proof can I be expected to bring? No Korean would dare risk punishment from his local magistrate by giving testimony against the latter and in favor of the foreigner. As I told you in my former dispatch, I base my representations entirely upon the written statements I have. If you decline to admit the truth of them and accept the challenge of this acting governor, who is one of the culprits to bring proof, then I must take other measures to secure redress.

The same holds true as to the third and fourth items. I claim and must insist upon it that my people were insultingly treated; their passports were scorned; they were long refused admission to a trial in which they were the real defendants, and when admitted were treated with great indignity and left standing with the rabble in the courtyard; their quarters were twice forcibly entered by police from the governor's yamen and their employee was arrested and taken to prison, where he was most inhumanly beaten before any evidence of guilt was found attached to him; when he was found to be innocent he was ordered to be again beaten for serving the Americans, but was excused when it was discovered that further torture would be likely to result in his death; the governor forbade the people to serve or assist the Americans, thus endangering their position and denying them their treaty rights. After all this had been done and my people had opened communication with me, the governor attempted to smooth the matter over and have the Americans accept what they were denied by trial, in the way of money payment, and failing in this he suddenly left his post on the plea that his mother was dead.

That this is all true I must insist, upon the strength of the statement of these two Americans. I have also the further evidence of the great anxiety of the governor, who endeavored to induce the Americans to drop the matter, and, failing in that, suddenly made what is considered by Koreans at Taiku an excuse and left the place. I may add in explanation that, failing to find you on the day upon which I was advised of the condition of affairs at Taiku, I sent a long and very strongly worded telegram in plain characters to my people, telling them that the governor's acts, of which they complained, were in gross violation of treaty rights, and that I should act vigorously in the matter. It was this telegram which caused the governor to release the man Kim and to attempt to smooth over the fact that he had already nearly tortured him to death while awaiting a trial. I know definitely that my telegram produced the release of Kim, because, on account of a break in the telegraph

line, your telegram to the governor did not reach Taiku until after Kim had been released.

As to the second point of the acting governor's letter, wherein he objects to the suggestion that the use of money might have made matters move more easily, I can not say more upon that without mentioning names, and by so doing making it possible for him to abuse my informants. I will relate, however, a circumstance which may well satisfy the gentleman and prove the truth of his poetic quotation that "When the water goes out the stone will appear."

Some days after the affair at the governor's yamen to which this correspondence refers, namely, early, in January, a Korean, whose name I shall not divulge, met the nephew of the tile burner Soh, who had been with his uncle during the trial. Finding that Soh was disposing of all his rice fields, this man inquired of the nephew why he was doing so. He was informed that the sale was in order to raise \$600 to pay off the debt he had incurred at the trial—with a beating thrown in. When asked why he should pay the officials three times as much as the amount of the original debt, he said he had been induced to do so by the yamen runners, who had assured him he should get off free and without cost. And yet the acting governor complains that the man Kim was "trying to threaten and force this poor fellow!"

If your excellency desires any further information upon this subject, I refer you respectfully to the Noh Chusa, of whom I spoke privately to you and who you mentioned in your official dispatch. I can now tell you authoritatively that this Noh Chusa, who appears to be the head Chusa, and who has charge of the investigation of complaints and of the summoning and examination of witnesses, is the official who actually superintended the inhuman beating of Kim, and who afterwards came to the Rev. James E. Adams from the governor (as he said) and passed an hour pleading the governor's case with the Americans in an attempt to induce them to accept payment and say nothing of the matter. The nephew of Soh is reported as having stated that Noh Chusa "ate \$100 of the money." Your excellency claims that you have no proof against this man. I can only say that as the man seems to be his own examiner and judge further proof will probably continue to be lacking.

As to the first and most important part of this strange letter from the acting governor, that relating to the so-called violation of the treaty by the Americans, I may say simply that I have several times suggested to your excellency that it would be wise not to bring this question to an issue, and I am sorry that your present course forces me to declare myself.

Knowing the sensitiveness of the Korean Government in regard to this matter, I have never encouraged my people to take up even temporary residence in the interior. I could not forbid them, however, as the treaty expressly provides for travel in the interior, and since you allow others to reside in all parts of Korea, I must see that my people have equal rights with those of other nationalities.

To be more explicit, as I informed you personally, your Government had trouble in Taiku in 1890 and 1891 because of a similar outrage committed upon a French priest. As a result of the settlement of this case, made in March, 1891, among six clauses of an agreement arrived at, which the records of your office will fully show, and of which I now inclose a full memorandum, the right to domicile at that place was fully accorded the French subject.

My predecessor referred this matter to my Government at the time it occurred, and received explicit instructions, by virtue of the most-favored-nation clause of article 14 of the treaty between the United States and Korea, to demand the same on behalf of our own missionaries whenever the occasion should arise.

To recapitulate, the facts are as follows: I have a written statement from two responsible American clergymen of most harsh and unwarranted treatment they have received at the hands of the governor and officials at Taiku, whereby the treaty stipulations were violated in four separate provisions. I wrote the matter fully to your excellency and have seen you personally in regard to it. I made no official demand, but kindly asked you to give me some evidence of a desire to make reparation for the unfortunate occurrence, so that in reporting the incident to my Government I might show that your excellency's Government had done its full duty.

Also upon October 11, 1900, at Mil-Yang, near Taiku, the wife and infant child of one of the gentlemen cited in the present case, Dr. Johnson, together with another American, the Rev. Mr. Sidebotham, who was Mrs. Johnson's escort, were set upon by robbers, some of whom were dressed in the uniform of Korean soldiers and had guns. These Americans were beaten, robbed, and otherwise grossly maltreated, but escaped with their lives. I saw your excellency in regard to this matter at once, and I wrote you officially upon November 24, and again upon December 15, citing in the latter dispatch a quoted remark of one of the robbers to the effect that they "had robbed no one but the Americans." I have never been favored with a report

upon this matter, and my two dispatches above cited remain unanswered in spite of the fact that I informed you in my dispatch of December 15 that in the absence of satisfactory explanations I should be compelled to hold the central Government responsible for this outrage, since it was perpetrated by what seems to have been Korean soldiers, and since the local authorities appear to have taken no steps of which I can learn to bring the culprits to justice, or to secure the goods which were taken from the Americans to the amount of some 600 yen, while, on the contrary, they seem to condone any mere robbery of an American.

I intimated to you privately what you allude to in your dispatch of January 25, that as a basis of settlement I should be satisfied if you would secure the issue of a decree to be published in that region instructing the people to assist and support the Americans, who, I may add, were in more or less distress, as I showed you in my dispatch of December 17, because the governor had so intimidated the natives that they were afraid to render the Americans the services which are allowed them by treaty; this decree to be supported by the punishment of the persons chiefly implicated in the matter complained of, and I particularly named the man Noh Chusa. I also asked that the money losses be made good to my people.

Instead of granting my request, I am told that my people have sent me false reports and I am censured for allowing them to go into the interior to live. My propositions for a settlement are entirely ignored.

In my letter of December 17 I fully admitted that, according to treaty stipulations, Americans were not allowed to own property in the interior, at the same time taking pains to point out to your excellency the privileges of travel and temporary residence in the interior accorded them by treaty, and I showed you that through a desire to avoid giving offense my people, when they found it necessary in the absence of hotels or any system of rentals to secure a stopping place, were in the habit of doing so in the house of a Korean, an inconvenience to which people of some other nationalities did not put themselves.

I now beg to inform your excellency that the provision of the treaty restricting the residence of foreigners to the open ports and immediate vicinity has been practically set aside by your excellency's Government in the case of the French subject above referred to, as well as in other cases that have come to my knowledge. You have allowed foreigners of other nationalities to reside unmolested for a long time in most of the important interior cities, and as you have forced me to declare myself on this subject by your acceptance of the interested and false statement of the guilty officials at Taiku, in opposition to that of the Americans, I must now inform you that in lieu of a better settlement of this question I am compelled to fall back upon the explicit instructions of my Government and to demand equal rights for my people with those enjoyed by people of other nationalities.

In pursuance of this decision I shall inform Americans that they may freely visit and reside in any Korean town wherein any other foreigners may be sojourning, and I shall have to insist that the local authorities grant them full protection.

Regretting that your excellency's failure to treat my complaints with the serious consideration they merit has compelled me to take a position which I have been reluctant to assume, I have, etc.,

HORACE N. ALLEN.

[Subinclosure.]

Memorandum re difficulties of Americans at Taiku.

The following cases are detailed as bearing upon this case, as discussed verbally with the foreign minister:

September, 1890, M. Robert, a French priest stopping at Taiku, was forced to seek assistance from the then governor because of riotous Koreans. The governor refused to see or aid him. M. Robert sent in his passport, which the governor tore up, and sent the priest back to his home with a guard, as a prisoner. His house was found to be looted and he had no food or clothes. A final settlement was made in April, 1891, through the mediation of Bishop Mutel, who asked less than the French representative demanded. The terms were as follows:

1. A dispatch of censure, drafted by Mr. de Plancy, was sent to the governor.
2. A copy of this dispatch was sent to every governor in Korea as a warning to them not to commit such acts.
3. The governor wrote an apology to Mr. de Plancy.
4. All petty officers and soldiers connected with the affair were either banished or imprisoned.

5. An escort was given M. Robert to take him back to and protect him in his home.
 6. A royal proclamation was issued to the inhabitants of Kyung-sang, warning them against a repetition of these acts.

All documents were first submitted to Mr. de Planey. I believe the money loss was also made good. (See Foreign Office Records, May 10, 1894.)

The servant of an American and an Englishman at Peng-yang was arrested and beaten. He was released in a few days upon the verbal request of the British and American ministers, and on July 26 the case was settled by the punishment of the "chief offender" and the payment of the money loss, \$500. (See Foreign Office Records.)

HORACE N. ALLEN.

SEOUL, KOREA, *December 26, 1900.*

[Inclosure 3.—Translation.]

Pak Chai Soon, Minister for Foreign Affairs, to Mr. Allen.

FOREIGN OFFICE,
Seoul, February 26, 1901.

YOUR EXCELLENCY: In regard to the matter of Taiku and the treatment by the governor of Messrs. Adams and Johnson, American citizens, I have the honor to say that I have already instructed the officer there to report the entire matter, and I have written you what he reported, but that as the people of a country friendly to Korea were treated discourteously by the former governor, although he did not violate the treaty with intent, but through ignorance, I am not in a position to say that his conduct was proper and courteous toward the foreigners. Therefore I wrote a second instruction, which I inclose herewith, to the officers at Taiku, quoting the clauses of the treaty violated, rebuking them for their wrongdoing, and warning them that they must hereafter in dealing with foreigners avoid a recurrence of such conduct and do what is exactly right and proper toward them. I believe the new governor and the other officials will act accordingly, and that the Americans at Taiku will be undisturbed.

As to Noh Chusa, I will have the new governor, when he reaches his post, investigate the case carefully and punish him properly.

I have, etc.,

PAK CHAI SOON,
Minister for Foreign Affairs.

[Subinclosure.—Translation.]

Pak Chai Soon, Minister for Foreign Affairs, to the Governor of North Kyung Sang Province.

In dealing with foreigners business must be conducted on a basis of treaty provisions. Since the foreign treaty, article 4, paragraph 6, states that foreigners are authorized to travel in Korea for purposes of trade under passport, therefore any foreigner with a passport may so travel anywhere in the interior.

Although foreigners are not allowed to buy land, build houses, or engage in trade except within the ports declared open to foreign commerce, it is impossible to forbid foreign travelers from residing temporarily in the houses of Koreans.

Should natives accused of wrongdoing or summoned as witnesses refuse to obey the instructions of the local authorities, trusting that foreigners will protect them in their disobedience, as Koreans ought not to trust, yet they may not be arrested if they are in hiding in the dwelling of a foreigner.

In article 3, paragraph 9, it is stated, viz:

"If a Korean subject who is charged with an offence against the laws of his country takes refuge on premises occupied by a foreigner, the consul of the country to which the foreigner belongs, on receiving an application from the Korean authorities, shall take steps to have such person arrested and handed over to the latter for trial. But without the consent of the proper consular authority no Korean officer shall enter the premises of any foreigners without his consent."

The interior is not like a port, and the local authorities are unable to inform a consul of a contemplated arrest, but the owner of a house must be informed before any Korean within a house is arrested.

Although an inn in which a foreigner stops while traveling can not be called a

dwelling, yet may not the habitation in which a foreigner stops for some time be designated a dwelling?

The arrest of Kim Dok Kun in the dwelling of the American teacher has caused trouble which is due entirely to ignorance of the provisions of the treaty.

When foreigners request an audience they must at once be received and treated politely. But are you not insulting and treating them rudely when you leave them standing in the courtyard? In your report you admitted that you permitted them to be present at the trial and afterwards received them in your office, but said nothing in regard to having forced them to stand in the courtyard. By failing to admit this fact, I can see what occurred on the occasion. You did not allow the Americans to attend the trial; you sent police to enter their homes to search for their servant; you did not treat them politely, and you forced them to wait in the courtyard. If this is your method of conducting business (with foreigners) how do you expect to avoid the case becoming a difficult one? In trying a case you must be impartial to both sides and endeavor to be entirely fair. Although in the employ of foreigners, the man arrested was a Korean. Had you treated him exactly as you treat other Koreans this difficulty would not have arisen.

In short, you should first have obeyed the provisions of the treaty. As to details of the suitable manner in which to direct the affair I can not counsel you. Foreigners must certainly be politely treated, and cases must be decided fairly and upon the basis of the treaty provisions. If you do this no contention will arise between natives and foreigners. Therefore, I instruct you to act in the manner I indicate and to instruct the magistrates under you to act likewise.

PAK CHAI SOON,
Minister for Foreign Affairs.

Fifth year Kwang Mu, February 26.

Mr. Hay to Mr. Allen.

No. 166.]

DEPARTMENT OF STATE,
Washington, April 18, 1901.

SIR: I have to acknowledge the receipt of your dispatch No. 318, of the 5th ultimo, reporting the violation of the domicile of Messrs. Adams and Johnson, American missionaries, at Taiku, Korea, by Korean policemen acting under the orders of the governor of North Kyung Sang Do, in order to arrest a Korean writer of the missionaries.

The facts of the case as stated in your dispatch and its inclosures are as follows:

Messrs. Adams and Johnson desiring to stop temporarily at Taiku, Korea, and not being able to rent suitable quarters, lent money to a Korean with which to erect a building for their accommodation. In buying some tiles to cover the house, and in trying to enforce a contract which they had made (through their native employee) with a Korean tile burner, the matter came to the ears of the governor. The tile burner persuaded the governor that he (the tile burner) was the aggrieved party, and the governor, without interrogating the Americans or their servant on the subject, sent his police, who forcibly entered the domicile of the Americans and arrested their Korean employee, who was taken before the governor and inhumanly beaten. The Americans went to the governor's yamen to inquire into the case, but the governor refused to see them, pronounced their official Korean passports valueless and treated them with indignity, compelling them to stand in the courtyard with the coolies and runners, and refusing to hear their explanations.

The Americans having reported the case to you, you saw the Korean foreign minister and obtained an order for the release of the Korean employee of the Americans. It seems that at the trial of the case

before the governor, the justice of the complaint of the Americans against the tile burner was so evident that the governor ordered him to pay back to them \$120 out of \$210 of an advance remaining in his hands. The governor also admitted that he had arrested and inhumanly beaten their servant for no cause whatever.

In presenting the matter to the foreign minister you contended that there had been violation of treaty in the following particulars:

1. Article IV, section 6, of the British treaty with Korea (which by virtue of the most-favored-nation clause of the treaty between Korea and the United States is applicable to Americans) expressly provides that British subjects may freely travel in the interior of Korea on passports, for purposes of pleasure, trade, or the transport and purchase of goods. You contended that if Americans are thus able to travel and reside temporarily in the interior on passports, they are at liberty to secure food and lodging while sojourning in the country. You admitted that they are not at liberty, without special permission, to own real estate in the interior, but stated that whenever it became necessary to secure a dwelling house, owing to the absence of a system of rentals in Korea, they have secured dwelling houses in the name of a Korean, so as not to violate the treaty provisions. You asserted that you had personal knowledge that persons of other nationalities do not put themselves to this inconvenience, but actually acquire such property outright, with the sanction of the local Korean authorities; that this being well known to be the case, you could not forbid Americans from following the harmless custom referred to above.

2. Section 1 of Article IX of the British treaty says: "The British (American) authorities and British (American) subjects in Korea shall be allowed to employ Korean subjects as teachers, interpreters, servants, or in any other lawful capacity, without any restriction on the part of the Korean authorities." You contended that in beating this servant of a foreigner for doing the latter's bidding in perfectly legal matters, and in forcing him, at what was practically the point of death, to promise not to repeat the "offense," the governor most flagrantly violated the above treaty provisions.

3. You also contended that by forcibly entering the quarters of the Americans without permission the governor violated section 9 of Article III of the same treaty, which says: "But without the consent of the proper British (American) consular authority, no Korean officer shall enter the premises of any British (American) subject without his consent."

4. Section 8 of Article III of the same treaty says: "In all cases, whether civil or criminal, tried either in Korean or British (American) courts in Korea, a properly authorized official of the plaintiff or prosecutor shall be allowed to attend the hearing, and he shall be treated with the courtesy due his position. He shall be allowed, whenever he thinks it necessary, to call, examine, and cross-examine witnesses, and to protest against the proceedings or decision." You stated that you were not communicated with, nor were the Americans allowed to be present at the trial, and when they secured an entrance to the courtyard they were treated with gross indignity.

You presented the matter in writing to the Korean foreign minister, and asked for an early reply, "with a statement as to what sort of punishment shall be meted out to this official who has grossly violated solemn treaty rights, and what steps will be taken to show to the

natives of that region that the governor acted without the sanction of the Central Government."

The foreign minister replied, stating that the Americans were not treated courteously and that the former governor had violated the treaty through ignorance, and not with intent; that he (the foreign minister) had instructed the officials at Taiku, quoting the clauses of the treaty violated, rebuking them for their wrongdoing and warning them that they must thereafter, in dealing with foreigners, avoid a recurrence of such conduct and do what is exactly right and proper toward them.

This being unsatisfactory to you, as it did not include a copy of the instruction of the foreign minister, and said nothing in regard to the examination and punishment of the guilty official, you accordingly returned the communication of the foreign minister with a verbal statement as to these omissions, and upon the same day you received a satisfactory reply, together with a copy of the foreign minister's instructions to the governor. This reply of the foreign minister yields fully all the points made by you.

You conclude your dispatch with the statement that the actual money loss to the Americans was made good by the local officials; that the Americans themselves were not harmed, and that for the violation of their treaty rights their presence in Taiku is now officially recognized and sanctioned, and that you think they will experience no further difficulty.

I may say, in passing, that the British treaty does not appear to allow missionaries to travel or reside in the interior of Korea (for the purpose of preaching or teaching), but Minister Heard, in his dispatch No. 141, of April 2, 1891, in the Robert case; states that the French treaty with Korea omits the words (contained in the English treaty) "for purposes of pleasure, trade," etc., and he asserts that this was done with a view of covering the action of their missionaries. This view was acquiesced in by Korea in the Robert case.

The Department approves your treatment of the case, which is characterized by firmness and good sense.

I am, etc.,

JOHN HAY.

Mr. Allen to Mr. Hay.

No. 359, Diplomatic.] LEGATION OF THE UNITED STATES,
Seoul, Korea, June 7, 1901.

SIR: Replying to your dispatch No. 166, of April 18, the receipt of which on June 1 I have already acknowledged, in which I note with satisfaction that my conduct in regard to the matter of the violation of the domicile of Americans at Taiku met with the approval of the Department, I now have the honor to acquaint you with the sequel to that action.

In the first place, on May 8 I received a complaint from the Korean foreign office that two Americans, Reverend Whittemore and Dr. Sharrocks, were erecting houses at Sun Chun, in North Pengyang Province, near the northwestern border of Korea. (See inclosure 1.) I at once called upon these missionaries for a report on the subject, and received a reply on May 26 stating that the property in question was held in the name of certain Koreans, and that the presence of the

Americans had not been objected to. (See inclosure 2.) On receipt of this report I addressed the minister for foreign affairs, as per inclosure 3, taking much the same ground that I had taken in regard to the Taiku matter.

On May 28 I received a long personal note from Rev. James E. Adams, of Taiku, informing me that the governor of North Kyung-sang Province disclaimed all knowledge of the instructions which the minister for foreign affairs had informed me he had issued to him, a copy of which instructions I forwarded to you in my No. 318 of March 5, to which your No. 166 is a reply. The governor further declared to Mr. Adams that he had never heard of the matter at all until mentioned by Mr. Adams. He had also had the helper of the Americans rearrested, this time upon an ancient charge against the man's uncle of having misappropriated public moneys. The governor frankly said he would "probably kill him." This helper is the same one whose arrest and inhuman beating caused the previous correspondence in regard to the residence of Americans at Taiku.

I therefore addressed the minister for foreign affairs on May 29, as per inclosed copy (inclosure 4), citing the circumstances and leaving it for him to determine where lay the fault for the miscarriage of instructions. I also took the opportunity to forward as an inclosure my withheld dispatch of February 1, a copy of which I sent you with my No. 318 of March 5. I said to him that I would not entertain further complaints of the mere residence of Americans in the interior on passport such as that to which my inclosure No. 4 is a reply.

* * * * *

When calling upon me on the 3d instant the foreign minister seemed greatly chagrined over this matter, of which he had little to say except that he had issued the instructions and was now reissuing them in stronger form.

It may be difficult for the Department to understand how such a miscarriage could occur. The conditions, however, are much the same as those that exist in China. The country officials purchase their offices at a heavy cost in money paid in advance. They have not a very firm tenure of office and must make good their outlay as soon as possible, and at the same time they must secure the regular governmental taxes besides a handsome profit for themselves. They care little for instructions from Seoul unless such instructions come from the palace and indicate that a noncompliance may result in the loss of position. This governor, who is a favorite of the Emperor, doubtless counted upon his court influence to carry him through, and seeing a good opportunity to make money from harrying the industrious native Christians, saw fit to disclaim any knowledge of the instructions. * * *

My new representations may do some good, but at least the question of the residence of Americans at Taiku is favorably settled by the Central Government, which is perhaps all that could be asked. Each difficulty will have to be treated as it arises.

In your No. 166, to which this is a reply, you refer to the fact that the French treaty is more liberal in regard to missionaries than is the British treaty which I quoted. I did not care to bring up the question of missionaries particularly, as it had not been mentioned by the Koreans. The presence of our people in the interior is not complained of on the ground of their missionary character, and until they bring forward this question I have thought best to disregard it. I will bear

in mind your valuable suggestion in regard to the liberality of the French treaty in this respect, and use it when the necessity arises.

I have, etc.,

HORACE N. ALLEN.

P. S.—Since writing the above I have received a reply from the minister for foreign affairs, attempting to explain the failure in the execution of the instructions issued to the governor of North Kyung-sang. The letter is very polite and entirely acceptable. I had expected no reply, since the minister had spoken of the matter to me in the course of conversation. I inclose a translation of this reply from the foreign minister.

H. N. A.

[Inclosure 1.—Translation.]

Mr. Che Yung Ha, acting minister for foreign affairs, to Mr. Allen.

FOREIGN OFFICE, *May 7, 1901.*

YOUR EXCELLENCY: I have received a letter from the magistrate of Sun Chun district of North Pengyang Province saying that two Americans, Messrs. Whittemore and Sharrocks, were buying land and building houses there; that he was trying to stop them from doing so, but they refused to take his word, and that he wanted me to write to you about it and to ask you to stop them.

I have the honor to say that the buying land and building houses by foreigners outside of the limit of 10 li out of the foreign settlement is clearly not allowed in the treaty, and now these Americans are buying land and building houses in the interior in violation of the treaty, and the local authority has the right and duty to stop them, but they would not listen.

I trust your excellency will see about the matter and stop them from doing so.

I have, etc.,

CHE YUNG HA,
Acting Minister for Foreign Affairs.

[Inclosure 2.]

Mr. Moffett to Mr. Allen.

PENGYANG, KOREA, *May 20, 1901.*

DEAR MR. ALLEN: Your letter of May 8, concerning affairs at Sun Chun in North Pengyang Province, was received a few days ago. I immediately requested Mr. Whittemore and Dr. Sharrocks, who are now here, to prepare for you a statement of the case, which statement I now send herewith.

My own understanding of the case is that they held the property in Sun Chun, just as we held the property here in Pengyang for five or six years, in the name of three Korean trustees. For full two years after purchase of the property and practical residence there (on passport) no question was raised. It seems that the new governor, not the magistrate nor the people, has raised the question.

I think nothing in the situation violates the treaty, but with the full explanation before you you will be able to judge as to that. I would mention the fact that the French live in the interior, that a French priest built a house which he occupies in a village in Sook Chun County not to mention many other places, and that Japanese live for long periods in the interior, that one has been and probably now is living in An Ju.

Also it may be well for me to state that the article which appeared in the Seoul newspaper is not a correct statement of facts.

I think the essentially important fact in the case is now before you. Of course we shall be glad to give you the very fullest and detailed statement in reply to any questions you may ask. I trust the situation may not give you much trouble and that nothing may arise which will necessitate a change in our plans for the welfare of the work in and around Sun Chun.

With kindest regards, etc.,

SAMUEL A. MOFFETT.

[Subinclosure.]

Statement as to the Sun Chun property.

Property was purchased for our use early in December, 1898. From the year 1898 to the present land has been purchased when a desirable piece was for sale, being bought openly and undisputedly for our use, and always before witnesses.

Taxes have been paid regularly since 1899.

The largest purchase, comprising nearly two-thirds of all that is held for us, was made from the village school association, composed of about one hundred men, many of whom are among the most influential citizens of town. This purchase was made in October, 1900, and our intention to build upon the site was known to those who sold it to us. We learned recently that three weeks previous to this purchase the governor, who at that time was visiting Syen Chyun, had spoken to the magistrate concerning our being there.

At that time, October, 1900, Messrs. Whittemore and Sharrocks called upon the magistrate then in the office, who entertained them with courtesy and respect, and in speaking of Americans residing in Korea, said there were certainly no objections to Americans coming into their country to live, for they came with no intention of doing harm either to people or government, in which respect they differed from the people of some nations. A residence has been occupied by Mr. Whittemore since January, 1899. Taxes have always been paid by the occupant.

During the time there have been three magistrates in office at Syen Chyun, not one of whom has uttered a word of objection to our being there, although opportunity for it has been given them by personal calls, etc.

Early in February, 1900, we began active preparation for the erection of a suitable house in which we could stay while in Syen Chyun, as Mr. Whittemore has occupied his house since January, 1899.

In March the lumber and other material began to arrive on the site, and from that time to the present work has been in active process.

Up to date not a word has been said to us by any Korean official opposing or calling in question our action, nor, so far as we know, have our Korean employees received any complaint from them.

We did hear in April, by way of rumor, that the governor had inquired of the magistrate concerning our doings and our names. We at once sent our cards over with messages that we would be pleased to call upon him if he was at leisure. Answer came back that he was busy.

We have used every care to win for ourselves a good name among the town's people, and have every reason to feel gratified at our success.

Even the present magistrate was reported to have said that our building a house was a good work, and he had no objection to that, but tearing down the people's homes was not a good thing and must be stopped. We had not destroyed a single house, but Mr. Whittemore's kangas had been pulled down and replaced by new ones. Since this reported utterance of the magistrates an old vacated house (land and improvements valued at 7 yen) had been carried off by the Koreans with our consent.

A. W. SHARROCKS.

[Inclosure 3.]

*Mr. Allen to Pak Chai Soon, minister for foreign affairs.*LEGATION OF THE UNITED STATES,
Seoul, Korea, May 27, 1901.

YOUR EXCELLENCY: During your absence on sick leave I received a letter from Acting Minister Che Yung Ha, No. 27, of May 7, in regard to two Americans, Messrs. Whittemore and Sharrocks, who were said to be buying land and building houses at Sun Chun, in the province of North Pengyang, the magistrate of that place having reported that he had tried to prevent them from so doing, but that they would not heed his word.

I have the honor to inform you that at once upon the receipt of your predecessor's letter I called upon the Americans in question for a report on the matter. I now have this report, and am able to inform you as follows:

Americans do not own any land in their own names at Sun Chun. For some years American missionaries, whose permanent residence may be considered as at Pengyang, have been traveling to and residing temporarily in the town of Sun Chun, where

they seem to have had the good will and friendship of the people and the officials. Since 1898 they have secured the use of land and houses in the name of certain Koreans, and are now about to improve this property for their entertainment and use. They have never been informed by the magistrate or other official that there was any objection to their so doing; in fact they have been led to suppose that their presence was desired rather than objected to.

No official has spoken to them or tried to have them stop the improvements of the property. When the governor of North Pnyang, Ye Toh Chai, was at Sun Chun some time ago, Messrs Whittemore and Sharrocks sent him their cards and asked to be allowed to come to him for the purpose of paying their respects, but they received a reply saying that the governor was busy. After this they heard some rumors among the people that the governor was not pleased with their presence, but they received no complaint, direct or implied.

Now that the matter has been brought to me, I can only quote from my letter of December 17, No. 253, regarding the presence of Americans at Taikoo.

"I am entirely willing to admit that, by the provisions of the treaties, the permanent residence of Americans in Korea must be at the ports or places opened to trade, or within the treaty limits thereof. At the same time, by Article IV, section 6, of the British treaty (which is applicable to the United States as well, by virtue of the most favored-nation clause of the treaty with the United States) it is expressly provided that Americans may freely travel in the interior of Korea on passport for purposes of pleasure, trade, or the purchase and transport of goods. If my people are thus able to travel and reside temporarily in the interior on passport, they are certainly at liberty to secure food and lodging while sojourning in the country. I admit also the fact, that without special permission they are not at liberty to own real estate in the interior, and for that reason, when it has become necessary to secure a dwelling house, owing to the absence of a system of rentals in Korea, my people have always done this in the name of a Korean, so as not to violate the treaty provisions. I have personal knowledge that persons of other nationalities do not put themselves to this inconvenience, but actually acquire such property outright, with the sanction of the local Korean authorities. This being the case, I can not well forbid my people from following the harmless custom of which the case in point is an illustration."

I trust I have made it clear to your excellency that my people have not violated the treaty provisions; they have not bought property in the interior in their own names; they have not refused to listen to the objections of the Korean officials; they are on friendly terms with the local officials, and they tried to pay their respects to the governor, but were refused admission to his presence.

I may add that Mr. Whittemore is a teacher, and I know he has refused to take part in controversies of his Korean friends with the officials, counseling them to obey the laws of the land in all particulars. Dr. Sharrocks is a medical man, whose gratuitous ministrations are for the benefit of the people. The labors of these men for the good of the people seem to be appreciated by the people themselves, and in some countries similar services are paid for in money, while in this case they are freely given without cost.

While I might base these representations upon even stronger grounds, I think this will be sufficient to convince your excellency that no wrong has been done and that none is intended by my people. I hope the matter may be dropped.

I take this opportunity, etc.,

HORACE N. ALLEN.

[Inclosure 4.]

Mr. Allen to Pak Chai Soon, minister for foreign affairs.

LEGATION OF THE UNITED STATES,
Seoul, Korea, May 29, 1901.

YOUR EXCELLENCY: Referring to my dispatch, No. 253, of December 17 last, regarding the ill-treatment of Americans at Taiku, in North Kyung Sang Province, I beg to remind your excellency that on February 1 last I wrote you a long dispatch detailing the whole case, showing how my people had been wronged and their treaty rights violated, and intimating that as I had been unable to obtain satisfaction for these acts of the officials at Taiku, I would be compelled to fall back upon instructions issued by my Government to my predecessor, and demand equal privileges for Americans in the matter of residence in the interior as are enjoyed by people of other nationalities, which would amount to a recognition of the practical nullification

by usage and established custom of the treaty provision against residence in the interior.

When this letter was seen by His Majesty your excellency visited me and assured me of your firm intention to adjust this matter in a manner satisfactory to me. As a result of promises you made to me in the presence of your vice-minister, I agreed to withdraw this dispatch upon receipt of a copy of instructions you said you would send to the new governor of North Kyung Sang. I left with you the Chinese translation of my dispatch that you might hand it to the new governor for his instruction.

On February 26 you wrote me a dispatch announcing that you had issued instructions to the Taiku officials, rebuking them for their conduct, warning them against a repetition of the same, and ordering the arrest and trial of the man Noh Chusah. You sent me a copy of these instructions, which, being satisfactory to me, I withdrew my dispatch of February 1.

I have now received a report from the Americans at Taiku, dated May 18. They say that as the new governor, Ye You In, had been in Taiku for over a month and they had heard nothing of the matter in question, they called upon him to pay their respects and to make inquiries. The governor informed them that he had never heard of the matter until that moment. He told them to say to me that he "had no instructions from the minister for foreign affairs on the subject; that he had heard nothing of it before coming down, and that my speaking of it was the first he had heard."

I am also informed that nothing had been done to the man Noh Chusah, whom you at first offered to punish severely and later agreed, with my consent, to have his case promptly and carefully investigated first.

I now learn, also, that the man Kim Tek Yung, whose arrest and inhuman beating caused the previous correspondence to which this refers, has again been arrested, this time on the charge that an uncle of his in former times made illegal use of Government funds. The new governor frankly remarked to the Americans in regard to this man Kim, that he "would probably kill him." I need not go into the details of this arrest. The charges seem to be of an absurdly trivial nature, and I must conclude that they are brought by the underlings of the yamen in order to vent their spleen upon the man for having secured foreign intervention last December.

It is very humiliating to me to have to address your excellency in this manner and to be forced to the conclusion that I have been trifled with and that your solemn official agreements have been disregarded or not carried out.

Under the circumstances, I can only send a full official report to my Government on the subject and hand you my recalled dispatch^a of February 1 as an inclosure to this. I do so hand you that dispatch herewith.

I am compelled to abide by the resolution mentioned in that dispatch and put into execution the instructions already received from my Government. I shall not entertain any more complaints in regard to the mere residence of Americans in the interior, on passport, such as that to which my dispatch of May 27 is a reply.

I have, etc.,

HORACE N. ALLEN.

[Inclosure 5.—Translation.]

Pak Chei Soon, minister for foreign affairs, to Mr. Allen.

FOREIGN OFFICE, June 7, 1901.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your letter of the date of June 1 in regard to the matter of the Americans being ill treated in Taiku by the Korean officers.

I beg to inform you that I instructed the new governor of North Kiung Sang Province several times, and I handed him the copy of the translation of your letter which you handed me in my office and an instruction of mine when he started for his post, and I thought he would manage it very carefully and properly in accordance with what I instructed him.

I am much astonished to hear that he said to the Americans that he had never heard of the matter at all. I am wondering, although it is improbable, that he may have lost all his papers.

I have instructed again the governor to treat the Americans very nicely and politely, so there will not be any look of cool treatment, and that he must investigate into the matter in question very carefully, and manage it fairly and justly.

I have, etc.,

PAK CHEI SOON,
Minister for Foreign Affairs.

Mr. Hill to Mr. Allen.

No. 175.]

DEPARTMENT OF STATE,
Washington, July 24, 1901.

SIR: I have to acknowledge the receipt of your dispatch No. 359, of the 7th ultimo, on the subject of the residence of American missionaries in the interior of Korea.

In reply I have to say that the Department shares your views that it is inexpedient to encourage American citizens to reside in the remote interior, and that each individual case should be dealt with according to its facts as it arises.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Allen to Mr. Hay.

No. 392.]

LEGATION OF THE UNITED STATES,
Seoul, Korea, August 20, 1901.

Sir: Referring to my dispatch No. 359, of June 7, in regard to the failure of the Korean Government to carry out its instructions in regard to the matter of the settlement of the case of the violation of the domicile of Americans at Taiku, I now have the honor to hand you inclosed a copy of a letter I have received from the Rev. James E. Adams, of Taiku, in which the writer shows that upon receipt of new instructions as a result of my interview with the minister for foreign affairs, mentioned in above-cited dispatch, the governor at Taiku called him (Mr. Adams) in and began an investigation of the matter.

The governor upbraided the official who had been chiefly instrumental in causing trouble to the Americans, dismissed him from his office, and ordered him to personally reimburse the Americans for their money loss. The man, with his accomplice, fled to escape arrest and they have not yet been captured.

This action on the part of the governor will have a most salutary effect, and I anticipate no more trouble to the Americans in that locality.

I have, etc.,

HORACE N. ALLEN

[Inclosure.]*Mr. Adams to Mr. Allen.*TAIKU KOREA *August 6, 1901.*

MY DEAR MR. ALLEN: I have been waiting a long time in order to see the end of our business before writing to you, but as the end seems indefinitely in the future, through the principal offender having run away, I have concluded to write anyway. After your last communication to the foreign office they at once sent down here and ordered the business settled up. The governor called me in and asked me to give a full account of the whole affair, which I did. He then called to Noh Chussa and questioned him. Noh denied taking any bribe in the case. The governor upbraided him for treating us as he did in the administration of the case; said that he was unfit for his office if he knew no more than that about how to treat foreigners who were here under definite treaty rights, and then dismissed him from his office. He further adjudicated that, as Noh had been the instrument, either through his igno-

rance of law or his corruption by bribes, which, was immaterial, of the maladministration of justice and our failure to be reimbursed in our losses, and as the tile burner, Soh, now was poor and unable to pay the bill, Noh himself should reimburse us for the full amount for which we had sued Soh. He issued an order for the arrest of Soh, in order to find out more definitely about the bribery charge, and closed the case. That night both Soh and Noh fled the country: I have heard nothing more of the matter since. I understand that Noh went to Seoul and that the governor had dispatched a policeman after him. So far as the governor's adjudication of the case was concerned, we could not have asked for more.

Hoping to see you personally in a month or so and then more sufficiently thank you for the trouble you have taken in pushing this matter to a conclusion, I remain, etc.,

JAS. E. ADAMS.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.

The Emperor of Korea to the President.

[Telegram.]

SEOUL, *September 13, 1901.*

The news of your excellency's wound had greatly grieved and shocked us. We wait with concern the news of your complete recovery. We assure your excellency of our very warm friendship and deep anxiety.

YI HIUNG,
Emperor of Korea.

Mr. Hay to Mr. Allen.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1901.

Convey through foreign office highest appreciation of the Emperor's solicitude and condolence.

HAY.

LIBERIA.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.

Mr. Smith to Mr. Hay.

LEGATION OF THE UNITED STATES,
Monrovia, October 31, 1901.

SIR: I have the honor to transmit herewith copies of official correspondence between this legation and the Liberian Government, resulting from the death of the Hon. William McKinley, late President of the United States.

I have, etc.,

OWEN L. W. SMITH.

[Inclosure 1.]

Mr. Smith to Mr. Gibson, acting secretary of state of Liberia.

LEGATION OF THE UNITED STATES,
Monrovia, October 23, 1901.

SIR: I have the honor to transmit to you the fact that intelligence has this day reached me through the proper official channel too sadly confirming the report of the attempted assassination of President McKinley at the Pan-American Exposition, Buffalo, N. Y., September 6, 1901, which attempt subsequently terminated in his death on September 14, 1901, at Buffalo, N. Y. The honored remains were duly and appropriately interred at Canton, Ohio, the home of the late President, September 18, 1901.

I have, etc.,

OWEN L. W. SMITH.

[Inclosure 2.]

Mr. Gibson to Mr. Smith.

DEPARTMENT OF STATE,
Monrovia, October 23, 1901.

SIR: I have the honor to acknowledge the receipt of your letter of even date, informing me of the death of President William McKinley, information of which has this day reached you. In reply I have to say that my Government sincerely and deeply regret that the President of the United States should have come to an untimely grave by the hand of a ruthless assassin, and as a nation we deeply sympathize with the American nation, our foster mother.

With sentiments of the deepest sympathy, I have, etc.,

W. V. GIBSON,
Acting Secretary of State.

MEXICO.

IMPRISONMENT OF AMERICAN CITIZENS, RAILWAY EMPLOYEES, IN MEXICO.

Mr. Hay to Mr. McCreery.

No. 509.]

DEPARTMENT OF STATE,
Washington, April 18, 1901.

SIR: I inclose herewith for your information a copy of a petition from the Chamber of Commerce of El Paso, Tex., praying that this Government take such measures as may be deemed proper and effective to secure to American citizens arrested and imprisoned in Mexico on the charge of criminal negligence in causing railway wrecks the protection of their personal and civil rights guaranteed by the Constitution.

* * * * *

The matter of these arrests of American citizens should have your consideration, and may be the occasion of friendly conversation with Señor Mariscal, with the view to ameliorating the condition which appears to exist, and especially to securing the prompt disposition of the cases as they arise, and the speedy release of any railway employee not liable, on ample probable cause, to be held on a criminal charge; and, even in the latter case, the proceedings should be expedited in every possible way and with the fullest opportunity for defense.

A full report from you on the subject will have the Department's attentive consideration.

I am, etc.,

JOHN HAY.

[Inclosure.]

Chamber of Commerce of El Paso, Tex., to Mr. Hay.

EL PASO, TEX., *April 11, 1901.*

SIR: I have the honor to transmit the following resolutions adopted unanimously by the board of directors of the El Paso Chamber of Commerce April 10, 1901:

Whereas it is a common method of judicial procedure in Mexico, in cases of accident involving fatal or serious injury to Mexican citizens in connection with the running of railway trains, to immediately arrest and imprison American citizens employed as conductors or engineers or in other responsible positions on such railways; and

Whereas American citizens thus arrested are in many cases held in prison for days, weeks, or months without reasonable and sufficient opportunity to communicate with friends, or to take other measures for securing fair and speedy judicial investigation of the charges preferred against them; and

Whereas such procedure is a substantial denial of the right of American citizens to protection in the lines of employment in which they have been permitted, and even encouraged, by the Government of Mexico to engage: Therefore be it

Resolved, That the El Paso Chamber of Commerce respectfully petitions the United States Government to take such measures as may be deemed proper and effective to secure to American citizens under such circumstances as above set forth the protec-

tion of their personal and civil rights guaranteed by the Constitution of the United States and recognized in civilized countries generally as reasonable and just.

I have, etc.,

ERNEST E. RUSSELL, *Secretary.*

Mr. Clayton to Mr. Hay.

No. 998.]

EMBASSY OF THE UNITED STATES,
Mexico, June 27, 1901.

SIR: I have the honor to acknowledge the receipt of your instruction to Secretary McCreery, No. 509, of April 18, 1901, and accompanying document, viz, a copy of certain resolutions passed by the Chamber of Commerce of El Paso, Tex., * * * relating to the matter of arrests of American conductors and engineers employed on railways in Mexico, for responsibility in railway accidents.

* * * * *

Referring again to the general question, I called Señor Mariscal's attention to the strength and influence of the different railway men's organizations in the United States, and that in my judgment they were agitating the question in the interests of the members of their orders who had, in some instances, been subjected to great hardships. I remarked that it was not for me to question the wisdom of the Mexican law under which arrests and imprisonments were made; that I had, in some instances in the past, notably the Turner case, complained of the apparently unnecessary delay in bringing the persons accused of such offenses to final trial. I said it would be an act of great satisfaction to my Government and be highly appreciated by it if his Government would adopt some plan by which, in the future, cases of this character would be disposed of promptly by the courts.

Mr. Mariscal replied that he had in mind the issuance of a circular letter to the different judicial officers under whose jurisdiction such cases would come upon the subject; that he would give the matter his very careful attention with the view of bringing about the expedition of such cases and the prevention of just causes for complaint.

* * * * *

For the purpose of furnishing data to enable me to report upon the general subject of the arrest and imprisonment, in Mexico, of employees on railways, engaged in the movement of trains, I directed Secretary Heimké to carefully examine the records of this legation, during my incumbency of over four years, and report to me each case that has been brought to the attention of the legation during that time, with information as to the employment of the accused, date of complaint, date and place of imprisonment, accusation, when reported to the foreign office and State Department, date of final trial, and final action upon the part of the courts. This information Mr. Heimké has furnished in the succinct and well prepared tabulated statement,^a herewith inclosed.

From this statement I find that, during the period referred to, only twelve complaints have been made to this legation, either directly by the person seeking its good offices, or by other in his behalf. The facts concerning the arrest, and action of the court, in each case, are as follows:

^a Embodied in letter to Chamber of Commerce of El Paso, printed page 411.

Anderson was not imprisoned, but only detained for a short time, and after a preliminary examination was discharged.

Hohne was imprisoned April 18, 1899, and on May 8, ¹⁸⁹⁹ 1901, was released on bail. At his final trial, November 24, 1899, he was discharged.

Gaines was imprisoned April 18, 1899, and on May 8, 1899, was released on bail. At his final trial, November 24, 1899, he was discharged.

Lewis was imprisoned September 26, 1900, being so detained until December 20, 1900, at which time he was discharged.

Trask was imprisoned November 2, 1900, and remained in jail until February 9, 1901, the date of his final trial, at which time he was discharged.

Jones was arrested and imprisoned March 13, 1901, and detained in prison until May 11, 1901, at which time he was released on a \$300 cash bond. Case still pending.

Granville was arrested and imprisoned March 18, 1901. Case still pending.

Bradt and Preston were both imprisoned April 1, 1897, and after remaining in prison until January 3, 1898, they were both convicted and sentenced to one year's imprisonment.

Pike was imprisoned May 5, 1899, and after remaining in prison until August 4, 1899, was convicted and sentenced to one year's imprisonment, from May 9, 1899.

Clark was imprisoned April 1, 1899, and remained in prison until March 17, 1900, when he was convicted and sentenced to fourteen months' imprisonment. After serving six months of said sentence he was pardoned by the President, and released.

Turner was imprisoned April 1, 1899, and remained in prison until January 28, 1900, awaiting trial, on which date he died in the prison hospital.

There being no just cause for complaint in the case of Anderson, it was not brought to the attention of the foreign office nor reported to the Department.

For the purpose of obtaining information as to what extent railway employees of the before-mentioned classes were being arrested and imprisoned by the Mexican authorities, on the 8th of May last I addressed a communication to all of the railway companies in the Republic of Mexico, requesting to be informed of the number and nationality (Mexicans included) of all of their employees engaged in the movement of trains, such as engineers, firemen, conductors, brakemen, and switchmen, and a list giving the name and nationality of each (Mexicans included) who had been arrested and imprisoned during the past year, growing out of alleged negligence, causing accidents, endangering the lives of persons or causing destruction of property. To these communications I have received answers from all of the companies, except the following: Mexican Mineral; Merida, Progreso and Yzamal; Tehuantepec; Peninsular; San Marcos and Tecolutla; Merida-Peto; and the Potosí and Rio Verde.

The mileage of the companies from which I have received answers is 7,365 miles. The mileage of those from which I have received no reply is 547 miles. ✓

The information received, I think, is practically sufficient for the purposes of this report, and has been condensed in a tabulated form

by Secretary Heimké, from which it will be seen that of the total number of Americans employed as conductors, the percentage of those arrested and imprisoned is greater than that of the Mexicans so employed; upon the other hand, of the total number of Mexicans employed as engineers, the percentage of those arrested and imprisoned is greater than that of the Americans so employed.

The information obtained also shows that the reports of the arrests and imprisonments of these classes of employees have been greatly exaggerated by the newspapers in the United States.

The trouble seems to lie in the law itself more than in its execution. In a conversation with Mr. Mariscal upon the subject, he informed me that he did not know of a single case, under Mexican law, where railway companies had been held responsible for accidents; that the policy of their law seemed to be to hold their employees responsible. I explained to him how, in the United States, the opposite principle obtained, resulting in the railway companies exercising the greatest care as to the efficiency and carefulness of their employees engaged in the movement of trains; that I believed if the same principle were adopted in Mexico the railway companies would pursue the same policy, which would result in a higher class of employees being employed, and less accidents.

I have been greatly delayed in the rendition of this report awaiting information from the various railway companies.

I have, etc.,

POWELL CLAYTON.

[Inclosure.]

Condensed statement showing number, occupation, and nationality of men in the service of Mexican railroads, representing 7,365 miles, employed in the movement of trains from May, 1900, to June, 1901; and of arrests on account of accidents during that period.

Conductors: 452 (70 Mexican, 379 American, 2 English, 1 Spanish), of whom 12 were arrested (1 Mexican, 11 American).

Brakemen: 1,408 (1,309 Mexican, 99 American), of whom 5 were arrested (2 Mexican, 3 American).

Engineers: 666 (161 Mexican, 477 American, 26 English, 2 German), of whom 23 were arrested (8 Mexican, 15 American).

Firemen: 903 (772 Mexican, 129 American, 2 German), of whom 7 were arrested (5 Mexican, 1 American, 1 other nationality).

Yardmen: 580 (540 Mexican, 39 American, 1 English), of whom 6 were arrested (4 Mexican, 2 American).

Totals: Mexican, 2,852 employed, 20 arrested; American, 1,123 employed, 32 arrested; other nationalities, 34 employed, 1 arrested.

Mr. Hay to Mr. Clayton.

No. 540.]

DEPARTMENT OF STATE,

Washington, July 16, 1901.

SIR: I have to acknowledge the receipt of your dispatch, No. 998, of the 27th ultimo, containing a very exhaustive report on the arrest and imprisonment in Mexico of American citizens employed on Mexican railroads for criminal negligence in causing accidents to the trains in their charge.

You will continue to remonstrate on all proper occasions against the delay in discharging or bringing to trial Americans charged with responsibility for such accidents, and you will lose no opportunity to impress upon Mr. Mariscal the proposition that the preventive and remedial objects of Mexican legislation in respect to railway accidents would be no less well—and perhaps better—subservied by following the general rule of law in that regard in other countries.

The policy of protecting the public against loss of life or physical injury in railway travel, through the criminal negligence of railway employees, is enforced by penal legislation in the United States, and we should not, of course, indicate any opposition to that policy in Mexico, although keeping on the alert to remonstrate against abusive procedure thereunder. But, while not shifting criminal accountability from the shoulders of the employee, the same laws hold the employing company responsible in damages for injury to life, person, or property through the acts of its agents. As the case now stands, it is not easy to see how the family of a person killed or the owners of property destroyed in such cases may be materially benefited by the prolonged imprisonment of a mere railway subordinate while the sufferers remain without recourse against the company. An equitable division of responsibility in such matters would, it is thought, tend to the prevention of accidents and remove, to a considerable extent, the causes of complaint we are so often called upon to make in view of the needless and protracted confinement of our citizens in Mexico, besides distinctly inuring to the benefit of sufferers by such accidents.

A copy of the Department's letter to the El Paso Chamber of Commerce, informing that body of the substance of your report and stating the action taken thereon, is herewith inclosed for your information.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Hay to Chamber of Commerce, El Paso.

DEPARTMENT OF STATE,
Washington, July 16, 1901.

SIR: Referring to your letter of the 11th of last April, communicating certain resolutions adopted by the board of directors of the El Paso Chamber of Commerce on the 10th of that month, concerning the character of Mexican judicial procedure in respect to accidents occurring upon railway lines in Mexico, I have the pleasure to inform you that the ambassador to Mexico, to whom the matter was appropriately referred, has submitted to the Department, under date of June 27, 1901, a full and comprehensive report on the subject.

It appears from Mr. Clayton's statements that the publications upon the subject which from time to time appear in the press of this country are greatly exaggerated.

* * *

Following up the investigation, Mr. Clayton addressed letters to the presidents of all of the railway companies operating roads in Mexico, requesting to be informed of the number and nationality (Mexican included) of all of their employees engaged in the movement of trains, and to be furnished with a list giving the names and nationality of each one who had been arrested and imprisoned during the past year on charge of negligence, causing accidents, endangering life or property. He had at the time of writing received replies from the principal companies representing 7,365 miles of road out of a total Mexican mileage of 7,912.✓

From these it appeared that out of a total of over 400 employees of all nationalities, 20 Mexicans, 32 Americans, and 1 of unknown nationality have been arrested or imprisoned during the year. Most of these appear to have been soon released on

bond, or on the guarantee of the company that the man should appear to answer a charge whenever called upon. Others, upon trial, have been acquitted. So far as these replies show, none of the men so arrested was convicted. In some few instances prolonged delay and detention had followed arrest. While nearly all companies disclaim all ground of complaint touching the treatment of their employees by the Mexican judicial authorities, their answers are not explicit as to the time of detention, and the Sonora Railway Company merely reports the names of 17 employees (8 Americans, 8 Mexicans, and 1 unknown) who had been imprisoned on account of railway accidents from June 1, 1900, to June 1, 1901, a singularly large showing, it may be remarked, for a road having only 268 miles in operation and but 62 men employed in the actual movement of the trains. The eventual disposition of these cases is not stated.

The embassy is accustomed to exert itself actively to secure the prompt disposal of the cases of arrested American railway employees, but not all such arrested are brought to its notice. During Mr. Clayton's incumbency of over four years, but 12 complaints of this character have been under consideration.

They are as follows:

F. H. Anderson, engineer on the Sonora Railroad, charged in August, 1897, with running over and killing a Mexican; detained on his own recognizance; discharged after hearing August 23, 1897.

J. N. Bradt and Jack Preston, conductor and engineer, respectively, on the Mexican Southern Railroad, imprisoned April 1, 1897, charged with the death of a fireman and the injury of three or four others; sentenced January 3, 1898, to one year imprisonment.

E. Hohne and C. N. Gaines, conductor and engineer, respectively, on the Inter-oceanic Railroad, imprisoned April 15, 1899, charged with slightly injuring two or three persons in a collision; released May 8, 1899, on \$800 bail; discharged November 24, 1899.

Edward Turner and G. S. Clark, engineers on the Mexican (Vera Cruz) Railroad, imprisoned April 1, 1899, charged with negligence in causing a needless collision that resulting in killing a fireman. Turner died in prison January 28, 1900, before termination of his case. Clark was convicted and sentenced to fourteen months' imprisonment less the eight months spent by him in prison during his trial; pardoned by President Diaz August 1, 1900.

Henry Pike, engineer on the Mexican Interoceanic Railroad, imprisoned May 5, 1899, charged with causing a collision, resulting in no personal harm, but damaging rolling stock; convicted and sentenced August 4, 1899, to one year imprisonment from May 8, 1899.

T. W. Lewis, engineer on Mexican Central Railroad, imprisoned September 25, 1900, charged with running over a Mexican; acquitted December 8, 1900; discharged December 20, 1900.

Albert Trask, conductor on the Tehuantepec Railroad, imprisoned November 9, 1900, charged with causing a collision, resulting in no personal injury and causing but little damage to rolling stock; acquitted and released February 9, 1901.

A. K. Jones, engineer on the El Oro and Mining Railroad, imprisoned February 13, 1901, charged with causing a wreck, resulting in two deaths and the injury of rolling stock; released May 11, 1901, on \$300 cash bond; case still pending.

L. L. Granville, brakeman on the Mexican National Railroad, imprisoned March 18, 1901, for causing the death of a laborer by running over him; trial of case still pending.

It appears from the foregoing statement that out of 12 Americans arrested, 4 were convicted of the offense charged and were sentenced to short terms of imprisonment, 5 were discharged, 2 cases are still pending, and 1 man (Turner, whose case occasioned protracted correspondence) died in jail after nearly nine months' imprisonment while still awaiting trial.

Although the period of detention of such arrested persons prior to release on bail or discharge has in many instances been brief, there remain enough cases of protracted imprisonment, especially when the accused is held for trial, to warrant the repeated protests of this Government against the delays of Mexican justice. In addition the ambassador has strongly pointed out that the difference between Mexican and American laws in respect to railway accidents works hardship to the employees in Mexico, in that the agent, not the principal, is held responsible.

As to this, the ambassador says: "The trouble seems to lie in the law itself, more than in its execution. In a conversation with Mr. Mariscal upon the subject he informed me that he did not know of a single case, under Mexican law, where railway companies had been held responsible for accidents; that the policy of their law seemed to be to hold their employees responsible. I explained to him how, in the United States, the opposite principle obtained, resulting in the railway companies

exercising the greatest care as to the efficiency and carefulness of their employees engaged in the movement of trains; that I believed if the same principle were adopted in Mexico the railway companies would pursue the same policy, which would result in a higher class of employees being employed, and less accidents."

Mr. Clayton reports that Señor Mariscal has in mind the issuance of a circular letter upon the subject to the different judicial officers under whose jurisdiction such cases come, and that he will give the matter his very careful attention, with the view of bringing about the expedition of such cases and the prevention of just causes for complaint.

I have instructed Mr. Clayton to continue to remonstrate upon all proper occasions against the delay in discharging or bringing to trial Americans charged with responsibility for accidents on Mexican railway lines, and to lose no opportunity to impress upon Señor Mariscal the proposition that the preventive and remedial objects of Mexican legislation in respect to railway accidents would be no less well, and perhaps better, subserved by following the general rule of law in other countries. The policy of protecting the public against loss of life or physical injury in railway travel through the criminal negligence of railway employees is enforced by penal legislation in the United States, and we should not, of course, indicate any opposition to that policy in Mexico, although keeping on the alert to remonstrate against abusive procedure thereunder. But while not shifting criminal accountability from the shoulders of the employees, the same laws hold the employing company responsible in damages for injury to life, person, or property through the acts of its agents. As the case now stands, it is not easy to see how the family of a person killed or the owners of property destroyed in such cases may be materially benefited by the prolonged imprisonment of a mere railway subordinate, while the sufferers remain without recourse against the company. An equitable division of responsibility in such matters would, it is thought, tend to the prevention of accidents and remove to a considerable degree the causes of complaint we are so often called upon to make in view of the needless and protracted confinement of our citizens in Mexico, besides distinctly inuring to the benefit of sufferers by such accidents.

Yours, etc.,

JOHN HAY.

Mr. Adee to Mr. Clayton.

No. 551.]

DEPARTMENT OF STATE,
Washington, August 1, 1901.

SIR: Referring to your dispatch No. 998, of June 27 last, on the subject of the arrest and imprisonment in Mexico of American citizens employed as train hands on Mexican railroads, I inclose herewith for your information a copy of a letter from the El Paso, Tex., Chamber of Commerce, expressing the chamber's cordial recognition and hearty appreciation of your efforts to secure accurate information in the matter, and submitting certain observations with the view of facilitating further inquiry in the matter.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

Chamber of Commerce of El Paso, Tex., to Mr. Hay.

EL PASO, TEX., *July 23, 1901.*

SIR: I have the honor to acknowledge receipt of your letter of July 16, 1901, containing the substance of the report of Ambassador Clayton concerning Mexican judicial procedure in respect to accidents occurring upon railway lines in Mexico, and also setting forth at some length your own views and conclusions with regard to this matter.

I am instructed by the board of directors to express to you, on behalf of the El Paso Chamber of Commerce, cordial recognition and hearty appreciation of the interest that you have taken in this question and the efforts that have been made by Ambassador Clayton, under your instructions, to secure accurate information as to the grounds for complaint by American railway employees in Mexico.

The El Paso Chamber of Commerce respectfully proffers its cooperation and aid in securing further data, and will institute specific inquiry for the purpose of verifying or supplementing the statistics and information contained in your letter.

With a view to facilitating such further inquiry and pursuit of the facts, we beg to submit the following observations, suggested by your letter of July 16:

1. It is conceded that some of the alleged cases of injustice can be traced to sensational or highly exaggerated newspaper accounts of unimportant incidents, or even to pure invention without any basis of fact.

2. We respectfully submit that the statements of the railway companies in Mexico are not to be taken as conclusive evidence, for two reasons: (1) The railway companies are interested parties, it being to their advantage pecuniarily that the present procedure in Mexico, which throws the burden of liability upon the employee, should be maintained. (2) Railway companies in Mexico evidently do not make it the duty of their officials to secure and preserve records of such imprisonment of their employees. It is rather to the interest of the railway companies that they should remain officially ignorant of matters an official knowledge of which might imply obligation to assist employees in distress or might embarrass the companies in their efforts to secure fresh American employees to replace those who had suffered injustice in discharge of the duties incident to railway service in Mexico.

3. Railway companies may well "disclaim all ground of complaint touching the treatment of their employees by the Mexican judicial authorities," as noted in your letter, since the Mexican procedure relieves the company of responsibility for accident and throws the responsibility upon the employee.

4. It is noted in your letter that the answers of the railway companies to Mr. Clayton's inquiries are "not explicit as to the time of detention." We respectfully submit that this is a vital point. It is a fundamental principle of our law that justice shall be not only sure, but speedy. It is highly important to know how many days, or weeks, or months the imprisoned American citizen must spend in the Mexican jail, enduring the conditions and subsisting upon the food characteristic of Mexican jails; among people of strange race and tongue, through whom he is powerless to send any message that might bring to his relief the mighty forces of the American State. You have noted the "singularly large showing" of American railway employees imprisoned in the State Sonora during the past year, with no account rendered as to the eventual disposition of their cases, and with no assurance that there are not to-day American citizens dragging out miserable lives in unjust imprisonment in some of the jails of Sonora.

5. No one doubts that the American Government, through its State Department and its embassy to Mexico, purposes to employ all means deemed proper, practicable, and effective to protect the rights of American citizens in Mexico. But, as noted in your letter, "not all such arrests are brought to its notice." It is this fact which calls for further action by the American Government, to the end that every American citizen employed in Mexico shall be assured of opportunity to bring any case of alleged injustice to the attention of the American embassy. The fact is significant that, as noted in your letter, "during Mr. Clayton's incumbency of over four years but twelve complaints of this character have been under consideration." It is commonly believed in this part of the United States that accidents leading to such imprisonment in Mexico are much more frequent than is indicated by the statistics received by Mr. Clayton from the railway companies. The fact that, as noted by you, of the thirty-two reported cases of arrest and imprisonment of American railway employees in Mexico during the past year, eight cases are reported in connection with 268 miles of railway in Sonora, leaving but twenty-four cases reported for over 7,000 miles of railway throughout the rest of Mexico, and the further fact that out of a total of sixty-two railway employees in train service in Sonora, seventeen were arrested and imprisoned in one year, while but thirty-six arrests are reported for the remaining four thousand employees throughout Mexico—these facts are, if not conclusive proof of the unreliability of the statistics, significant enough to warrant and urge further inquiry.

We are gratified to note your conclusion, as stated in your letter, that "there remain enough cases of protracted imprisonment, especially when the accused is held for trial, to warrant the repeated protests of this Government against the delays of Mexican justice." We are equally gratified to note the vigor and persistency of the American State Department in pressing upon the Mexican Government the propriety and advisability, from every point of view except that of the pecuniary interests of the railway companies, of amending the Mexican law so as to bring Mexican procedure into conformity with that of the United States and other nations with respect to the incidence of responsibility for accidents in railway service.

We beg to suggest that more complete, accurate, and reliable information can be secured through the organizations of railway employees than through the reports of

Mexican railway companies or Mexican officials regarding cases of alleged unjust imprisonment of American railway employees in Mexico. To invite reports through this suggested channel would probably result in bringing a large number of cases of alleged unjust imprisonment before the State Department. In many of these cases doubtless the imprisoned American would be accorded substantial justice by the Mexican authorities without appeal to his Government. But the very fact that the prisoner is assured of quick and easy appeal to his Government will be the best possible safeguard against injustice, and the strongest possible guaranty of a speedy trial and disposition of his case. Moreover, if but one American citizen out of a hundred thus arrested were by this means protected against prolonged imprisonment or unjust sentence, the personal right to life and liberty guaranteed by the American Constitution to every American citizen fully establishes the obligation of the United States Government to secure to this individual citizen both the protection of the American Government and the opportunity to present his appeal for such protection.

I have, etc.,

ERNEST E. RUSSELL, *Secretary.*

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.

Señor de Azpiroz to Mr. Hay.

[Telegram.]

MEXICAN EMBASSY,
Allenhurst, N. J., September 15, 1901.

Mexican people and Government deplore your national calamity. I offer you my personal profoundest sympathy.

DE AZPIROZ,
Mexican Ambassador.

Mr. Hill to Señor de Azpiroz.

DEPARTMENT OF STATE,
Washington, September 25, 1901.

EXCELLENCY: The pressure of public business attendant upon the death of President McKinley has delayed until now an acknowledgment of your telegram of the 14th instant conveying an expression of the sympathy of the Government and people of Mexico with the Government and people of the United States in the loss they have sustained by that sad event.

I shall be obliged if you will assure your Government that their condolence is gratefully appreciated by the Government and people of the United States, who are deeply touched by the innumerable manifestations of sympathy which they have received from all parts of the world.

At the same time I beg to thank you for the expression of sympathy made on your own behalf.

Accept, etc.,

DAVID J. HILL,
Acting Secretary.

NETHERLANDS.

MARRIAGE OF QUEEN WILHELMINA.

Mr. Hill to Mr. Newel.

No. 263.]

DEPARTMENT OF STATE,
Washington, January 7, 1901.

SIR: I have to acknowledge the receipt of your dispatch No. 353,^a of the 15th ultimo, relative to the marriage of the Queen of The Netherlands.

You will make all necessary congratulations and participate in such manner as may be expected of the diplomatic corps.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Newel to Mr. Hay.

[Telegram.]

SGRAVENHAGE, *February 7, 1901.*

Her Majesty Wilhelmina, Queen of The Netherlands and Princess of Orange-Nassau, married Duke Henry of Mecklenburg-Schwerin at 12.30 to-day. The streets filled with thousands of happy people in brilliant sunshine.

NEWEL.

Mr. Newel to Mr. Hay.

No. 376.]

LEGATION OF THE UNITED STATES,
The Hague, February 9, 1901.

SIR: I have the honor to confirm herewith my cablegram^b of the 7th instant announcing the marriage of Her Majesty Queen Wilhelmina of the Netherlands with Duke Hendrik of Mecklenburg-Schwerin.

The festivities in connection with the royal ceremony commenced on the 22d ultimo, at which date the formal notice of the purposed royal wedding was given at the city hall. This event was hailed by a general display of flags from all the Government and public buildings, the various foreign legations and ministers' residences, and a large number of private houses.

^a Not printed.

^b Printed ante.

From last Monday, the 4th instant, the city has been en fête, all the principal thoroughfares being gaily decorated during the day and illuminated at night.

On that day the soldiers donned their full tenue, and in the afternoon an enormous band of musicians, representing music corps and societies from all parts of the country, assembled before the palace with their varied-colored banners and played the national anthem and popular airs. Immediately after they marched in procession through the town, while the Queen received in audience delegates from the provinces who tendered the felicitations of their respective districts. Early in the evening the Queen was serenaded by a very large company of vocalists selected from the best singers of The Hague and Rotterdam, the houses were lighted up with illuminations and the thousands of people who thronged the streets were in ecstasies in their rejoicing over the great coming event. While everything was at its brightest the two Queens, accompanied by the Duke, proceeded to the railway station to welcome the foreign princes and immediate relatives on their arrival in The Hague.

On Tuesday, the 5th instant, the Queen granted an audience to the chiefs of the foreign missions and the representatives of various corporations, that they might present their last felicitations and wedding gifts. Early in the afternoon other musical bodies greeted the Queen in song from the palace gardens, and at the termination thereof the royal party drove through the city and neighborhood in full state. At night there was a gala dinner at the palace, to which were invited all the foreign ministers, the court officials, in addition to all the royal guests, and immediately upon the close the whole company attended at the opera house, where a special musical display was given in honor of the occasion. After the theater the royal guests, the court and some of the Dutch people were entertained at the German legation, where the German minister had prepared an elaborate soirée. No member of the diplomatic corps, except the Russian minister and two others, was invited.

On Wednesday, shortly after noon, there was a large procession of a great many trades and artisans before the palace and through the town, after which the royal party again drove through the streets and vicinity, accompanied, as on the preceding day, by a full escort. That evening there was a grand soirée at the palace, to which all the diplomatic corps, the élite, and military were invited, and at which some of the leading members of Dutch society gave a series of tableaux vivants, representative of graphic pictures from the history of the houses of the Orange and Mecklenburg families.

The wedding morning was an exceptionally fine one, the route to the church was crowded hours before the ceremony took place with an expectant and glad throng of people, and at every point of vantage eager spectators were to be observed. The civil part of the ceremony took place at the palace, the minister of justice, assisted by the secretary of the city corporation, being the officiating functionaries, while the presidents of the States-General, the court of justice, the council of state, the chief officer of the court, and an important military officer acted as witnesses, the only attendants being the nearest family relatives. From the palace the wedding party proceeded to the church in a stately procession. The route was lined by soldiers and police and an eager and exulting crowd. Long before the arrival of the Sov-

ereign the diplomatic corps in full force, the members of the States-General, together with the élite of the whole country and a large press representation had assembled to witness the public performance in the church. From beginning to end there was nothing to mar the general gayety and pleasure of the occasion.

The ceremony in the "Groote Kerk" was singularly beautiful and impressive, and reached its climax when at the close of the marriage service the officiating Dutch Reformed clergyman, Mr. van der Flier, made the customary present of a Bible to the royal bride, who was standing radiant in the sunlight, which for an instant streamed in at the windows. It seemed to me as I looked around that there were no dry eyes in the church.

The return to the palace was as grand and enthusiastic as the procession thither.

At 4 o'clock the royal pair started for the palace in the country, "Het Lee," where they pass the honeymoon, making their next appearance in Amsterdam at the beginning of March next.

The universal approval of this love match is very touching, and I am told that the people believe that the "orange weather" (fine weather) during the service is a sure sign of a happy married life.

A few days prior to the wedding Duke Hendrik was by royal order appointed rear-admiral of the Netherlands navy, lieutenant-general of the Netherlands army and of the Colonial army, all three appointments being à la suite, and therefore honorary. Immediately after the marriage a special issue of the Netherlands Gazette appeared announcing the marriage and containing two royal orders, whereby the duke was proclaimed a prince of the Netherlands, and conferring upon him the right to act as advisory member of the Netherlands council of state.

At the audience of the 5th instant Her Majesty the Queen wishes me to thank the President for his kindness and to express her gratitude for the many evidences of good will and sympathy which she had received from the American people.

I have, etc.,

STANFORD NEWEL.

LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES UNDER MILITARY AND EXPATRIATION LAWS OF THEIR NATIVE COUNTRY.^a

DEPARTMENT OF STATE,
Washington, August 30, 1901.

NOTICE TO AMERICAN CITIZENS FORMERLY SUBJECTS OF THE NETHERLANDS WHO CONTEMPLATE RETURNING TO THAT COUNTRY.

The information given below is believed to be correct, yet is not to be considered as official, as it relates to the laws and regulations of a foreign country.

A subject of the Netherlands is liable to military service from his nineteenth to his fortieth year. He must register to take part in the drawing of lots for military service between January 1 and August 31 of the calendar year in which he reaches the age of 19. He is exempt, however, from service if he is an only son or is physically disabled;

^a See instruction to Belgium, December 10, 1900, page 16.

and in the case of a family half of the brothers are exempt, or the majority if the number is uneven.

No military service is required of one who became a citizen of the United States before the calendar year in which he became 19 years of age, and a Netherlands subject who becomes a citizen of the United States when he is 19 and between January 1 and August 31 may have his name removed from the register by applying to the Queen's commissioner of the province in which he was registered. If he does not have his name removed from the register, or if he becomes a citizen of the United States after the register is closed (August 31) and his name is drawn for enlistment, his naturalization does not affect his military obligations to the Netherlands, and if he returns he is liable (1) to be treated as a deserter if he did not respond to the summons for service, or (2) to be enlisted if he is under 40.

Former Netherlands subjects are advised to ascertain by inquiry from the Netherlands authorities what status they may expect to enjoy if they return to the Netherlands. This Department, however, uniformly declines to act as the intermediary in the inquiry.

Passports are not required for admission to the Netherlands, but American citizens are advised to carry them for purposes of identification and in attestation of citizenship.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.

Mr. van Roijen to Mr. Hay.

[Telegram.]

NETHERLANDS LEGATION,
New London, Conn., September 15, 1901.

I am commissioned to express to your excellency the profound sympathy felt by my Government for the American people under these sorrowful circumstances.

VAN ROIJEN.

Mr. Adee to Mr. van Roijen.

DEPARTMENT OF STATE,
Washington, September 30, 1901.

SIR: The Secretary of State duly received your telegram of the 15th instant by which you discharged the duty with which you were commissioned of expressing to him the profound sympathy felt by the Government of the Netherlands for the American people in view of the death of President McKinley, an earlier acknowledgment of which has been prevented by the pressure of official business attendant upon that sad event.

I shall be obliged if you will assure your Government that their sympathetic message is gratefully appreciated by the Government and people of the United States, who have been deeply moved by the manifestations of regret and sympathy by the Government and people of the Netherlands reported by the United States legation at The Hague.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

NICARAGUA, COSTA RICA, AND SALVADOR.

VISIT OF U. S. S. "IOWA" AND "PHILADELPHIA" TO SALVADOR.

Mr. Merry to Mr. Hay.

No. 519.]

LEGATION OF THE UNITED STATES,
San José, Costa Rica, January 31, 1901.

SIR: I have the pleasure of advising the arrival on the 10th instant at Acajutla, Salvador, of the United States ships *Iowa* and *Philadelphia*, the former bearing the flag of Admiral Kautz. The *Philadelphia* left the same evening for Panama. The admiral and his staff visited the capital city of San Salvador, accompanied by United States Consul Jenkins, and were received by the Government of President Regalado with every attention, a banquet being given in honor of the American officers, to which were invited the consular and diplomatic corps, the principal officials of the Republic of El Salvador, and prominent citizens.

On the 13th instant President Regalado and his cabinet, accompanied by many citizens of Salvador, visited the *Iowa* on the ship's boats, the President being received with all the honors due his rank and leaving the ship late in the afternoon having expressed himself as very much pleased with his reception.

The *Iowa*, being the first modern battle ship that has visited Central America, attracted much attention.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

CITIZENSHIP OF RAFAEL F. HINE, BORN IN COSTA RICA OF AN AMERICAN FATHER.

Mr. Merry to Mr. Hay.

No. 551.]

LEGATION OF THE UNITED STATES,
San José, Costa Rica, April 18, 1901.

SIR: May I respectfully request from the Department of State instructions in regard to the nationality of Rafael Franklin Hine, 19 years of age, and a native of Costa Rica. The young man has been educated in the public and private schools of the Republic, has never visited the United States, and is entirely ignorant of the English language. His father was born in the United States, and came here when 23 years old, married a native Costa Rican, and died here after five years' residence as a practicing physician, leaving this one child and a widow, who has resided here since upon property of which she is the owner.

I may state en passant that Mr. Hine, the grandfather of the young man, was at one time United States consul at San José.

Young Mr. Hine now claims exemption from military service here on the ground that he is an American citizen. I have requested of the Costa Rican foreign office that he be excused therefrom until the question of his citizenship has been passed upon by my Government.

I do not see how Mr. Hine can consistently claim that it is his intention to hereafter make his home in the United States. He is now engaged in the dairy business in this city.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

Mr. Hill to Mr. Merry.

No. 402.]

DEPARTMENT OF STATE,
Washington, May 7, 1901.

SIR: I have to acknowledge the receipt of your dispatch No. 551, of the 18th ultimo, in which you request to be informed as to the nationality of Rafael Franklin Hine, 19 years of age, and a native of Costa Rica, the facts of whose case, as stated by you, are as follows:

The young man has been educated in the public and private schools of Costa Rica, has never visited the United States, and is entirely ignorant of the English language. His father was born in the United States, went to Costa Rica when 23 years old, married a native Costa Rican, and died there after five years' residence as a practicing physician.

Mr. Hine now claims exemption from military service in Costa Rica on the ground that he is an American citizen.

You add that Mr. Hine is engaged in the dairy business in San José, and that you do not see how he can consistently claim that it is his intention to make hereafter his home in the United States.

Assuming that the father was an American citizen when the son was born, the latter is an American citizen, according to section 1993 of the Revised Statutes of the United States, which provides that a child born outside of the limits of the United States, whose father was at the time of the child's birth a citizen of the United States, is himself a citizen.

Of course, "no sovereignty can extend its jurisdiction beyond its own territorial limits, so as to relieve those born under and subject to another jurisdiction from their obligations or duties thereto." (Mr. Fish to the President, August 25, 1873, quoted in *The American Passport*, page 141.) Therefore, as an American citizen, the young man may be granted a passport upon making satisfactory application therefor.

How far the right to protect him may be exerted depends to a considerable extent upon the claims that Costa Rica has upon him under her law, upon which point the Department is not advised.

The question of his intention to come to this country will be of more consequence when he shall have reached the age of 21 years. Until that time he is not competent to elect expatriation from the United States, and the presumption is in favor of his conservation of the citizenship conferred upon him by his birth as the son of an American citizen.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.*Under Secretary of Foreign Relations of Nicaragua to Mr. Hay.*

[Telegram—Translation.]

MANAGUA, *September 22, 1901.*

I have the honor to inform your excellency that the President of the Republic, as a tribute of homage to the memory of the most excellent President William McKinley, and as a token of the profound sorrow felt by the Government and people of Nicaragua for the death of that illustrious citizen, has declared the loss suffered by the noble American nation to be a national affliction, and has ordered the national flag to be hoisted with a black crape draping in all the military commands, with the customary honors.

With high consideration, I remain your excellency's obedient, faithful servant,

M. BARRIOS,

*Under Secretary of Foreign Relations.**Mr. Hill to the Minister of Foreign Relations of Nicaragua.*

[Telegram.]

DEPARTMENT OF STATE,

Washington, September 23, 1901.

I have the honor to acknowledge your telegram of the 22d of September. The tributes of Nicaragua's respect for the memory of President McKinley are deeply appreciated by the American Government and people.

DAVID J. HILL,

*Acting Secretary.**President Iglesias to President Roosevelt.*

[Telegram.—Translation.]

SAN JOSÉ, COSTA RICA,

September 14, 1901.

The people and Government of Costa Rica are profoundly moved by the death of President McKinley, and renew, therefore, expression of their sympathy to the people and Government of the United States.

RAFAEL IGLESIAS.

Mr. Hay to Mr. Merry.

[Telegram.]

DEPARTMENT OF STATE,

Washington, September 17, 1901.

In the name of President Roosevelt and the American nation you will assure President Iglesias of deep appreciation of his messages of solicitude and sympathy in the hour of suspense and affliction.

JOHN HAY.

Minister of Foreign Relations of Salvador to Mr Hay.

[Telegram.—Translation.]

SAN SALVADOR, *September 15, 1901.*

The people and Government of Salvador send through me to the American Government the expression of their profound sympathy in the death of its illustrious President McKinley.

FRANCISCO A. REYES,
Minister of Foreign Relations.

Mr. Hay to the Minister of Foreign Relations of Salvador.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1901.

The sorrowing Government and people deeply appreciate Salvadorian sympathy.

JOHN HAY.

PERSIA.

LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES UNDER MILITARY AND EXPATRIATION LAWS OF THEIR NATIVE COUNTRY.^a

DEPARTMENT OF STATE,
Washington, February 18, 1901.

NOTICE TO AMERICAN CITIZENS FORMERLY SUBJECTS OF PERSIA WHO CONTEMPLATE RETURNING TO THAT COUNTRY.

The information given below is believed to be correct, yet is not to be considered as official, as it relates to the laws and regulations of a foreign country.

Permission to be naturalized in a foreign country is not granted by the Persian Government to a Persian subject if he is under charge for a crime committed in Persia, or is a fugitive from justice, or a deserter from the Persian army, or is in debt in Persia, or fled to avoid pecuniary obligations.

If a Persian subject becomes a citizen of another country without the permission of the Persian Government he is forbidden to reenter Persian territory, and if he had any property in Persia he is ordered to sell or dispose of it.

There is no treaty between the United States and Persia defining the status of former Persian subjects who have become naturalized American citizens.

Passports are usually required of foreigners desiring to enter Persia, and they should, if possible, bear the visé or indorsement of a Persian consular officer.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.

Mr. Tyler to Mr. Hay.

No. 67.]

LEGATION OF THE UNITED STATES,
TEHERAN, *September 16, 1901.*

SIR: On Saturday, the 14th instant, about half past 4 in the afternoon, I received your telegram announcing that the President died at a quarter past 2 on the night of the 14th.

I immediately wrote out a notification and sent a copy to the foreign minister with a request that he would lay it before His Majesty the Shah. * * * The Shah sent one of his sons-in-law, a personage of high distinction, and whom I have known some years. He was

^aSee instructions to Belgium, December 10, 1900, page 16.

instructed to say that His Majesty was greatly affected at the receipt of this sad intelligence, and that he considered the grief and loss of the American Government and people was his own, and that they had his truest and most-genuine sympathy. * * *

I have, etc.,

JOHN TYLER,
Vice Consul-General, in Charge.

**CONGRATULATIONS OF THE SHAH ON THE ACCESSION OF
PRESIDENT ROOSEVELT.**

The Shah of Persia to President Roosevelt.

[Telegram—Translation.]

TEHERAN, *September 20, 1901.*

On the occasion of the accession of your excellency to the Presidency I sincerely congratulate you, and express the best wishes that I make for your happiness and the prosperity of the United States.

MOZAFFER ED DINE.

President Roosevelt to the Shah of Persia.

[Telegram.]

EXECUTIVE MANSION,
Washington, September 23, 1901.

I reciprocate your friendly greeting with cordial wishes for your welfare and the prosperity of Persia.

THEODORE ROOSEVELT.

**CONGRATULATIONS ON THE ANNIVERSARY OF THE SHAH'S
BIRTHDAY.**

Mr. Tyler to Mr. Hay.

No. 70.]

LEGATION OF THE UNITED STATES,
Teheran, September 28, 1901.

SIR: I have the honor to inform you that in accordance with general custom I attended this morning the diplomatic reception held by His Majesty the Shah, at the palace in Teheran, to celebrate his birthday. This is an annual function, and is made the occasion of some pleasant courtesies between the Shah and the representatives of foreign countries.

He made inquiries about the President's health, and told me that he had been given to understand that he was a personage of great ability and force of character. I replied that such was the general opinion.

In consequence of the legation being in mourning for the late President, I did not attend the banquet given in the evening by the prime minister, and on this account I was kindly excused.

I inclose a copy and translation of the usual note sent to the minister for foreign affairs on the morning of the Shah's birthday.

I have, etc.,

JOHN TYLER,
Vice Consul-General, in Charge.

[Inclosure.]

*Mr. Tyler to the minister for foreign affairs of Persia.*LEGATION OF THE UNITED STATES,
Teheran, September 28, 1901.

YOUR EXCELLENCY: I am instructed to present through you the most cordial salutations of his excellency the new President of the Republic of the United States of North America to his Imperial Majesty the Shah, on the recurrence of His Majesty's birthday, and to express the prayer that Almighty God will preserve him in the enjoyment of health, happiness, and prosperity for many years to come.

I also take this opportunity to repeat to your excellency my sincere esteem and respect for the estimable qualities of your character and the distinguished honor of your exalted position.

JOHN TYLER,
Vice Consul-General, in Charge.

Mr. Tyler to Mr. Hay.

No. 72.]

LEGATION OF THE UNITED STATES,
Teheran, October 11, 1901.

SIR: I have the honor to inclose for your information a copy and translation of a note from the minister for foreign affairs in reply to my letter of the 28th of September, 1901, tendering, on the part of his excellency the President, congratulations to His Majesty the Shah, on the celebration of his birthday.

The reply is rather belated, which is in most things rather the rule than the exception here; but I am sure it is not less sincere.

I have, etc.,

JOHN TYLER,
Vice Consul-General, in Charge.

[Inclosure.]*The minister for foreign affairs of Persia to Mr. Tyler.*MINISTRY FOR FOREIGN AFFAIRS, *October 10, 1901.*

SIR: I have the honor to acknowledge with much pleasure and gratification the receipt of your letter of the 28th of September, 1901, in which you communicate the congratulations of the most excellent and most exalted President of the Republic of the United States of North America on the occasion of the recurrence of the birthday of His Imperial Majesty the Shah, and to inform you that it was laid at the foot of the throne.

In reply, I beg to request that you will have the goodness to bring to the notice of his excellency the President and the Government of the United States the sincere pleasure and appreciation which this message of friendship and good-will has given to His Majesty and myself as well.

I take this opportunity, etc.,

MUSHIR-ED-DOWLAH.

PERU.

CLAIM OF JAMES H. HAYBALL V. PERU.

Mr. Bayard to Mr. Buck.

No. 68.]

DEPARTMENT OF STATE,
Washington, D. C., June 5, 1886.

SIR: I inclose with a reference to your No. 99^a a copy of "Report No. 210" in the matter of the J. H. Hayball claim *v.* Peru, prepared by the Solicitor of the Department.

I am, etc.,

T. F. BAYARD.

[Inclosure.]

Mr. Wharton, Solicitor, to the Secretary of State.

Report No. 210.]

LAW BUREAU, *March 3, 1886.*

SIR: I have examined the papers which are hereto annexed and I have no doubt that they present a case which will justify a grave demand for redress from the Government of Peru. The facts on which the claim is based may be briefly stated as follows:

On July 20, 1885, a force of 16 armed and uniformed men, of the party of General Cáceres, proceeded to Mr. Hayball's farm, some 33 miles from the coast, seized that gentleman, and demanded of him 20 horses, the same number of rifles, and a large amount of ammunition. He did not possess the rifles or ammunition, and refused to give up his horses, standing on his rights as an American citizen and consular agent at Chimbote. His animals, to the number of 80, were then seized, his store was pillaged, his orchard was laid waste, and he was forced to provide for his captors for the night. Of his animals, all but 28 were afterwards returned to him.

On the 4th of August following, 8 more horses were taken from him in a similar manner. On the next day, Mr. Hayball went to Chimbote to complain to the commander of the whole force. He was promised redress, but was made to pay the land tax for the current year, \$144. The promise was not fulfilled. On the 15th of November last, Mr. Hayball was compelled to pay the land tax again to the representative of the other party. This time he was assessed \$180. These repeated exactions and the seizure of his property have nearly ruined the claimant, and he asks that Peru should make good to him his losses.

He further states that during the ten years he has lived at Chimbote he has never had anything to do with the political questions of the country, or violated his neutrality as an American citizen.

I therefore respectfully report that our minister at Lima should be called upon to demand from the Government of Peru a suitable redress, both for the insult to this Government in the person of its consular agent and for the personal injuries to the claimant.

All of which is respectfully submitted.

FRANCIS WHARTON, *Solicitor.*

Mr. Dudley to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Lima, May 26, 1901.

(Mr. Dudley reports the offer by Peru of 8,000 soles in settlement of the Hayball claim, and recommends acceptance. The claimant is quite satisfied.)

Mr. Hill to Mr. Dudley.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 28, 1901.

(Mr. Hill authorizes Mr. Dudley to accept the offer of the Peruvian Government in the matter of the settlement of the Hayball claim.)

Mr. Dudley to Mr. Hay.

No. 480.

LEGATION OF THE UNITED STATES,
Lima, May 28, 1901.

SIR: I have the honor to append copy of telegram^a I sent the Department on the 26th instant reporting Peru's offer of 8,000 soles in settlement of the claim of Mr. James H. Hayball, a citizen of the United States, for loss of property suffered by him during the Cáceres revolution of 1885; and a copy of the Department's telegram^a of to-day authorizing its acceptance.

I also inclose herewith a copy and translation of the note of Dr. Osma, the Peruvian foreign minister, containing the proposal, and a copy of the acceptance I have just sent him.

Preliminary to acting upon the foreign minister's offer I had the claimant come to Lima to give me his views. As often happens in such cases, the valuation of the animals taken and of the damage to his garden proved to have been exaggerated. Placing, at my request, a conservative valuation upon the various items of loss complained of, it appeared from his statement that the total was between 8,000 and 9,000 soles. It is to be remarked that the estimate omits from consideration all claim to interest during the years indemnity has been withheld. Nevertheless, the claimant expressed himself as highly pleased with the offer, and I accordingly cabled the message above mentioned. It is pleasant to me to be able to add that the present foreign minister treated the reclamation not only without evasion but with candor and a fairness which is more or less apparent, eliminating the interest question, from the near coincidence of his compromise offer with the claimant's present estimate.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure 1.—Translation.]

*Señor de Osma to Mr. Dudley.*FOREIGN OFFICE, *Lima, May 21, 1901.*

MR. MINISTER: In reference to the interviews your excellency and I have had regarding the claim of J. H. Hayball, supported by your legation, I have the pleasure to state to your excellency that my Government has no objections to adjust the matter by a payment of 8,000 soles.

Your excellency will please to consider this decision as a proof of the sincere good feeling existing in the relations between the two Governments, without this settlement being in any wise considered as a precedent for the adjustment of other cases.

I avail myself, etc.,

F. DE OSMA.

[Inclosure 2.]

*Mr. Dudley to Señor de Osma.*LEGATION OF THE UNITED STATES,
Lima, May 28, 1901.

MR. MINISTER: It affords me much pleasure to acknowledge the receipt this afternoon of your excellency's esteemed note of the 21st instant, wherein an offer of 8,000 soles is made in settlement of the long-pending claim of Mr. James H. Hayball against the Government of Peru. I beg to express to your excellency my very sincere appreciation of the spirit in which the offer is made and the allusion to the cordial good feeling which happily subsists between our respective Governments and which I trust never to see diminish.

Your excellency's proposal is respectfully accepted.

Congratulating myself, as well as your excellency, upon the conclusion reached, I embrace the opportunity, etc.,

IRVING B. DUDLEY.

*Mr. Dudley to Mr. Hay.*LEGATION OF THE UNITED STATES,
Lima, July 31, 1901.

No. 496.]

SIR:

* * * * *

I inclose herewith copy and translation of the note from the Peruvian foreign office transmitting check for 8,000 soles in settlement of the claim (James H. Hayball), and a copy of the legation's acknowledgment of its receipt.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure 1.—Translation.]

*Señor de Osma to Mr. Dudley.*FOREIGN OFFICE,
Lima, July 5, 1901.

MR. MINISTER: In conformity with my note addressed to your legation on the 21st of last May, in consequence of your excellency's acceptance of the proposal I made in the said note to arrange the claim of Mr. J. H. Hayball, I have the pleasure to inclose you a check, No. 448011, drawn by the public treasury on "El Banco del Peru y Londres," for the sum of 8,000 soles, in full settlement of the said claim.

I avail myself, etc.,

F. DE OSMA.

[Inclosure 2.]

Mr. Dudley to Señor de Osma.

LEGATION OF THE UNITED STATES.

Lima, July 9, 1901.

MR. MINISTER: I am pleased to acknowledge the receipt of your excellency's kind favor of July 5, inclosing a check of the public treasury, No. 448011, on "El Banco del Peru y Londres," for the sum of 8,000 soles, payable to my order, in full settlement of the claim of Mr. James H. Hayball.

Thanking your excellency for the prompt remittance of this sum, I beg that you will accept, etc.,

IRVING B. DUDLEY.

CLAIM OF WILLIAM FOWKS v. PERU.*Mr. Hay to Mr. Dudley.*

No. 152.]

DEPARTMENT OF STATE,

Washington, November 21, 1898.

SIR: I have received your despatch No. 187,^a of October 24 last, transmitting a copy of the certificate of the United States consular agent at Tumbez to affidavits submitted by William Fowks in support of his claim against the Peruvian Government, this certificate having been omitted from the papers previously transmitted. This completes the evidence which the Department, in its instruction of August 27, 1896, indicated should be furnished.

The facts in this case, as they appear from the memorial and the affidavits presented in support thereof, are as follows:

William Fowks, a native-born American citizen, engaged at Tumbez, Peru, in the mercantile business as a member of the firm of Edward Fowks & Co., was imprisoned December 28, 1894, for twenty-four hours, by the commander of a revolutionary force opposing the regular Government, at the time in possession of the city of Tumbez. The insurgent commander demanded of Mr. Fowks 400 soles for the use of the insurgents. The money was refused, and thereupon the insurgent commander cast Mr. Fowks into prison and kept him there without food, water, or bed, until after the expiration of twenty-four hours, the severity of the treatment compelling Mr. Fowks to comply with the demand made upon him. Fearing further pecuniary exaction, Mr. Fowks, after his release, left Peru and abandoned the mercantile business in which he was engaged for himself and his partners, who were also, according to his statement, citizens of the United States. In 1896, Mr. Fowks presented to the Department a claim asking for the return to him of the 400 soles extorted by the revolutionary commander as above described, also indemnity for his imprisonment and his personal suffering while in prison, and finally, damages to reimburse himself and his partners for the loss sustained by the enforced abandonment of their business in Tumbez.

It appears from the sworn statements of Consular Agent Baldini, and the other witnesses, submitted in your dispatch No. 134, of May 28 last, that at the time of the revolution Tumbez was held by the regular Government forces under the command of the Subprefect Muñoz, numbering from 30 to 150 men, regular troops; that upon

^aNot printed.

the approach of the insurgent forces, numbering about 80 men, Muñoz abandoned Tumbez. The revolution, which lasted about six months, was successful, and resulted in the establishment of the present Government. From the date of the imprisonment of Fowks until the inauguration of the provisional government, the revolutionary forces occupied Tumbez, the department of Piuria, in which it is located, being in the hands of the Government forces, numbering about 600 men. The commander of the insurgent forces which occupied Tumbez and imprisoned Fowks was Colonel Seminario, a nephew of the present second vice-president of Peru, and a member of the Peruvian Congress. The insurgents had not been recognized by this Government.

Article 15 of the treaty of 1887 between the United States and Peru, which was in force at the time of the occurrence above recited, contains the following provision: "The high contracting parties promise and engage to give full and perfect protection to the persons and property of the citizens of each other of all classes and occupations who may be dwelling or transient in the territories subject to their respective jurisdiction;" also, "that the citizens of one contracting party within the territory of the other shall not be liable to imprisonment without formal commitment under a warrant signed by a legal authority, except in cases *flagrantis delicti*." Also, "said citizens, when detained in prison, shall be treated during their imprisonment with humanity, and no unnecessary severity shall be exercised toward them." Article 2 of the same treaty provides that "they (said citizens) shall not be called upon for any forced loan or extraordinary contribution for any military expedition * * * without being allowed therefor a full and sufficient indemnification, which shall be in all cases agreed upon and paid in advance."

For the treatment to which Mr. Fowks was subjected, in violation of express provisions of treaty and of the principles of international law, the Peruvian Government is responsible (see the correspondence in the MacCord case, to which you have access). You are accordingly instructed to present a claim in behalf of Mr. Fowks for reimbursement of the money extorted from him, with interest at the rate of 6 per cent per annum from December 28, 1894, and for a reasonable indemnity—say \$5,000—for the imprisonment and ill-treatment.

In the opinion of the Department the claim for damages for interruption of the business of Fowks & Co. is not a valid one, and you will not present the same.

I am, etc.,

JOHN HAY.

Mr. Dudley to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Lima, March 18, 1901.

(Mr. Dudley reports that the Peruvian Government has offered 3,000 soles in settlement of the claim of Fowks, with the proviso that such action is not citable as a precedent; that he considers the offer equitable, and that the claimant is anxious to accept it.)

Mr. Hay to Mr. Dudley.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 18, 1901.

(Mr. Hay authorizes Mr. Dudley to accept 3,000 soles in settlement of the Fowks claim, with the proviso mentioned in the preceding telegram.)

Mr. Dudley to Mr. Hay.

No. 466.]

LEGATION OF THE UNITED STATES,
Lima, April 8, 1901.

SIR: I have the honor to report that I have to-day received from the Peruvian Government its draft for 3,000 soles in settlement of the claim of Mr. William Fowks, a citizen of the United States, who suffered at the hands of revolutionists at Tumbes, Peru, in December, 1894. The claimant left Peru several months ago to accept an employment at Pittsburg. Before going he gave to his father, Mr. Edward Fowks of Paita, a general power of attorney to act for him in securing settlement of the claim. The power, duly executed before a notary public and witnesses at Paita, and there recorded, was deposited at this legation by the senior Mr. Fowks while in Lima several weeks ago. The amount of the collection, therefore, will be transferred to him as the claimant's authorized representative, and his receipt therefor forwarded in due course to the Department.

The Peruvian foreign minister made his offer of settlement on the 16th ultimo at the last of a number of conferences I had had with him upon the subject.

The amount of the contribution extorted from the claimant was the equivalent of about \$200, so that the indemnity paid on account of his imprisonment for twenty-four hours under the circumstances of aggravation detailed in his memorial is about \$1,300. He was one of a number upon whom small contributions were levied at the same time and place. His case, as I have learned verbally from his father, differs from the others in that he did not, like them, deliver upon demand; but, attentive to word sent him by his father in anticipation of the action of the revolutionists, stood upon his rights until he had reached the limit of physical endurance under the coercion employed.

On the whole, I believe that the principle herein involved, classifying the case as a lesser MacCord claim, has been again vindicated, and, in my telegram to you, I did not hesitate to pronounce in favor of the fairness of the settlement, which I regard as a friendly manifestation from this Government as well as an act of justice.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure 1.—Translation.]

Señor de Osma to Mr. Dudley.

FOREIGN OFFICE,
Lima, March 22, 1901.

MR. MINISTER: In reference to the communications which your excellency has addressed to this ministry in support of the claim of William Fowks, an American citizen, by reason of events occurring in Tumbes during the year 1894, I have the

pleasure to inform you that without entering into any discussion as to the bases of said claim, or performing any act which might serve to establish a precedent either for or against analogous cases, I beg to submit to your excellency the following arrangement of this question:

To pay to the claimant, Mr. Fowks, the sum of 3,000 soles silver, in virtue of which payment his claim will become totally and definitely canceled, not only as regards the ill-treatment and imprisonment which he declares having suffered at the hands of the forces which occupied Tumbez under the orders of Col. Felipe Seminario, but also as regards the forced loan of 400 soles, the repayment of which with interest has been solicited by the claimant.

I trust that your excellency's Government will not fail to see in the preceding proposal a new proof of the interest taken by the Government of Peru in its endeavors to contribute toward the maintenance of the cordial relations now existing between Peru and the United States of America, and I have the honor to reiterate, etc.

FELIPE DE OSMA.

[Inclosure 2.]

Mr. Dudley to Señor de Osma.

LEGATION OF THE UNITED STATES,
Lima, March 27, 1901.

MR. MINISTER: I have the pleasure of acknowledging the receipt of your excellency's esteemed note of the 22d instant, containing an offer of 3,000 soles in settlement in full of the pending claim of Mr. William Fowks, a citizen of the United States, for wrongs suffered by him at Tumbez in 1894. It is noted that this settlement is proposed subject to the proviso that it shall not hereafter be deemed to have established a precedent applicable to analogous cases.

In reply I have the honor to notify your excellency that I accept the offer, subject to the proviso wherewith it is coupled. It will also afford me unusual satisfaction to inform my Government of the conclusion herein reached, though differing in an unimportant sense from its own proposal, and of the friendly and equitable spirit toward it wherewith I well know your excellency's Government, and no less your excellency personally, has been actuated in the present accord and satisfaction.

I trust that your excellency will accept my acknowledgment of indebtedness for your unvarying courtesy in the discussion of this and all other questions which have arisen in the course of our official relations, permitting me to add renewed assurance, etc.,

IRVING B. DUDLEY.

[Inclosure 3—Translation.]

Señor de Osma to Mr. Dudley.

FOREIGN OFFICE,
Lima, April 6, 1901.

MR. MINISTER: In fulfillment of the offer I had the honor to make to your excellency on the 22d of last March for the definite settlement of the claim of the American citizen, William Fowks, and which your excellency saw fit to accept, I herewith inclose a check, No. 434532, of the public treasury for 3,000 soles, national money, on the Bank of Peru and London.

Thus ending this affair, I take the opportunity to renew, etc.,

FELIPE DE OSMA.

[Inclosure 4.]

Mr. Dudley to Señor de Osma.

LEGATION OF THE UNITED STATES,
Lima, April 8, 1901.

MR. MINISTER: I have the pleasure of acknowledging the receipt this afternoon of your excellency's note of the 6th instant, inclosing a check of the public treasury for 3,000 soles in settlement of the claim of Mr. William Fowks, pursuant to the offer

made on the 22d ultimo. Under my instructions from the honorable Secretary of State, it has been my aim to meet your excellency's friendly advances in a like conciliatory spirit, and I am glad to believe that the conclusion herein reached will be equally satisfactory to both Governments.

Thanking your excellency for the remittance, permit me once more to renew, etc.,

IRVING B. DUDLEY.

CONDOLENCE ON ASSASSINATION OF PRESIDENT M'KINLEY.

President Romana to President Roosevelt.

[Telegram.]

LIMA, *September 14, 1901.*

Accept expression of condolence in my own and country's name for the loss of the great President McKinley.

ROMANA, *President.*

Mr. Hay to Mr. Dudley.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 20, 1901.

Please convey, through proper channel, in the name of the President and people, sincere appreciation of President Romana's message of condolence.

JOHN HAY.

PORTUGAL.

REFUSAL OF PERMISSION FOR SALE IN PORTUGAL OF CERTAIN MEDICINES OF AMERICAN MANUFACTURE.

Mr. Thieriot to Mr. Hay.

No. 55.]

LEGATION OF THE UNITED STATES,
Lisbon, November 26, 1900.

SIR: I am very sorry to have to state that in spite of numerous interviews with the minister of foreign affairs, letters and remonstrances, this Government has decided to refuse permission for the sale of Ayer's Cherry Pectoral, Sarsaparilla and Ague Cure.

I take the liberty of inclosing a copy of my last letter to the minister of foreign affairs, dated 20th of November, 1900, as well as a translation of the last letter to me from the foreign office.

Messrs. James Cassels & Co., Oporto, have been informed of this news.

I have, etc.,

J. H. THIERIOT.

[Inclosure 1.]

Mr. Thieriot to Mr Arroyo, minister of foreign affairs.

LEGATION OF THE UNITED STATES,
Lisbon, November 20, 1900.

In addition to the petition made to your excellency on the 22d of October, 1900, I have the honor to say that I am requested by the firm J. C. Ayer & Co. to state that they have no objection to show the formula of their Sarsaparilla, which is not a patent medicine, but approved of by all medical men.

The composition of Pink Pills was made known to the "Conselho de Sande e Hygiene," but not to the public. The three medicines which the firm in question now begs permission to offer for sale are, then, the following: First, Sarsaparilla; second, Cherry Pectoral; third, Ague Cure.

These three medicines have been admitted for sale by all nations, and the Sarsaparilla has the largest sale of any medicine in the world.

Requesting of your excellency the favor of a speedy decision in this matter, I avail, etc.,

J. H. THIERIOT.

[Inclosure 2.—Translation.]

Mr. Arroyo to Mr. Thieriot.

FOREIGN OFFICE,
Lisbon, November 23, 1900.

With reference to the permission asked for by the firm J. C. Ayer & Co. for the sale of their pharmaceutical preparations, and in reply to your excellency's notes on the subject, I have to acquaint your excellency that the general board of public health has informed this department that by a ministerial decision permission has been denied for the sale of the medicines denominated Ayer's Cherry Pectoral, Ayer's Extract of Sarsaparilla, Ayer's Ague Cure.

I avail, etc.,

JOÃO M. ARROYO.

Mr. Hay to Mr. Thieriot.

No. 29.]

DEPARTMENT OF STATE,
Washington, December 20, 1900.

SIR: Referring to your No. 55, of the 26th ultimo, I inclose copy of a letter from the J. C. Ayer Company, of Lowell, Mass., urging that one more effort may be made to obtain authorization for the sale of certain of their medicines.

I am, etc.,

JOHN HAY.

[Inclosure.]

J. C. Ayer Company to Mr. Hill.

LOWELL, MASS., December 15 1900.

SIR: We beg to acknowledge the receipt of your favor of the 13th instant, advising that before the Department's instructions of the 23d ultimo reached the United States chargé d'affaires at Lisbon the Portuguese authorities had, according to the chargé's statement, refused a market for our medicines. We are in receipt of advices to the same effect from our resident agents.

We have to thank you most sincerely for your many kindnesses in this matter, and trust you will pardon us if we trespass on your attention a little further as follows:

Our preparations affected by this arbitrary decision of the Portuguese authorities are Ayer's Cherry Pectoral and Ayer's Sarsaparilla. These medicines have been sold in Portugal for fully thirty years. During this time a large demand has been created, the medicines having been recommended by a large number of Portuguese physicians and medical men, and they have gained considerable acceptance among the Portuguese people. It is, therefore, a serious blow to our business in Portugal to have these goods shut out of the market there at this late date.

Our resident agents at Oporto, Messrs. James Cassels & Co., inform us that the reason given by the council of health for refusing their approval of Ayer's Cherry Pectoral and Ayer's Sarsaparilla is that they are secret medicines. This is not true. The formulas are always available to the members of the medical profession, to whom same are freely sent on application. Messrs. James Cassels & Co. further report to us that in November, 1899, "Dr. Williams's Pink Pills," a British preparation, was not approved of by the council of health of Lisbon, but the British minister requested that it should be approved of, and the Portuguese Government ordered the council of health to reconsider their decision, with the result that "Dr. Williams's Pink Pills" received approval, although the formula is actually kept a secret.

Messrs. Cassels & Co. say that if the United States minister at Lisbon were politely, but firmly, to request the Portuguese Government to approve of our medicines, stating the fact of their having been sold for so many years in Portugal, and of their being recommended by a large number of Portuguese medical men, and that our medicines are not secret medicines, the formulas being supplied to medical men on application therefor, then, even now, it is probable that the Portuguese Government would ask the council of health to reconsider their decision.

If we may trespass on your kindness to this extent we shall esteem it a great favor; and hoping that you will instruct our minister at Lisbon in accordance with the above,

We have, etc.,

J. C. AYER COMPANY.

Mr. Hay to Mr. Thieriot.

No. 30.]

DEPARTMENT OF STATE,
Washington, December 21, 1900.

SIR: Referring to the Department's instruction of yesterday's date, I inclose copy of a later letter from the J. C. Ayer Company relative to the exclusion of their medicines from Portugal.

I am, etc.,

JOHN HAY.

[Inclosure.]

*J. C. Ayer Company to Mr. Hill.*LOWELL, MASS., *December 17, 1900.*

SIR: We had the honor of addressing you on the 15th instant in the matter of our preparations in Portugal, and to-day are in receipt of your esteemed favor of the 14th, covering copy of a note addressed to the United States legation at Lisbon by the Portuguese foreign office stating that permission has been denied for the sale of Ayer's Cherry Pectoral, Ayer's Sarsaparilla, and Ayer's Ague Cure. In this note is not stated the ground on which the permission has been denied, but our resident agents at Oporto inform us that the decision has been made on the ground that the preparations in question are "secret" medicines. As stated in our respects to you of the 15th instant, this is not true.

In any event the decision is a most arbitrary one and has no just basis, the motive therefor being, in fact, the desire of the Portuguese native manufacturers to prevent the importation and competition of American medicines.

The exclusion of our Ague Cure is of small moment, as we have made no particular demand in Portugal for that medicine, but we beg that you will be kind enough to exert your influence in favor of a reversal of the decision of the Portuguese ministers in so far as the same affects Ayer's Cherry Pectoral and Ayer's Sarsaparilla.

Again expressing our thanks for your good attention, and hoping for your further assistance in the way indicated herein and in our letter of the 15th instant,

We have, etc.,

J. C. AYER COMPANY.

Mr. Thieriot to Mr. Hay.

No. 58.]

LEGATION OF THE UNITED STATES,

Lisbon, December 24, 1900.

SIR: Referring to my No. 55, of November 26, with reference to the sale of Ayer's medicines, I have the honor to state that I have just received a letter from the J. C. Ayer Company on the above subject, of which the inclosed is a copy. I await Department's instructions how to proceed further in this matter.

I have, etc.,

J. H. THIERIOT.

[Inclosure.]

J. C. Ayer Company to Mr. Thieriot.

OFFICE OF J. C. AYER COMPANY,

Lowell, Mass., December 8, 1900.

SIR: We regret exceedingly to learn from Messrs. James Cassels & Co., our resident agents at Oporto, that in the Diario do Governo of 20th ultimo notice was given that Ayer's Sarsaparilla, Ayer's Cherry Pectoral, and Ayer's Ague Cure had not been approved of by the conselho de saude because they were secret medicines. This announcement is a strong disappointment to us, as we had confidently anticipated, despite the long delay on the part of the Portuguese authorities in considering the case, that a favorable decision would be given. On the 27th ultimo we were advised by the Secretary of State at Washington that cable instructions had been again sent requesting you to use your influence to obtain the authorization of our medicines. We beg that, despite the notice referred to in the Diario do Governo, you will urgently insist that the Portuguese Government shall approve of our Cherry Pectoral and Sarsaparilla (the Ague Cure is not of so much importance), on the ground that they have been approved of elsewhere; that they are recommended by very many Portuguese physicians and medical men; and particularly that these medicines are not secret medicines, because the formulas are sent to all medical men requesting same. In fact, we have no objection whatever to the publication of our formulas, and our medicines can not properly be classed as secret medicines.

We are informed that Williams's Pink Pills, a British preparation, had not met with the approval of the conselho de saude, but the British minister used his

influence in favor of their approval with the result that the Portuguese Government ordered the conselho de saude to reconsider its decision, and the outcome was that Dr. Williams's Pink Pills finally received the approval of the conselho de saude, despite the fact that the formula of this medicine is actually kept a secret.

We have invested large capital and have expended much energy in establishing our business in Portugal, which has been in existence now for some thirty years. It is, therefore, a great injury to our interests to come under the ban of the conselho de saude in this arbitrary fashion, and we sincerely hope that you will oblige us by acting as strongly in the matter as may be possible.

Thanking you in anticipation,

We have, etc.,

J. C. AYER COMPANY.

Mr. Thieriot to Mr. Hay.

No. 62.]

LEGATION OF THE UNITED STATES,
Lisbon, January 14, 1901.

SIR: In accordance with the Department's instructions Nos. 29 and 30, and accompanying copies of letters from the Ayer Company, I have had a special interview with the minister of foreign affairs, with the view of prevailing upon him by the most forcible representations to use his best influence to obtain from the board of health authorization for the importation and sale of at least the two medicines of most importance to the Ayer Company, and his excellency has promised me that he will do all in his power to bring the board of health to this decision.

I have, etc.,

J. H. THIERIOT,
Chargé d'Affaires.

Mr. Hay to Mr. Thieriot.

No. 32.]

DEPARTMENT OF STATE,
Washington, January 19, 1901.

SIR: I have the honor to acknowledge the receipt of your No. 58, of the 24th ultimo, inclosing copy of a letter from the J. C. Ayer Company, of Lowell, Mass., relative to the sale of their medicines in Portugal.

Referring to the Department's No. 29, of the 20th ultimo, which crossed yours, I have to say that you may use your good offices in the direction of one more effort to obtain authorization for the sale in Portugal of certain of the medicines of this company, although it would seem to the Department that the efforts of this Government in its behalf had been well-nigh exhausted.

I am, etc.,

JOHN HAY.

Mr. Thieriot to Mr. Hay.

No. 65.]

LEGATION OF THE UNITED STATES,
Lisbon, February 4, 1901.

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 32, of the 19th ultimo, to hand this day.

In compliance with the Department's No. 29, of December 20, 1900, instructing me to make one more effort to obtain authorization for the sale of the Ayer Company's medicines, I beg to say that since its

receipt I have made, both verbally and by letter, renewed efforts in this direction, resulting, however, I regret to say, in a reply from the minister of foreign affairs which, I suppose, must be regarded as final, and of which I beg to inclose a translation.

I have, etc.,

J. H. THIERIOT.

[Inclosure.—Translation.]

Mr. Arroyo to Mr. Thieriot.

FOREIGN OFFICE, *February 1, 1901.*

In reply to your excellency's note of January 28 last, accompanied by a letter addressed to you by the Ayer Company, I have to apprise your excellency that the proper department, to which the said documents were made known, informs me that the decision come to with respect to the preparations Cherry Pectoral and Sarsaparilla was based upon the opinion of technical experts, and in harmony with the provisions of the decree of the 10th of May, 1899, which regulates the sale of medicines of secret composition, in which category the medicines referred to are comprised, for, according to the terms of the minister's order of the 17th of March, 1865, all medicines are to be considered secret which are not to be found mentioned and sanctioned in the legal pharmacopœia of the Kingdom.

I embrace this opportunity to renew, etc.,

JOAÓ M. ARROYO.

LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES UNDER MILITARY AND EXPATRIATION LAWS OF THEIR NATIVE COUNTRY.^a

DEPARTMENT OF STATE,
Washington, February 11, 1901.

NOTICE TO AMERICAN CITIZENS FORMER SUBJECTS OF PORTUGAL WHO CONTEMPLATE RETURNING TO THAT COUNTRY.

The information given below is believed to be correct, yet is not to be considered as official, as it relates to the laws and regulations of a foreign country.

Military service is obligatory upon Portuguese male subjects, but by becoming naturalized in a foreign country a Portuguese loses his qualifications as such.

On returning to the Kingdom with the intention of residing in it he may reacquire Portuguese subjection by requesting it from the municipal authorities of the place he selects for his residence. Not making this declaration he remains an alien and is not subject to military duty.

If a Portuguese leaves Portugal without having performed the military duty to which he was liable and becomes naturalized in a foreign country, his property is subject to seizure, and that of the person who may have become security for him when he left the Kingdom is equally liable. There is no treaty between the United States and Portugal defining the status of former Portuguese subjects who have become naturalized American citizens.

Passports are not required to enter Portuguese dominions. Travelers are, however, required to establish their nationality when they depart, and for this purpose a passport is the most effective document.

^a See Instruction to Belgium, December 10, 1900, page 16.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.

The King of Portugal to the Vice-President of the United States.

[Telegram.]

LISBON, *September 15, 1901.*

I share with the American people in the mourning that so sorely afflicts them.

KING OF PORTUGAL.

Mr. Hay to the minister for foreign affairs of Portugal.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 17, 1901.

In the names of Mrs. McKinley and of President Roosevelt I am directed to ask your excellency to convey to His Majesty sincere appreciation felt by the President and the American nation for His Majesty's messages of condolence.

JOHN HAY.

ROUMANIA.

LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES UNDER MILITARY AND EXPATRIATION LAWS OF THEIR NATIVE COUNTRY.^a

DEPARTMENT OF STATE, *Washington, February 20, 1901.*

NOTICE TO AMERICAN CITIZENS FORMERLY SUBJECTS OF ROUMANIA WHO CONTEMPLATE RETURNING TO THAT COUNTRY.

The information given below is believed to be correct, yet is not to be considered as official, as it relates to the laws and regulations of a foreign country.

All male inhabitants of Roumania except those under foreign protection are liable to military duty between the ages of 21 and 30 years.

American citizens formerly Roumanian subjects are not molested upon their return to Roumania, unless they infringed Roumanian law before emigrating. One who did not complete his military service in Roumania, and can not prove that he performed military service in the United States, is subject to arrest, or fine, or both, for evasion of military duty.

There is no treaty between the United States and Roumania defining the status of naturalized Americans of Roumanian birth returning to Roumania.

Passports are absolutely necessary in Roumania, and must be viséed by a Roumanian consul. If they are not so viséed the holder may be sent back from the frontier to the nearest place where there is a Roumanian consul.

An American who intends to remain in Roumania for a longer period than eight days must have his passport viséed by the United States consul at Bucharest and obtain a permit of residence, valid for one year, from the prefecture of police.

CONDOLENCES ON ASSASSINATION OF PRÉSIDENT M'KINLEY.

Mr. Stourdza, president of the Council of Roumania, to Mr. Hay.

[Telegram.—Translation.]

BUCHAREST, *September 15, 1901.*

It is not without keen emotion that the Royal Government of Roumania has received the news of the tragic death of President McKinley. Please receive the most sincere condolences of the president of the Council.

D. STOURDZA.

Mr. Hay to Mr. Stourdza.

[Telegram.]

DEPARTMENT OF STATE, *Washington, September 16, 1901.*

Pray accept on behalf of the American Government and people grateful thanks for Roumanian sympathy in their deep affliction.

JOHN HAY.

^aSee instruction to Belgium, December 10, 1900, page 16.

RUSSIA.

PASSPORT APPLICATION OF MRS. LOUISA LASSONNE, WIDOW OF A NATURALIZED UNITED STATES CITIZEN, RESIDING WITHOUT THE UNITED STATES.

Mr. Breckinridge to Mr. Olney.

No. 489.]

LEGATION OF THE UNITED STATES,
St. Petersburg, February 23, 1897.

SIR: I have the honor to inclose herewith copy of a letter, without date, from Mrs. Louisa Lassonne, who wishes a renewal of her passport, and to request the ruling of the Department upon the case.

This is a case where the lady, the widow of a naturalized American citizen, confesses to having no identity with the United States or purpose of going there. Upon the other hand, she pleads inability to go, from poverty and the infirmities of age; but it does not appear that the necessity of her stay abroad has arisen from any vocation such as the Department usually accepts as sufficient ground for protracted absence. The case is a sympathetic one, but I feel that I can not accede to her application without special authority to do so.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure.]

Mrs. Lassonne to Mr. Breckinridge.

SIR: I heard from Mr. Billhardt, the American consul at Moscow, that you refuse to give me a new passport on the plea that you wish to know a little more about me.

Well, I, Mrs. Louisa Lassonne, a native of Switzerland, born in Vevey, Canton de Vaud, was married in the year 1874, on the 9th of May, to Mr. Charles Lassonne, a naturalized citizen of the United States of America, at St. Petersburg, at the United States legation, by R. I. Hall, in the presence of Marshal Jewell, then ambassador of the said legation.

I am an old woman, weak and sickly, a widow; I earn my bread by teaching; in the winter I give lessons, in the summer I travel about with families at whom I engage as governess.

I never was in America, and can not go there if I wished, having no means; and what should I do there, I being a stranger, rather to say, foreign to the country; in which way could I get my existence; and should I say it frankly, I thought that I had a right to the aid and protection from the country I became a citizen by legal rights, and instead of that I am refused a passport. I ask for it lawfully, by appellation, as I have been told to do by Mr. Billhardt. I will hope, sir, that after this explanation you will not refuse to issue me a passport; if in a contrary case, please teach me what I have to do in future.

With high respect, etc.,

L. LASSONNE.

Mr. Sherman to Mr. Breckinridge.

No. 379.]

DEPARTMENT OF STATE,
Washington, D. C., March 15, 1897.

SIR: YOUR No. 489, of the 23d ultimo, in relation to the application of Mrs. Louisa Lassonne for a passport, has been received. From the statement of your dispatch and Mrs. Lassonne's letter it appears that the applicant, being a native of Switzerland, was married in St. Petersburg in 1874 to Mr. Charles Lassonne, stated to be a naturalized citizen of the United States. She is now a widow. She has never been in the United States and has no apparent intention of coming hither.

No question appears to be raised as to the nationality of the applicant's late husband, and it is presumed that you have satisfied yourself that he was a duly naturalized citizen. The only question for the Department to consider is whether, under the circumstances, Mrs. Lassonne is entitled to protection as a citizen of the United States.

Mrs. Lassonne's claim can, of course, be no better than her husband's would be were he alive; and it would seem that at some time in or prior to 1874 he virtually abandoned his American residence for a European domicile. The widow's case is even weaker, for, during nearly a quarter of a century since her marriage, she has never enjoyed an American domicile.

Moreover, a somewhat peculiar aspect exists in this case. By our statute an alien wife of an American citizen shares his citizenship. By the usual rules of continental private international law a woman marrying an alien shares his status, certainly during his life; but thereafter on widowhood reverts to her original status unless she abandons the country of her origin and returns to that of her late husband. Were Mrs. Lassonne now sojourning in Switzerland, it would probably be claimed that she had on widowhood reverted to her character as a Switzer; and the converse claim that she had become a citizen of the United States by operation of the laws of the United States, without ever having been within their jurisdiction, would probably be contested by Switzerland. As the lady, however, is not in her native country, but in a third state, this point is not material to the question whether she is or is not entitled to protection as an American citizen. It is merely mentioned by way of suggestion that, as she is certainly not a Russian so far as appears and is not entitled to protection as an American citizen, her Swiss character may be found to remain intact, entitling her to a Swiss passport.

The Department's conclusion is that it can not authorize you to grant Mrs. Lassonne a passport upon the facts as stated by you.

Respectfully, yours,

JOHN SHERMAN.

Mr. Tower to Mr. Hay.

No. 499.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, November 20, 1901.

SIR: I beg leave to inclose to you herewith a copy of a letter, dated at Moscow the 21st of October, 1901, from Mrs. Louisa Lassonne, who seeks an American passport for identification and protection in Russia.

It appears that Mrs. Lassonne was born in Switzerland, in the Canton de Vaud, and that she is now a widow. She was married in 1874

to Charles Lassonne, a naturalized citizen, with whom she lived in Moscow until his death some years ago.

She applied to the United States legation in St. Petersburg for a passport in 1897, and her application was submitted to the Department of State by the Hon. Clifton R. Breckinridge in his dispatch No. 489, of the 23d of February of that year.

The decision of the honorable Secretary of State, given in Mr. Sherman's dispatch No. 379, of the 15th of March, 1897, was that the application of Mrs. Lassonne could not be granted, and an American passport could not be issued to her because, as her husband had died and she had never been in America, she was held to have lost the American citizenship acquired by her in her marriage with him.

The honorable Secretary expressed his decision as follows:

By the usual rules of continental private international law a woman marrying an alien shares his status, certainly during his life; but thereafter on widowhood reverts to her original status unless she abandons the country of her origin and returns to that of her late husband. Were Mrs. Lassonne now sojourning in Switzerland it would probably be claimed that she had on widowhood reverted to her character as a Switzer; and the converse claim that she had become a citizen of the United States by operation of the laws of the United States, without ever having been within their jurisdiction, would probably be contested by Switzerland. As the lady, however, is not in her native country, but in a third state, this point is not material to the question whether she is or is not entitled to protection as an American citizen. It is merely mentioned by way of suggestion that, as she is certainly not a Russian so far as appears and is not entitled to protection as an American citizen, her Swiss character may be found to remain intact, entitling her to a Swiss passport.

The Department's conclusion is that it can not authorize you to grant Mrs. Lassonne a passport upon the facts as stated by you.

The only new matter presented by Mrs. Lassonne in her present appeal, which I have the honor to lay before you, is the decision of the Swiss Federal Council, a copy of which is hereto attached, that she lost her Swiss citizenship by her marriage with a foreigner, and that she can not resume her original nationality upon the death of her husband. Therefore she asks to be recognized as an American.

Mrs. Lassonne, who is 54 years of age, supports herself in Moscow by teaching. She is too poor to go either to America or to Switzerland, and she has sent me a certificate issued by Dr. Kramoreff, of Moscow, declaring that she is physically too weak to travel far. A copy of that certificate is also hereto attached.

In submitting this case I beg leave to ask for further instructions in the matter.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure 1.]

Mrs. Lassonne to Mr. Tower.

Moscow, October 21, 1901.

SIR: The first thing I will do is to beg pardon for intruding upon you, but I feel duty bound to let you know what my next step will be concerning my claims to an American passport. You have returned the papers sent you through our United States consul resident in Moscow, Mr. Smith, saying that you could not issue a new passport to me, as the same had been refused to me four years ago.

Well, sir, allow me to explain my circumstances to you: In 1874, at the legation of the United States at St. Petersburg, I was married to Mr. Charles Lassonne, a citizen of the United States of America, city and county of New York. My husband had at the time a temporary domicile in Moscow, and never had the intention of remaining here in this country, but he got ill, and during many years has been ailing, incapable of earning anything, or working to maintain wife or family. I had to work to keep

him. All these facts I can prove by witnesses, certificates, records of hospitals, etc.; even the Rev. Henry Bernard, former chaplain of the British church in Moscow, could certify the truth of my assertions. When my husband died his papers were sent to Washington. I had my own passport delivered to me at the embassy in Constantinople. As the new American law came out I was told that the passports were issued only for the term of two years. I immediately made an application to the minister in St. Petersburg and I received my document. I changed it again when the time came; and four years ago what was my astonishment to learn that my passport had been kept by the minister and a new one refused to me, under the plea that my husband having willfully abandoned his American residence, I, his widow, had lost my right to an American passport, being no longer a citizen, and that according to a certain international law that should exist (sic) any European woman married to an American lost her rights at his death and became what she was before—that is to say, for me, a *Swiss citizen*. Well, sir, I took a Swiss advocate, Mr. Magnin, in Geneva, sent all my papers to him. He submitted them to the American consul in Geneva, who said about the same thing to him. Then Mr. Magnin, acting for me, applied first to the cantonal council, then to the Federal Council of Switzerland, and you will find inclosed a copy of the decision of both councils. So, now, sir, I would like to know what I am. The American minister says I am a Swiss; the Swiss Government says I am an American by marriage. Mr. Breckinridge sends me to America to fulfill my duties as an American citizen. Sir, I am an old woman, a great invalid; here I send you the certificate of my physician; I can not undertake such a voyage, and if I were to break my home, my connections, my livelihood to start a new life, should I land there to go to the workhouse?

I have said all; now remains me to ask you, sir, to take my state into consideration, to grant me that paper, as it is the only means of living quiet the few days that are left to me. Should you find it impossible to grant me my requirement I will write to Mr. John Hay, in Washington, and lay the whole case before him. You must see, sir, that I suffer through the incapacity of some officials.

With best respect, etc.,

L. LASSONNE.

[Inclosure 2.—Translation.]

Certificate.

Moscow, October 7, 1901.

I certify hereby that Madame Louisa Ivanovna Lassonne, an American citizen, aged 54, is suffering from chronic arteriosclerosis, together with myocarditis, in consequence of which it is impossible for her to undertake a long journey.

NICHOLAS KRAMOREFF, M. D.,
Court Counsellor.

[Inclosure 3.—Translation.]

THE CANTONAL COUNCIL.

The State council of the Canton of Vaud decides:

“That the community of Chessel is absolutely in the right in refusing to grant a certificate of origin to Madame Lassonne, widow.

“That in conformity with the civil rights of the Canton of Vaud a woman of that Canton who marries a foreigner takes the nationality of her husband; she therefore loses her nationality and her right to citizenship of the Canton of Vaud.”

The State council of Vaud refers us, however, to the political federal department, to whom we have applied immediately.

MAGNIN,
Attorney-at-Law.

[Inclosure 4.—Translation.]

FEDERAL COUNCIL.

In the matter of the appeal from the decision of the community of Chessel and the State council of the Canton of Vaud, the Federal Council decides:

“That the authorities of the Canton of Vaud are justified in refusing a naturalization certificate to Madame Lassonne, a widow, by birth Schülz, who through her marriage with a foreigner has lost her original citizenship.”

Mr. Hay to Mr. Tower.

No. 264.]

DEPARTMENT OF STATE,
Washington, December 6, 1901.

SIR: I have to acknowledge the receipt of your No. 499, of the 20th ultimo, inclosing copy of a letter from Mrs. L. Lassonne, appealing for a United States passport.

You refer to the Department's No. 379, of March 15, 1897, to Mr. Breckinridge, in which the Department declined to issue a passport to Mrs. Lassonne.

The opinion of the Department that Mrs. Lassonne was not entitled to a passport was not based on the hypothesis that she would be claimed as a Swiss citizen by Switzerland. This was merely mentioned as a suggestion that she might possibly secure a Swiss passport. The decision of the Department was based upon her abandonment of the citizenship which she acquired by her marriage to a citizen of the United States.

I quote from the instruction:

It appears that the applicant, being a native of Switzerland, was married in St. Petersburg in 1874 to Mr. Charles Lassonne. * * * She is now a widow. She has never been in the United States, and has no apparent intention of coming hither. * * * The only question for the Department to consider is whether, under the circumstances, Mrs. Lassonne is entitled to protection as a citizen of the United States. Mrs. Lassonne's claim can, of course, be no better than her husband's would be, were he alive; and it would seem that at some time in or prior to 1874 he virtually abandoned his American residence for a European domicile. The widow's case is even weaker, for, during nearly a quarter of a century since her marriage, she has never enjoyed an American domicile.

While the Department's sympathies are with Mrs. Lassonne, it thinks that she is not entitled to a passport as an American citizen.

I am, etc.,

JOHN HAY.

**PROTECTION IN RUSSIA OF A NATURALIZED AMERICAN CITIZEN
OF JEWISH FAITH.**

Mr. Tower to Mr. Hay.

No. 381.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, January 10, 1901.

SIR: I have the honor to report to you the case of a naturalized American citizen, named Giovanni J. Margolin, who has recently come to Russia and now asks this embassy to secure for him the privilege of remaining here for an indefinite time.

The subject of this gentleman's request was brought to my attention by the United States consul at Riga, a copy of whose letter, dated the 3d of December, as well as of the entire correspondence, is respectfully submitted herewith.

This Mr. Margolin is an Austrian by birth, 32 years of age, who emigrated to the United States in 1895, and was naturalized before the district court of the United States for the southern district of New York, on the 2d day of October 1900. He has come to Russia with every apparent intention of remaining here; having, as he says, "a great number of relations in Russia, and which are all connected

with business houses of influence." As he is a Jew, however, he has been granted a limited permit, which as you well know is required under the provisions of the Russian law, by which he is authorized to reside within the Empire for three months. But not content with this, he calls upon this embassy to exert the influence of the United States Government in his behalf to the end that he may secure "permission to stop in this country as long as my passport." The passport which he presents is dated at Berlin the 1st day of November, 1900, and was issued there by the Hon. Andrew D. White, United States ambassador.

Upon the receipt of this communication through Mr. Bornholdt, United States consul, I replied that I should require some further details as to Mr. Margolin's origin and nationality before I could take up his case, and that I wished to know more clearly what his connection is with America and upon what ground he calls upon the Government of the United States to serve him.

Thereupon Mr. Margolin wrote me the letter of the 17th of December, from Whitebsk, which forms part of the correspondence hereto attached.

It appears from the details which I have been able to obtain that this man was naturalized only last October and left America at once, for we find him already in Berlin equipped with an American passport on the 1st day of November. He has no interest in the United States that I can discover; he has never paid any tax there; has never served upon a jury. In fine, he has rendered no service of any kind to the country.

Immediately upon coming to Europe, however, he seeks to employ his newly acquired citizenship, not for protection against personal injury, but for the acquirement of *privilege* in the furtherance of his own aims.

In order to ascertain definitely whether Mr. Margolin intends in good faith to return to the United States and perform there his duties as an American citizen or not, I wrote to him on the 2d of January asking him whether he wished a permit to live in Russia for two years, the period for which he holds his present American passport, and whether he sought also to remain here permanently.

By his reply, dated the 6th of January, to which I have the honor to refer you, he informs me that he intends to live permanently in Russia if the Imperial authorities will allow him to do so.

There is nothing to show that this man had any interest in becoming an American citizen beyond the purpose of using the advantages of citizenship in order to obtain privileges abroad which certainly would not have been asked for in his behalf by his own representatives if he had come to Russia directly from the country of his origin. Nor is it unreasonable, from his own presentation of the case, to assume that he has already substantially abandoned his duties and obligations as an American citizen.

It is true, he declares in his letter to me of the 17th of December, "I expect by importing different American novelties exclusively for Russia to approve as well with the interest of my country as I think it will provide convenient for my share." A statement which I incline to regard rather as an appeal to sentiment than an indication of a serious purpose to develop American industry. And I have not been willing to comply with Mr. Margolin's request because, if we have on

the one hand his unsupported declaration that he intends to introduce American wares into Russia, I respectfully submit that we have on the other a plain attempt to abuse an American certificate of naturalization.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure 1.]

Mr. Bornholdt to Mr. Tower.

No. 16.]

UNITED STATES CONSULATE,
Riga, November 20, December 3, 1900.

SIR: According to the inclosed United States passport with Russian visé, the bearer of the same, Mr. Giovanni Margolin, has obtained the permission to stay in Russia for a period of three months on account of his being of Hebrew origin.

Mr. Margolin informs me that he has come to Russia with the intention of forming commercial relations here, and that for this purpose he deems it necessary to prolong his stay here for about two years.

Although this seems to be rather a long time, I make free, at the request of Mr. Margolin, to submit the matter to your appreciation in case it might be possible to obtain for the petitioner the desired permission.

I have, etc.,

N. P. BORNHOLDT,
United States Consul.

[Inclosure 2.]

Mr. Bornholdt to Mr. Tower.

UNITED STATES CONSULATE,
Riga, November 20, December 3, 1900.

SIR: Mr. Margolin, concerning whom you will receive simultaneously an official letter from this consulate, referred to a similar case, which, he asserted had taken place some time ago.

In this case, he said, the permission (to stay in Russia) had at first been refused by the Imperial Government, but had been granted later on, in consequence of a direct appeal from the Hebrew in question to United States President.

You are of course the best judge concerning the attention which this tale deserves.

However, as I understand that Mr. Margolin intends, in case of refusal, to address a similar appeal to the President, I have considered it not quite superfluous to mention to you what he told me.

I have, etc.,

N. P. BORNHOLDT.

[Inclosure 3.]

Mr. Tower to Mr. Bornholdt.

EMBASSY OF THE UNITED STATES,
St. Petersburg, December 6, 1900.

SIR: I have duly received your letter of the 3d of December, and your personal letter of the same date, in regard to Mr. Giovanni Margolin, who wishes to have a permit which he has received from the Russian authorities to reside for three months within the Empire extended for a period of two years.

Before taking up this case I shall require some further details as to Mr. Margolin, the country of his origin and his connection with America. As he is a naturalized citizen of the United States, I wish you would ask him to state to me where and when he was born, when he emigrated to America, where he lived, and what his occupation was while there, when he left there. Ask him also to state whether he pays any taxes in the United States; and if so, how much and where. I wish further to know whether he has ever served upon a jury there; and in general what American interest he may have, if any, to strengthen his claim for protection as an American citizen.

I return to you herewith the certificate of naturalization of Giovanni J. Margolin, before the district court of the United States for the southern district of New York, on the 2d day of October, 1900; and the passport of Giovanni J. Margolin, No. 2386, issued by the Hon. Andrew D. White, at the United States embassy in Berlin, on the 1st day of November, 1900.

I am, etc.,

CHARLEMAGNE TOWER.

[Inclosure 4.]

Mr. Bornholdt to Mr. Tower.

No. 17.]

CONSULATE OF THE UNITED STATES,
Riga, November 25/December 8, 1900.

CONCERNING MR. G. MARGOLIN.

SIR: I beg to acknowledge the receipt of your letter of the 6th instant inclosing Mr. Margolin's passport and certificate of naturalization.

I wrote simultaneously to the said person, requesting him to furnish you the desired information on the direct way.

I have, etc.,

P. N. BORNHOLDT.

[Inclosure 5.]

Mr. Margolin to Mr. Tower.

VITEBSK, *December 4/17, 1900.*

YOUR EXCELLENCY: A few days ago I received a letter from the United States consul at Riga, where I applied for kind assistance to protect my sojourn in Russia as an American citizen, with the instruction to furnish the embassy on the direct way with some further details in regard to my person. I hereby take the liberty to comply with the order of the consul, and I venture to hope that the honorable embassy will convey my petition. The origin of my country is Austria, and I was born on the 10th of October, 1868, at Stanislau, Austria, of Jewish parentage. After finishing different colleges of education in Austria and Germany, I went to New York with the purpose of entering a business career. I landed in New York on the 4th day of January, 1895, and lived there all the time until October 4, 1900, when I sailed for Europe. I was employed there for several years in prominent commercial houses as a bookkeeper. After acquiring some of the important methods how to transact and own business, and possessing partly the American language, I represented in partnership with another gentleman under our own firm a large concern in "American novelties" for the State of New York. Finally I was engaged in the real estate and insurance business for myself until my departure with a success capable of being named. I have never been taxed there and I have never served upon a jury. My intention and good will are to stay a citizen of the United States. Under the circumstances that I have a great number of relations in Russia and which are well connected with business houses of influence, I expect, by importing different American novelties exclusively for Russia, to approve as well with the interests of my country, as I think it will provide convenient for my share. Therefore I request of the highly esteemed embassy to secure for me the permission to stop in this country at least as long as my passport, which I presume was sent to the embassy with my citizen paper by the consul at Riga, is entitled to his rights. Trusting that my petition will find a favorable assistance with the honorable embassy, I have, etc.

G. J. MARGOLIN.

[Inclosure 6.]

Mr. Tower to Mr. Margolin.

EMBASSY OF THE UNITED STATES,
St. Petersburg, January 2, 1901.

SIR: I have received your letter, dated at Whitebsk the 4-17th of December, 1900, in which you reply to the questions which I asked of Mr. Bornholdt, United States consul, in regard to your nationality and your naturalization in America,

You now request me to secure for you a permit to reside in Russia "at least as long as your passport." By this I judge that you would like a permit for two years with the privilege of having it renewed when you renew your passport. Is this not so, or do you wish a permanent residence in Russia?

Yours, etc.,

CHARLEMAGNE TOWER.

[Inclosure 7.]

Mr. Margolin to Mr. Tower.

VITEBSK, January 6, 1901.

YOUR EXCELLENCY: I have received your letter of January 2, with which your excellency had the kindness to honor me, and I hasten to submit to your excellency an obedient reply. It will deign perfectly to my satisfaction if your excellency shall favor me with the grace to secure for me a permit to reside as long as my passport, as issued by the esteemed embassy of the United States at Berlin for two years, is current. In case my enterprises should exhibit a favorable result, in every respect, I would prefer, if possible, having the privilege of renewing your excellency's, for me, kind obtained permit, together with my passport, after its expiration. I presume that to secure a permanent residence in Russia will be connected with many difficulties, therefore I have decided to aim at that idea. Finally, I take the liberty of mentioning the fact that the permission of my sojourn in Russia, originally granted to me by the Russian minister, as your excellency will kindly notice of my passport, will soon lose its validity, in consequence of which I hereby request of your excellency to relieve my case, to your excellency's earliest convenience, with an affirmative success.

I have the honor to be, etc.,

G. J. MARGOLIN.

[Inclosure 8.]

Mr. Tower to Mr. Margolin.

EMBASSY OF THE UNITED STATES,
St. Petersburg, January 9, 1901.

SIR: I have received your letter of the 6th of January. You tell me, in reply to my inquiry, that you wish to obtain a permit to remain in Russia at least for two years, and, if possible, the right to live here permanently.

I have submitted your case to the Department of State, at Washington, and shall inform you immediately upon the receipt by me of its decision.

In the meantime, I say to you that, in view of the fact that you lived in the United States barely long enough to become a citizen; that you never performed any service there whatever, or paid any taxes; and that you left America immediately upon having obtained your certificate of naturalization, you are not likely to be looked upon as one in a position to call upon the United States Government to interest itself in securing privileges for you abroad.

Yours, truly,

CHARLEMAGNE TOWER.

Mr. Hay to Mr. Tower.

No. 216.]

DEPARTMENT OF STATE,
Washington, January 30, 1901.

SIR: I have to acknowledge the receipt of your No. 381, of the 10th instant, reporting the case of Mr. Giovanni J. Margolin, an Austrian by birth, Jewish faith, who emigrated to the United States in 1895, was naturalized October 2, 1900, then went to Europe, secured a passport dated November 1, 1900, at the United States embassy in Berlin, entered Russia with a permission, as a Hebrew, to stay three months, and who now asks the good offices of this Government, in order to secure the extension of that permission on the part of the Russian Government to the full term of the passport, or indefinitely.

The Department approves your view of the case. More satisfactory evidence should be forthcoming than is now submitted of Mr. Margolin's actual conservation of his acquired citizenship before the intervention of this Government should be exercised to procure for him the continued privilege of residence in Russia for which he applies.

I am, etc.,

JOHN HAY.

EXPULSION OF GEORGE KENNAN FROM RUSSIA.

Mr. Tower to Mr. Hay.

No. 454.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, July 27, 1901.

SIR: I have the honor to report to you for your information that Mr. George Kennan, an American citizen, recently visiting St. Petersburg, was directed day before yesterday by the Russian police authorities to quit the Empire. Mr. Kennan arrived here about three weeks ago, by way of Finland, and has since been staying at the Hotel d'Angleterre in this city. His criticisms of the Russian Government in a book which he published some years ago in relation to the penal institutions of Siberia have not been considered either just or fair by the Russians themselves, and his presence here has not been looked upon with favor by the official community of the Empire.

Although Mr. Kennan reported himself to the police authorities of St. Petersburg upon his arrival here, as all travelers are required by law to do, he has not been disturbed until now. He has been treated with entire courtesy and consideration; though, having voluntarily placed himself within the jurisdiction of the Russian law, he has become, as he himself admits, amenable to its provisions and is consequently ordered beyond the frontier.

Mr. Kennan wrote to me last evening as follows:

A very courteous officer from the department of police called at my room this afternoon to inform me that, by direction of the minister of the interior, and in accordance with chapter 313 of Volume II of the laws of the Empire, I, as an "untrustworthy" American citizen am to be sent out of the country by the train leaving here for Germany at 10.30 to-morrow night. Meanwhile I am under close arrest in my room.

Of course they are acting within their right, and I have no complaint whatever to make, nor do I ask any interposition on the part of the embassy.

Mr. Kennan requested that Mr. Morgan, secretary of this embassy, should go to him to assist in having some books packed which he could not carry in his trunk. At my request Mr. Morgan called upon Mr. Kennan yesterday to ask whether he was in need of any assistance. Mr. Kennan replied that he had nothing to ask for, and that he met with politeness from all the officials of the Imperial police. He left St. Petersburg last evening at 10.30 o'clock.

The chapter 313 of Volume II of the Russian law, under which this expulsion has taken place, reads as follows:

Governors of provinces shall have supervision of all residents within their jurisdiction, and also of all foreigners who may be temporarily sojourning therein either for purposes of business or otherwise. They shall secure to such foreigners the benefits to which they may be entitled under the law, and shall protect them in the pursuit of their several occupations.

But they shall require the passports of all foreigners to be in due legal form; and shall also keep a detailed account, to be transmitted by them to the higher police authorities, of the conduct, actions, and mode of life of all such foreigners.

Foreigners who have come into Russia with passports may be expelled from the Empire only upon the decision of a court of law or by order of the higher police authorities.

Those foreigners whose behavior is suspicious and those who are not desirable as residents within the Empire may be expelled by order of the minister of the interior.

I have the honor to inclose to you herewith a copy of Mr. Kennan's letter to me under date of the 25th of July, 1901.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure.]

Mr. Kennan to Mr. Tower.

HOTEL D'ANGLETERRE,
July 25, 1901, 7 p. m.

DEAR MR. TOWER: A very courteous officer from the department of police called at my room this afternoon to inform me that by direction of the minister of the interior and in accordance with chapter 313 of Volume II of the laws of the Empire, I, as an "untrustworthy" American citizen, am to be sent out of the country by the train leaving here for Germany at 10.30 to-morrow night. Meanwhile, I am under close arrest in my room.

Of course they are acting within their right, and I have no complaint whatever to make, nor do I ask interposition on the part of the embassy. I merely wish you to know why it is impossible for me to make a farewell call upon you.

If, however, without inconveniencing or compromising the embassy in any way, you could request Mr. Morgan to call upon me to-morrow (Friday) I should like to ask him to give some directions for me with regard to the shipment of some (perfectly innocent) Russian books, which, owing to my arrest, I can't get packed. I shouldn't put him to so much trouble if I could help it, but I presume I shall not be allowed to see any other person.

I shall go directly through to London, and will advise you by telegraph of my safe arrival there.

With sincere respect and esteem, I am, faithfully yours,

GEORGE KENNAN.

Mr. Adee to Mr. Tower.

No. 247.]

DEPARTMENT OF STATE,
Washington, August 13, 1901.

SIR: I have to acknowledge the receipt of your No. 454 of the 27th ultimo, reporting the arrest and expulsion from the Russian Empire of Mr. George Kennan, an American citizen.

In reply I have to say that the incident attracted little attention in this country, the expulsion not having been attended with any action occasioning complaint on Mr. Kennan's part.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

**LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES
UNDER MILITARY AND EXPATRIATION LAWS OF THEIR
NATIVE COUNTRY.^a**

DEPARTMENT OF STATE,
Washington, August 1, 1901.

**NOTICE TO AMERICAN CITIZENS FORMERLY SUBJECTS OF RUSSIA WHO
CONTEMPLATE RETURNING TO THAT COUNTRY.**

The information given below is believed to be correct, yet is not to be considered as official, as it relates to the laws and regulations of a foreign country.

A Russian is enrolled for military service at the beginning of the twenty-first year of his age, and remains on the rolls to the end of his forty-third year; but at the age of 15 he is considered to be among those who are liable to perform military service, and he can not, after reaching that age, ask for permission to become a citizen of a foreign country, unless he has performed his military service. A Russian who becomes a citizen of another country without Imperial consent is liable under Russian law to the loss of all his civil rights and to perpetual banishment from the Empire. If he returns he is liable to deportation to Siberia. When a Russian emigrates before he is 15 years old, and subsequently becomes a citizen of another country, he is equally liable to punishment, unless when he attained the age of 21 years he took steps necessary to obtain the consent of the Emperor to his expatriation.

Naturalized Americans of Russian birth, of the Jewish race, are not allowed to enter Russia except by special permission. For this, they may apply to the minister of the interior, but the Department can not act as intermediary in making the application.

There is no treaty between the United States and Russia defining the status of American citizens of Russian birth upon their return to Russia.

No one is admitted to Russia without a passport. It must be visaed by a Russian diplomatic or consular representative. Upon entering Russia it should be shown at the first Government house, and the holder will be given another passport or permit of sojourn. At least twenty-four hours before departure from Russia this permit should be presented and a passport of departure will be granted and the original passport returned. A fresh permit to remain in Russia must be obtained every six months.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.

Mr. Wollant to Mr. Hay.

[Telegram.—Translation.]

RUSSIAN EMBASSY,
Narragansett Pier, September 15, 1901.

Prince Oblensky, acting Imperial minister, profoundly afflicted by the sad news of the demise of President McKinley, desires me to transmit to the Federal Government the expression of the keenest

^aSee instruction to Austria-Hungary, December 10, 1900, page 7.

and most sincere sympathy of the Imperial Government in the great calamity which has befallen the Government and the people of the United States.

G. DE WOLLANT.

Mr. Hay to Prince Oblensky.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1901.

I have received through Mr. Wollant your excellency's touching message of condolence on the part of the Imperial Government. In the name of the American people and their Government I thank you for this fraternal proof of sympathy from a nation so long friendly and so highly esteemed.

JOHN HAY,
Secretary of State.

SERVIA.

LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES UNDER MILITARY AND EXPATRIATION LAWS OF THEIR NATIVE COUNTRY.^a

DEPARTMENT OF STATE,
Washington, April 10, 1901.

NOTICE TO AMERICAN CITIZENS FORMERLY SUBJECTS OF SERVIA WHO CONTEMPLATE RETURNING TO THAT COUNTRY.

The information given below is believed to be correct, yet is not to be considered as official, as it relates to the laws and regulations of a foreign country.

Ordinarily all subjects of Servia are expected to perform at least two years' military service after they attain manhood.

If a subject of Servia emigrates before he has fulfilled his military obligations the Servian Government does not recognize a change of nationality made without the consent of the King, and upon his return he may be subject to molestation.

If, however, he performed his military service before emigration his acquisition of naturalization in the United States is recognized by the Servian Government.

There is no treaty between the United States and Servia defining the status of naturalized Americans of Servian birth returning to Servia.

Passports are rigorously required of all persons who desire to enter Servia.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.

Mr. Francis to Mr. Hay.

No. 14.]

LEGATION OF THE UNITED STATES,
Belgrade, September 25, 1901.

SIR: I have the honor to report that I was accorded a special audience to-day by King Alexander, upon which occasion His Majesty presented me to Her Majesty, Queen Draga. They both declared in strongest terms their horror at the murder of President McKinley and their sympathy for the American people in the great loss they have sustained by the death of a chief so wise and so good. Their majesties inquired particularly about Mrs. McKinley, and expressed for her the tenderest solicitude. King Alexander was evidently much gratified when I informed him that I had been requested by my Government in a cable dispatch received last evening to convey to His Majesty Mrs. McKinley's sincerest appreciation of his message of condolence.

I am, etc.,

CHARLES S. FRANCIS.

^aSee instructions to Belgium, December 10, 1900, page 16.

SIAM.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.

Prince Devawongse, Minister for Foreign Affairs, to Mr. Hay.

[Telegram.]

BANGKOK, *September 16, 1901.*

His Majesty was deeply grieved to hear of the death of President McKinley, and commanded me to express through your excellency to the American nation his profound sympathy and that of his Government at this irreparable loss.

DEVAWONGSE,
Minister Foreign Affairs.

Mr. Hay to Prince Devawongse.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1901.

Please assure His Majesty that the sorrowing American people and Government appreciate his sympathetic message.

JOHN HAY,
Secretary of State.

CONGRATULATIONS ON OCCASION OF NATIONAL HOLIDAY OF SIAM.

The President to the King.

[Telegram.]

EXECUTIVE MANSION,
Washington, November 15, 1901.

I congratulate Your Majesty on this auspicious anniversary.

THEODORE ROOSEVELT.

SPAIN.

PROTECTION BY REPRESENTATIVES OF THE UNITED STATES OF PORTO RICANS, CUBANS, AND FILIPINOS. (SEE FOREIGN RELATIONS, 1900, P. 891, ET SEQ.)

Mr. Storer to Mr. Hay.

No. 363.]

LEGATION OF THE UNITED STATES,
Madrid, December 20, 1900.

SIR: I have the honor to acknowledge the receipt of Department instruction No. 244,^a bearing date November 9, and containing the reading of cablegrams exchanged between this legation and the Department on the subject of evidences of citizenship presented by natives of Cuba, Porto Rico, and the Philippine Islands.

While the final sentence of the instruction does not seem to be entirely in accord with the telegrams, so specific, which preceded that instruction upon the same subject, I have presumed that it was not intended to repeal or modify the purport of those telegrams, and have not, therefore, in any way informed the consular officers in this country of any instruction later than that of your telegram.

The importance of this subject and the complications continually arising, both at this legation, at our various consular offices, and in the Government of Spain itself, leads me to lay before you as clearly as possible the problems presented. I do this also at the suggestion of more than one consular officer in Spain, who are of opinion that the Department may not be exactly advised of the details of the system recognized in your circular letter of May 2, 1899, and the changes that have been made, either by the authority of the War Department or of the provisional authorities, in the islands of Cuba and Porto Rico since the date of that circular letter.

The theory, as it has been gathered by all the consular officers to whom it has been sent, as well as this legation, on which was based that instruction, was that the "cedula de vecindad" presented by natives of these islands, would be one issued by the authority in these islands. That, of course, was the case on my first arrival, and that equally, of course, by lapse of time has ceased to be the case at present. The "cedula de vecindad," under Spanish law which heretofore governed in all her colonies and still remains the law in Spain, is that a cedula of this character must be applied for by every citizen or native, of either the home country or of the colony, in which the applicant was resident at the time of the expiration of his former cedula. These papers have been and are issued for one year only, and the Spanish law has been quite severe, apparently, in punishing, both by fine and by indirect legal consequences, the failure to procure a new one at the end of the life of the old one.

^a Printed Foreign Relations, 1900, p. 893.

During the first few months of my stay there were presented to me for visé and registration, pursuant to your circular letter of May 2, 1899, only cédulas issued by what purported to be the competent authority in Cuba and in Porto Rico. Sometimes these persons presented also their birth certificate as the best identification, or had presumably done so at the time of granting the original cédula; and all subsequent cédulas were granted, as in our own passport system, on the presentation and surrender of the former. At divers times these cédulas were presented, in some cases without the addition of further evidence, and in some cases together with other evidence, after the lapse of one year from their date. In all these cases I have endeavored to exercise my best judgment to carry out the instruction of the Department to exercise the good offices of the legation for the protection of bona fide applicants, and refused to register or visé cédulas expired already, except where they were accompanied by satisfactory evidence of some other kind. The excuse was universally made by these people, and I have no doubt generally with entire accuracy, that this was all the cédula they could have, as they had been absent more than a year from Cuba or Porto Rico, as the case might be.

After the lapse of a few months the applications began to come in to register and certify cédulas issued to persons described as natives of Cuba or Porto Rico, but issued here in Spain by the competent authority, which, generally speaking, are the municipal authorities of the various wards of a city like Madrid, the mayor of smaller cities, or the civil administration of provinces. I never have seen any cédula or other certificate of any kind issued to such people by any bureau or official of the Spanish General Government.

I at first declined to recognize these, and even after I consented to allow them to be registered and noted I have always insisted on the production of other evidence, either written or oral, as to the real nativity of the applicant. The pressure was always brought to me that the applicant desiring to go either to Cuba or to Porto Rico had been or would be refused passage on any Spanish steamer without the visa of the cédula by some officer of the Government of the United States authorized for that purpose. I refused to believe this, as I could not understand why any paper issued by any authority of the Spanish Government in Spain should require the certification of the officer of any other nationality; but I was personally assured by Mr. Dupuy de Lome, when he was under secretary of state, that it was some maritime regulation of each port with which the General Government had nothing to do, and out of compassion for these people presenting these cédulas, who were helpless, having generally left the matter of visa until a day or two before they intended to sail, I have dealt with this matter liberally.

From reports of consular officers, as well as inquiries made at the legation of applicants presenting these cédulas, I am convinced that there is a curious entanglement in all this procedure. The General Government of Spain informed me that so far from compelling any foreigner residing in Spain to pay for and receive a cédula de vecindad each year, that in their point of view no need exists for such foreigner either to demand or receive any such cédula. The authorities of the foreign office take the ground that the cédula de vecindad is intended only as a method, long recognized, of identification and protection in Spain of Spanish citizens or subjects, and also an indirect means of taxation for municipal and provincial purposes. They say that the

Spanish Government neither asserts the right, nor is willing to assume the duty, to demand such revenues from foreigners residing in Spain, or afford them of its own motion either the means of identification or protection; that, they say, should be extended only by some certificate, answering to a passport, issued by the proper authority of the country to which such foreigners owe allegiance—as, for example, the certificates of nationality which consular officers of Great Britain are authorized to issue in all parts of the world to citizens of that Empire.

The question is full of difficulty, and I do not intend to go deeper into it than I can help in laying this subject before you for consideration; for the Spanish law authorizes, in theory, the issuance of such certificates by foreign consular or diplomatic officers to foreigners resident in Spain only for a certain length of time, after which time if they remain they are supposed to have elected to become Spanish citizens. This consequence, very like many parallel cases in Spain, practically never follows very rigidly, as the condition in practice of such persons seems to be left very much at loose ends. Thus the Spanish Government, so far as the foreign office speaks, holds that these Cubans and Porto Ricans are under no obligation to obtain these cédulas which they offer for registration. On the other hand, as I have said, the steamship companies refuse to give passage without the exhibition of such a cedula, or embarkation on one of their vessels without the visa from some authority of our Government. Many of these Cubans and Porto Ricans have already taken out a cedula of a year ago, which they say they are informed by the local authorities, municipal and provincial, they must have for their identification, to show at any time it is asked of them. It is a fact always stated to me, which I presume to be true, that it is necessary to show such a cedula at a bank, as identification, at arrival at any city in Spain, should it be demanded, and generally at all times to have that or something similar to prove the official existence of the bearer of it if that be officially put in question, which in this country may be a matter of very frequent occurrence, though with equal probability it may never be asked for.

In Barcelona and in Madrid, with the utmost frankness and entire innocence, people have come to obtain passports from this legation or the consulate, representing that they are natives of Cuba or Porto Rico, and asking some kind of a certificate to enable them to embark on the steamer. But being informed of the restriction put upon your officers by our circular instruction, they are perfectly willing to go and apply to some Spanish officer, without any proof whatever to identify them, and as a matter of course, they tell me, obtain a cedula stating that the bearer is a native of Cuba or Porto Rico or the Philippine Islands, as they may desire to have inserted in this document. This I am assured is done without any inquiry or evidence for identification on the part of any official of Spain, and this cedula is then brought to us as official conclusive evidence of the nationality of the bearer, which we are supposed to accept and verify. In such cases the consul-general, as well as this legation, have refused to have anything to do with such a cedula unless supported by either oral or documentary evidence tending to show that the person carrying it was really entitled to it; and yet, as I have observed, under special law and custom such a cedula presupposes the presentation of evidence before it has been issued, and to all the rest of the world except ourselves must be considered conclusive as to what it recites.

I may add that not only the foreign office claim that no necessity exists and no urgency should be given of any kind to the taking out of such cédulas on the part of persons not citizens of Spain, but also reprehend in very strong and decided terms the visaing or certification of any such paper by any consular officer of any foreign power. Their ground is, that once taken out under special authority, be that authority one from the General Government or one vested in provincial or municipal officers, it becomes something that can not be made any stronger by the addition of any certification from any foreign power, and that any attempt so to make it is in the nature of a discourtesy. I am informed by our consuls that the local authorities in their places of residence are quite disposed to resent the affix of any visa or cédula on any official paper issued by any Spanish authority, be that general or provincial; and yet, as I have said, there is no doubt that the regulations of the steamship companies are in direct contradiction to this theory held by the officials of Spain. It would seem if a decided ruling was once given on this subject by the Department action taken thereunder would of necessity bring these conflicting regulations, which concern people claiming our good offices, into direct and formal collision, and some solution might be hoped for.

I have inquired of the Department several times what was to be done, and what instructions given consular officers regarding this question, which some time or other must be met and explained, and I now beg to ask again, on consideration of the facts that I have stated, whether your instruction of May 2, 1899, is intended to cover the present existing state of affairs, as would seem to be the idea of the Department from its instruction No. 244.

Since the occupation of Cuba and Porto Rico by our authority no cédulas appear to have been issued in either of those islands, but during the last six or seven months there have been brought to this legation and various consular officers entirely different forms of paper, which purport to be passports or certificates of identity.

These papers, of which I have already transmitted copies to the Department, asking instructions, are issued, so far as we have seen them, by the "alcaldes" in Porto Rico, and by provincial governors of provinces in Cuba. Those from Porto Rico do not contain any personal description, give no recital of citizenship, but describe the holder only as "vecino" of the city of which the "alcalde" issues the paper. The word "vecino" in Spain may be translated properly "resident of," but gives no legal affirmation of citizenship. Those issued by the provincial governor of Habana, so far as we have seen, contain a full description of the bearer by way of identification; but with no positive affirmation as to citizenship or residence, further than the filling in a blank after the printed word "nacionalidad" with the word "Cubana." The provincial governor of Santiago, on the contrary, issues an official document containing an even more detailed personal appearance list than the other, but with no blank to be filled in, or any other word regarding nationality or residence, and in the body of the paper grants passport to bearer as a native of the city, who can travel freely wherever he pleases, and asking all the authorities of Cuba and all diplomatic officers (loss señores agentes diplomáticos del exterior) to afford protection and aid if needed. Again, there appears a certificate signed officially by the secretary of state and interior of the island of Cuba, who certifies that the bearer, born in Spain, has not exercised a right of option for Spanish nationality provided for in Article IX of the Treaty of

Paris—"which fact constitutes the tacit renunciation of his nationality and the protection of the flag of Spain"—and that this paper is given him to prove that fact wherever he may go. This paper was considered by the bearer to be a passport, though it contained no personal identification whatever, and he had demanded the visé of it as such.

No passports have been called to my attention as yet issued by the authorities of the Philippine Islands; but the consul at Cadiz had demanded my opinion as to his proper course should a passport, in any form, purporting to be issued by some authority in the Philippine Islands and countersigned by the military authorities, be presented to him for registration and visé, while he, the consul, had direct knowledge that the bearer was born in Spain, had been in the Philippine Islands a very short time before the taking possession of them by the United States forces, and had been attempting, in vain, in the Philippines, to obtain naturalization as a United States citizen, or even to have some overt act pointed out to him by which he could legally and safely renounce his Spanish citizenship. Should this passport be presented, it probably will be in a different form, and certified to by a different class of officers than any of those I have above mentioned.

It was in view of all these differing classes and kinds of official papers, and the fact that every consular officer in Spain has repeatedly asked me for instructions on this subject, and as well upon the earnest and often repeated request of the consul-general at Barcelona and the consul at Cadiz, the two places most largely interested outside of Madrid, that I wrote my dispatch No. 306, of November 6. It was then, it is even more so now, very necessary, for the protection of persons entitled thereto; for the refusal to protect persons not entitled to ask our interference; for the smoothness of relations between the consular officers of the ports and the Spanish local authorities, and to enable me to speak authoritatively and clearly to the foreign office on this general subject, that an explicit, clear instruction, covering all the cases that have come to my notice, as well as cases parallel which obviously may arise, be prepared by the Department.

I am fully aware of the complicated condition of affairs in these territories, and the fact that the Department is depending in great measure for advice on this subject upon the War Department. Nevertheless, the officers of the United States in Spain should be informed what officials in Cuba, or in Porto Rico, or in the Philippines are authorized to issue certificates of identity, which we should recognize, be such papers called *cédulas*, passports, certificates, or any other name that may be given to them. We should also know what these papers should contain in order that we may give them in Spain the fortification of the seal of the legation or consulate, as the case may be.

I am expecting at any time that we may be brought face to face with the case that some Spanish official, whether general or local, or some steamship company, thereby being a semiofficial personage, may refuse to recognize our visé on the ground that it is interfering with what is simply and purely a Spanish paper, and I shall not be in any position to answer inquiries addressed to me of such a case.

I have been asked verbally, over and over again, by the foreign office and various members of the diplomatic corps, how far we considered the governments of Cuba and Porto Rico governments either under or concurrent with that of the United States, so as to expect their acts should certify their official seals.

It would appear from the nature of some of these passports from Cuba that it is taken for granted the government in Cuba has the right to call upon foreign diplomatic officers outside of Cuba to recognize its seal and the signature of its officers. I presume that that is intended to apply to diplomatic officers of the United States, although the recital in such passports is a question to be entirely open; and yet I can hardly suppose it is to be considered that by such recital we officers of the United States become diplomatic officers of the Cuban government.

I only cite these instances to show how circumstances have changed since your general instruction of May 2, 1899, and the advisability of the Department's taking up these questions and deciding them once for all, instead of leaving us in the possibility of taking some action which will hereafter be disavowed.

* * * * *

I have, etc.,

BELLAMY STORER.

—————
Mr. Hay to Mr. Storer.

No. 283.]

DEPARTMENT OF STATE,
Washington, January 16, 1901.

SIR: The Department has received your No. 363, of December 20, 1900, on the subject of cédulas and passports presented by residents of Porto Rico, Cuba, and the Philippine Islands. Your comprehensive statement of the complications now arising will serve to guide the Department in specific instructions at some future day, and the desirability of such instructions is freely admitted. For the present, however, your course in authenticating the cédulas and passports, when it can not be avoided, is approved, and while the confusion you have described is to be regretted, the Department feels that the wisest course to pursue is to meet each case as it arises and treat it individually with good judgment and discretion. It is not thought that the time is ripe for formulating a general and permanent plan for dealing with the subject.

So far as Cuba is concerned, the status of the inhabitants is still undefined, and, in fact, delegates of the people are now actually in session for the purpose of giving some definite destiny to the island. In the event of the withdrawal of United States authority Cuban passports or documents would be of no concern to the diplomatic representatives of the United States.

As for the Philippine Islands, the existing conditions are of a character that can not, as it would seem, long continue, and legislation by the Congress must be awaited before the Department can issue instructions on the subject of the status of the inhabitants that are certain of any stability.

In Porto Rico a full civil government is in successful operation under the laws of the United States; but, as you are well aware, the Supreme Court of the United States now has before it a case involving the status of the people of that island and of the Philippines, and the Department prefers to await the decision now pending before sending an instruction involving a question at issue before the court.

With reference to the Department's telegram to you of November

6, 1900, your understanding of it was correct. It was meant to authorize the visé or authentication of cédulas and passports presented by Cubans and Porto Ricans, and by Filipinos when issued or countersigned by the military authorities of the United States in the Philippines.

I am, etc.,

JOHN HAY.

COURTESIES SHOWN BY A SPANISH NAVAL OFFICER TO UNITED STATES NAVAL OFFICERS AT HABANA.

Mr. Hay to Mr. Storer.

No. 288.]

DEPARTMENT OF STATE,
Washington, January 30, 1901.

SIR: I inclose copies of a letter from the Secretary of the Navy, and its inclosure, requesting that the thanks of his Department be communicated to the Spanish Government for the courtesy shown by Capt. Pedro del Peral, of the Spanish navy, to the board appointed to examine and report upon the condition of the steel floating dry dock at Habana.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Long to Mr. Hay.

NAVY DEPARTMENT,
Washington, January 25, 1901.

SIR: I have the honor to inclose herewith for your information a copy of a letter, dated the 19th instant, from Capt. Sam. C. Lemly, U. S. N., Judge-Advocate-General of the Navy, in which he invites the Department's attention to the courteous and able manner in which Capt. Pedro del Peral, of the Spanish navy, in charge of the steel floating dry dock located in the harbor of Habana, Cuba, the property of the Spanish Government, facilitated in each and every particular the labors of the board, of which Captain Lemly was senior member, appointed for the purpose of examining into and reporting upon the condition of said floating dry dock.

It is requested that the United States minister at Madrid may be instructed to convey to the Spanish Government, through the usual channels, the appreciation and thanks of this Department for the courteous attention and able assistance rendered by Capt. Pedro del Peral, of the Spanish navy, in connection with the labors of the above mentioned board.

I have, etc.,

JOHN D. LONG, *Secretary.*

[Subinclosure.]

Captain Lemly to Mr. Long.

BOARD OF EXAMINATION OF STEEL FLOATING DRY DOCK,
UNITED STATES NAVAL STATION,
Habana, Cuba, January 19, 1901.

SIR: Referring to the work of the board of which I am senior member, appointed by the Department's order of the 21st ultimo, No. 245413, for the purpose of examining into and reporting upon the condition of the steel floating dry dock, the property of the Spanish government, located in the harbor of Habana, Cuba, I am directed by said board to invite the Department's attention to the courteous and able manner in which Capt. Pedro del Peral, of the Spanish navy, in charge of the structure, has facilitated our labors (this day concluded) in each and every particular.

I have, etc.,

SAM. C. LEMLY,
Captain and Judge-Advocate-General, U. S. Navy.

MILITARY SERVICE CASE OF BENITO LLAVERIA Y PASCUAL.*Mr. Storer to Mr. Hay.*

No. 397.]

LEGATION OF THE UNITED STATES,
Madrid, February 1, 1901.

SIR: I have the honor to report that one of the cases apprehended by me as likely to arise and create difficulty, as outlined in my dispatch No. 363,^a dated 20th December, 1900, seems to have arisen at Barcelona.

The consul-general communicates that a Cuban-born young man, bearing a Cuban passport issued by the military authorities of Cuba, as well as a certificate of identification and legal residence in Habana issued by the authorities of that city, was duly registered at the consulate-general, and his papers legalized according to Department's circular of May 2, 1899.

In the drawing-names for conscription into the Spanish army, which was held during the month of January, this Cuban, whose name is Benito Llaveria y Pascual, was notified that his name was among those liable to be drawn for military service. Presenting himself at the commission charged with this official duty (*la comision mixta de quintas*) he showed his passport and certificate, which the secretary of the commission refused to look at or consider in any way. At his request the consul-general, on the 7th January, formally notified this commission of the fact above stated, giving full details and particulars. In response to this communication the consul-general received no answer until after the drawing of the names by lot for military service had been completed. Among those drawn for service was the name of this Cuban, Llaveria y Pascual; and not until then did the commission answer the consul-general's letter. A copy of their answer—if answer it may be called—together with a translation, I inclose as part of this dispatch.

The consul-general reported this matter to me immediately by telegram as follows:

Cuban subject Llaveria impressed Spanish army. Bears Cuban passport issued military authorities Cuba. Has complied Article IX treaty of peace. Shall I protest local authorities? They know he is registered in consulate.

To which I replied as follows:

Protest formally against action regarding Cuban with passport and transmit full particulars to this legation.

Subsequently the consul-general forwarded me the copy of the letter of the commission that I have alluded to, with the information that he had followed my suggestions, and had formally, in writing, protested against the inclusion of this man in the military service of Spain. The date of this protest was January 23, 1901, and I have heard of no reply thereto.

I report this matter now, that the Department may have on its files the case, so far as yet it has developed itself, as it is possible I may be obliged to communicate in relation thereto by cable, which would not be understood were these papers not in Washington.

I have delayed bringing the matter, even unofficially, before the ministry of state, until either some official answer has been made by

^aPrinted ante, p. 457.

the commission to the consul-general, or until some overt act, more than has yet come to pass, may be threatened by the military authorities at Barcelona. It may be, of course, that the protest of the consul-general will be sufficient, and that the Spanish local authorities there will let the matter die out without any formal reply.

* * * * *

I have, etc.,

BELLAMY STORER.

[Inclosure.—Translation.]

The commission to the United States Consul-General at Barcelona.

No. 536.]

It was yesterday decided to reply to your esteemed favor of the 7th of this month, in which you give various facts in regard to the man Benito Llaveria y Pascual, as I now have the honor of doing; that he was included in the penalty of article 31 of the recruiting law in force during the conscription of 1898 in this city, and that afterward the chief of zone No. 6, on February 22, 1899, made it known officially that said man had failed to present himself at the concentration, and for this reason the "process of fugitive" was instituted against him, and that he was declared a fugitive on April 4 of said year 1899, which is his actual situation to-day; that no proceedings whatever in this matter are pending before the mixed commission, nor has any motion as yet been made by this man, and, furthermore, that in the communication which you sent to this commission on the mentioned date the object and purpose of the same is not clearly stated, nor what question has been presented in the vice-consulate in regard to the nationality of the above-mentioned Llaveria which gave occasion for said communication. I therefore beg of you to please amplify the same, specifically stating the object of the communication referred to.

God give to you many years.

THE PRESIDENT.

BARCELONA, *January 11, 1901.*

Mr. Hill to Mr. Storer.

No. 297.]

DEPARTMENT OF STATE,
Washington, February 21, 1901.

SIR: I have to acknowledge the receipt of your No. 397, of the 1st instant, reporting that one Benito Llaveria y Pascual, a native of Cuba, residing in Spain, has been called on to perform military service, against which the United States consul at Barcelona has protested. You state that Mr. Llaveria bears a Cuban passport, issued by the military authorities of Cuba, as well as a certificate of identification and legal residence in Habana, issued by the authorities of that city, and that he was duly registered at the United States consulate-general at Barcelona, and his papers had been legalized according to the Department's circular of May 2, 1899.

It is inferred that Mr. Llaveria comes within the description of "native inhabitants of Cuba temporarily sojourning abroad," for whose protection our diplomatic and consular officers were instructed by the Department's circular of May 2, 1899, to exercise good offices. The statement telegraphed to you by the consul-general that Mr. Llaveria "has complied Article IX, treaty peace," is not understood. That article only provides for the retention of Spanish allegiance by Spanish subjects, natives of the peninsula, residing in the relinquished or ceded territories. It does not provide for the case of a native

Cuban, residing in Cuba, Spain or elsewhere, so that it is not seen how Mr. Llaveria could make any effective declaration under Article IX. The consul-general may be asked for an explanation on this point.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Storer to Mr. Hay.

No. 432.]

LEGATION OF THE UNITED STATES,
Madrid, March 16, 1901.

SIR: I have the honor to acknowledge the receipt of your instruction No. 297, bearing date February 21, 1901, and to say that pursuant thereto I requested the consul-general at Barcelona to make the explanation desired, as well as to communicate to me the present status of the case of Benito Llaveria y Pascual.

I have received from the consul-general, evidently crossing my letter to him, certain communications which seem to complete the record in that matter so far as the authorities in Barcelona are concerned. I beg to inclose a copy of the letter of the consul-general covering copy of an official letter, together with a translation of the same, from the president of the mixed commission of enlistment (comision mixta de reclutamiento) of the province of Barcelona, from which it will be seen that the authorities of that province maintain their position that the young man in question is liable to military service, and that the consul-general's protest and request for his exemption have been finally refused.

In view of my desire to observe most carefully the wishes of the Department, that nothing should be done, officially, which would tend in any way toward misconstruction of the relations of our Government with the inhabitants of Cuba, just at the time when that question is being authoritatively settled, I have deemed it wise to refer this whole matter for the consideration of the Department, as it is the first, and, so far, the only case, that has come to my notice of a native of Cuba or Porto Rico claimed for Spanish military service. * * *

While the change of government and the coming into power of the liberal party may not produce an equally profound change in the nature of the laws to be presented to the new Cortes, when it shall have been elected, still it may have that effect; and I think it wise to await developments, inasmuch as I understand that no practical injury will result to the interests of this young Cuban in question, until sufficient time has elapsed for full consideration of the proper steps to be taken or proper claims to be made to the Spanish Government.

The attention of the new ministry is, almost inevitably, occupied at present by the steps, natural and necessary to the social and political life of Spain, for the preparation of the election of the new Cortes, the date of which has not yet been fixed. It is considered, without a dissenting voice, that this Government, as all governments in Spain since the establishment of the constitution, will have a working majority in the new Cortes, as it is considered equally natural and necessary for it to take the precautions and political steps to bring this about. Until that is done I feel confident that no important decision will be taken regarding changes in international affairs from the course

pursued by the former Government, but everything will be held in abeyance for a month or six weeks at any event. I say this only to show the Department that, in my judgment, no reason exists that I should receive any instructions in this particular case until full consideration, or even, possibly, the lapse of time, may bring about a solution of the general question involved.

I have, etc.,

BELLAMY STORER.

[Inclosure.]

Mr. Lay to Mr. Storer.

UNITED STATES CONSULATE-GENERAL,
Barcelona, March 12, 1901.

SIR: With further reference to letters Nos. 3, 4, and 6 of January 16, 23, and 30, respectively, from this consulate-general, I have the honor to inclose herewith copy in duplicate and translations of a letter (No. 609) under date of March 4, 1901, from the Comision Mixta de Reclutamiento, in reply to a communication addressed by Mr. Summers, vice-consul-general, to the captain-general of Barcelona, protesting against the action of the Spanish authorities here in demanding the military service of one Benito Llavera Pascual, who holds a Cuban passport registered at this consulate-general.

I have, etc.,

JULIUS G. Lay,
Consul-General.

[Subinclosure.—Translation.]

The commission to the United States vice-consul.

No. 609.]

COMISION MIXTA DE RECLUTAMIENTO,
Province of Barcelona.

Having examined the "expediente" (petition) of the young man Benito Llavera Pascual who came forward with the drafts for 1898 under No. 1 as a conscript from the fourth district of this city;

Bearing in mind that the young man Llavera in the enlistment of 1898 of the section of the fourth district of this city incurred the penalty of article 31 of the existing recruiting regulations for not being in that of the year corresponding to his age nor in the year immediately following;

Taking into account that the said young man appealed to this commission in writing on the 14th of February, 1898, stating that he was then 23 years of age; that he was a native of Habana temporarily residing in this city at No. 317 Aragon street, second floor, and that, having been included at the head of the enlistment list of the recruiting section of the fourth district of this city for that year, he petitioned that orders be given to said section to exempt him from enlistment, being a native of Cuba temporarily resident in this city with the object of accompanying his father for the sake of his health; stating further that although they were included in the "padrón" (town list) of that date it was merely as temporary residents, seeing that they were also inscribed in the town list of Habana, where they practiced their profession and paid taxes;

Taking into account that along with said appeal he inclosed his baptismal certificate, duly legalized, showing that he was born on June 24, 1875, in Habana, his parents being natives of the province of Tarragona, and a certified copy of the resolution of the recruiting section of the said district adopted on the 30th of January, 1898, declaring that there was no reason for granting freedom from enlistment to the young man in question;

Taking into account that in the copy of the aforementioned resolution of the section of January 30, 1898, it appears that the decision was based upon the fact that the young man Llavera was included in the enlistment owing to his figuring on the "padrón municipal" (municipal town list) taken on the 21st of December, 1885, in force at that time, so that when the young man was placed on the list his father had already resided in this city three years at No. 317 Aragon street; that the fact of the

young man being a native of the island of Cuba did not destroy his Spanish nationality; that the residence of the father in the locality renders the son liable to enlistment, and, finally, that at the proper time, when he should have been enlisted without incurring any penalty, his father already resided in the fourth district of this city, where he continued to reside on the aforementioned date of January 30, 1898;

Seeing that this commission, in session of March 30, 1898, decided that there was no reason for exempting the young man Llavería from being enlisted in the fourth district of this city, nor for absolving him from the penalty of first on the list according to article 50 of the recruiting regulations unless he had been enlisted previously in some other town with greater right than in the list of the fourth district of this city;

Seeing that on January 7 last the United States vice-consul in this city wrote a dispatch to this commission stating that the young man Llavería, a native of Habana, is registered as a Cuban at said consulate; that the aforesaid young man came to Spain in the year 1895, returning to Cuba in March, 1898, arriving there on April 1 of the same year, prior to the date of the treaty of Paris, having complied with all the requirements of Article IX of that treaty, and that he afterwards left Habana in the month of June, 1899, for Spain, having previously obtained a passport duly signed by the authorities of the island of Cuba, in which his identity is set forth;

Seeing that the object of the vice-consul's letter was not clear, a communication was addressed to the said vice-consul on the 11th of the same month of January, requesting him to specify the object of his letter of the 7th of that month; seeing that on the 28th day of January the United States vice-consul, referring to his letter of the 7th of the same month, informed this commission that the young man Llavería is properly registered at that consulate as a Cuban citizen in accordance with the requirements of the treaty of Paris, having fulfilled all the conditions necessary to prove his Cuban nationality, which citizens are under the protection of the United States, and requesting that the same be exempted from Spanish military service;

Seeing that on the 8th of last February this commission instructed the section of the fourth district of this city to send a certified copy of the sheet of the "padrón municipal" (municipal town list), taken on December 21, 1885, corresponding to folio 15 of the first volume of the house No. 317, second floor, of Aragón street of this city, relating to the family of the young man Benito Llavería Pascual, and that the said section sent the sheet in question along with a communication dated the 11th of February last, in which it appears that the said list, instead of having been made on the 21st day of December of the year 1885, as previously stated, was made on the 21st day of December of the year 1895, and that at that time the father had resided three years as a tenant of the house in question and the young man four months as a temporary resident;

Considering that according to article 1 of the constitution in force since June 30, 1876, all those born on Spanish territory are Spaniards, and that therefore the young man Llavería was a Spaniard in the month of March, 1898, when he was included in the enlistment of the fourth district of this city, with the penalty of article 31 of the recruiting regulations, seeing that the island of Cuba, where he was born at that date, still belonged to Spain;

Considering that not only at the time when he should have been enlisted without the aforementioned penalty, but also in 1898, when he was enlisted with that penalty, his father was a resident in Barcelona, having lived for three years in the locality of the fourth district of this city, and neither he nor his father having asked that he should be included in the enlistment of 1894, which was that corresponding to his age, nor in the next following, the aforementioned section was obliged to include him in the first enlistment following the discovery of this omission, with the penalty of article 31 of the recruiting regulations as ordered therein;

Considering that the fact that in the town list of 1895 he figures as a visitor (passer through) was no obstacle to this being done, because what determines the enlistment of a young man is, according to article 40 of the aforesaid regulations under numbers 1 and 2, in the first place, the residence of his parents, and, as already stated, the father of the young man in question, in 1895, had already resided three years at the place indicated; and is classified in the town list as a resident.

Considering that neither did the provisions of the royal order of November 14, 1888, relating to the exemption from service of those born in the colonies, apply in the case of this young man when he was enlisted, nor at the time when he ought to have been enlisted without penalty, because for that purpose it was indispensable that the father's residence in the Peninsula should not have been a permanent one, as it was, according to the town list of 1895;

Considering that the purport of Article IX of the treaty of peace between Spain and the United States in no way affects the present case, seeing that the facts dealt with occurred prior to the date of the ratification of the said treaty, which was in April of 1899;

Considering that in view of all that has been stated it is evident that the young man Llavería is liable to military service in Spain, even in the hypothesis that he at present no longer retains his Spanish nationality, this circumstance, seeing that the Spanish nationality was lost after the date when he should legally have performed that service, can not exempt him from the fulfillment of obligations under which he was before the loss of his nationality;

In view of the proofs brought forward,

This commission, in session of the 28th of last February, decided that you should be informed, as I have herewith the honor of doing, that there is no reason to grant your request made on the 28th day of January last, that the young man Benito Llavería Pascual should be exempted from Spanish military service.

May God protect you many years.

Barcelona, March 4, 1901.

THE PRESIDENT.

Mr. Hay to Mr. Storer.

No. 320.]

DEPARTMENT OF STATE,
Washington, April 8, 1901.

SIR: I have to acknowledge the receipt of your No. 432, of the 16th ultimo, in regard to the case of Mr. Benito Llavería Pascual, who has been called on to perform military service in Spain.

It appears from the inclosures in your dispatch that Mr. Llavería was born in Habana, Cuba, in 1875; that he went to Barcelona, Spain, in 1895, where his father had been residing for at least three years; that he returned to Cuba April 1, 1898, and again left Habana for Spain in June, 1899, having previously obtained a passport from the authorities of the island. He was also registered in the office of the United States consul at Barcelona as a Cuban citizen.

The Spanish authorities state that Mr. Llavería was subject to enlistment in the Spanish army, and was included in the enlistment of March, 1898, at which time his father had been for three years a resident of Barcelona, and young Llavería a resident there for four months; that at that time Llavería was a Spaniard (having been born on Spanish territory), and that he is liable to military service even on the hypothesis that he at present no longer retains his Spanish nationality as the loss of such nationality after the date when he should legally have performed the service can not exempt him from fulfillment of the obligation which he was under.

If, under the Spanish law, Mr. Llavería was liable to military service when he was enrolled in March, 1898, the Department is inclined to think that the Spanish view is correct. A subsequent change of nationality would not operate to discharge the obligation. You may examine this question.

The Department's circular of May 2, 1899, only authorizes our diplomatic and consular officers to exercise good offices for the protection of "native inhabitants of Cuba temporarily residing abroad." The consul at Barcelona has protested against the action of the Spanish authorities in this case.

The Department will therefore take no further action on it until it shall have received a report from you on the point above referred to.

I am, etc.,

JOHN HAY.

Mr. Storer to Mr. Hay.

No. 474.]

LEGATION OF THE UNITED STATES,
Madrid, May 21, 1901.

SIR: I have the honor to acknowledge receipt of your instruction No. 320 with regard to the case of Mr. Benito Llaveria Pascual, called upon to perform military service in Spain.

I particularly note your ruling on the general question involved in this case, as submitted by the consulate-general at Barcelona. Your instruction says "a subsequent change of nationality would not operate to discharge the obligation"—"if under Spanish law, Mr. Llaveria was liable when enrolled in March, 1898." I take the greater note of this as it was my own opinion before transmitting the case to the Department, and the importance that the question might assume in other cases made it advisable to obtain a general ruling as has been now given. Your instruction, however, to examine the question whether under Spanish law Mr. Llaveria was liable to military service in March, 1898, has been complied with to the best of my ability. An examination of the text of the laws and regulations concerning recruitment in the army, which took effect August 28, 1896, leads me to the conclusion that the carefully prepared and elaborately argued legal opinion of the Spanish commission of recruitment No. 609, of which a copy was transmitted with my dispatch No. 432 of April 16, is in full compliance with the law of Spain, and that Mr. Benito Llaveria Pascual was by Spanish law domiciled in Barcelona at the time of his enrollment in 1898; was of proper age to be enrolled, and his failure to present himself for such purpose places him entirely under the penal sections cited by the commission.

I have written, therefore, to the consul-general at Barcelona, transmitting to him a copy of your instruction No. 320, and explaining to him the conclusion which I have above narrated.

I have, etc.,

BELLAMY STORER.

Mr. Hay to Mr. Storer.

No. 337.]

DEPARTMENT OF STATE,
Washington, June 4, 1901.

SIR: I have to acknowledge the receipt of your No. 474, of the 21st ultimo, in which, referring to Department's No. 320, of April 8 last, you state that you have reached the conclusion that Mr. Benito Llaveria Pascual was by Spanish law domiciled in Barcelona at the time of his enrollment for the army in 1898; that he was of proper age to be enrolled, and that his failure to present himself for such purpose places him entirely under the penal sections cited by the commission.

You add that you have advised the United States consul-general at Barcelona of your conclusions.

In reply I have to say that the Department approves your action.

I am, etc.,

JOHN HAY.

FILIPINO JUNTA AT MADRID, AND PETITION OF ISABELO DE LOS REYES, ONE OF ITS MEMBERS, FOR PERMISSION TO RETURN TO THE PHILIPPINE ISLANDS.

Mr. Hill to Mr. Storer.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 10, 1901.

(Mr. Hill states that reports have been received by the Department that the Filipino junta at Madrid has decided to continue the war in the Philippine Islands against the United States, and has sent five of its members to the scene of war to succeed Aguinaldo in command.

Mr. Storer is directed to investigate thoroughly and report all obtainable particulars as to the departure and destination of the members of the junta referred to.)

Mr. Storer to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Madrid, May 17, 1901.

(Mr. Storer acknowledges receipt of the Department's telegram of May 10, in regard to the Filipino junta, and reports that the matter is receiving his particular attention; that up to the present time trustworthy information has been difficult to obtain, and that he is of the opinion that something of no consequence has been exaggerated by newspaper reports.)

Mr. Storer to Mr. Hay.

No. 485.—Confidential.] LEGATION OF THE UNITED STATES,
Madrid, May 28, 1901.

SIR: I have the honor to acknowledge receipt of your unnumbered dispatch, bearing date May 13, confirming your cablegram^a of May 11.

I beg to confirm my cablegram^a to you of May 17.

It is exceedingly difficult to obtain accurate information.

The Madrid junta was at all times only a subsidiary one to the central junta in Paris, of which Agoncillo has always been, and is still, I presume, considered the head. The junta in Madrid, and, as far as I can ascertain, the subsidiary ones in Spain to it, received funds from Paris; but remittances have long ago ceased from that quarter.

From all that I can learn I am strongly of the opinion that nothing of any importance in the way of organization exists in Madrid. The offices of this so-called junta, or political club, composed of Filipinos, has, during the last two years, descended steadily in character of locality and surroundings. From the business part of the city it has descended to quite the poor quarters. I have been able to obtain a list of their different removals, and it is evident they have not a cent

to spend. Many of these Filipinos, of which there have been quite a number in Madrid, are men of high education, and had come here to complete their university courses; and much of the money that enabled them to keep up their position before the world probably came from their own pockets. I can not find that they were ever of any political importance, and they confined themselves, apparently, trying to keep alive a spirit of hostility toward the United States among the Spaniards. In all political circles they have utterly failed, and I know that no Spaniard of any prominence or position has any wish that they should succeed in prolonging the disturbances in those islands. All the interests of every commercial class in Spain, and in fact of all Spain, are that those islands should be immediately pacified, and continue to be, as in the past two years they have been, an increasing market for Spanish products, instead of a failing one.

* * * * *

The opinions that I have been able to gather from the best sources of information attainable, fully carry out my first impression, that while the ashes of hostility to the United States still exist here in Madrid among natives of the Philippine Islands, they will never kindle into warmth until they have both money and encouragement from outside.

The talk in the newspapers here, which has been more or less telegraphed to journals in the United States, if sifted down, I think is found to be nothing more than the natural attempt of individuals who, at one time had a certain cheap newspaper notoriety to keep that notoriety alive for their own vanity, or possibly to give themselves some personal and financial credit.

Should anything definite of any importance come to my ears, or can be found at Barcelona, which, after all, is the center of all oriental trade and travel with Spain, I will, of course, cable you. It is to be remarked, however, that the simplest method for any person desiring to go to the Philippine Islands from Spain without his voyage being noticed would be to pass the frontier into France and take steamer from any other port of Europe, all of which are open to him, and most of them having lines to the Orient.

For all the consul-general can be assured, there may have been scores of Filipinos under assumed names, or under Filipino names, gone back through Barcelona, as the travel is large, and no identification further than the formal papers are required for passage.

I have, etc.,

BELLAMY STORER.

Mr. Sickles to Mr. Hay.

No. 515.]

LEGATION OF THE UNITED STATES,
Madrid, Spain, July 17, 1901.

SIR: I have the honor to inclose herewith a copy and translation of a petition addressed to the minister by Mr. Isabelo de los Reyes, director of the periodical "Filipinas ante Europa."

I have refused to give any passport to Mr. Reyes, and shall do nothing to help him until I am instructed or advised by the Department.

I trust my action will be approved.

I have, etc.,

STANTON SICKLES.

[Inclosure.—Translation.]

*Mr. de los Reyes to Mr. Storer.*MADRID, *July 16, 1901.*

THE HONORABLE MINISTER OF THE UNITED STATES:

Isabelo de los Reyes Florentino, native of the Philippines, director of the paper "Filipinas ante Europa," and adviser of the Filipino Committee of Independence in Madrid, has the honor to inform your excellency that the war in the Philippines being ended, and having waged a newspaper campaign against the sovereignty of the United States, I come to you as a loyal but conquered enemy to beg amnesty and permission to return to the Philippines, provided my personal liberty and security are guaranteed, accepting hereafter the sovereignty of the United States, and begging to be answered by telegraph, if it be necessary to consult with the Secretary of State of the United States.

ISABELO DE LOS REYES.

Mr. Adee to Mr. Storer.

No. 368.]

DEPARTMENT OF STATE,

Washington, August 30, 1901.

SIR: I have to acknowledge the receipt of Mr. Sickles's No. 515, of the 17th ultimo, inclosing copy of a letter from Isabelo de los Reyes, requesting amnesty and permission to return to the Philippine Islands, provided this Government will guarantee his personal liberty and security.

The matter was referred to the Secretary of War for his consideration.

Mr. Root regards it as unwise to issue any guaranty to Mr. de los Reyes. He states that if the applicant goes to Manila, takes the oath of allegiance, and conducts himself in conformity with existing laws, there is no intention to prosecute him for past acts. The Secretary adds, however, that neither the applicant's record nor his present importance calls for special favor from this Government.

This Department understands Mr. de los Reyes's letter as not involving any question of the issuance of a passport nor certification of his status as a native of the Philippines. He is understood merely to surrender and to ask to be permitted to return to the Philippines.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

**ROYAL DECREE DETERMINING QUESTIONS OF NATIONALITY IN
CEDED OR RELINQUISHED TERRITORY.**

Mr. Storer to Mr. Hay.

No. 478.]

LEGATION OF THE UNITED STATES,

Madrid, May 24, 1901.

SIR: I have the honor to report that the royal decree declaring the law on the subject of the change of citizenship, both as affected by, and limited by, the treaty of Paris, has been published officially in the "Gaceta de Madrid."

As part of this dispatch, I beg to inclose a copy of the letter of the ministry to the Queen, containing the report of reasons compelling this royal decree, known as the "Exposición de los Motivos," and the

decree itself, adding thereto as an appendix the sections of the Spanish civil code, to which reference is made in the terms of the "Exposición" and of the decree.

In view of the difficulties of making a translation, at once accurate and clear, of this important matter, on careful examination I think it has been very well done, and the legation is indebted to Mr. Bowler for it.

I have, etc.,

BELLAMY STORER.

[Inclosure.]

OFFICE OF THE PRESIDENT OF THE COUNCIL OF MINISTERS.

YOUR MAJESTY: Since the 10th of December, 1898, when the treaty of peace with the United States of America was signed, it has been a subject of constant preoccupation to the succeeding Spanish Governments to solve in a just and equitable way the important questions concerning the nationality of the natives and inhabitants of the territories ceded or relinquished by Spain arising in connection with the interpretation of the ninth article of that treaty. With this end in view the former Government entrusted the study of these important questions to a committee composed of learned functionaries from the ministries of state, grace and justice, hacienda, and gobernacion, which fulfilled its task by publishing a brilliant report wherein the various delicate aspects of the question are treated with the greatest clearness and accuracy.

The Government, desirous of reconciling the interests of private individuals with its international obligations, without increasing unduly the charges upon the national treasury, and at the same time attempting to harmonize the political and economical aspects of the question, has come to the conclusion that while there can be no doubt as regards the fact that natives and inhabitants of the territories ceded or relinquished lost their Spanish citizenship the moment that the sovereignty of Spain over those countries came to an end, nevertheless those persons who while residing outside of the country of their origin made a clear manifestation of their desire to retain their Spanish citizenship, either by having themselves inscribed in a legation or consulate of Spain abroad, or by continuing to serve in the administration, or by establishing themselves within the actual dominions of Spain, deserve to be considered by the Government as Spanish subjects so long as the acts which manifest their purpose of retaining Spanish citizenship be not disavowed by the solemn declaration of the party in interest made within a certain period which will be fixed for this purpose.

A further point of real importance is that in regard to the exact moment when the fact of residing within or without the territories ceded or relinquished by Spain began to be a determining factor. As to this the Government takes the ground that it can be no other than the moment at which the change of sovereignty was judicially defined to have taken place, viz, the moment of the exchange of the ratifications of the treaty of peace. Likewise it appears entirely free from doubt that all the persons who while they may have been born in the above-mentioned territories and living therein at said date are, nevertheless, still discharging official functions by virtue of appointment or commission held from the Spanish Government, should preserve their nationality.

There remained another point of great importance to be solved, viz, the manner in which those who have lost their citizenship by not availing themselves of the opportunity provided in the first paragraph of the ninth article of the treaty should recover the same, and nothing can be more just than to facilitate the recovery of citizenship by those who lost it in this manner, and that they should recover it by leaving said territories and fulfilling the requirements prescribed in the second paragraph of article 19^a of the civil code; provided, however, that said persons have not held public office or taken part in the elections in the territories ceded or relinquished by Spain, nor exercised therein any right pertaining to the new citizenship since the extinction of the Spanish sovereignty, since such acts would prevent their being recognized as Spanish subjects, unless it be in the manner set forth in article 21^b of the civil code.

^a See Appendix I.

^b See Appendix II.

Finally, another object of especial care and attention to the Government of Your Majesty has been that which refers both to the right of many natives of our former colonies to continue to enjoy the fixed annual payments which they receive from the treasury in the nature of pensions, as well as to the right of others to demand, on account of eminent services rendered to the country in person or by those from whom their rights are derived, pensions to reward therefor. It is furthermore but right that those who recover their citizenship should be restored to the enjoyment of the pensions to which they are legally entitled, making the payment of these, nevertheless, depend, as only seems just, upon residence within Spanish territory and the previous examination of their respective claims; and it must be understood that the restoration of their pensions will commence only from the time at which application therefor is made.

Lastly, natives of the aforesaid territories who can not leave them and who may have rendered, as has been said before, distinguished services to the country, shall be entitled to obtain pensions as a reward, for the Spanish nation can not neglect to protect those who have nobly defended its interests; but the obtaining of said pensions must in every case be subject to the special proceedings prescribed by the law of the 12th of May, 1837, as the unusual character of this class of pensions calls for.

Carrying out the foregoing ideas, the undersigned minister has the honor to submit to the approbation of Your Majesty the following project of law.

PRÁXEDES MATEO SAGASTA.

MADRID, 11th of May, 1901.

ROYAL DECREE.

ARTICLE 1. Natives of the territories ceded or relinquished by Spain by virtue of the treaty of peace with the United States of the 10th of December, 1898, who at the date of the exchange of ratifications of said treaty were residing in said territories and have lost their Spanish citizenship (*la nacionalidad española*), may recover it in accordance with the provisions of article 21 of the civil code prescribed for Spaniards who have lost their nationality by acquiring citizenship in a foreign country.

Nevertheless, persons referred to in the paragraph above, who were holding public office, civil or military, employment, or appointment by nomination of the Spanish Government, and who continued to exercise their official functions in the service of Spain, shall be held to have retained their Spanish nationality.

ART. 2. Natives of the territories ceded or relinquished, who at the date of the exchange of ratifications of the treaty of the 10th of December, 1898, as aforesaid, were residing outside of the country of their birth, and who at the time of the promulgation of this decree are found to be inscribed in the registers of the legations or consulates of Spain abroad or who were holding public office under the Spanish administration, or who were domiciled within the actual dominions of Spain, shall be held to have retained their Spanish citizenship, unless within the period of a year from this date they shall make an express declaration to the contrary before the proper authorities.

The persons referred to in the paragraph above, who at the time of the promulgation of this decree do not fall within any of the categories above mentioned, have lost their Spanish nationality. They may recover same in accordance with the provisions of the above-mentioned article 21 of the civil code.

ART. 3. Spanish subjects born outside of the territories ceded or relinquished, who were residing therein at the date of the exchange of the ratifications of the treaty of the 10th of December, 1898, and would have lost their Spanish citizenship by not exercising within the proper period the right of option set forth in article 9 of said treaty, may recover the same by leaving said territories and complying with the formalities established in the second paragraph of article 19 of the civil code.

The persons referred to in the present article who, contrary to their wishes, have not been permitted to inscribe themselves as Spaniards in the municipal registers, may do so within the period of one year from this date before the Spanish consular registrars, making a note of the inscription which was denied to them in the municipal registrars. Those who fulfill this requirement shall be held to have retained without interruption their Spanish citizenship. Nevertheless, the persons referred to in the first paragraph of this article who reside in the ceded or relinquished territories by reason of public office, military or civil, employment, or appointment, the functions of which they were discharging at the time and which they continued to discharge in the service of Spain, shall be held not to have lost their Spanish citizenship.

ART. 4. The persons referred to in this decree who, subsequently to the exchange of ratifications of the treaty of peace with the United States, shall have held public office or taken part in the municipal, provincial, or general elections of the territories ceded or relinquished by Spain, or who shall have exercised in said territories any of the rights pertaining to citizenship therein, shall not be granted an option in favor of or a recovery of their Spanish citizenship, except as provided in article 23 of the civil code.^a

ART. 5. Spanish citizenship retained or recovered by virtue of the provisions of this decree can not be set up as against the governments or authorities of the ceded or relinquished territories in which the parties concerned were born or reside, except by the express consent of said governments or by virtue of a stipulation in an international treaty.

ART. 6. The persons who (in accordance with the prescriptions of this decree) would have lost their Spanish citizenship and consequently the right to draw any retiring fund or pension whatsoever, whether the same may have been actually granted or not, shall recover said rights at the same time with the recovery of Spanish citizenship in the following cases and subject to the following conditions:

First. The payment of any retiring fund or pension necessarily demands the residence of the beneficiary within the actual dominions of Spain and submission to the regulations which govern or in the future may govern said pensions.

Second. All restorations or rehabilitations for the purpose of drawing retiring funds or pensions must be preceded by an examination and revision of the claims upon which it might have been granted. Said rehabilitation will be subjected in the various cases to the following rules:

A. The persons referred to in the first paragraph of article 1 and in the second paragraph of article 2 of this decree may draw the retiring funds or pensions to which they are entitled, provided they recover Spanish citizenship within the period of one year from this date; the right to draw said pension, however, commencing from the date of the presentation of a petition requesting the examination and revision of their claims.

B. Those persons referred to in the first paragraph of article 3 who within the period of two years shall recover Spanish citizenship in the manner therein prescribed, shall be completely restored to the enjoyment of their respective retiring funds or pensions.

ART. 7. The persons referred to in article 4, no matter what be the manner in which they may have recovered Spanish citizenship, shall in no case be restored to the enjoyment of the retiring funds or pensions to which they might have been entitled.

ART. 8. The persons referred to in this decree who, in accordance with the provisions of the same, shall have lost the right to any retiring fund or pension whatsoever, shall, nevertheless, be entitled to petition the Government to grant them, for special services rendered to the cause of Spain, pensions as a reward therefor, in accordance with the prescriptions of the law of the 12th of May of 1837, it being further permissible in such a case to waive the residence in Spanish territory which is prescribed as a condition to their enjoyment.

ART. 9. The ministry of state, grace and justice, hacienda, and gobernación shall draw up the necessary provisions for the application of this decree in their respective departments. Given at the palace the 11th of May, 1901.

MARIA CHRISTINA.

The president of the council of ministers,
PRÁXEDES MATEO SAGASTA.

Appendix.

I. Article 19 of the civil code prescribes that children of a foreigner born in Spanish dominions who desire to acquire Spanish citizenship shall, within the year following their majority or emancipation, make a declaration to that effect.

Those who are in the Kingdom should make this declaration before the official in charge of the civil registry of the town in which they reside; they who reside in a

^a Article 23 of the civil code provides that "any Spaniard who loses his nationality by accepting employment of any other Government, or by entering the armed service of a foreign power without the King's permission, shall not recover Spanish citizenship without previously obtaining the royal authorization."

foreign country before one of the consular or diplomatic agents of the Spanish Government, and they who are in a country in which the Government has no agent should address the Spanish minister of state.

II. Article 21 provides that: "A Spaniard who loses his citizenship by acquiring naturalization in a foreign country, can recover it on returning to the Kingdom by declaring before an official in charge of the civil registry of the domicile which he elects that such is his wish, in order that the official may make the corresponding inscription therein and by renouncing the protection of the flag of such country."

CONSENT OF SPANISH GOVERNMENT TO ASSIST THE UNITED STATES GOVERNMENT IN PROCURING EVIDENCE TO DEFEND CLAIMS ASSUMED BY THE LATTER UNDER THE TREATY OF PEACE.

Mr. Hay to Mr. Storer.

No. 343.]

DEPARTMENT OF STATE,
Washington, June 10, 1901.

SIR: I shall be pleased to have you sound the Spanish Government, with the utmost discretion possible, in order to ascertain whether it would be willing to afford this Government such assistance as may seem to the Royal Government right and appropriate in the defense of the claims which are now being presented by United States citizens to the Spanish Treaty Claims Commission, recently organized by the President to carry into effect the provisions of Article VII of the treaty of peace.

I have unofficially conversed with the Spanish minister at this capital in regard to this matter and he has promised to bring it himself to the attention of his Government.

The Department suggests the following method of arranging for the communication of the claims:

The United States Government should submit to the Spanish Government in some form previously arranged a copy of the petition of each claimant, together with a memorandum of any additional information obtained from the papers in the Department of State or otherwise; and should request the Spanish Government to investigate all the facts connected with the claim which may tend to throw light on its merits, and submit a confidential memorandum thereon showing any defense which Spain would have been able to make thereto, if all such claims had not been assumed by the United States in virtue of the treaty of peace, and also submitting such suggestions as the Spanish officials may deem pertinent to a proper defense by the United States against the claim.

I am, etc.,

JOHN HAY.

Mr. Storer to Mr. Hay.

No. 590.]

LEGATION OF THE UNITED STATES,
Madrid, December 14, 1901.

SIR: It already having been known to the Department that I had deemed it better not to present the request of your instruction No. 343, bearing date June 10, 1901, to the Spanish Government, until the return of the counterdraft of the treaty of amity, I have the honor to

report that I yesterday had a long and confidential conversation with the minister of state on the subject of your above-mentioned instruction.

He had already been, as is known to the Department, informed of this desire through the minister of Spain at Washington, and said that the Spanish Government would most cheerfully and gladly undertake to do what it could in the direction indicated, both through the correspondence from Washington through the Duke de Arcos, and now proposed by myself. He said there would be one or two conditions which he would feel obliged to put in force, one being that care should be taken that the language of the papers describing the claim transmitted to the Spanish Government should not be of such a character as to be needlessly offensive or hostile either to the Spanish Government or to its administration in its former colonies. He said that some of the papers transmitted by the Duke de Arcos were worded in such a way as to render it necessary that he should make this condition.

The result of our conversation was that I should formally, without delay, address him officially the request in full, at the same time indicating the plan of procedure suggested, and both by himself and myself considered the most practical.

This I have done at once, and am to receive an official reply without delay, giving the conditions or any possible limitations which the Spanish Government may find itself obliged to make.

I should add that, so far as the minister of state represents the Spanish Government, our request will be met in the best spirit, with every intention to carry it out in the way most satisfactory to the legal representatives of the United States before the commission.

I transmit herewith a copy of the letter I am to-day addressing to the minister of state, and so soon as an answer is received I will report it to the Department for the use of the commission.

I have, etc.,

BELLAMY STORER.

[Inclosure.]

Mr. Storer to the Minister of State.

No. 287.]

LEGATION OF THE UNITED STATES,
Madrid, December 14, 1901.

EXCELLENCY: Whereas the commission appointed by the President of the United States to examine and pass upon all claims for which the United States has made itself responsible under Article VII of the treaty of Paris has already begun its labors, I have the honor to inform you that I am instructed by my Government to ascertain whether the Government of His Majesty would be willing to afford the United States such assistance as may seem right and appropriate in the defense of claims which are now being presented by United States citizens before the said commission.

My Government hopes that this request will be looked upon as one falling within the scope of international comity between friendly nations and in furtherance of justice in giving information which will enable the commission to allow with safety all well-founded and just claims, as well as to reject such as are pushed without good cause or to an exaggerated extent.

Feeling confident myself that this request is one which will commend itself to the good feeling and discretion of the Government of His Majesty, I venture even now to outline a practical method which would, in the opinion of my Government, effectively bring about the desired results.

It is suggested that the United States Government should submit, through its representative at Madrid, to the Government of His Majesty, through the ministry of state, over which you so worthily preside, a clear and succinct statement of the peti-

tion of each claimant as it is filed before the Commission of Claims at Washington, accompanying this with a memorandum of all additional information relating to and affecting such claim which may be found within the control of the Government of the United States.

At the time of this submission the Government of the United States will request of the Government of His Majesty to investigate all the facts connected with the claim in question which may in any way tend to throw light upon its merits or upon the amount justly due; and that through the ministry of state there should be transmitted to the representative of the United States at Madrid a confidential memorandum indicating any and all defenses, both on the merits or in the amount of the claim, which the Spanish Government would have been able to make thereto had not all such claims been assumed by the United States under the treaty of Paris; and also such further suggestions and indications as the officials of the Government of His Majesty charged with this matter, in their discretion, may deem pertinent to the defense against such claim by the United States.

May I ask your excellency's consideration of this plan and request that I may be informed as to what changes, in principle or in detail, by which, in your discretion, it would be rendered in any way more practical or sure. I also beg your excellency will inform me under what conditions or restrictions the Government of His Majesty will find themselves able to comply with the request I have had the honor to lay before you.

I take this occasion, etc.,

BELLAMY STORER.

Mr. Storer to Mr. Hay.

No. 594.]

LEGATION OF THE UNITED STATES,
Madrid, December 21, 1901.

SIR: I have the honor, in furtherance of the subject of my dispatch No. 590, bearing date December 14, 1901, to report that I have just received, through the minister of state, the official answer of the Spanish Government to our request for aid in obtaining evidence in the hearing of claims before the Spanish Claims Commission, established pursuant to the treaty of Paris.

I beg to inclose a copy and a translation of the same.

In view both of the importance that there should be no misunderstanding in this matter, and also of the fact that I am temporarily incapacitated from personally examining the scope of the technically legal phrases in Spanish employed by the Spanish Government, I venture—perhaps needlessly—to request the close attention of the Department to the language of this answer, and also to the translation. I am not confident that the translation is at the same time absolutely accurate and absolutely clear under our own system of the law involving “*res adjudicata*.”

It will be seen that in response to my request that the Spanish Government should point out any detail which would render of more practical efficacy the course of procedure desired, it is suggested that each case transmitted to the Spanish Government be accompanied by a memorandum of questions or interrogatory, specifying exactly the points upon which information is desired.

It will also be seen that the conditions precedent, asked by the Spanish Government, are: First, that the language of the petition and other papers submitted through this legation shall not be disrespectful to Spain, nor reflecting unduly upon the Spanish administration; and, second, that this information thus furnished shall not be made the subject of debate, and so far as it consists of decisions of the Spanish Government upon the conduct of its own officers it shall be conclusive.

I desire, in restating their position, to carry the general verbal understanding that the minister of state and myself came to, prior to

the time when I officially transmitted the request, as perhaps making clearer the intent of the language used by the Spanish Government in now officially formulating its conditional compliance.

The minister of state, who, I believe, is not technically a lawyer, had given me the idea that all that was desired was that whatever was any judicial decree, or to use his own words "choses jugées," should be respected; and I explained to him that under our system of jurisprudence there would be no premeditated disturbance of any judicial decision arrived at by any Spanish court having jurisdiction. This, I understand, met his own views.

I again venture to commend the close attention of the Department to the scope of this part of the Spanish letter, as it may be intended to include Spanish departmental rulings, etc., together with the decisions of competent tribunals.

I have, etc.,

BELLAMY STORER.

[Inclosure.—Translation.]

The Minister of State to Mr. Storer.

No. 118.]

MINISTRY OF STATE,
Madrid, December 19, 1901.

MY DEAR SIR: I have the honor to inform you that I have received your courteous note of the 14th instant, asking me, in the name of the Government of the United States, if that of His Majesty is disposed to afford assistance by furnishing data to defend its interests before the commission of claims recently appointed in Washington, in compliance with the agreement under Article VII of the treaty of Paris.

I beg to state, in reply, that the Government of His Majesty will accede with pleasure to the wishes transmitted by your excellency, provided the language used by the claimants in the cases transmitted be respectful; and that the Government of the United States shall previously make an agreement that the information, which (in accordance with the present note) I may have the honor to transmit through your excellency, be not brought into discussion, and that the decisions of the Government of His Majesty shall be abided by in those cases in which judgment is passed upon the conduct pursued by our own authorities.

In the event, which I hope will be the case, that the Government of the United States agrees to this course, I will take much pleasure in referring the petitions which your excellency may send me, in the form you indicate, permitting myself, however, to point out to you the convenience of having each one accompanied by a list of questions or interrogatory with regard to points upon which it is desired that we supply the information.

I take this opportunity to repeat to your excellency the assurances of my highest consideration.

EL DUQUE DE ALMODÓVAR DEL RIO.

REGISTRATION OF CUBANS AND PORTO RICANS IN SPAIN.

Mr. Sickles, chargé d'affaires, to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Madrid, June 27, 1901.

(Mr. Sickles states that the consul-general of the United States at Barcelona reports by telegraph that his visa on cédulas of persons born in Cuba and Porto Rico is ignored by the registry office, and that holders of such cedulas are not permitted to register as foreigners. The consul-general requests instructions, as the time for registering expires July 1.)

Mr. Hill to Mr. Sickles.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 28, 1901.

(Mr. Hill directs the issue of such papers as will be accepted by the Spanish authorities for the present to insure the registration of Cubans and Porto Ricans as under the protection of the United States, but not as citizens thereof.)

Mr. Sickles to Mr. Hay.

No. 507.]

LEGATION OF THE UNITED STATES,
Madrid, June 28, 1901.

SIR: I have the honor to confirm my telegram of the 27th instant.

In connection with this matter I inclose herewith, for the consideration of the Department, copies of two letters from the consul-general at Barcelona which will explain Mr. Lay's uncertainty as to the registration of Cubans and Porto Ricans at that place.

I have, etc.,

STANTON SICKLES,
Chargé d'Affaires ad interim.

[Inclosure 1.]

Mr. Lay to Mr. Sickles.

No. 45.]

CONSULATE-GENERAL OF THE UNITED STATES,
Barcelona, June 26, 1901.

SIR: I have the honor to acknowledge the receipt of your telegram as follows:

"Pray ask for Department's advice regarding registration of Cubans, Porto Ricans and Filipinos.

"SICKLES,"

and letter confirming same of the 15th instant.

In this connection I beg to advise you that the registration authorities in Barcelona will ignore my visé on Spanish cédulas of persons born in Cuba and Porto Rico who reside here, as evidence of nationality or citizenship, and they are therefore not permitted to register as foreigners.

I have, etc.,

JULIUS G. LAY, *Consul-General.*

[Inclosure 2.]

Mr. Lay to Mr. Sickles.

No. 46.]

CONSULATE-GENERAL OF THE UNITED STATES,
Barcelona, June 26, 1901.

SIR: I have the honor to confirm the following telegram sent you to-day:

"Visé on cédulas persons born in Cuba and Porto Rico ignored by registry office here and holders of same not permitted register as foreigners. Cabled Department 15th, but no answer. Time for registering expires July 1. Lay."

Before the receipt of your letter of the 15th I cabled the Department of State stating that the registration of foreigners was required here after they had presented themselves at their respective consulates, and produced some evidence of their nationality, and asking if I should visé Spanish cédulas of persons born in Cuba and Porto Rico who reside here, and who have left those islands since some years, and have

no evidence of intention to return except their statements. To this telegram I have received no reply.

Although the minister informed me that cédulas of Cubans and Porto Ricans should be viséed in accordance with instructions to the legation No. 283 of January 16, 1901, before acting on this information, I considered it best to clear up the point that still remains doubtful in my mind mentioned in my letter to the legation dated November 14, 1900, and therefore cabled the Department.

It would seem that Spaniards born in the peninsula are just as much entitled to have their cédulas viséed as persons born in Cuba or Porto Rico who have lived here since before the signing of the treaty of peace, but if for some reason the Government wish to recognize these people and visé their cédulas, that visé in my opinion should represent something, as it does on American passports.

Those persons who have produced Cuban and Porto Rican passports viséed by this consulate-general have been permitted to register.

As the Department instructions say nothing about viséing the certificates inclosed, although they may be accepted as sufficient evidence in Cuba of citizenship for a passport, I have refused to visé them.

It occurs to me that there has been a misunderstanding from the first as to what a cedula is in reality, and the Department is under the impression that it is a Cuban or Porto Rican document. I can not imagine how the treaty of peace has changed the status of any except inhabitants of Cuba and Porto Rico or why we should regard natives of Cuba or Porto Rico residing in Spain except as Spaniards. I have treated them as such here, and I know there would be a protest if a visé for which I am obliged to charge an official fee of \$1 was found to be worthless.

I have, etc.,

JULIUS G. LAY, *Consul-General.*

Mr. Sickles to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Madrid, June 30, 1901.

(Mr. Sickles reports that the consul-general at Barcelona considers it important to know immediately if the Department means by "Cubans and Porto Ricans" resident inhabitants only, or if it means also persons born in those islands, but resident since for some years in Spain.)

Mr. Hill to Mr. Sickles.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 2, 1901.

(Mr. Hill states that the Department means by "Cubans and Porto Ricans" bona fide residents of those islands who are temporarily residing abroad.)

Mr. Sickles to Mr. Hay.

No. 512.]

LEGATION OF THE UNITED STATES,
Madrid, July 3, 1901.

SIR: I have the honor to acknowledge the receipt to-day of your telegraphic instruction in reply to my cablegram of the 30th instant.

The purport of your cablegram has been repeated at once by wire to the consul-general at Barcelona.

I have, etc.,

STANTON SICKLES,
Chargé d'Affaires ad interim.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.*The Duke de Arcos to Mr. Hay.*

[Translation.]

LEGATION OF SPAIN,
Washington, September 17, 1901.

MR. SECRETARY: I have learned with deep sorrow the contents of your excellency's note of the 14th instant in which you are kind enough to inform me of the death of William McKinley, the President of the United States. Since the day that the vile attack of an assassin endangered the life of the President the Spanish nation and Government have followed with the liveliest interest the different phases of the condition of the illustrious patient. And now that the fatal end has come they sympathize with the American people in the infinite grief of so great a loss.

I have a special mission from Her Majesty the Queen Regent and Her Government to so inform your excellency.

I have notified my Government of the succession of Mr. Theodore Roosevelt as President of the United States.

I avail myself of this occasion, etc.,

ARCOS.

*Mr. Hill to the Duke de Arcos.*DEPARTMENT OF STATE,
Washington, September 26, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 17th instant, whereby you convey to me the condolence of Her Majesty the Queen Regent, and of the Spanish Government and nation, with the Government and people of the United States in the affliction which they have suffered in the death of President McKinley.

I shall be obliged if you will assure Her Majesty the Queen Regent and the Spanish Government that this manifestation of sympathy on their part is sincerely and gratefully appreciated by the Government and people of this country.

Accept, etc.,

DAVID J. HILL,
*Acting Secretary.***DESERTERS FROM MERCHANT VESSELS—NO LAW OR REGULATION IN THE UNITED STATES PROVIDING FOR THEIR PUNISHMENT.***Duke de Arcos to Mr. Hay.*

[Translation.]

LEGATION OF SPAIN,
Washington, September 25, 1901.

MR. SECRETARY: As stated to me by the Spanish consul at New Orleans, on the 26th of last month Don Modesto Peligri, the captain of the Spanish steamer *Puerto Rico*, hailing from Barcelona, came into his office and informed him that six men of the crew of his vessel had deserted, three of whom were already held through his own efforts, and he was searching for the others, and requested the aid of the Federal authorities.

The consul appeared before the competent authorities asking their aid in arresting the sailor deserters, as customary in all ports; but the said authorities refused to grant the request of the consul, on the ground that there was no existing treaty between Spain and the United States that could be invoked to effect the arrest he desired.

Those authorities acted, no doubt, according to their strict right. There are, it is true, no treaties existing between the two countries, but your excellency knows that the abnormal situation which such a circumstance may create has been in many and various cases remedied by a spirit of mutual courtesy through which, even without signature of treaty, transactions are allowed and of common occurrence among friendly nations. Such is the present instance.

The injury which would result from the prevalence of the opinion of the Federal authorities of New Orleans to the navigation and commerce of both countries can not be truly estimated. The sailors of merchant vessels could desert with impunity, and the contracts of their masters would become a dead letter, while there would be no legal means of punishing the guilty.

In view of these considerations I would be much obliged to your excellency if you will kindly state to me what is your opinion on so important a subject, and if there will not be means in the future, until the execution of treaties which will certainly contain clauses governing such cases, of avoiding the impunity remaining to deserters from the mercantile marine.

I avail, etc.,

ARCOS.

Mr. Adee to Duke de Arcos.

No. 233.]

DEPARTMENT OF STATE,
Washington, October 9, 1901.

SIR: Referring to your note of the 25th ultimo, asking at the instance of the Spanish consul at New Orleans whether there is not some means, pending the consideration of a new treaty, to avoid the exemption from punishment of deserters from Spanish vessels in the United States, with particular reference to the recent desertion of some of the crew of the Barcelona steamship *Puerto Rico*, I have the honor to inform you that the Secretary of the Treasury, to whom the matter was referred, reports that his Department is not aware of any law or regulation providing for the punishment of deserters under the circumstances such as you describe. It may be stated further that in the act approved December 2, 1898, Congress formally repealed the laws then existing which authorized the arrest of deserters from vessels of the United States in ports in this country.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

PASSPORT APPLICATION OF A NATIVE OF THE ISLAND OF GUAM.

Mr. Storer to Mr. Hay.

No. 583.]

LEGATION OF THE UNITED STATES,
Madrid, December 5, 1901.

SIR: I have the honor to report that this legation has received, through the consulate-general at Barcelona, the duplicate application for the granting of a passport to Mr. José Portusach.

The applications, which are for himself, his wife, and his four minor children, have been made out on the theory that the applicant, on account of his having been born in the island of Guam in May, 1859, is now a native-born American citizen.

The applications also recite that his family is temporarily sojourning at Barcelona, and is the bearer of a temporary passport issued by the governor of Guam in the month of August last, bearing the seal of the executive office, and signed by the governor's adjutant, Pressly.

He desires this for the purpose of traveling, and intends to return to the United States—that is to say, to the island of Guam—within one year. The passport issued by the governor of Guam is inclosed, and also certain correspondence between the governor of Guam, Commander Schroeder, and Major Jones, quartermaster, which fully identifies the applicant.

I am in doubt, first, whether the island of Guam stands under the instruction of the Department regarding the certification of passports or cédulas hailing from the Philippine Islands; second, I am in doubt whether, being born in Guam, he thereby becomes a native-born citizen of the United States.

I respectfully ask the instructions of the Department whether I shall proceed to issue a passport or shall content myself with legalizing in the usual form, by visa, the passport issued by the governor of Guam, and if I am to issue a passport, whether it should be issued to him as a native-born citizen of the United States or not.

I have, etc.,

BELLAMY STORER.

Mr. Hay to Mr Storer.

No. 397.]

DEPARTMENT OF STATE,
Washington, December 24, 1901.

SIR: I have to acknowledge the receipt of your No. 583, of the 5th instant, reporting that an application for a passport has been made to you by Mr. José Portusach, a native of the island of Guam.

In reply I have to say that in the absence of legislation by Congress, you may treat the applicant as you would an inhabitant of Porto Rico or the Philippine Islands, following the instructions you already have.

I am, etc.,

JOHN HAY.

SWEDEN AND NORWAY.

REASSUMPTION OF GOVERNMENT BY KING OSCAR.

Mr. Thomas to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Stockholm, January 21, 1901.

(Mr. Thomas reports the reassumption of Government by King Oscar on January 21.)

Mr. Hay to Mr. Thomas.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 21, 1901.

(Mr. Hay directs Mr. Thomas to tender the President's congratulations upon reassumption of Government by King Oscar.)

LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES UNDER MILITARY AND EXPATRIATION LAWS OF THEIR NATIVE COUNTRY.^a

DEPARTMENT OF STATE,
Washington, February 9, 1901.

NOTICE TO AMERICAN CITIZENS FORMERLY SUBJECTS OF SWEDEN WHO CONTEMPLATE RETURNING TO THAT COUNTRY.

The information given below is believed to be correct, yet is not to be considered as official, as it relates to the laws and regulations of a foreign country.

Subjects of Sweden are liable to performance of military duty in and after the calendar year in which they reach their twenty-first year.

Under the treaty between the United States and Sweden and Norway, a naturalized citizen of the United States formerly a subject of Sweden is recognized as an American citizen upon his return to the country of his origin. He is liable, however, to punishment for an offense against the laws of Sweden committed before his emigration, saving always the limitations and remissions established by those laws. Emigration itself is not an offense, but nonfulfillment of military duty and desertion from a military force or ship are offenses.

A naturalized American who performed his military service or emi-

^a See instruction to Austria-Hungary, December 10, 1900, page 7.

grated when he was not liable to it, and who infringed no laws before emigrating, may safely return to Sweden.

If he renews his residence in the Kingdom without intent to return to America, he is held to have renounced his American citizenship, and he will be liable to perform military duty.

Passports are not required from persons entering or traveling in the Kingdom, but they may be called upon to establish their citizenship, and are consequently advised to procure passports.

DEPARTMENT OF STATE,
Washington, February 9, 1901.

NOTICE TO AMERICAN CITIZENS FORMERLY SUBJECTS OF NORWAY WHO
CONTEMPLATE RETURNING TO THAT COUNTRY.

The information given below is believed to be correct, yet is not to be considered as official, as it relates to the laws and regulations of a foreign country.

Subjects of Norway are liable to performance of military duty in and after the calendar year in which they reach their twenty-second year.

Under the treaty between the United States and Sweden and Norway, a naturalized citizen of the United States formerly a subject of Norway is recognized as an American citizen upon his return to the country of his origin. He is liable, however, to punishment for an offense against the laws of Norway committed before his emigration, saving always the limitations and remissions established by those laws. Emigration itself is not an offense, but nonfulfillment of military duty and desertion from a military force or ship are offenses.

A naturalized American who performed his military service or emigrated when he was not liable to it, and who infringed no laws before emigrating, may safely return to Norway.

He must, however, report to the conscription officers, and, on receiving a summons, present himself at the meetings of the conscripts in order to prove his American citizenship.

If he has remained as long as two years in Norway, he is obliged, without being summoned, to present himself for enrollment at the first session, since he is then deemed by Norway to have renounced his American citizenship.

If he renews his residence in the Kingdom without intent to return to America, he is held to have renounced his American citizenship.

Passports are not required from persons entering or traveling in the Kingdom, but they may be called upon to establish their citizenship, and are consequently advised to procure passports.

MILITARY SERVICE CASE OF JOHANNES P. HOILAND.

Mr. Hay to Mr. Thomas.

No. 118.]

DEPARTMENT OF STATE,
Washington, August 20, 1901.

SIR: I inclose copies of two letters from Mr. Ole J. Vaule, of Crookston, Minn., who has asked the Department to obtain redress from

the Government of Norway for Johannes P. Hoiland, a naturalized American citizen, for alleged unlawful arrest and imprisonment.

The facts, as stated, appear to be as follows:

Hoiland was born in Norway, December 23, 1861, and emigrated to the United States in April, 1883, when he was 21 years and 4 months old. He was naturalized in the United States in March, 1896. In December, 1897, he returned to Norway for a visit; in November, 1898, he was notified that he had been fined 20 kroner for failure to be present at a military meeting, and informed that he could not return to America until the fine was paid. He refused to pay the fine, on the ground that he was a citizen of the United States and did not have to do military duty in Norway. On June 7, 1898, he was arrested for declining to drill as a soldier and held under arrest until the next day, when he was released. In August, 1899, it seems that proceedings in regard to the fine were taken in the courts, by which it is said the fine was raised to 32 kroner, but on appeal by Hoiland to the supreme court the judgment of the lower court was, on March 8, 1900, reversed on the ground that Hoiland was a citizen of the United States and had duly notified the authorities of his intention to emigrate. He was permitted to leave Norway, which he did on March 17, 1900.

It seems that Hoiland had no written emigration permit, but it is said that under the laws of Norway a written permit was not necessary, as he was at the time of his emigration only 21 years and 4 months old. It is also said that at the time of his emigration Hoiland had not drawn lot as to whether he should belong to the regular army or to the reserves, and under the laws of Norway one may, before he has drawn such lot, emigrate upon a mere notice to the commissioner of his district or parish of his intention to do so. An alleged original statement from one who was formerly such commissioner is transmitted to the Department, in which it is stated that Hoiland notified him of his intention to emigrate to America.

Under the naturalization treaty in force between the two countries, a former Norwegian who has emigrated after he has attained the age when he becomes liable to military service and returns again to his original country, is liable to trial and punishment for an act punishable by the laws of Norway and committed before his emigration.

The Department would be pleased to have you investigate the case and report the facts ascertained by you.

I am, etc.,

JOHN HAY.

[Inclosure 1.]

Mr. Vaule to Mr. Hay.

CROOKSTON, MINN., June 9, 1900.

SIR: April 30 last past I wrote you to the effect that one Johannes Hoiland, a citizen of this country, went to Norway for a visit in 1898 (it should have been 1897) and was by the authorities of that country arrested, fined, and detained over there for a couple of years for refusing to do military duty in that country, and that he desired your office to intercede in his behalf to obtain redress from the Government of Norway for the grievances he has sustained, and asked you to let us know how you wanted the case presented.

May 7, 1900, you wrote me to the effect that before you would comply with my request, you wanted to know Hoiland's age when he emigrated to the United States,

and that you also wanted a copy of his naturalization papers, and also of his military permit.

The reason I did not answer your letter before is that we have been expecting from the authorities in Norway the original military permit, together with his naturalization papers and other papers that were had from Hoiland in the courts of that country. These papers have not yet arrived, but I inclose you herewith another copy of his naturalization papers, and for the present will state that the permit was regular, and accepted as such by the authorities of Norway while Hoiland was detained there as stated.

Hoiland emigrated from Norway April 14, 1883, then 21 years and 4 months of age; he became a citizen of the United States on March 25, 1896; December 11, 1897, he went back to Norway for a visit; November 2, 1898, he was notified by an officer that he had been fined 20 kroner for failing to be present at a military meeting, and was by the same officer at that time notified that he could not return to America until the fine was paid. He refused to pay the fine on the ground that he was a citizen of the United States and did not have to do military duty in Norway; November 29, 1898, the same officer came and borrowed Hoiland's naturalization paper and retained same to December 17, 1898, at which time the naturalization paper was returned and a paper served on Hoiland to the effect that he was to stand trial in regard to that fine. The authorities did not bring that case to trial until August 25, 1899. Meanwhile Hoiland was, on June 7, 1899, taken to a military camp and kept under arrest from 3 o'clock in the afternoon of June 7 until 12 o'clock noon of June 8, 1899, at which time he was ordered released from arrest by the oberst (colonel).

In regard to that fine, it was by the lower court affirmed and increased to 32 kroner, but on appeal the judgment was reversed by the supreme court March 8, 1900, and Hoiland permitted to leave Norway and did leave March 17, 1900.

When the military permit arrives I will forward it to you, as well as any other papers you may desire in this matter. Kindly let me hear from you at your earliest opportunity.

Yours, truly,

OLE J. VAULE.

[Inclosure 2.]

Mr. Vaule to Mr. Hay.

CROOKSTON, MINN., *August 12, 1901.*

SIR: In regard to the claim of Johannes P. Hoiland for having been unlawfully detained by the authorities of Norway, and which claim has been heretofore referred to in my letters of April 30, June 9, and June 29, 1900, I will say that I have investigated the case in regard to his military permit referred to in your letter of June 15, 1900, and find that he had no "written permit;" and it appears that, under the laws of Norway, no such written permit was necessary for him, as he was, at the time of his emigration, only 21 years and 4 months old. He was born December 23, 1861, and emigrated from Stavanger, Norway, April 14, 1883.

Mr. Hoiland became a citizen of the United States, as shown by the copy of his naturalization papers, forwarded to you in my letter of June 9, 1900. Thereafter, and on December 11, 1897, he returned to Norway for a visit. November 2, 1898, he was notified that he was fined 20 kroner for failing to be present at a military meeting, and was from then on prevented by the authorities from returning to America. June 7, 1899, he was taken to Malde, a military camp near Stavanger, Norway, arrested for not wanting to drill as a soldier, and kept under arrest from June 7 at 3 p. m. to June 8 at 12 m., at which time the oberst ordered his release.

The case in regard to the fine was then taken up by the courts and the fine was raised to 32 kroner, and he was again notified that he could not return to America until the fine was paid. Hoiland appealed to the supreme court of the Kingdom of Norway, where the judgment of the lower court was reversed on the ground that he was a citizen of the United States and that he had duly notified the authorities of his intention to emigrate, and he was permitted to embark March 8, 1900.

At the time of his emigration Hoiland had not drawn lot as to whether he should belong to the regular army or to the reserves, and under the laws of Norway one may before he has drawn such lot emigrate upon a mere notice to the commissioner of his district or parish of his intention to do so. I inclose herewith an original statement from Soren Westlye, dated June 22, 1901, who was such commissioner at the time of Hoiland's emigration in 1863, and a translation attached to same. It

may also be mentioned that this statement is in substance the same as the statement presented by Hoiland to the courts of Norway and on which he was acquitted.

If there is anything else I can do in this connection kindly let me know.

Yours, truly,

OLE J. VAULE.

[Subinclosure.—Translation.]

I hereby certify that Johannes Peterson Hoiland notified me of his intention to emigrate to America (without being able to state the year) and that he thereafter emigrated.

SOREN WESTLYE,
Formerly District Commissioner.

WESTLYE, June 22, 1901.

Mr. Thomas to Mr. Hay.

No. 236]

LEGATION OF THE UNITED STATES,
Stockholm, December 31, 1901.

SIR: Referring to your instruction No. 118, of August 20 last, setting forth the case of Johannes P. Hoiland, a naturalized American citizen, born in Norway, who had asked the Department to obtain redress from the Government of Norway for alleged unlawful arrest and imprisonment, I have the honor to inform you that in compliance with your directions I at once, on September 3, addressed a note to the minister for foreign affairs, a copy of which herewith inclosed, giving the facts in the case as detailed in your instruction, and requesting to be informed of the attitude of the Government of Norway in the premises.

I am now in receipt of a note from the foreign office, dated December 27, a copy of which, accompanied by a translation, is inclosed, transmitting copy of a letter from the minister of the interior of Norway, which I inclose in English translation.

In this letter his excellency Mr. Steen gives a full and exhaustive history of the case, from which it appears that Hoiland, after his return to Norway, in December, 1897, was enrolled for military service and notified to appear at the recruit school at Maldesletten on May 2, 1899.

He did not appear; neither did he prove to the proper military authorities who had ordered him to appear that he was an American citizen.

On his not appearing, the commander of the company (captain) at the recruit school charged the sheriff at Time, in May, 1899, to visit Hoiland in person and demand his explanation as to the reason for his absence, and to request him to produce his American citizenship papers as proof in case he had such papers. Hoiland told the sheriff that he was an American citizen, but refused to produce or show the military authorities his citizen papers; he said he had shown them to the police in connection with the fine case, and he would not now show them to any more Norwegian authorities.

It was after this that Hoiland, on June 7, 1899, was transported to the Malde drilling grounds and placed under arrest. The next day, June 8, he showed his American citizen papers, after which he was immediately released.

The opinion is expressed that Hoiland has only himself to blame for his arrest and imprisonment, since these were caused by his default to

show his American citizen papers on request by the proper military authorities.

It is also held that, although the treaty between the United States and Sweden and Norway of May 26, 1869, protects naturalized American citizens of Norwegian birth returning to Norway from military service, unless they again become domiciled in Norway, it is nevertheless incumbent on such Norwegian emigrants to prove themselves to be American citizens whenever officially requested to do so by the proper Norwegian authorities.

In fact, that if such persons have the right to be free from military service because they are American citizens, they have also the duty laid upon them of proving such citizenship.

In this connection I beg to call your attention to the printed notice issued by the Department of State and given to naturalized American citizens of Norwegian birth on their applying for a passport.

Paragraphs 3 and 4 of this notice read as follows:

A naturalized American who performed his military service or emigrated when he was not liable to it, and who infringed no laws before emigrating, may safely return to Norway.

He must, however, report to the conscription officers, and, on receiving a summons, present himself at the meetings of the conscripts in order to prove his American citizenship.

It would seem that if Hoiland had acted in accordance with the plain and wise advice given by the Department he would have saved himself all the trouble of which he complains.

I have, etc.,

W. W. THOMAS, Jr.

Mr. Thomas to the minister for foreign affairs.

[Inclosure 1.]

LEGATION OF THE UNITED STATES,
Stockholm, September 3, 1901.

EXCELLENCY: I have the honor to inform your excellency that the Department of State has been asked to obtain redress from the Government of Norway for Johannes P. Hoiland, a naturalized American citizen, for alleged unlawful arrest and imprisonment.

The facts, as stated, appear to be as follows:

Hoiland was born in Norway, December 23, 1861, and emigrated to the United States in April, 1883, when he was 21 years and 4 months old. He was naturalized in the United States in March, 1896. In December, 1897, he returned to Norway for a visit; in November, 1898, he was notified that he had been fined 20 kroner for failure to be present at a military meeting, and informed that he could not return to America until the fine was paid. He refused to pay the fine on the ground that he was a citizen of the United States and did not have to do military duty in Norway. On June 7, 1899, he was arrested for declining to drill as a soldier and held under arrest until the next day, when he was released. In August, 1899, it seems that proceedings in regard to the fine were taken in the courts, by which it is said the fine was raised to 32 kroner, but on appeal by Hoiland to the supreme court, the judgment of the lower court was on March 8, 1900, reversed on the ground that Hoiland was a citizen of the United States and had duly notified the authorities of his intention to emigrate. He was permitted to leave Norway, which he did on March 17, 1900.

It seems that Hoiland had no written emigration permit, but it is said that under the laws of Norway a written permit was not necessary, as he was at the time of his emigration only 21 years and 4 months old. It is also said that at the time of his emigration Hoiland had not drawn lot as to whether he should belong to the regular army or to the reserves, and under the laws of Norway one may, before he has drawn such a lot, emigrate upon a mere notice to the commissioner of his district or parish of his intention to do so. An alleged original statement from one who was formerly such commissioner is transmitted to the Department, in which it is stated

that Hoiland notified him of his intention to emigrate to America. This statement is dated Westlye, June 22, 1901, and signed Soren Westlye, formerly district commissioner.

Hoiland emigrated from Stavanger, Norway. The place of his arrest was Malde, a military camp near Stavanger.

I should be pleased to be informed of the attitude of the Government of Norway upon this case, with a view of reporting the same to the Department of State.

I beg, etc.,

W. W. THOMAS, Jr.

Mr. Von Otter to Mr. Thomas.

[Inclosure 2.—Translation.]

ROYAL FOREIGN OFFICE,
Stockholm, December 27, 1901.

MR MINISTER: By a note, dated the 3d of October (September) last, you have been pleased to express the desire to be placed in position to report to your Government the attitude of the Government of Norway upon the treatment which Johannes P. Hoiland, an American citizen, has undergone at the hands of the Norwegian authorities on account of his refusal to perform military service in Norway.

Having requested the opinion of the competent Norwegian authorities, I have the honor to transmit to you in reply a copy of a letter which the minister of the interior at Christiania has addressed to me, and in which his excellency, Mr. Steen, after having recounted the details of the affairs and in proving that Hoiland has himself caused his arrest by his refusal to legitimate himself as an American citizen, expresses the opinion that an emigrant who, on his return to Norway should, according to the treaty with the United States of May 26, 1869, be free from military service in Norway, has nevertheless the duty of proving his American nationality before the competent authorities.

I am convinced that you will concur in this opinion.

Please accept, etc.,

F. W. VON OTTER.

Mr. Steen to Royal Foreign Office.

[Subinclosure.—Translation.]

CHRISTIANIA, *December 21, 1901.*

The ROYAL FOREIGN OFFICE,
Stockholm.

In a communication of September 10 last the Royal foreign office has transmitted to this department a copy of a note from the American minister at Stockholm, dated September 3, in which information is requested regarding the attitude of the Norwegian Government with respect to the fining and imprisonment of an American citizen, Johannes P. Hoiland, for omitting to appear at the conscription meeting and to present himself for military service in this country.

In consequence thereof, after having received the opinion of the war department in the matter and the explanations procured by said department from the competent conscription authorities, we have the honor to state as follows, viz.:

It is true, as stated in the American minister's note, that the said Johannes P. Hoiland was born in this country in 1861, and that he emigrated to America in April, 1883, before the holding of the conscription meeting in his place of domicile (Time district) in the aforesaid year. It is also true, that, according to Nowegian law, it is not required that conscripts who, as was the case with Hoiland, emigrate from the Kingdom before the holding of the conscription meeting in their place of domicile in the calendar year in which they reach the age of 22, shall have express permission to emigrate, but it is sufficient that they, previous to their departure, have made a declaration of their emigration to the alderman (rodeforstander) of their ward and the commissary of their district, and from the latter have received a written certificate that such a declaration has been made.

This obligation to make such declaration was, however, not fulfilled by Hoiland. It is true that the American minister has stated that Hoiland has presented a certificate dated June 22, 1901, issued by Soren Westbye, former district commissary, to the effect that Hoiland had made declaration to him of his (Hoiland's) emigration before he left the country in April, 1883; but the proper conscription board has now informed

this department that Soren Westbye was not district commissary for Time in 1883 (his time of office as such had already expired the preceding year), and that opposite Hoiland's name in the muster roll for his year's class (which roll is kept by the military roll keeper, who is also the chief of the district commission, registering all young conscripts, from confirmation age up) it is expressly remarked that he had emigrated without proper declaration.

The conscript law of February 28, 1877, section 29, provides that every emigrated Norwegian subject who returns to this country must at once report to the proper district commission. This was not observed by Hoiland on his return in December, 1897, and furthermore, he can not be considered in any other way to have informed any Norwegian authority that he had become an American citizen.

At the district meeting for Time on April 12, 1898, it was reported to the roll keeper that Hoiland had returned. As a consequence of this, the roll keeper charged the proper alderman (rodeforstander) to call him to appear at the conscription meeting for Time, which was to be held on August 4 of the same year, in order that his conscription duties to Norway might be investigated and determined. It seems, however, as if the alderman (rodeforstander) has neglected thus to call him, and consequently Hoiland did not appear at the conscription meeting. The conscription board, supposing that Hoiland had been called to appear, imposed a fine upon him of 20 kroner for absence, and also enrolled him (as one who had, previous to his departure for America, neglected his declaration duty) for full military service, providing that he, on appearing for drill, should be found serviceable. Hoiland was then informed both of the imposition of the fine and the enrollment.

When the imposition of the fine was thereafter brought to his knowledge by the civil authorities, he refused to pay the fine, stating as his reason that he was an American citizen. The Norwegian authorities, supposing that he had been expressly ordered to appear at the conscript meeting to account for his conscript duties and that he, even if he were an American citizen, was obliged, after being ordered, to appear at said function to prove this, then took legal action against him to collect the fine. Hoiland was also sentenced by the inferior court, but the supreme court acquitted him of the imposed fine on March 8, 1900, because it might be supposed, from the evidence then produced, that he had not received any order to appear at the conscription meeting, such as the alderman (rodeforstander) had been charged to serve on him, and because he, after it had been shown that he was an American citizen, was regarded as not obliged to appear without such a special order.

As a consequence of the other action against Hoiland, in accordance with the aforesaid decision of the conscription board (his enrollment for military service), he was charged by the proper military authorities to appear at the recruit school at Madesletten on May 2, 1899. He did not appear, however; neither did he prove to the proper military authorities, who had ordered him to appear, that he was an American citizen.

On his not appearing, the commander of the company (captain) at the recruit school charged the sheriff at Time, in May, 1899, to visit Hoiland in person and demand his explanation as to the reason for his absence, and to request him to lend his American citizen papers as proof, in case he had such papers. Hoiland told the sheriff that he was an American citizen, but he refused to lend or show the military authorities his citizen papers; he said he had shown them to the police in connection with the fine case, and he would not show them to any more Norwegian authorities.

It was after this that Hoiland, on June 7, 1899—thus previous to the aforesaid acquittal by the supreme court of the fine imposed upon him for omitting to appear at the conscription meeting—was transported to the Malde drilling grounds and placed under arrest. The next day, June 8, he showed his American citizen papers, after which he was immediately released.

The conscription board has, in connection with this information, remarked that Hoiland may blame himself for being subjected to the treatment of which he has now complained, for if he had shown greater willingness to prove his relation to the United States he would have avoided being arrested.

The general war commissary has stated that he must declare himself in unison with this opinion of the conscription board, and has in this connection stated that since the treaty with the United States of May 26, 1869, protects returning emigrants who have become American citizens from conscription unless they again become domiciled here in the Kingdom, it must, in his opinion, be inevitable that such returning emigrants are obliged to prove their American citizenship to every Norwegian authority who officially requires them to do so. Furthermore, the general war commissary has called attention to the fact that Hoiland was acquitted of the fine because it could not be considered proved that he had received any call to appear at the conscription meeting. He had, however, received an order to appear at the opening of the recruit school, on May 2, 1899, and he must therefore submit to being treated as

one obliged to appear, until he, on showing his American citizen papers, prove that he, as an American citizen, had a right to be free.

Also the war department has stated that, with respect to the information here given, it finds that Hoiland's transportation to the Malde drilling grounds and arrest may be ascribed to his refusal to prove himself not obliged to do military service, the war department, like the general war commissary, presenting as its opinion that returning emigrants, who, in consequence of the treaty with the United States of May 26, 1869, are exempt from conscription in this Kingdom, are obliged to prove themselves to be American citizens whenever this is demanded by the proper Norwegian authorities.

This department also finds that it must support this opinion.

The American minister in Stockholm should be informed of the foregoing.

STEEN.

Mr. Hay to Mr. Thomas.

No. 129.]

DEPARTMENT OF STATE,
Washington, January 16, 1902.

SIR: I have to acknowledge the receipt of your No. 236, of the 31st ultimo, inclosing the reply of the Norwegian Government to the complaint made by Mr. Johannes P. Hoiland, a naturalized American citizen of Norwegian origin, that he had been unlawfully arrested and imprisoned in Norway.

Under the circumstances of Mr. Hoiland's resistance to, and delay in complying with, the reasonable requirement to prove his American citizenship before the competent authority, the Department does not see that it is called upon to intervene any further in the matter.

His attorney has been so advised.

I am, etc.,

JOHN HAY.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.

Mr. Grip to Mr. Hay.

[Telegram.]

LEGATION OF SWEDEN AND NORWAY,
Bar Harbor, Me., September 14, 1901.

I am directed by my Government to convey to the Government of the United States the expressions of deep sympathy of the King and the United Kingdoms of Sweden and Norway.

A. GRIP.

Mr. Hill to Mr. Grip.

DEPARTMENT OF STATE,
Washington, September 25, 1901.

SIR: The pressure of public business attendant upon the death of President McKinley has delayed until now an acknowledgment of your telegram of the 14th instant, conveying, by direction of your Government, an expression of the sympathy felt by His Majesty the King and the United Kingdoms of Sweden and Norway in view of that sad event.

I shall be obliged if you will assure His Majesty and your Government that their condolence is gratefully appreciated by the Government and people of the United States, who are deeply touched by the innumerable manifestations of sympathy which they have received from all parts of the world.

Accept, etc.,

DAVID J. HILL,
Acting Secretary.

UNVEILING OF MONUMENT TO JOHN ERICSSON AT STOCKHOLM.

Mr. Thomas to Mr. Hay.

No. 219.]

LEGATION OF THE UNITED STATES,
Stockholm, September 18, 1901.

SIR: I have the honor to inform you that a bronze statue of John Ericsson, the great Swedish-American, erected by national subscription, was unveiled at Stockholm on the 14th instant with imposing ceremonies.

The occasion was honored by the presence of His Royal Highness the Crown Prince of Sweden and Norway, Prince Eugene, and Prince Bernadotte, his excellency the minister for foreign affairs, and other members of the Swedish cabinet, the governor of Stockholm, high officers of the Swedish army and navy, members of the Swedish Riksdag, and several hundred other gentlemen and ladies prominent in the political, social, and literary life of Sweden. The entire personnel of the American legation and consulate-general were also present. All were seated upon a raised tribune in front of the monument. About the tribune were gathered a vast multitude of over 20,000 people, who filled the broad place at the head of Nybro Harbor, where the statue stands, in the heart of Stockholm, and overflowed all approaching streets and avenues.

All around the park were erected tall flagstaves, from which floated the American and Swedish flags alternately. Swedish and American flags were also very generally displayed from public and private buildings throughout the entire city and from the shipping in the harbor.

At the command of the Crown Prince, "Let the veil fall from the monument of our illustrious countryman, John Ericsson," the covering fell, disclosing the stately statue.

A salute of fifteen guns was fired by the first Swedish monitor, *John Ericsson*, lying in the harbor hard by, and the royal naval band blew a flourish of trumpets.

It is an interesting fact that the plans for this monitor were all drawn by Ericsson in America and the two great cannon in the turret were procured by Ericsson in the United States and presented by him to Sweden.

The monitor now saluted the monument of its creator.

Maj. Cl. Adelskiöld, chairman of the monument committee, then delivered an address. He concluded with the following words, addressed to the minister of the United States, which I give in English translation:

CONCLUSION OF MAJOR ADELSKIÖLD'S ADDRESS.

It is now eleven years since the Government of the United States of America gave a son of Svea, John Ericsson, obsequies which have no parallel in historic time, and

his ashes were delivered to Sweden on behalf of the United States Government by the American minister, Mr. Thomas, whom we still have the pleasure of seeing in the same high position he then held. And it has been considered especially appropriate to choose this day, when two nations joined in honoring the memory of John Ericsson, for the unveiling of this monument, thereby publicly and before the whole world affirming the high appreciation which the Swedish people feel and always will feel for the mark of distinction which the great Republic accorded Sweden by the honorable manner in which the earthly remains of one of its most noble sons were delivered to the fatherland.

And I take the liberty of most respectfully requesting your excellency to bring to the knowledge of your Government, your countrymen, and the million of John Ericsson's countrymen who live in the United States of America the feeling of deepest and warmest gratitude which the country and people of Sweden will always bear toward the great Republic on the other side of the ocean and the pride we feel in this extraordinary mark of honor.

Tell him that, though it was not granted us to have this immortal man here in our home country during the whole of his lifetime, we rejoice that he in his new fatherland had opportunity to develop the rich resources of his genius, thereby making himself useful to you, to humanity, and to us, and that we, through the noble-mindedness of your Government, were granted an opportunity of tenderly caring for his earthly remains, in accordance with the wish expressed by him.

Just before the unveiling of the monument I had received your telegram announcing the death of President McKinley. The members of the legation and consulate-general, both ladies and gentlemen, were therefore all clad in mourning on this occasion. Wearing the symbols of mourning, I then delivered the following address. To this vast Swedish audience I spoke in the Swedish language, but the following is an exact English translation of my words:

ADDRESS OF MR. THOMAS.

It is with a heavy heart I stand here to-day.

The sad tidings have just flown over the ocean that America's beloved President lies dead in our distant land.

But if his dead lips could speak, full well I know they would say to me:

"Do your duty. Let not my death cause America to be unrepresented to-day, when Sweden honors the memory of the great Swedish-American who at a critical moment in America's history rendered the Republic illustrious service and saved her from great peril."

Eleven years ago this September day, on board the American man-of-war *Baltimore*, lying in Stockholm's harbor, it fell to me, representing my country, to deliver to Sweden the honored ashes of John Ericsson.

And now to-day it is my privilege to be present at the dedication of this monument, which has been erected to Ericsson's honor in Sweden's capital.

To participate in this celebration I esteem not only an honor but a duty, for John Ericsson belongs to America as well as to Sweden. True, here was his fatherland, but the broad field of his activity was in the New World beyond the western wave, and there lay the scene of his great achievements.

These achievements have materially aided the progress of the world, for Ericsson was a true laborer for the development and civilization of mankind, but his most illustrious service rendered to his adopted country will ever merit special recognition.

We Americans will never forget our great war for the Union, which freed 4,000,000 slaves and saved our nation's life.

We will never forget one bright spring morning when the rebel ram *Merrimac* steamed out of Norfolk Harbor and with her prow of iron bore down upon our fleet of wooden vessels lying at anchor in Hampton Roads; or how that monster ironclad rammed and destroyed, one after the other, our bravest ships, broke our blockade, and for a few short hours was mistress of the seas.

We will never forget how the little *Monitor*, as if sent by Providence, suddenly appeared upon the scene, attacked the colossus of the slave power, as David did Goliath, and how, after a hard-fought duel, the little Union ship defeated its giant adversary, and thus saved our navy, our blockade, and our power on the ocean.

We will never forget either that the man whose genius invented and built and gave us the *Monitor* was no native American, but the Swede, John Ericsson, born and bred in this ancient, honored land.

America will always owe a debt of gratitude to Sweden, which has given us a million of our best citizens, each one a link in the golden chain which binds together two great and kindred peoples in the bonds of friendship and good will; but our deepest gratitude is due because Sweden gave us that man whose memory we to-day are met to honor, and who has justly won the proud title of the Great Swedish-American.

And America will never forget her debt. In the New World we have raised monuments to the memory of John Ericsson in imperishable bronze. We have inscribed his name in our Pantheon of the Republic's immortal heroes. We have sent his earthly remains home to fatherland with greatest honors the nation can bestow. And on this day, when the veil falls from the statue which shall here perpetuate the memory of his life and deeds, our hearts beat in unison with yours in thanksgiving for the great man whom two nations rejoice to call their own.

I may be permitted to add that the address was received by gratifying manifestations of approbation, for which the signal was given by the Crown Prince. His Royal Highness also publicly arose and, taking my hand, warmly thanked me for the words I had spoken.

The Swedish royal band then played our American national anthem, "The Star Spangled Banner."

All the flags around the monument park, both Swedish and American, were then lowered to half-mast, and continued to fly at half-mast for the remainder of the day, as a token of respect to the memory of America's dead President.

I have, etc.,

W. W. THOMAS, JR.

FIRST ANNUAL AWARD OF THE NOBEL PRIZES.

Mr. Thomas to Mr. Hay.

No. 233.]

LEGATION OF THE UNITED STATES,
Stockholm, December 11, 1901.

SIR: I have the honor to inform you that events of exceptional import and interest took place yesterday at Stockholm and Christiania.

December 10, 1901, was the fifth anniversary of the death of Alfred Bernard Nobel, the great Swedish engineer and inventor, and on yesterday were awarded for the first time the prizes instituted by him in his testament to those persons who have contributed most materially to benefit mankind in the domains of physics, chemistry, medicine, literature, and in the works of peace.

The prizes were awarded as follows: In physics, to Wilhelm Conrad Röntgen, professor at the University at Munich, the discoverer of the Röntgen rays; in chemistry, to Jacobus Henricus Van't Hoff, professor at the University of Berlin; in medicine, to Emil von Behring, professor at Halle, the discoverer of the diphtheria serums; in literature, to Sully-Prudhomme, member of the French Academy; in the works of peace, this prize was divided in two, and awarded in equal parts to Henri Dunant, of Switzerland, the leading spirit in bringing about the Geneva convention and in instituting the Societies of the Red Cross, and to Frederick Passy, national economist, of France.

The first four prizes were given out at Stockholm with impressive ceremonies. The place was the grand hall of the Royal Academy of Music, which was tastefully decorated. This spacious hall was filled with a brilliant gathering of gentlemen and ladies, the leaders in Swedish science, literature, art, and public life, and the occasion was especially honored by the presence of the Crown Prince and other members of the royal family.

The exercises were enlivened by addresses appropriate to the event, and by music and song. The prize diplomas were given out by the Crown Prince in person and were received in person by Professors Röntgen, van't Hoff, and Behring.

As M. Sully-Prudhomme was unable to be present on account of sickness, the diploma in literature was delivered to the minister for France at Stockholm, to be forwarded by him to M. Sully-Prudhomme.

On the same day the prize in the works of peace, divided in two parts, as above mentioned, was awarded to M. Dunant and M. Passy at Christiania by the Norwegian Storting convened in solemn session.

Each of the five prizes is for the sum of over 150,000 crowns (150,782.23 crowns exactly), or more than \$40,000—an amount sufficient of itself to place each recipient in independent circumstances, and to permit him untrammelled to pursue his investigations and life work, which have already been of so great benefit.

Furthermore, five prizes of like, or perhaps greater, amount will be awarded every year on December 10 hereafter forever.

I think it may be said that these prizes, in kind as well as in amount, are unparalleled in the history of science, literature, and humanity, and that the day these prizes were for the first time awarded marks an epoch in the advance of the human race.

Alfred Nobel directed that substantially the whole of his vast fortune be used for the benefit of mankind. Though the discoverer of dynamite, he instituted one of his grand prizes for the works of peace. His beneficence is as broad as humanity. He was more than patriot; he was the friend of the human race. In his last will he directs that in awarding the prizes no consideration whatever be paid to nationality, but that the worthiest be awarded the prize, whether he is Scandinavian or not.

Peace to his ashes. His great and enduring work reflects honor upon himself and upon the race from which he sprung.

I have, etc.,

W. W. THOMAS, JR.

SWITZERLAND.

LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES UNDER MILITARY AND EXPATRIATION LAWS OF THEIR NATIVE COUNTRY.*

DEPARTMENT OF STATE,
Washington, January 8, 1901.

NOTICE TO AMERICAN CITIZENS FORMERLY CITIZENS OF SWITZERLAND WHO CONTEMPLATE RETURNING TO THAT COUNTRY.

The information given below is believed to be correct, yet is not to be considered as official, as it relates to the laws and regulations of a foreign country.

Every Swiss citizen is liable, under Swiss law, to military service from the beginning of the year in which he becomes 20 years of age until the end of the year when he becomes 44. Every Swiss of military age who does not perform military service is subject to an annual tax, whether he resides in the Confederation or not, or to punishment for nonpayment of the tax if he returns to Switzerland.

If a Swiss citizen renounces Swiss allegiance in the manner prescribed by the Swiss law of July 3, 1876, and his renunciation is accepted, his naturalization in another country is recognized, but without such acceptance it is not recognized, and is held to descend from generation to generation.

Before he returns to Switzerland an American citizen of Swiss origin should file with the cantonal authorities his written declaration of renunciation of his rights to communal, cantonal, and in general Swiss citizenship, with documents showing that he has obtained foreign citizenship for himself, wife, and minor children, and receive the sealed document of release from Swiss citizenship through the direction of justice of the canton of his origin. If he neglects this and is within the ages when military service may be required, he is liable to military tax, or to arrest and punishment in case of nonpayment of the tax.

There is no treaty between the United States and Switzerland defining the status of former Swiss citizens who have become naturalized as American citizens.

Passports are not required for admission to Switzerland, but are usually demanded from persons sojourning in that country. They do not require to be viséed or indorsed to be valid.

*See instruction to Austria-Hungary, December 10, 1900, page 7.

**TREATY BETWEEN THE UNITED STATES AND SWITZERLAND
FOR THE EXTRADITION OF CRIMINALS.**

Signed at Washington May 14, 1900.

Ratification with amendments advised by the Senate June 5, 1900.

Ratified by the President February 25, 1901.

Ratified by Switzerland January 21, 1901.

Ratifications exchanged at Washington February 27, 1901.

Proclaimed February 28, 1901.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the Swiss Confederation providing for the extradition of criminals was concluded and signed by their respective Plenipotentiaries at Washington on the 14th day of May, one thousand nine hundred, the original of which Convention, being in the English and French languages, is, as amended by the Senate of the United States, word for word as follows:

The Government of the United States of America and the Federal Council of the Swiss Confederation, with a view to the better administration of justice, have resolved to conclude a new Convention for the extradition of fugitive criminals, and, for that purpose, have appointed as their Plenipotentiaries, to wit:

The President of the United States of America: John Hay, Secretary of State of the United States; the Federal Council of the Swiss Confederation: J. B. Pioda, Envoy Extraordinary and Minister Plenipotentiary of Switzerland to the United States; Who, after communicating to each other their full powers, which were found in good and due form, have agreed upon the following Articles:

ARTICLE I.

The Government of the United States of America and the Swiss Federal Council bind themselves mutually to surrender such persons as, being charged with or convicted of any of the crimes or offenses enumerated hereinafter in Article II, committed in the territory of one of the contracting States, shall be found in the territory of the other State: Provided that this shall be done by the United States only upon such evidence of criminality as, according to the laws of the place where the fugitive or person shall be found, would justify his apprehension and commitment for trial if the crime or offense had been there committed. In Switzerland the surrender shall be made in accordance with the laws in force in that country at the time of the demand.

Neither of the two Governments, however, shall be required to surrender its own citizens.

ARTICLE II.

Extradition shall be granted for the following crimes and offenses, provided they are punishable both under the laws of the place of refuge and under those of the State making the requisition, to wit:

1. Murder, including assassination, parricide, infanticide and poisoning; voluntary manslaughter.

2. Arson.
3. Robbery; burglary; housebreaking or shop-breaking.
4. The counterfeiting or forgery of public or private instruments; the fraudulent use of counterfeited or forged instruments.
5. The forgery, counterfeiting or alteration of coin, paper-money, public bonds and coupons thereof, bank notes, obligations or other certificates or instruments of credit, the emission or circulation of such instruments of credit, with fraudulent intent; the counterfeiting or forgery of public seals, stamps or marks, or the fraudulent use of such counterfeited or forged articles.
6. Embezzlement by public officials, or by other persons, to the prejudice of their employers; larceny; obtaining money or other property by false pretences; receiving money, valuable securities or other property, knowing the same to have been embezzled, stolen or fraudulently obtained. The amount of money or the value of the property obtained or received by means of such criminal acts, must exceed 1000 francs.
7. Fraud or breach of trust, committed by a fiduciary, attorney, banker, administrator of the estate of a third party, or by the president, a member or an officer of a corporation or association, when the loss involved exceeds 1000 francs.
8. Perjury; subornation of perjury.
9. Abduction; rape; kidnapping of minors; bigamy; abortion.
10. Wilful and unlawful destruction or obstruction of railroads, endangering human life.
11. Piracy; wilful acts causing the loss or destruction of a vessel.

ARTICLE III.

Extradition shall likewise be granted for an attempt to commit, or participation in, any of the crimes and offenses enumerated in Article II, provided such attempt or participation is punishable in the United States as a felony, and in Switzerland with death, or confinement in a penitentiary or workhouse.

ARTICLE IV.

No extradited person shall be tried by a Special Court.

ARTICLE V.

Demands for the extradition of fugitive criminals shall be made by the diplomatic representative, or, in his absence, by one of the consular agents of the State making the requisition.

When the person whose extradition is asked has been *sentenced* for the offense which occasioned the demand for extradition, such demand shall be accompanied by a certified copy of the sentence pronounced; if the person demanded is merely *charged* with an offense, the demand shall be accompanied by a duly certified copy of the warrant of arrest issued by the competent magistrate of the country in which the offense was committed, and by certified copies of the depositions or other evidence upon the basis of which the warrant was issued. These documents shall contain an accurate statement of the offense charged, of the place where and the time when it was committed. They shall be

accompanied by a certified copy of the provisions of law applicable to the offenses charged, as shown by statute or judicial decision, and by the evidence necessary to establish the identity of the person demanded.

The extradition procedure shall be governed by the regulations in force at the time of the demand, in the State upon which the demand is made.

ARTICLE VI.

When it is desired to procure the arrest of a fugitive, by telegraph or otherwise, before the regular papers have been presented, the procedure in the United States shall be to apply to a Judge or Magistrate authorized to issue warrants of arrest in extradition cases, and to present a complaint on oath, as provided by the laws of the United States.

To procure the provisional arrest of a fugitive in Switzerland, the diplomatic representative or a consular agent of the United States shall apply to the President of the Confederation who will order the necessary steps to be taken.

The provisional detention of a fugitive shall cease, and the person arrested shall be released, if a formal demand for extradition, accompanied by the necessary papers, is not presented, in the manner provided in the present Treaty, within two months after the day of arrest.

ARTICLE VII.

Extradition shall not be granted for political crimes or offenses. No person surrendered under the present Treaty, for a common crime, shall be prosecuted or punished for a political offense committed before his extradition.

If the question arises in a particular case, whether the offense committed is or is not of a political character, the Authorities of the State upon which the demand is made shall decide.

ARTICLE VIII.

Extradition shall not be granted when, under the laws of the State upon which the requisition is made, or under those of the State making the requisition, the criminal prosecution or penalty imposed is barred by limitation.

ARTICLE IX.

No person surrendered by either of the Contracting States to the other shall be prosecuted or punished for any offense committed before the demand for extradition, other than that for which the extradition is granted, unless he expressly consents to it in open Court, which consent shall be entered upon the record, or unless, having been at liberty during one month after his final release to leave the territory of the State making the demand, he has failed to make use of such liberty.

The State to which a person has been surrendered shall not surrender him to a third State, unless the provisions contained in the first paragraph of the present Article have been fulfilled.

ARTICLE X.

When the person whose extradition is demanded is prosecuted, or has been convicted, in the State of refuge, for another offense, the extradition may be postponed until the close of the criminal prosecution or the expiration of the penalty.

ARTICLE XI.

If the extradition of the person demanded by either of the two contracting States is likewise demanded by one or more other States, for offenses committed by the said person in the territory, preference shall be given to the State whose requisition is based upon the most serious offense, unless the State upon which the requisition is made is bound by Treaty to give preference to another.

If the offenses are of equal gravity, the demand first presented shall have preference, unless the State upon which the requisition is made is bound by Treaty to give preference to another State.

ARTICLE XII.

All articles seized which are in the possession of the person demanded, at the time of his arrest, shall, at the time of the extradition be delivered up with his person, and such delivery shall extend, not only to articles acquired by means of the offense with which the accused is charged, but to all other articles that may serve to prove the offense.

The rights of third parties to the articles in question shall, however, be duly respected.

ARTICLE XIII.

The expenses incurred in the arrest, detention, examination and surrender of the fugitive shall be borne by the State making the demand. The State making the demand shall not, however, be charged for the services of such officials of the Government upon which the demand is made, as receive a fixed salary; for the services of officials receiving only fees, no higher fees shall be charged than those to which such officials are entitled under the laws of the country for services rendered in ordinary criminal cases.

ARTICLE XIV.

The present Treaty shall go into effect thirty days after the exchange of ratifications. This Treaty repeals Articles XIII, XIV, XV, XVI and XVII of the Treaty of November 25, 1850, between the Swiss Confederation and the United States of America; and the provisions in those Articles shall henceforward apply only to demands for extradition pending at the time when the present Treaty goes into effect.

The ratifications shall be exchanged at Washington as soon as possible. After the denunciation of this Treaty by either of the Contracting Governments, the Treaty shall still remain in force for six months after the day of the denunciation.

In witness whereof, the respective Plenipotentiaries have signed the foregoing Articles, and have affixed their seals.

Done in duplicate at Washington, in the English and French languages, the 14th day of May 1900.

JOHN HAY [SEAL.]
J. B. PIODA [SEAL.]

And whereas the said Convention as amended by the Senate of the United States has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the City of Washington, on the 27th day of February, one thousand nine hundred and one;

Now therefore, be it known that I, William McKinley, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof, as amended, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

Done at the City of Washington, this twenty-eighth day of February in the year of Our Lord one thousand nine hundred and one, and of the Independence of the United States the one hundred and twenty-fifth.

[SEAL.]

WILLIAM MCKINLEY

By the President:

JOHN HAY

Secretary of State.

**PROTECTION BY UNITED STATES OFFICIALS OF SWISS CITIZENS
IN EGYPT.**

Mr. Hay to Mr. Pioda.

No. 291.]

DEPARTMENT OF STATE,

Washington, April 19, 1901.

SIR: Referring to a note ^a from your legation of August 31, 1897, I have the honor to say that, according to a dispatch from Mr. Long, the agent and consul-general of the United States at Cairo, No. 116, of March 22, 1901, he has been formally requested by Dr. Edouard Cérésole and Mr. A. du Souchet, citizens of Switzerland, residing at Alexandria and Cairo, respectively, to be placed under the protection of the representatives of the United States at those cities. Mr. Long has replied to these gentlemen stating that in conformity with the authorization of the Department's instructions, ^a No. 15, of September 7, 1897 (reference to which is made in its note to Mr. Vogel of that date), the representatives of the United States at those places would be glad to use their personal and nonofficial good offices, with the consent of the Egyptian Government, in their behalf should occasion arise.

In the absence of a formal request from the Swiss Government, such as was presented on behalf of Mr. Reinhart, I can only say that, if agreeable to it, I shall take pleasure in causing Mr. Long's disposition of the two cases to be approved.

Accept, etc.,

JOHN HAY.

Mr. Pioda to Mr. Hay.

[Translation.]

LEGATION OF SWITZERLAND,

Washington, May 23, 1901.

MR. SECRETARY OF STATE: Referring to the note which your excellency was pleased to address to me on the 19th ultimo, relative to the

request presented by Dr. A. Cérésole and Mr. A. du Souchet, Swiss citizens, to Mr. Long, agent and consul-general of the United States at Cairo, to have their names enrolled at the office of the said consulate-general, with a view to enjoying its protection, if necessary, I hasten herewith to communicate to you the reply which I have just received from my Government on this subject.

The circular of the Federal Council of July 8, 1871, a copy of which your excellency will find herewith, states the point of view of my Government on the subject of the protection of Swiss citizens in countries where Switzerland has no diplomatic or consular representatives. It appears from this circular that in 1871 my Government and the Government of the United States of America agreed that the latter should instruct its representatives in foreign countries to take under their protection any Swiss citizen who desired it, without the necessity of a previous understanding between the two Governments in each particular case.

Mr. Fish addressed a circular, under date of June 16, 1871, to the representatives of the United States in foreign countries (see Foreign Relations of the United States for 1871, p. 28) authorizing them to extend their protection to Swiss citizens with the consent of the authorities of the country in which they resided.

The contents of the aforesaid note of your excellency have given rise to a doubt in the mind of my Government whether the instructions given by Mr. Fish have since then been modified. I should therefore be grateful to your excellency if you would inform me on this point.

My Government apprises me, moreover, that it will not hesitate to support the request of the aforesaid gentlemen on condition that they themselves lay their request before the Federal Council. Messrs. Cérésole and du Souchet must also be informed that the representatives of the United States are not authorized by their Government, according to the view set forth by the Department of State, to assert the claims of foreigners officially, and that they must confine themselves to lending, when necessary, their personal and unofficial good offices.

In having the honor to bring the foregoing to your excellency's notice, and awaiting such further communications as you may be pleased to make to me on this subject, I avail, etc.,

J. B. PIDDA,
Minister of Switzerland.

[Inclosure.—Translation.]

Circular.

BERNE, July 8, 1871.

[The Swiss Federal Council to the diplomatic and consular officers of the Confederation.]

SIR: Petitions have several times been presented to us by Swiss citizens or commercial firms established in countries where Switzerland has neither diplomatic officers nor consuls, asking for our intervention with this or that foreign power with a view to securing its consular protection for them.

In one case of this kind, the legation of Germany at Berne remarked that it would be much easier and more expeditious to avoid, by a general measure, the correspondence that has hitherto been necessary in each particular case, and suggested that this matter should be settled once for all. It declared, furthermore, that the Imperial Government was prepared to issue general instructions to its diplomatic

and consular officers to grant, in places where there were no official representatives of the Confederation, their protection to such Swiss citizens as should make application therefor.

We accepted this offer of the German Government, declaring, however, that we did not desire thereby to compel Swiss citizens in foreign countries to place themselves under the consular protection of Germany, or even specially to recommend them to apply for such protection.

Similar negotiations having been held between the president of the Confederation and the United States legation at Berne, the American Government issued to its diplomatic and consular agents general instructions identical with those issued by the Imperial German Government.

In informing you of these arrangements, we would remark that it is understood that none but those localities are concerned in which there are no official representatives of the Confederation, and that a Swiss citizen can in nowise be permitted to renounce the protection of the consul of his country in order to have recourse to that of a foreign consul, nor can the latter be permitted to grant him his protection before it has been asked for.

In conclusion, we repeat: Although a general measure of this kind has been accepted by us, it has only been with a view to avoiding a long correspondence in each particular case, and in order to guarantee efficient protection to Swiss citizens when it is impossible for the Confederation to furnish such protection to them directly, through its own agents.

We avail, etc.,

In the name of the Swiss Federal Council:
The President of the Confederation:

SCHENK.

The Chancellor of the Confederation:

SCHLISS.

Mr. Hill to Mr. Pioda.

No. 298.]

DEPARTMENT OF STATE,
Washington, June 15, 1901.

SIR: I have the honor to acknowledge receipt of your note of the 23d ultimo, relative to the cases of Dr. Édouard Cérésolle and Mr. A. du Souchet, citizens of the Swiss Republic, residing at Alexandria and Cairo, respectively, and to the willingness of the Government of the United States to authorize its agents to exert their personal and unofficial good offices in their behalf in case of necessity, should this be agreeable to the Swiss Government.

You cite the circular of June 16, 1871 (Foreign Relations, 1871, pp. 28, 29), as an agreement between the two Governments, by which the United States undertook the protection of Swiss citizens, with the consent of the authorities of the country in which they resided, without the necessity of a previous understanding between the United States and Switzerland in each particular case. You accordingly inquire whether the instructions of Mr. Fish, at the time Secretary of State, have been modified, since the inquiry in Mr. Hay's note of April 19, 1901, No. 291, would appear to indicate in the mind of the Swiss Government a doubt upon the subject.

By reference to the Department's note to your legation of July 1, 1887 (Mr. Bayard to Mr. Kloss, Foreign Relations, 1887, pp. 1076, 1077), you will find it specifically stated in what manner representatives of the United States may be permitted to employ their good offices for the protection of an alien in those countries where his Government maintains neither a diplomatic nor consular officer. The views of this Government have not undergone a change from those

expressed in the note to Mr. Kloss. In Mr. Frey's note of October 24, 1887 (Foreign Relations, 1887, py. 1077, 1078), he said that—

Although the Federal Council is unable fully to share the view stated in your note (Mr. Bayard's) with regard to the nature and scope of the relation between the protecting State and persons committed to its protection, it has nevertheless been glad to be informed, in a definite manner, by your note what your interpretation of the relation in question is.

The Federal Council, you will recall, considered the matter as settled, and returned its thanks for the willingness of this Government to authorize the consular representatives of the United States to use their good offices in behalf of Swiss citizens, "of which kindness the Federal Council proposes to avail itself, if there shall be any necessity therefor."

Mr. Hay's note was intended to inform your Government that Dr. Cérésolle and Mr. du Souchet had appealed for the protection of this Government, and that Mr. Long was willing to grant the use of his unofficial good offices in their behalf, if permitted by the Egyptian authorities.

In this connection I note your statement that the Swiss Government will not hesitate to support the request of these gentlemen "on condition that they themselves lay their request before the Federal Council."

If it shall, therefore, be the desire of the Swiss Confederation, permit me to assure you that it will be the pleasure of the Government of the United States to authorize its agents at Cairo and Alexandria to extend by the use of their good offices, with the consent of the Egyptian Government, all possible protection to Mr. du Souchet and Dr. Cérésolle, the case arising, as explained in its note of July 1, 1887.

Awaiting your further reply, and adding that the agent and consul-general of the United States at Cairo will be given copies of this correspondence for his information, I avail, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Lardy to Mr. Hill.

[Translation.]

LEGATION OF SWITZERLAND,
Washington, July 25, 1901.

MR. ASSISTANT SECRETARY OF STATE:

In reply to the note you addressed to Mr. Pioda, under date of June 15 last, in regard to the protection to be granted by the representatives of the United States to two Swiss citizens, Messrs. Cérésolle and Du Souchet, I am instructed by my Government to thank you for the kind dispositions you have been pleased once more to evince toward Swiss citizens who might apply for protection to diplomatic or consular agents of the United States of America in countries where Switzerland is not represented.

The Federal Council leaves each one of its citizens who may settle in a country where the Confederation has no diplomatic or consular agent entirely free to place himself under the protection of such power as he sees fit, and has therefore no objection to the representatives of the United States at Cairo and at Alexandria being instructed to com-

ply with the request of Dr. E. Cérésolle and A. du Souchet and to enter their names in their list of protégés.

Yet, as the protection afforded by the United States of America to Swiss citizens is confined, when granted, to extending to them their unofficial good offices, while Germany and other powers make absolutely no distinction, in this connection, between the Swiss protégés and their own people, it would be desirable that in each individual case Swiss citizens who apply for the protection of the United States of America be expressly warned of the fact that the protection of representatives of the United States is limited, and particularly that the latter are under no circumstances permitted to intervene officially in their behalf with the authorities of the country to which they are accredited.

Be pleased, etc.,

CHARLES L. E. LARDY.

Mr. Adee to Mr. Lardy.

No. 303.]

DEPARTMENT OF STATE,
Washington, August 5, 1901.

SIR: In reply to your note of the 25th ultimo, I have the honor to inform you that a translation of it has been sent to the consul-general of the United States at Cairo, with instructions to follow the suggestions in your note to inform such Swiss citizens as may put themselves under his protection that he will be able only to extend unofficially his good offices in their behalf in case of need. He has also been directed to instruct the consular agent at Alexandria in that sense.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

PASSPORT ISSUED BY DEPARTMENT SHOULD ALWAYS BE ACCEPTED PRIMA FACIE AS PROOF OF CITIZENSHIP. (APPLICATION OF CARL F. KUPFER.)

Mr. Hay to Mr. Hardy.

No. 7.]

DEPARTMENT OF STATE,
Washington, April 23, 1901.

SIR: The Department is in receipt of a letter, a copy of which is inclosed, from the Rev. Carl F. Kupfer, president of William Nast College of Central China, from which it appears that in August last he applied to your predecessor for a passport, sending as evidence of his citizenship a passport issued to him by the Department in 1881, and that he was told that that passport was not sufficient evidence of his citizenship to warrant the issue of a new passport upon it.

You are now informed that when Mr. Kupfer's passport No. 3261 was issued to him on September 23, 1881, he presented his father's naturalization certificate, issued at the March term, 1863, by the Marshall County court of Virginia.

Upon this statement of facts you are instructed that a passport issued by this Department should always be accepted prima facie as proof of the citizenship of the person to whom it was issued.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Kupfer to Mr. Hay.**Kimkiang, China, March 20, 1901.*

HONORED SIR: On September 16, 1881, I sailed from New York for China via Suez Canal. Before leaving New York I left an application for a passport, and wrote to my mother, Sherrard, Marshall County, W. Va., to send to the State Department my father's naturalization papers. She did so, and Hon. J. G. Blaine, then Secretary of State, issued a passport which was sent to me in Bremen, Germany.

Since then I have been a missionary of the Methodist Episcopal Church. The years 1889 and 1890 I spent in the United States, also a part of last year, 1900. Last August I brought my family to Zürich, Switzerland, and applied to the United States minister, through the consul at Zürich, for a passport for Switzerland. With my application I sent to the minister my old passport issued by Mr. Blaine, a Chinese passport issued by the United States minister to China, also a consular certificate of the births of our children, and my own birth certificate. But the minister refused to give me a passport for Switzerland, insisting that I must furnish the naturalization papers of my father. The old papers having long since been lost, I wrote to Moundsville, the county seat of Marshall County, W. Va., asking the clerk to send me a copy of my father's naturalization papers. Before an answer came I was called by cable to return to China, and when the answer came from the clerk it proved to be only a statement that Carl G. Kupfer (my father) had upon a certain date called at the office and applied for his naturalization papers. Upon this the minister again refused to give my family a passport; and the authorities in Zürich are giving my family no little trouble. It is only through the consul's kind aid that they have been able to remain in Zürich. My wife has written again to Moundsville, but can get no reply. While I was in Switzerland I went twice from Zürich to Berne to see the minister, but neither time did I find him at home. His secretary, a Swiss, who was in charge, had the audacity to tell me that I was no longer an American citizen, having been out of the country for more than twelve years.

In this distress for the peace of my family, may I trouble you to kindly send, at an early convenience, a record of my first passport to the minister at Berne, that my family may no longer be harassed by the authorities of Zürich. I shall be greatly obliged.

Believe me, etc.,

CARL F. KUPFER,
President of William Nast College of Central China.

CANCELLATION OF PASSPORT OF EMILE STOLZ BY UNITED STATES LEGATION AT BERNE, BECAUSE OF STOLZ'S CONTINUED RESIDENCE WITHOUT THE UNITED STATES.

Mr. Pioda to Mr. Hay.

[Translation.]

LEGATION OF SWITZERLAND,
Washington, D. C., May 24, 1901.

MR. SECRETARY OF STATE: One Emile Stolz, who has been residing since the year 1887 in the village of Epagny, Fribourg Canton, Switzerland, and now works there as a fireman in the condensed-milk factory, addressed to my Government, under date of March 15, a representation against the Fribourg government, which threatens to expel him, notwithstanding his claim that he is an American citizen, holder of a regular American passport, which, however, was canceled by the minister of the United States at Berne, instead of being renewed by him. The Federal Council has called upon the government of Fribourg for information in the case. The said government reports that Stolz arrived at Epagny in 1887 and deposited a regular passport issued by the United States legation at Berne, and good for two years. On the 3d of March, 1889, he married at Gruyere Helene

Grenion, of that place. License for the marriage was granted by the chief of police of the Fribourg Canton under the circular of the Federal Council of July 19, 1887, upon production of the American passport, about whose validity there was no room for doubt. Eight children, one of whom, the girl, Albertine Felicie, died on November 20, 1892, were born of this marriage. Stolz again secured a renewal of his passport by the legation in 1889, and for the last time on November 9, 1891, but in 1893, when he personally called at the legation for a third renewal, the last passport was there purely and simply canceled, and Stolz was told that under the laws of the country he must again take up his domicile in America if he meant to remain a citizen of the United States. Now, it was impossible for him to comply with that requirement.

In 1897 the Fribourg authorities renewed steps, either at the consulate of the United States at Geneva or the legation at Berne, but in vain, as shown by the letters annexed to the record, which I have the honor to inclose herewith.

Stolz was then called upon to regularize his status and took steps toward acquiring Swiss citizenship. On the 27th of June, 1898, he received from the high Federal Council the requisite authority for that purpose, but failed to find within the statutory term any commune that would accept him as a burgher, not, as he alleges in his petition, on religious grounds, but solely because of his scanty means and the burden of his large family. About the beginning of the year 1900 Mr. Stolz was granted by the chief of police of Fribourg a last term of one year in which to set himself right, either by producing valid papers or by furnishing adequate bail as a guaranty of the consequences of his illegal residence in the Fribourg Canton. The term has expired, and Stolz's status remains unchanged. He is unable to meet the required conditions.

Under the circumstances, the chief of police of Fribourg, through the Gruyere prefecture, notified Stolz for the last time, on March 8 ultimo, that he must straighten his situation as soon as possible or be expelled from the Canton.

Now the chief of police of Fribourg puts the question, Can the legation of the United States of America thus cancel a passport regularly issued to one of its citizens? If such proceedings were permissible, the chief of police of Fribourg would feel himself constrained in the future to deny any American citizen who might come to settle in the Canton the right to sojourn therein.

By way of information the chief of police of Fribourg adds that Emile Stolz must have originally been of German extraction. He declares he was born in Alsace; never having performed military service in Germany, he never had identification papers from that country. He has lived at Basel, and, for several years, in America. A brother of his, married and father of a family, lives at La Tour de Trême, where he owns a bakery. The latter holds a regular certificate of origin, issued by the prefecture of Lorrach, in Baden, on September 23, 1899, and good for five years.

I am instructed by my Government and now have the honor to transmit herewith the canceled passport of Stolz and to inquire of your excellency whether the legation of the United States at Berne may not be authorized to issue a new passport to the applicant?

Be pleased, etc.,

J. B. PLODA.

Mr. Hill to Mr. Pioda.

No. 297.]

DEPARTMENT OF STATE,
Washington, June 14, 1901.

SIR: I have the honor to acknowledge the receipt of your note of the 24th ultimo in regard to one Emile Stolz.

Without going into a recital of the facts in his case as set forth in your note, I desire to state that the refusal of the legation of the United States at Berne to issue a new passport to Stolz was entirely justified by the facts and by the general instructions of this Department.

Stolz, who obtained naturalization in the United States, has been absent from this country for fourteen years. He settled in Switzerland, married, and reared a family there. It appears also that he has taken every step in his power to acquire Swiss nationality, but is unable to find any commune which will accept him as a burgher because of his scanty means and large family.

The position of this Government in cases like this where an American citizen goes to a foreign country and settles there *animo manendi*, is that he thereby forfeits the right to the protection of this Government and is to be considered as having expatriated himself.

The Department is unable to comply with the request of your Government that the legation of the United States at Berne be authorized to issue a new passport to Stolz.

Accept, etc.,

DAVID J. HILL,
Acting Secretary.

CITIZENSHIP OF A SON BORN IN FRANCE OF AN AMERICAN FATHER AND A FRENCH MOTHER PRIOR TO THEIR MARRIAGE.

Mr. Lardy to Mr. Adee.

[Translation.]

LEGATION OF SWITZERLAND,
Washington, D. C., July 30, 1901.

MR. ASSISTANT SECRETARY OF STATE: My Government instructs me to call upon your extreme good offices with a view to determining the nationality of one Louis Rover.

The latter was registered as born in Lyons on the 18th of October, 1888, of Léon Jean Rover, born in New York, and of his "spouse," Germaine Rivière, a French woman, born at Lyons.

But Léon Jean Rover and Germaine (or rather Genevieve) Rivière were, as a matter of fact, not husband and wife at that time; their marriage was not solemnized until the 21st of May, 1891, in the presence of the registrar of London city. The couple have since then separated by mutual agreement without a decree of divorce, the father having by a regular deed left the child in the custody of the mother.

Under the circumstances I take the liberty of asking whether the State law of New York admits that Louis Rover, born out of wedlock of an American and a French woman, was legitimized by the subsequent marriage of his parents and has thus acquired United States citizenship.

As there does not appear to be any evidence that Léon Jean Rover is an American citizen, I should also be very grateful if you could cause an inquiry to be made upon that point, should there be some chance of success.

Be pleased, etc.,

CHARLES L. E. LARDY.

Mr. Hay to Mr. Lardy.

No. 306.]

DEPARTMENT OF STATE,
Washington, August 23, 1901.

SIR: Replying to your note of the 30th ultimo, I have now the honor to inform you that the attorney-general of the State of New York, under date of the 16th instant, declares it to be his opinion that by section 18 of the domestic regulations law of the State of New York, chapter 272 of the laws of 1896, as amended by chapter 725 of the laws of 1899, "an illegitimate child, whose parents have heretofore intermarried or shall hereafter intermarry, shall thereby become legitimized and shall become legitimate for all purposes, entitled to all the rights and privileges of a legitimate child; but an estate or an interest vested or trust created before the marriage of a parent of such child shall not be divested or affected by reason of such child being legitimized."

Section 1933 of the Revised Statutes of the United States provides that "all children heretofore or hereafter born out of the limits and jurisdiction of the United States whose fathers were or may be at the time of their birth citizens thereof are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers have never resided in the United States," and section 1992 declares all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, to be citizens of the United States.

Assuming that the father of Louis Rover, Léon Jean Rover, who was born in New York, had never renounced his American citizenship acquired by his birth, it is the opinion of the Department that Louis Rover, born in France in 1888 of a French mother, became a citizen of the United States by the subsequent marriage of his parents in 1891, in pursuance of section 18 of the domestic relations law of New York, cited at the beginning of this note.

Accept, etc.,

JOHN HAY.

CONDOLENCES ON ASSASSINATION OF PRESIDENT MCKINLEY.

Mr. Lardy to Mr. Hay.

[Telegram.]

MANCHESTER, MASS., *September 15, 1901.*

The President of the Swiss Confederation, after wiring to Mrs. McKinley and calling personally on Mr. Hardy, has sent me the following message:

The Federal Council, deeply moved by the demise of President McKinley, who succumbed to the effects of a heinous attempt, directs that you expressly convey its sympathy to the Government of the Union and to the family of the deceased. The entire Swiss people share these sentiments.

LARDY,
Chargé d'Affaires of Switzerland.

Mr. Hay to Mr. Lardy.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1901.

I have directed Minister Hardy to make appropriate acknowledgment of the eloquent message of the President of the Confederation which you communicated by your telegram of yesterday.

JOHN HAY.

Mr. Hay to Mr. Hardy.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1901.

In the name of the President and people of the United States, you will make to the President of the Confederation a very warm acknowledgment of the message of brotherly sympathy and sorrow which his excellency sends on behalf of the Federal Council through Mr. Lardy.

HAY.

TURKEY.

COURTESIES TO U. S. S. KENTUCKY BY TURKISH OFFICIALS.

Mr. Griscom to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, December 11, 1900.

(Mr. Griscom requests that arrangements be made for the *Kentucky* to remain a little longer in order that any impression of hostility may be removed, and states that, with the Department's approval, he will go to Smyrna on December 13, if the affairs of the legation will permit.)

Mr. Hay to Mr. Griscom.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 11, 1900.

(Mr. Hay states that the *Kentucky* has been ordered by the Navy Department to remain.)

Mr. Griscom to Mr. Hay.

No. 295.]

LEGATION OF THE UNITED STATES,
Constantinople, December 12, 1900.

SIR: I have the honor to confirm my telegram of yesterday wherein I request that the battle ship *Kentucky* be allowed to remain a little longer in Turkish waters in order to remove any impression that its visit here is of a hostile nature.

I have to acknowledge the receipt this day of your reply.

I have now to report that on the 10th instant I attended a dinner at Yildiz Palace, accompanied by Captain Chester and his staff. I presented these gentlemen to His Majesty in audience before dinner, and after dinner Captain Chester and I were received in a long private audience.

The Sultan welcomed Captain Chester cordially, and expressed to him the pleasure he had in entertaining him in Constantinople. During the conversation there was no mention of the diplomatic affairs pending between the two countries beyond the fact that the Sultan stated he had purchased a cruiser from Messrs. Cramp, of Philadelphia. It was apparent that he regarded our questions as absolutely settled, and his evident desire was to convey this impression without using any direct expressions. He evinced a most friendly disposition

toward the United States and requested that the President be fully informed as to the reception of Captain Chester and the entertainment at the palace. The dinner was a very direct compliment to the United States, as no other foreigners were invited, and necessarily I was placed at His Majesty's left hand, and at his right was the grand vizier and then Captain Chester. Nearly all the cabinet officials and marshals of the Empire were present. During the dinner His Majesty conversed affably with me and showed a friendly interest in the American Navy and American institutions. He informed me that if the cruiser which he had just bought from Messrs. Cramp was a success he intended to buy in America three or four more of a larger type. He also stated that he had great confidence in the rifles manufactured in America, and that he proposed in the near future to make a large purchase for his army.

Captain Chester leaves to-day for Smyrna, and his orders from the Navy Department were to leave for Manila as soon as he returned to his ship. He was desirous of remaining long enough to exchange courtesies with the local Turkish authorities, and it seemed to me desirable that the ship's departure should not be too abrupt, so I therefore telegraphed you as above reported, expressing the hope that the *Kentucky* be allowed to remain a little longer in Turkish waters.

I have, etc.,

LLOYD C. GRISCOM.

Mr. Hill to Mr. Griscom.

No. 329.]

DEPARTMENT OF STATE,
Washington, January 4, 1901.

SIR: I have to acknowledge the receipt of your dispatch No. 295, of the 12th ultimo, reporting the courtesies shown by the Sultan to Captain Chester and his staff, of the U. S. S. *Kentucky*, during the recent visit of that vessel to Constantinople.

You will express to His Majesty, through the proper channel, this Government's appreciation of the courtesies shown to Captain Chester and his officers.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

**LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES
UNDER MILITARY AND EXPATRIATION LAWS OF THEIR
NATIVE COUNTRY.^a**

DEPARTMENT OF STATE,
Washington, January 22, 1901.

NOTICE TO AMERICAN CITIZENS FORMERLY SUBJECTS OF TURKEY WHO
CONTEMPLATE RETURNING TO THAT COUNTRY.

The information given below is believed to be correct, yet it is not to be considered as official, as it relates to the laws and regulations of a foreign country.

^aSee instruction to Austria-Hungary, December 10, 1900, page 7.

The Turkish Government denies the right of a Turk to become a citizen of any other country without the authority of the Turkish Government. His naturalization is therefore regarded by Turkey as void with reference to himself and his children, and he is forbidden to return to Turkey.

The consent of the Turkish Government to the naturalization in another country of a former Turk is given only upon condition that the applicant shall stipulate either never to return, or, returning, to regard himself as a Turkish subject. Therefore, if a naturalized American citizen of Turkish origin returns to Turkey he may expect arrest and imprisonment or expulsion.

Jews are prohibited from colonizing in Turkish dominions.

There is no treaty between the United States and Turkey defining the status of naturalized Americans of Turkish birth returning to Turkey.

Passports are required from all persons entering Turkish dominions (Egypt excepted), and persons who enter without passports are liable to fine or imprisonment. The passports should, if possible, be viséed by a Turkish consular officer in the United States.

RIGHT OF JEWS TO THREE MONTHS' SOJOURN IN PALESTINE.

Mr. Griscom to Mr. Hay.

No. 316.]

LEGATION OF THE UNITED STATES,
Constantinople, January 31, 1901.

SIR: I have the honor to transmit herewith inclosed a copy of a dispatch from Consul Merrill at Jerusalem, wherein he reports that he has been notified of a new order issued by the Ottoman minister of the interior in relation to foreign Jews who visit Palestine. The order applies to all Jews who come to Palestine from other countries as pilgrims or visitors, and it provides as follows:

On arriving at Jaffa the visitor must deliver his passport to the Turkish authorities and receive in return a Turkish document. The visitor is allowed to reside in the country three months, at the expiration of which time he must surrender his Turkish permit, receive his passport, and leave. In case they do not leave when requested at the expiration of the time allowed, the consuls of different nationalities are to be called upon to compel their subjects to depart.

Mr. Merrill points out that the only hold the consulate has on naturalized American Jews in Palestine is the possession of their passport and citizenship papers. Also, they do not always depart at Jaffa, the usual point of arrival. If they do not leave at the expiration of three months, the consul must have authority to send them away in case they refuse to go. The refusal is generally given on the grounds of having no money.

As I am transmitting this dispatch at once for the information and instructions of the Department, I have not yet ascertained what action, if any, the other foreign missions propose to take in the matter.

I have, etc.,

LLOYD C. GRISCOM.

[Inclosure.]

*Consul Merrill to Mr. Griscom.*UNITED STATES CONSULATE,
Jerusalem, January 14, 1901.

SIR: We have received from the governor of Jerusalem a copy of an order from the Turkish minister of the interior at Constantinople relative to Jews who visit Palestine. Said order, we are notified, goes into effect on the 15th of January Greek style, or January 29 of our reckoning.

The order applies to all Jews who come to Palestine from other countries as pilgrims or visitors.

The conditions are as follows:

On arriving at Jaffa the visitor must deliver his passport to the Turkish authorities and receive therefor a Turkish document. The visitor is allowed to reside in the country three months. At the expiration of that time he must leave the country, surrender his Turkish permit, and receive therefor his passport.

In case that foreign subjects do not leave when requested at the expiration of their permits, the consuls of the different nationalities are to be called upon to compel their subjects to go away.

When an American naturalized Jew arrives in Palestine the only hold we have upon him is his passport and citizen papers, if he has any. If his passport is deposited with the Turkish authorities at Jaffa, where he lands, what shall we do?

Again, visitors frequently make their way north up through the country and embark at Beirut. But if their passports have been deposited with the Turkish authorities at Jaffa, and held by them, what can be done?

If such visitors are obliged to leave at the expiration of the three months, the consul must be authorized to send them away in case they refuse to go. They will almost certainly plead that they can not go because they "have no money."

This order concerns this consulate more than any other United States consulate in Turkey, for it is well known that to one naturalized Jew landing at any other port, 25 or 30 land at Jaffa, the port of Jerusalem.

It will be seen at once that in this matter definite instructions are needed. Otherwise the same old chronic trouble will reappear; the consul says one thing and the local Turkish authorities say another thing; there will be constant irritation and annoyance.

I should have communicated these facts earlier to the legation, but it is only within a few days that we received the order in question.

I remain, etc.,

SELAH MERRILL,
United States Consul.

Mr. Hay to Mr. Griscom.

No. 354.]

DEPARTMENT OF STATE,
Washington, February 28, 1901.

SIR: I have to acknowledge the receipt of your dispatch No. 316; of the 31st ultimo, reporting that you are advised by the United States consul at Jerusalem that the Ottoman minister of the interior has issued a new order respecting the sojourn in Palestine of foreign Jews who go there as pilgrims or visitors.

You state the provisions of the order and request instructions in the premises.

Setting aside the objectionable feature whereby a racial or religious distinction is made in regard to Jews, and of which feature this Government finds difficulty in taking official cognizance, in view of our constitutional inhibition against any disability founded on creed, the Turkish order now reported appears to establish the rule of three months' permitted sojourn of American visitors to Palestine, for which we have always contended. See instructions to Mr. Straus, No. 13, dated October 14, 1898, and subsequent correspondence, on the sub-

ject of the Ottoman regulations respecting the entrance of foreign Jews into Palestine.

It should, however, be made clear to the Turkish authorities that the consuls of the United States in Turkish jurisdiction are neither directed nor permitted by law to assist the Turkish officers in their execution of municipal laws or regulations, and therefore could not intervene to constrain the departure of an American citizen from Turkish jurisdiction. Neither can the consul be called upon to forego the performance of his duty in case an American citizen should be harshly dealt with in contravention of treaty or law.

As the consul is without authority to compel a visiting American citizen to deposit his passport and citizen papers in the consulate, it would seem that he is not in a position to contest the Turkish requirement that such papers be surrendered to the Ottoman officers during the time of sojourn in Palestine.

I am, etc.,

JOHN HAY.

INDEMNITY CLAIMS OF UNITED STATES CITIZENS, SETTLEMENT OF. (SEE FOREIGN RELATIONS, 1899, P. 765 ET SEQ., AND FOREIGN RELATIONS, 1900, P. 906 ET SEQ.)

Mr. Hay to Mr. Griscom.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 27, 1901.

(Mr. Hay states that the President expects the fulfillment of the promises so often repeated by the Sultan, and directs Mr. Griscom to insist upon immediate payment of the indemnity by the Government of Turkey.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Constantinople, June 12, 1901.

(Mr. Leishman takes pleasure in reporting the settlement of the indemnity claims, and states that the sum of 19,000 pounds sterling has been deposited to his credit in the Imperial Ottoman Bank, which sum is held subject to instructions from the Department.)

Mr. Hay to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 18, 1901.

(Mr. Hay acknowledges the preceding telegram, and extends cordial congratulations to Mr. Leishman on the settlement of the indemnity claims, and directs that the amount be remitted to the Department.)

PASSPORT OF DEMETRIUS CHRYSANTHIDES—CONSTRUCTION OF WORDS "RESIDED UNINTERRUPTEDLY" IN APPLICATIONS FOR NATURALIZATION.

Mr. Leishman to Mr. Hay.

No. 25.]

LEGATION OF THE UNITED STATES,
Constantinople, May 17, 1901.

SIR: I beg to inclose herewith duplicate of application of one Demetrius Chryssanthides for passport which I felt compelled to refuse, and submit the facts for your information. The applicant, as will be observed, is a native of Greece, having obtained his certificate of naturalization from the superior court of San Francisco on the 2d day of April, 1896. His answers not being very clear, I questioned him further and discovered from his own statements that he had not fully complied with his conditions specified on oath, having been absent from the United States during the five years immediately prior to obtaining his naturalization papers, as he acknowledged that he left the United States in October, 1892, remaining in Europe until the month of February, 1893.

Under the circumstances I felt compelled to decline to issue a passport to him and made memorandum on his certificate of naturalization, but as it would be a very easy matter for him to obtain a duplicate, if you deem it wise, it might be advisable to have a letter written to the clerk of the superior court at San Francisco, calling the above facts to the attention of the court.

Trusting above will meet with your approval, I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure.]

Application of Demetrius Chryssanthides for passport.

MAY 14, 1901.

I, Demetrius Chryssanthides, a naturalized and loyal citizen of the United States, hereby apply to the legation of the United States at Constantinople for a passport for myself * * *

I solemnly swear that I was born at Constantinople on or about the 1st day of November, 1856; that I emigrated to the United States, sailing on board the American Line, from Liverpool, on or about the — day of September, 1887; that I resided five years, uninterruptedly, in the United States, from 1887 to 1892, at San Francisco; that I was naturalized as a citizen of the United States before the superior court of city and county of San Francisco, on the 2d day of April, 1896, as shown by the accompanying certificate of naturalization; that I am the bearer of passport No. 1, issued by W. W. Rockhill, Athens, on the 30th day of September, 1897, which is returned herewith; that I am the identical person referred to in said certificate and passport; that I am domiciled in the United States, my permanent residence therein being at Boston, in the State of Massachusetts, where I follow the occupation of barber; that I last left the United States on the — day of August, 1899, on board the White Star Line, arriving in Liverpool the 20th day of August, 1899; that I have resided in Alexandria since the 20th day of September, 1899; that I am now temporarily residing at Constantinople, and that I intend to return to the United States within one year with a purpose of residing and performing the duties of citizenship therein.

I desire the passport for the purpose of travel and protection.

* * * * *

Mr. Hill to Mr. Leishman.

No. 26.]

DEPARTMENT OF STATE,
Washington, June 14, 1901.

SIR: I have to acknowledge the receipt of your dispatch No. 25, of the 17th ultimo, reporting that you have refused to issue a passport to Demetrius Chryssanthides, because he had not resided continuously in the United States during the five years preceding the date on which his certificate of naturalization was granted by the superior court of the city and county of San Francisco.

In the treaty between the United States and Bavaria concerning naturalization, signed May 26, 1868, Article I provides that Bavarians who shall become naturalized in the United States, and "shall have resided uninterruptedly" in the United States for five years shall be treated as American citizens. An explanatory protocol to the treaty says, in paragraph 2 of Article I:

"The words 'resided uninterruptedly' are obviously to be understood, not of a continual bodily presence, but in the legal sense; and, therefore, a transient absence, a journey, or the like, by no means interrupts the period of five years contemplated by the first article." The same explanation appears in the protocol to the naturalization treaty with Württemberg of July 27, 1868. The Department has never doubted that that explanation would be accepted by the other powers with which the United States has naturalization treaties. (See *The American Passport*, page 175.)

This is the accepted construction of the words "resided uninterruptedly," but the law is (sec. 2170, R. S.): "No alien shall be admitted to become a citizen who has not for the continued term of five years next preceding his admission resided within the United States." This is broader than the language of the treaties, and is to be understood in the ordinary legal sense, according to which "a transient absence for business, pleasure, or other occasion, with the intention of returning" (13 Opinions of the Attorneys-General, 376) does not interrupt the residence.

"The just rule, it is apprehended, is that suggested by Senator Berrien [in the debate on the law]: 'If the applicant is absent any part of the time [during the five years before naturalization] it remains for the court to decide whether that absence is sufficient to prevent the issuing of the certificate.'" (*American Law Review*, February, 1895; article by Frederick Van Dyne, Assistant Solicitor, Department of State.)

In the case under consideration, Chryssanthides was absent about five months, three years before his naturalization. Whether or not this was a period long enough to have destroyed his residence was a question for the court before which he applied for naturalization to determine. The presumption is that the court decided properly.

Upon the showing presented by you the Department is of the opinion that this absence did not by itself furnish sufficient reason for refusing to issue a passport to Chryssanthides. Unless there is more evidence adverse to his good faith than you submit, he should be granted a passport and the adverse memorandum made on his naturalization certificate should, as far as possible, be removed.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Leishman to Mr. Hay.

No. 51.]

LEGATION OF THE UNITED STATES,
Constantinople, July 5, 1901.

SIR: I have the honor to acknowledge receipt of your dispatch No. 26 of June 14, 1901, in regard to Demetrius Chryssanthides, and note with much interest the Department's ruling on the proper interpretations of the words "resided uninterruptedly," as applied in oath of persons when obtaining certificate of naturalization, and shall be governed accordingly in future cases. In meantime I have sent for above mentioned Demetrius Chryssanthides and issued a passport to him, at same time correcting memorandum made on his certificate of naturalization.

I have, etc.,

JOHN G. A. LEISHMAN.

**PROTECTION OF AMERICAN INTERESTS BY BRITISH CONSULS IN
TURKEY.**

Mr. Leishman to Mr. Hay.

No. 52.]

LEGATION OF THE UNITED STATES,
Constantinople, July 5, 1901.

SIR: I beg to inclose herewith petition from Rev. J. L. Fowle and other American missionaries located at Cesarea, requesting the Department of State to authorize the British consul at Angora to look after American interests, as we have no consular representative at that point.

Pending your decision, I have not deemed it prudent to bring the matter to the attention of the British ambassador, but have no doubt that the British Government would gladly consent to have their consul take charge of American interests at Angora, or, in fact, at all other points in the Ottoman Empire where they have a consular representative and the American Government has not, as Sir Nicholas O'Connor, the British Ambassador here, has frequently spoken to me of the advisability of having English and American consuls look after the joint interest of English and American citizens throughout the Turkish Empire, as the country generally is in a rather unsettled and disturbed condition, and if one can credit one-half of the numerous reports and rumors, the word dangerous may be added; and Sir Nicholas O'Connor has even gone so far as to suggest that if such an arrangement could be made, he would seriously consider changing some of his consuls from points where we both have representatives to points where neither Government is represented at present, particularly mentioning the desirability of transferring the English consul now at Sivas, where we have Mr. Jewett, and placing him at Bitlis, a disturbed district, where neither the English nor American Government is represented.

If such an arrangement is practical it would receive my hearty indorsement, as no one can tell what a day may bring forth here, and as long as present conditions exist every proper precaution should be taken to properly insure the lives and properties of American citizens, as the uncertainty which exists warrants measures that might at present appear unnecessary or even absurd. The rumors of disturbances, uprisings, etc., are of too vague a character to describe, and while there is nothing in the immediate situation to justify any grave uneasiness there is sufficient to warrant the exercise of more than ordinary care and precaution.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure.]

Mr. Fowle to Mr. Leishman.

CESAREA, June 19, 1901.

DEAR SIR: You may, perhaps, recall our conversation of May 23, regarding a request to the Department of State that the British consul at Angora, H. S. Shipley, esq., be authorized officially to take charge of any business pertaining to the Americans here at Cesarea that would naturally come under the jurisdiction of an American consul if we had one in this (Angora) vilayet.

We hope and trust that no such occasion will arise, but agree with the opinion expressed that day that it will be best to be prepared for emergencies.

If the matter and the manner of this request meet with your approval, will you kindly forward it to Washington through the regular channels?

Assuring you that we fully appreciate the difficulties of your position and are grateful for favors received,

I remain, on behalf of the members of our mission, sincerely yours,

J. L. FOWLE.

Mr. Leishman to Mr. Hay.

No. 60.]

LEGATION OF THE UNITED STATES,
Constantinople, July 22, 1901.

SIR: With reference to my dispatch No. 52, of the 5th instant, I have the honor to transmit herewith for your information a copy of a letter which I have just received from Mr. Edwin Gilbertson, British consul at Broussa, which may add somewhat to the evidence which I have placed before the Department relative to the advisability of joint action between British and American consulates throughout the Ottoman Empire.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure.]

Mr. Gilbertson to Mr. Leishman.

BROUSSA, July 17, 1901.

SIR:

* * * * *

While writing to your excellency I take the opportunity of calling your attention to the fact that although the British Government authorized its consuls to give friendly assistance and support to American citizens in places where there is no United States representative, and which they have done for the last twenty years, the local authorities have lately, under the pretext that they have no order from the minister of foreign affairs to recognize us as being in charge of American interests, commenced not only to contest our right to assist American citizens, but insist upon the latter applying directly to them for any assistance they may need.

Under these circumstances your excellency will no doubt see the necessity of instructions being sent to the vali in the sense required.

* * * * *

I am, etc.,

EDWIN GILBERTSON.

Mr. Hill to Mr. Leishman.

No. 40.]

DEPARTMENT OF STATE,
Washington, July 25, 1901.

SIR: I have to acknowledge the receipt of your dispatch No. 52, of the 5th instant, transmitting a petition from Rev. J. L. Fowle and

other American missionaries located at Cesarea, requesting the Department to authorize the British consul at Angora to look after American interests in his consular district, where this Government has no consular representative.

You will confer with the British ambassador on the subject. If he be favorable to authorizing the British consul at Angora to protect American interests, formal request to that end may be made by you, or the United States ambassador in London will be instructed to make the request, as may be most convenient.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Adee to Mr. Leishman.

No. 47.]

DEPARTMENT OF STATE,
Washington, August 7, 1901.

SIR: I have to acknowledge the receipt of your No. 60 of the 22d ultimo, with inclosed copy of a letter of the 17th ultimo from the British consul at Broussa, stating that the local authorities in places where American citizens are unrepresented contest the right of British agents to take charge of their interests and insist on Americans applying to them directly for any needed assistance.

With reference to your repeated suggestion as to the advisability of concerted action between British and American consulates throughout the Ottoman Empire, I have to say that the usual rule of this Department in authorizing one of its diplomatic or consular representatives abroad to take charge of the interests of unrepresented citizens or subjects of another nation, is to make acceptance of the friendly trust conditional on the acquiescence of the government or authority to which our agent is accredited. If the consent of the government of the country be necessary to enable one of our consuls to use his good offices in behalf of the citizens or subjects of another nation, it is expected that such consent will be sought, just as it is when our consul takes temporary charge of the affairs of a consulate of another country which may for any cause become vacant for the time being.

Inasmuch as the consul temporarily acting does not become the official representative of another government, recognition of his competency to exert his friendly offices does not involve application for or issuance of an exequatur, but merely the usual courteous acquiescence of the government of the country, followed by appropriate notification to its local officers.

You will communicate these views to your British colleague and confer with him further upon the subject.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

**REFUSAL BY TURKISH OFFICIALS TO ISSUE TRAVELING
TESKÉRÉH TO THE REV. R. M. COLE.**

Mr. Leishman to Mr. Hay.

No. 53.]

LEGATION OF THE UNITED STATES,
Constantinople, July 5, 1901.

SIR: I beg to inclose herewith copy of correspondence in regard to Rev. R. M. Cole, at present located at Bitlis, who according to his

own statements has been restrained from moving about freely for nearly a year past on account of the local governor refusing for some unknown reasons to grant him a *teskéréh* or traveling passport. This regulation has been in force for many years, and as long as it is not abused is no doubt a very sensible and proper police regulation, as few if any of the Turkish agents can read either English or French; but as I knew of no reason why Mr. Cole should be restrained in any way, and as I considered that the guaranteed rights and privileges of American citizens generally were being infringed upon, I decided to take a very decided and firm stand, and if this does not result in correcting the matter it is my intention to instruct Mr. Cole to travel freely upon his American passport, and if necessary send a *kavass* to accompany him, notifying the Porte at the same time that I will hold the Ottoman Government strictly accountable not only for Mr. Cole's safety, but also for any delay, damage, or indignity which he may suffer.

* * * * * *

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1.]

Mr. Bergholz to Mr. Griscom.

No. 109.]

CONSULATE OF THE UNITED STATES,
Erzerum, Turkey, October 6, 1900.

SIR: I have the honor to confirm my telegram of September 28, as follows:

“AMERICAN MINISTER, *Constantinople*:

“Governor of Bitlis refuses Cole permission to go to Moush. States prohibition comes from Constantinople. Probably due to Spahank massacre.

“BERGHOLZ.”

The Rev. R. M. Cole, of the American mission at Bitlis, having occasion to go to Moush applied to the governor-general for an escort which was at once given, and on September 12 Mr. Cole left Bitlis. On the outskirts of Moush he was met by two police commissioners who demanded his *teskéréh* or, in lieu of which, a *bourouldi*. Unfortunately, Mr. Cole had omitted the formality of requesting either the one or the other and, in consequence, was not permitted to enter the city. He protested that the fact of his having an escort was sufficient evidence that he was traveling with the full consent of the governor-general at Bitlis. It was of no avail, and he was ordered back to Bitlis. The governor-general upon receiving Mr. Cole's complaint stated that the police of Moush had been officious. He refused, however, to issue the necessary papers and left the city the following day, and his assistant has since declined to permit the reverend gentleman to enjoy his undoubted treaty right of travel.

Having no recognition outside of his province, I addressed a note to the governor-general in which I briefly stated Mr. Cole's case, and, without discussing either the action of the governor-general or that of the police commissioners of Moush, I requested him, on my behalf, to be good enough to telegraph to his colleague at Bitlis to grant Mr. Cole the privilege secured by treaty to make his journey to Moush. His excellency at once consenting to telegraph, I sent the following telegram to Mr. Cole:

“COLE, BITLIS:

“Renew demand to go to Moush. If refused telegraph me.

“BERGHOLZ.”

In reply Mr. Cole wired me: “Just asked again. Order impossible this side of Constantinople. COLE.”

I then sent you the telegram confirmed above. Have heard nothing further from Mr. Cole.

Had Mr. Cole taken the precaution to provide himself with a *bourouldi* when first leaving Bitlis his detention and return to Bitlis by the commissioners of police at

Moush would probably not have happened, and I have written him suggesting that in future whenever he has occasion to travel he request the usual *teskéréh*, or *bourouldi*, so that the minor authorities may have no possible grounds for interfering with him. The action of the police commissioners was irregular, as it was their duty to conduct Mr. Cole, under the circumstances, to the governor of Moush and not compel his return to Bitlis.

I have, etc.,

LEO BERGHOLZ, *Consul*.

[Inclosure 2.]

Mr. Peet to Mr. Leishman.

CONSTANTINOPLE, *June 8, 1901.*

DEAR SIR: The Rev. Royal M. Cole, of Bitlis (Kourdistan) sends me word that the vali at that place is refusing to issue to him the usual papers for traveling in his district.

This prohibition has lasted for some months, during which time Mr. Cole has been, in reality, a prisoner in the city of Bitlis.

His work has often required his presence in the outlying towns of the district, but repeated requests for the local passport (*teskéréh* usually given for traveling) have been met with a firm refusal.

The vali claims to be acting under the most positive orders from Constantinople that forbid his using any discretion in the matter whatever. He usually professes that but for these orders he would readily grant the passports as heretofore.

The vali has never given any satisfactory reason for the attitude on the part of his superiors, but has in apparent friendship urged Mr. Cole to seek by appeal to his legation at Constantinople a withdrawal of the orders under which he is now compelled to refuse what otherwise he would grant him.

Mr. Cole is a missionary, and as such has under his care and direction a number of congregations and schools in the district in which Bitlis is situated. In the usual discharge of his duties he is obliged to visit these congregations and schools from time to time. The prohibition upon his movements has deprived him from discharging his duties in this regard for now more than six months.

This attitude on the part of the Government is utterly different from the usage of the past seventy years, and is so plainly a violation of the rights we have hitherto enjoyed and those that others do now enjoy as to call, it seems to me, for a demand that the embargo on Mr. Cole's activities be withdrawn or that the Government justify themselves in the position they are now holding toward Mr. Cole.

Very respectfully,

W. W. PEET.

Mr. Leishman to Mr. Hay.

No. 56.]

LEGATION OF THE UNITED STATES,
Constantinople, July 8, 1901.

SIR: Referring further to my dispatch No. 53 of July 5, I beg to advise that the trouble in regard to the Rev. Mr. Cole at Bitlis has been satisfactorily adjusted, and herewith I inclose copy of correspondence which will explain the matter more fully.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1.]

Mr. Leishman to the minister for foreign affairs.

LEGATION OF THE UNITED STATES,
Constantinople, June 24, 1901.

EXCELLENCY: I beg to call your excellency's attention to the fact that as yet I have not received any reply to my note No. 17 of June 12, in which I brought to your excellency's notice the case of the Rev. R. M. Cole, a native American citizen, residing as missionary in charge of schools in the vilayet of Bitlis, owing to the local governor, who claims to be acting under general instructions from Constantinople, refusing to grant him the usual *teskére*.

While desirous to have all our citizens comply with local police regulations and customs whenever that courtesy does not establish a bad precedent or interfere with the rights guaranteed them, I can not permit the Rev. Mr. Cole or any of our citizens to be practically treated as prisoners and prevented from traveling freely while in pursuit of their peaceful avocation, and consequently I feel constrained to advise your excellency that unless I am in receipt of written advices on or before the 30th day of June next advising me that proper instructions have been sent to the local governor of Bitlis, and that the customary traveling passport or *teskéré* has been issued to the Rev. R. M. Cole, I shall be compelled to instruct Mr. Cole to travel wherever his duties may take him on his American passport, and in this event I shall not only hold the Imperial Ottoman Government responsible for his safety and good treatment, but also strictly accountable for any indignity, delay, or trouble he may experience.

Accept, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 2.]

Mr. Leishman to Mr. Cole.

LEGATION OF THE UNITED STATES,
Constantinople, July 6, 1901.

DEAR SIR: I herewith inclose copy of two telegrams which I sent you on the 1st and 4th instant, respectively, to which I have not as yet received any reply.

I trust the delay is not the fault of an attempt to delay matters. I am investigating through the telegraph bureau, and if necessary will bring the case to the attention of the Porte, as I am determined not to permit your freedom to be interfered with, and certainly have no intention of sitting quietly and allowing any American who is pursuing his peaceful avocation to be molested or interfered with in any way.

Awaiting your advices, I am, etc.,

J. G. A. LEISHMAN.

[Subinclosure.]

Mr. Leishman to Mr. Cole.

[Telegram sent in Turkish.—Translation.]

LEGATION OF THE UNITED STATES,
Constantinople, July 1, 1901.

I am informed that instructions have been sent to governor of Bitlis to furnish you with a traveling *teskéré*, and, should you find it necessary or desirable, to also provide you with a guard. Please advise whether everything has been arranged to your entire satisfaction.

LEISHMAN.

Mr. Leishman to Mr. Cole.

[Telegram sent in Turkish.—Translation.]

LEGATION OF THE UNITED STATES,
Constantinople, July 4, 1901.

Did you receive my telegram of Monday last? Please answer promptly.

LEISHMAN.

[Inclosure 3.—Telegram.]

Mr. Cole to Mr. Leishman.

BITLIS, *July 6, 1901.*

Received your telegram. Vali's representative says instructions arrived that no hindrance to my traveling. See letter.

COLE.

Mr. Adee to Mr. Leishman.

No. 42.]

DEPARTMENT OF STATE,
Washington, August 1, 1901.

SIR: I have to acknowledge the receipt of your dispatches Nos. 53 and 56 dated, respectively, the 5th and 8th ultimo, inclosing a copy of correspondence in regard to the case of the Rev. R. M. Cole, who is at present located at Bitlis, and who had been restrained from moving about freely for nearly a year past because the local governor refused, for some unknown reason, to grant him a *teskéré* or traveling passport.

The Department approves your action in the case, and is gratified that the restriction on Mr. Cole's movements has been removed.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Leishman to Mr. Hay.

No. 71.]

LEGATION OF THE UNITED STATES,
Constantinople, September 6, 1901.

SIR: I have the honor to inclose copy of note which I have addressed to the Porte in regard to Rev. R. M. Cole, from which you will observe that, notwithstanding the promises made by the Imperial Ottoman Government and the instructions sent to local vali, which were afterwards countermanded, the desired Turkish traveling *teskéréh* was not furnished to Mr. Cole, and consequently I felt compelled to assume the position indicated in above-mentioned note.

From what I can glean, the antagonism shown is caused by a desire to annoy and harass Mr. Cole for the active interest he has always taken in the Armenian cause, especially during the massacres.

If Mr. Cole carries out instructions strictly I do not anticipate any serious trouble.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1.]

Mr. Leishman to the Porte.

No. 37.]

LEGATION OF THE UNITED STATES,
Constantinople, September 3, 1901.

EXCELLENCY: Referring to the legation note No. 22 of June 24 last, I beg to advise your excellency that I refrained from taking any action in regard to the Rev. Mr. Cole, having been assured by his excellency the minister of the interior on the 30th June that instructions had been sent to the governor of Bitlis to furnish Mr. Cole with a traveling *teskéréh*, and, if necessary, to furnish him with a guard. This information was confirmed by Mr. Cole, who, it appears, accepted the word of the acting governor that he would be given a *teskéréh* whenever he wished to travel, the excuse being that countermanding orders had been received from Constantinople. This appeared very much like an act of bad faith on the part of some of His Imperial Majesty's officials which can not be overlooked, and as the Government of the United States can not permit any infringement on the rights guaranteed through the favored nation clause of rights and privileges granted other friendly powers, and not being willing to permit Mr. Cole being treated practically as a prisoner, I have to-day telegraphed Mr. Cole authorizing him to travel freely wherever his duty and personal interests may call him throughout the Turkish Empire, and I hereby notify your excellency that I shall hold the Imperial Ottoman Government responsible for the personal safety of Mr. Cole and strictly accountable of any damage, annoyances, or inconveniences which may suffer.

Regretting the circumstances which compel me to take this step,

I beg, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 2.—Telegram.]

*Mr. Leishman to Mr. Cole.*LEGATION OF THE UNITED STATES,
Constantinople, September 3, 1901.

As the several officers of the Ottoman Government have failed to carry out their promises, you are authorized by the legation to travel wherever your duty or personal interests may call you on your American passport, taking always care to inform [local governor?] of your movements. I am notifying Porte that I have given you such instructions, and I will hold His Imperial Majesty's Government strictly accountable for any delay, damages, or injury that you may suffer. Await receipt of letter which I am sending you giving full instructions.

LEISHMAN,
Minister.

[Inclosure 3.]

*Mr. Leishman to Mr. Cole.*LEGATION OF THE UNITED STATES,
Constantinople, September 3, 1901.

SIR: I received your telegram while ill in bed, advising that the local governor had refused you a traveling *teskéréh*. This was quite a surprise to me, as I was led to believe by your telegram that you had already been furnished with same. As I had taken extra precautions to assure myself, as not being satisfied with the assurance given me by the minister of the interior that word has been sent to the governor of Bitlis to furnish you with a traveling *teskéréh* and if necessary with a guard, I wired you to the effect and asked you whether it has been done, to which you replied: "Received your telegram. Vali's representative says instructions arrived that no hindrance to my traveling. See letter," giving me to understand that you had been furnished with the desired passport, but it now appears that you merely accepted the acting governor's promise that you would be furnished with desired passport when you were to travel and when that time arrived you were refused and given to understand that countermanding order had been received from Constantinople.

Under the circumstances I have wired advising you to travel wherever your duty or personal interests called you on your American passport, but not attempt to go anywhere that is dangerous or unsafe, and be very careful not to take any unusual risks; and you should also take the precaution to notify the local governor before starting that you intend visiting such and such a place, so as to leave no room for any excuse should you be stopped, interfered with, or attacked by the police, by the authorities, or by burglars en route; and should such an emergency arise, communicate at once with the legation by wire.

Yours, etc.,

JOHN G. A. LEISHMAN.

Mr. Adee to Mr. Eddy.

No. 66.]

DEPARTMENT OF STATE,
Washington, October 8, 1901.

SIR: I inclose herewith for your information a copy of a letter from the corresponding secretary of the American board of commissioners for foreign missions, expressing his heartiest satisfaction with the contents and tenor of Mr. Leishman's note to the Porte, of the 3d ultimo, in relation to the delay on the part of the Turkish authorities to issue a traveling *teskéréh* to Reverend R. M. Cole.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

Mr. Smith to Mr. Hay.

AMERICAN BOARD OF COMMISSIONERS FOR FOREIGN MISSIONS,
 CONGREGATIONAL HOUSE, NO. 14 BEACON STREET,
Boston, September 27, 1901.

SIR: I have to acknowledge with hearty thanks the favor from the State Department of September 26, inclosing a copy of a letter from Mr. Leishman to the Department, dated September 6; also a copy of Mr. Leishman's letter to the Porte, of his cablegram to Mr. Cole, and of his letter to Mr. Cole.

Allow me to express the heartiest satisfaction with the contents and tenor of Mr. Leishman's address to the Porte. It is most courteous, clear, and unequivocal, and can not fail to have made the right impression. I am under great obligation to you for giving so prompt information in this matter.

I am, etc.,

JUDSON SMITH.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.*The Sultan of Turkey to Mr. Hay.*

[Telegram.]

YILDIZ, September 14, 1901.

I have learned with emotion of the tragic death of Mr. McKinley. I beg to express to you the deep share I take in the sorrow caused by this event.

ABDUL HAMID.

Mr. Hay to the Sultan of Turkey.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1901.

I am charged by the President to convey to your Majesty the grateful thanks of our Government and people for the touching sympathy your Majesty extends in this hour of affliction.

JOHN HAY,
Secretary of State.

SEIZURE BY FRANCE OF CUSTOM-HOUSE AT MYTILENE.*Mr. Eddy to Mr. Hay.*

No. 107.]

LEGATION OF THE UNITED STATES,
Constantinople, November 26, 1901.

SIR: I have the honor to inform you that on the 8th of this month a French squadron arrived at Mytilene, and after landing a body of marines the French admiral took possession of the custom-house, over which he flew the French flag. As soon as information of this was received here the Turkish Government gave orders that telegraphic communication with Mytilene should be cut off, and through this action the chargé d'affaires of France at Constantinople was unable to communicate with the French admiral at Mytilene.

Mr. Bapst, who is in charge of French interests, had a long interview with the minister for foreign affairs directly this took place, and succeeded in obliging the Imperial Government to yield to the demands which had originally caused the difficulty between Turkey and France.

This difficulty has been settled in the following manner:

(1) The Lorando claim, reduced to £340,000, will be paid from the returns of the customs at the rate of £12,000 a month.

(2) Permission has been granted for the rebuilding of all French schools and institutions destroyed during 1895-96.

(3) The official recognition of all French schools and institutions now existing in the Ottoman Empire.

(4) The recognition of the Chaldean patriarch.

* * * * *

I have, etc.,

SPENCER EDDY.

URUGUAY AND PARAGUAY.

CITIZENSHIP OF MINOR SON OF A UNITED STATES CITIZEN, BORN AND RESIDING WITHOUT THE UNITED STATES.

Mr. Finch to Mr. Hay.

No. 442.]

LEGATION OF THE UNITED STATES,
Montevideo, Uruguay, May 21, 1901.

SIR: I inclose copy of a letter from Mr. John G. Hufnagel, United States commercial agent at Paysandu, Uruguay, dated May 11, 1901, in which he requests me to issue a certificate of citizenship to his son to replace one issued by the United States minister in Germany.

The case of Mr. Hufnagel seems unusual to me and is referred to you for instructions.

Respectfully,

WILLIAM R. FINCH.

[Inclosure.]

Mr. Hufnagel to Mr. Finch.

COMMERCIAL AGENCY OF THE UNITED STATES,
Paysandu, May 11, 1901.

SIR: I have three sons; the oldest, George A., was born at Baltimore, Md., and is now United States vice-commercial agent here. The other two, Louis F. E., aged 17 years, and Richard D., aged 15 years, were born here.

When I was in Washington in the month of June, 1899, I called on the chief of the naturalization bureau, stating to him that I have been United States consular and commercial agent here since 1873, and asking him if my two younger sons, born here, would have the privilege of American citizenship. He answered that any sons of United States consular officers who were citizens of the United States are considered Americans, and if my two sons were in the United States he would give them a certificate of American citizenship, but as they were at the time at college in Nuremburg, Germany, he advised me to apply to the United States consul in Nuremburg (to whom he wrote a few lines), who would take the boys' deposition and request the United States minister at Berlin to grant a certificate of citizenship. Following these directions, the boys received in August, 1899, their certificate of citizenship from the United States embassy at Berlin. Since then Louis attended college in Gera, Germany, where it seems this certificate was mislaid, and he arrived here a few weeks ago without it.

Now, would you kindly inform me if you could grant him a certificate of citizenship; and if not, what steps I would have to take in order to have my son exempted from military duty here?

Respectfully awaiting your answer, I remain, etc.,

JOHN G. HUFNAGEL,
United States Commercial Agent.

Mr. Hill to Mr. Finch.

No. 188.]

DEPARTMENT OF STATE,
Washington, June 28, 1901.

SIR: I have to acknowledge the receipt of your No. 442, of the 21st ultimo, inclosing copy of a dispatch from Mr. John G. Hufnagel, United States commercial agent at Paysandu, making application for a passport for his minor son, Louis F. E. Hufnagel.

The status of young Hufnagel would appear to be covered by section 2172 of the Revised Statutes, which declares that the son of a naturalized citizen of the United States "though born out of the limits and jurisdiction of the United States" may be considered a citizen thereof. Mr. Hufnagel, sr., was, as the Department understands, naturalized as a citizen of the United States in 1851, and had not lost his citizenship when his son was born. When the son reaches the age of 21 years he will be expected to elect his nationality. Until then he is entitled to the protection of the United States.

You are instructed, therefore, upon proof of the facts as alleged, to issue a passport to young Mr. Hufnagel.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

**FRIENDLY RELATIONS OF UNITED STATES LEGATION WITH
GOVERNMENTS OF URUGUAY AND PARAGUAY.**

Mr. Finch to Mr. Hay.

No. 444.]

LEGATION OF THE UNITED STATES,
Montevideo, Uruguay, June 4, 1901.

SIR: I inclose herewith copy and translation of an editorial which was printed in the Montevideo Daily Nation, the official paper of Uruguay, dated June 4, 1901. The article refers to me.

Respectfully,

WILLIAM R. FINCH.

[From the Montevideo Daily Nation of June 4, 1901, official paper of the Government of Uruguay.]

[Inclosure.—Translation.]

THE MINISTER OF NORTH AMERICA.

Mr. William Finch, the envoy extraordinary and minister plenipotentiary of the United States of North America, paid a visit yesterday to Mr. Eduardo MacEachen, the minister of government.

After a few moments Mr. MacEachen accompanied the esteemed diplomat to the office of the minister of foreign affairs, where they remained more than half an hour in pleasant conversation.

Mr. Finch is a good friend of our country and loses no opportunity of demonstrating it. The proof of it is in the words expressed by him, when he presented Rear-Admiral Cromwell to His Excellency the President of the Republic, three or four days ago.

When the Chief Magistrate offered a glass of champagne to the distinguished visitors after saluting the rear-admiral, Mr. Finch in his turn toasted to the prosperity of the Republic, saying that during the three years he has held his high office he had always found in the President an excellent friend of the United States.

The President answered saying that the North American minister, Mr. Finch, had won all the sympathies of the citizens and Government of the Republic by the correctness of his proceedings and the worthy manner with which he represents his country.

Mr. Finch to Mr. Hay.

No. 457.]

LEGATION OF THE UNITED STATES,
Montevideo, Uruguay, August 5, 1901.

SIR: I inclose copy and translation of an extract from the annual message of the minister of foreign affairs of Paraguay to the Congress of that country, in which he alludes to me.

Respectfully,

WILLIAM R. FINCH.

[Extract from the message of the minister of foreign affairs to the Paraguayan Congress for the term 1900 to 1901.]

[Inclosure.—Translation.]

The Hon. William R. Finch, chief of the American legation to our Government, has shown the best desires not only to maintain and strengthen the cordial and friendly ties which unite both Republics, but also to stimulate the development of their commercial relations, omitting no means to favor the projects of our Government in this respect.

CONDOLENCES ON ASSASSINATION OF PRESIDENT M'KINLEY.

The Minister for Foreign Affairs of Uruguay to Mr. Hay.

[Telegram.]

MONTEVIDEO, *September 16, 1901.*

I present in the name of the Government of Uruguay condolences for the demise of President McKinley. Greetings.

GERMAN ROOSEN,
Minister for Foreign Affairs.

Mr. Hay to the Minister for Foreign Affairs of Uruguay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1901.

The American Government and people deeply appreciate Uruguayan sympathy.

HAY.

The President of Paraguay to the President of the United States.

[Telegram.]

ASCUNSION, PARAGUAY, *September 14, 1901.*

The Government and people of Paraguay join in the great American sorrow.

EMILIO ACEVAL, *President.*

Mr. Hay to the President of Paraguay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1901.

President Roosevelt charges me to express grateful thanks for your message of Paraguayan sympathy.

HAY, *Secretary of State.*

VENEZUELA.

ARREST AND RELEASE OF UNITED STATES CONSULAR AGENT AT BARCELONA, AND DELAY IN TRANSMISSION OF LEGATION'S TELEGRAM.

Mr. Loomis to Mr. Hay.

No. 538.]

LEGATION OF THE UNITED STATES,
Caracas, December 29, 1900.

SIR: I have the honor to inclose a statement from Mr. Russell in reference to the arrest and imprisonment of our consular agent at Barcelona, who is not a citizen of this country, but a Danish subject. Mr. Russell says that no apology was ever made to Mr. Baiz, and that his telegram to him, filed with the Government telegraph company here, was never delivered. Mr. Baiz has been imprisoned before without cause and made to pay forced loans to local military leaders.

I have, etc.,

FRANCIS B. LOOMIS.

[Inclosure.]

Statement of Mr. Russell.

On the night of October 22 I received a cable from our consular agent at Barcelona stating that he was in prison "incomunicado" by order from Caracas, and knew nothing of the cause of his arrest. I went the next morning to the foreign office and was informed that the consul had been arrested by mistake, but had been released with due apologies. The consul telegraphed me that he had been released without any explanation. On the 24th I sent a telegram as follows:

"Government has informed me that you were arrested by mistake, but on discovering the error you had been released with due apologies. Answer."

This telegram was sent on the 24th of October, but was never received in Barcelona.

Mr. Hay to Mr. Loomis.

No. 379.]

DEPARTMENT OF STATE,
Washington, January 16, 1901.

SIR: I have to acknowledge the receipt of your No. 538, of the 29th ultimo, inclosing Mr. Russell's statement concerning the arrest of the United States consular agent at Barcelona.

You are instructed to inform the Venezuelan foreign office that Mr. Baiz, who was arrested without cause, reports that no explanation or apology was made when he was released. You will call attention to the fact that Mr. Russell's telegram to the consular agent in reference to this matter was intercepted.

This is not the first occasion upon which Mr. Baiz has been subjected to the arbitrary action of the Venezuelan local military leaders.

Although he is not a citizen of the United States, this Government will protect him, while acting as its consular representative, against the arbitrary interference of Venezuelan officials. You will insist that adequate explanations and apologies be made to the consular agent, and that proper measures be taken to prevent the recurrence of such acts.

I am, etc.,

JOHN HAY.

Mr. Loomis to Mr. Hay.

No. 563.]

LEGATION OF THE UNITED STATES,
Caracas, February 23, 1901.

SIR: I have the honor to inclose a copy and translation of the answer of the Venezuelan Government to my note requesting prompt and satisfactory consideration of the Baiz case, with suitable apologies to the consular agent of the United States at Barcelona. The meaning of the inclosed answer is that the case, so far as this Government is concerned, has been dropped. There will be no further investigation, in all probability, for this is the usual formula for denying a request.

* * * * *

Referring to your instructions numbered 379, I did not make a demand for apologies and explanations in this case in the first instance because I thought a request in so clear and simple a case would be sufficient; but it seems that I was mistaken, and unless I receive instructions to the contrary I will make the demand as indicated in your instructions.

I have, etc.,

FRANCIS B. LOOMIS.

[Inclosure 1.]

Mr. Loomis to Mr. Blanco.

LEGATION OF THE UNITED STATES,
Caracas, January 30, 1901.

MR. MINISTER: A few weeks ago I had the honor, during the course of a conversation at the foreign office, to invite your attention to the consideration of an incident which occurred last October. I refer to the arrest of the consular agent of the United States at Barcelona. I am now directed by my Government to bring the matter to the attention of your excellency and to ask for its prompt and earnest consideration.

The facts in the case appear to be as follows:

On the afternoon of October 22, 1900, Mr. I. H. Baiz, the consular agent of the United States at Barcelona, was arrested without due process of law and cast into prison. It was stated that the minister of the interior telegraphed the authorities at Barcelona that the Baiz wanted was one who was treasurer under the Government, in that State, of President Rolando. The authorities knew very well that Mr. Baiz was a peaceful merchant, who never had any connection with the Government at Barcelona. Notwithstanding that, and despite his protests, he was arrested, imprisoned, and kept in confinement till 9 o'clock the following morning, when he was released with the remark that his arrest and incarceration "was a mistake."

Mr. Russell, upon learning of Mr. Baiz's arrest, at once called upon your excellency and recited the facts respecting it. Mr. Russell was informed that the arrest was a mistake and that Mr. Baiz had been released with due explanations and apologies.

Mr. Russell then sent the following telegram to Mr. Baiz, which has not yet reached him. It was sent over the Government lines and was paid for at the time of filing in the Caracas office:

CONSUL AMERICANO, *Barcelona.*

Gobierno me dijo que por equivocación fué arrestado y al saber error inmediatamente le había puesto en libertad con las debidas excusas. Conteste.

RUSSELL.

No satisfactory apology has been made in connection with this arrest, and it is not the first time Mr. Baiz has been subjected to harsh treatment at the hands of the local authorities at Barcelona.

Referring to the incident in question, I am instructed by my Government to say that it will protect Mr. Baiz while acting as its consular representative against the arbitrary interference of local officials, and I am further instructed to request that suitable apologies be made to Mr. Baiz and that sufficient measures be taken to prevent the recurrence of similar acts.

I think when your excellency reviews this case you will admit that there has been an oversight in the matter of apology to Mr. Baiz, and that the failure to deliver Mr. Russell's telegram has not been at all explained.

Accept, etc.,

FRANCIS B. LOOMIS.

[Inclosure 2.—Translation.]

Mr. Blanco to Mr. Loomis.

MINISTRY OF FOREIGN AFFAIRS,
UNITED STATES OF VENEZUELA,
Caracas, February 16, 1901.

MR. MINISTER: Referring to the affair of Mr. Baiz, mentioned in your excellency's note of the 30th of last month, this ministry has asked from the ministry of interior a full report of the occurrence, and the ministry of fomento has also been asked to explain the apparent loss of the telegram sent by Mr. Russell. As to the excuses or explanations referred to in your note, this ministry is of the opinion that Mr. Baiz ought to be satisfied, as the local authorities were immediately called upon to explain the motive for the arrest and their report was transmitted through official channels. The miscarriage of the telegram would, at best, be an unpleasant incident that would have nothing to do with the Government's desire to throw light on the case and explain it satisfactorily.

The Government took action in this case because it deems that a consular agent is always worthy of much consideration, but as all action must necessarily be limited, considering the character of the official in question, it is not possible to take such action as would be taken had the incident occurred to a diplomatic representative. It is useless to attempt to explain to your excellency the radical difference between the two cases—differences which make the consular agent subject to civil jurisdiction as far as his property and person are concerned.^a Inviolability is confined to the office, the flag, the archives, escutcheon, and seals; consequently complaints from consuls can never be regarded as seriously as complaints from public ministers.

I make these observations to your excellency in order to inform you of the measures that have been taken to clear up the affair of Mr. Baiz, who can look for no other action to be taken in his case than would be taken in similar cases with respect to any person whatever entitled to the guaranty and protection given by the laws of the country.

Accept, etc.,

EDUARDO BLANCO.

Mr. Loomis to Mr. Hay.

No. 574.]

LEGATION OF THE UNITED STATES,
Caracas, March 9, 1901.

SIR: I have the honor to inclose herewith a copy of a letter from the United States consul at La Guaira, with the inclosures which accompanied the letter. Consul Goldschmidt sends copies of several receipts^b obtained by Mr. Baiz in return for forced loans which he was required to pay to local authorities.

^aThis is a generally admitted doctrine, and accepted by the United States and Venezuela without any modification whatever.

^bNot printed.

There is also inclosed a statement from Mr. Baiz, forwarded through Lieutenant-Commander Sargent, commanding the U. S. S. *Scorpion*.

Kindly return the copies of the receipts, with instructions as to what steps are to be taken with reference to them.

I have, etc.,

FRANCIS B. LOOMIS.

[Inclosure 1.]

Mr. Goldschmidt to Mr. Loomis.

CONSULATE OF THE UNITED STATES,
La Guaira, February 22, 1901.

SIR: I have the honor to inclose statements from I. H. Baiz, esq., United States consular agent at Barcelona, which said agent sent me in writing through Commander Sargent, of the *Scorpion*.

According to this and to the verbal statement to Commander Sargent, Mr. Baiz has not received any apology for his arrest.

This is to be regretted, and I hope that it may not be allowed to pass by our Government without notice, for if such things are permitted, who knows who the next consular officer will be to suffer such indignities at the hands of Venezuelan officials.

I also forward to you copies of vouchers forwarded to me about a week ago for forcible loans which he had to contribute in the past.

I am, etc.,

LOUIS GOLDSCHMIDT.

[Inclosure 2.]

Report received from I. H. Baiz, February 22, 1901, through Commander Sargent, U. S. S. "Scorpion."

That on the the 22d of October, 1900, about 12 o'clock m., the magistrate of the town came into my store, informing me that the president of the state wished to see me.

I asked him if it was possible to wait until after breakfast. He told me that the matter was urgent. I then complied with his request by following him immediately. When I got about six paces from my store, he told me that I was a prisoner by the order of his superior. I told him that it was a mistake, and that he should permit me to speak to the president, which was allowed afterwards. When I arrived at the president's house, he told me that he had received orders from the President of the Republic for my arrest without communication. I told him, as I stated above, that it was an error, and at once I asked the cause. He answered me that he was ignorant of the circumstance.

The president of state wired to the Caracas Government that his orders had been carried out, and at the same time, to bring to light the particulars of said case. I then asked to be allowed to remain at my house until things were being justified, but I was refused. He (the secretary) decided that as the President of the Republic ordered my arrest, I must be a prisoner.

I was then taken as a prisoner to the commandant's house, where I remained in custody without communication for a period of twenty-one hours, after which time I was released from prison without an apology, with only an intimation from the president of the state that it was a mistake.

Mr. Loomis to Mr. Hay.

No. 599.]

LEGATION OF THE UNITED STATES,
Caracas, April 7, 1901.

SIR: I have the honor to inform you that I had a long talk with the minister of foreign affairs a few days ago concerning the Baiz case. He showed no disposition to take a view different from the one already

entertained by his Government, and argued for half an hour that as Baiz was a consular officer he had no right to protection of a special character. I said I did not care to go over the ground again, but that my Government was of opinion that a satisfactory apology or explanation was due, and I remarked that it was my personal notion that if no satisfaction were offered in this case it would look as though a foreign consular officer in Venezuela could in no wise count upon adequate protection from imprisonment and persecution at the hands of local military authorities. The minister said that he was not willing to admit that; and "Then," said I, "kindly say whether it is, or is not, the intention of your Government to offer a satisfactory explanation or apology in the case of our consular agent at Barcelona." He said he would let me know in a day or two, and yesterday he sent me word that a satisfactory apology would be offered to Mr. Baiz.

I have, etc.,

FRANCIS B. LOOMIS.

Mr. Russell to Mr. Hay.

No. 604.]

LEGATION OF THE UNITED STATES,
Caracas, April 20, 1901.

SIR. I have the honor to state that in an interview with the minister of foreign affairs to-day I was shown a telegram from the president of the State of Barcelona, in which it was stated that the Government of Venezuela had given a satisfactory apology to Mr. Baiz for his arrest some months ago, and that Mr. Baiz had declared that he was satisfied with the action of the Government of Venezuela.

I have, etc.,

WILLIAM W. RUSSELL.

Mr. Russell to Mr. Hay.

No. 605.]

LEGATION OF THE UNITED STATES,
Caracas, May 3, 1901.

SIR: I have the honor to herewith forward copies with translations of a letter from the provisional president of the State of Barcelona to Mr. Baiz in regard to the latter's arrest some months ago, and of Mr. Baiz's reply to General Rodriguez. Mr. Baiz has not communicated with me as yet. This correspondence was sent to our consul in La Guaira. I await your further instructions in this matter.

I have, etc.,

WILLIAM W. RUSSELL.

General Rodriguez to Mr. Baiz.

[Inclosure 1.—Translation.]

No. 578.]

UNITED STATES OF VENEZUELA,
EXECUTIVE MANSION, STATE OF BARCELONA,
Barcelona, April 16, 1901.

MR. CONSUL: I am pleased to tell you that your arrest some months ago, and which I regret exceedingly, was due to a mistake, as I personally had the honor to tell you at the time, and as there is nothing that can lessen the esteem in which Mr. Baiz is

held by the authorities, the Government takes especial pains to maintain the most cordial relations with the consulate out of regard for the person in charge, and also for the fact that he is the consular agent of the United States, a nation always friendly to Venezuela.

In reassuring Mr. Baiz of my consideration I have the honor to sign myself, etc.,
VICTOR RODRIGUEZ.

Mr. Baiz to General Rodriguez.

[Inclosure 2.—Translation.]

No. 9.] CONSULAR AGENCY OF THE UNITED STATES OF NORTH AMERICA,
Barcelona, April 18, 1901.

MR. PRESIDENT: There has been received in this consular agency your attentive note of the 16th of the present month, No. 578, relative to what happened to me on the 22d of last October, and I note what you have said.

Furthermore, this consular agency will cooperate with you in maintaining the most cordial relations with your Government, not merely out of regard for its very worthy representative, but because it is my desire and also in accordance with instructions I have from the Government I have the honor to represent.

In reassuring Gen. Victor Rodriguez, provisional president of the State, of my consideration, I have, etc.,

I. H. BAIZ.

Mr. Hill to Mr. Russell.

No. 414.] DEPARTMENT OF STATE,
Washington, May 4, 1901.

SIR: I have to acknowledge the receipt of your No. 604, of the 20th ultimo, reporting that you had been shown by the minister of foreign relations a telegram from the president of the State of Barcelona, in which it was stated that the Government of Venezuela had apologized to Mr. Baiz for his arrest and that the latter had declared himself satisfied.

The Department is pleased to learn of the reported termination of this regretted incident.

You may also inquire what explanation was offered by the Venezuelan Government for the nondelivery of your official telegram to Mr. Baiz, and report all details as to the apology.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Hill to Mr. Russell.

No. 415.] DEPARTMENT OF STATE,
Washington, May 22, 1901.

SIR: I have to acknowledge the receipt of your No. 605, of the 3d instant, inclosing a copy of the note addressed by the president of the State of Barcelona to the United States consular agent at Barcelona apologizing for the latter's arrest, also a copy of Mr. Baiz's reply.

The Department awaits your reply to its No. 414, of the 4th instant, which crossed your dispatch, relative to an expected explanation of the failure to deliver the legation's telegram to the consular agent.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Russell to Mr. Hay.

No. 625.]

LEGATION OF THE UNITED STATES,
Caracas, June 15, 1901.

SIR: I have the honor to acknowledge the receipt of your No. 415, of May 22, 1901, in regard to an expected explanation from the Government of Venezuela as to the loss of the legation's telegram to Mr. Baiz last October.

I have directed an official communication to the foreign office on this subject, but up to the present I have received no reply.

I have, etc.,

WILLIAM W. RUSSELL.

Mr. Russell to Mr. Hay.

No. 634.]

LEGATION OF THE UNITED STATES,
Caracas, June 30, 1901.

SIR: In accordance with your instructions I directed an official note to the foreign office asking for an explanation in regard to the loss of the legation's telegram to Consular Agent Baiz, at Barcelona, last October.

The foreign minister officially inquired of the minister of fomento, who in turn sought an explanation from the director-general of the national telegraph service, and the latter official replied, which reply I herewith inclose as embodied in a copy of a letter from the minister of fomento to the minister of foreign affairs.

I have, etc.,

WILLIAM W. RUSSELL.

[Inclosure—Translation.]

The Minister of Fomento to the Minister of Foreign Affairs.

MINISTRY OF FOMENTO, DEPARTMENT OF MAILS AND TELEGRAPHS,
Caracas, June 15, 1901.

To the HONORABLE MINISTER OF FOREIGN AFFAIRS: Referring to your attentive communication of the 12th of the present month, No. 715, D. P. E., I have the honor to herewith forward a copy of a note received in this ministry from the director-general of the national telegraph, as follows:

“ [L. S. No. 193—90th and 43d.]

“CARACAS, *June 15, 1901.*

“To the HONORABLE MINISTER OF FOMENTO: On the 13th of the present month, upon the receipt of your note, steps were taken to investigate the matter therein referred to, and it is found that the telegram for Mr. Baiz was dispatched without delay from the office in this city; but as in one of the intermediate stations there was a considerable interruption on account of the heavy rains the telegram in question remained in said station until the lines could be repaired, which it was intended to do immediately. For this reason the sender was not notified. The continued heavy rains increased the work of repairs, and shortly after came the earthquake catastrophe of October 29. All the offices in the east were damaged very considerably, and in some even the archives were lost; so that the telegram in question had to suffer the fate of all the rest that had accumulated on account of the interruptions in the service above mentioned; and in those days of panic and fright it was impossible for the operators to submit their usual reports, by which the existence of the telegram in one of the intermediate offices would have been known, and the sender

would have been advised of the delay in transmission. You will see that the cause of the loss of the telegram was not due to any irregularity in the telegraph service, but was one of those things that it was impossible to prevent. The same thing happened to many other telegrams, many of an official character in regard to affairs of administration, and also in connection with department of finance. God and the Federation.

“VICENTE VALARINO.”

From the foregoing report you will see that unforeseen and unavoidable circumstances caused the loss of the telegram referred to, and I sincerely hope that the explanation given will be satisfactory to the legation of the United States. God and the Federation.

FELIPE AROCHA G.

Mr. Hay to Mr. Russell.

No. 429.]

DEPARTMENT OF STATE,
Washington, July 12, 1901.

SIR: I have to acknowledge the receipt of your No. 634, of the 30th ultimo, forwarding the Venezuelan Government's explanation of the nondelivery of your legation's telegram of October 24 last to the United States consular agent at Barcelona.

In reply I have to say that the explanation is satisfactory to this Government.

I am, etc.,

JOHN HAY.

VISIT OF THE U. S. S. "SCORPION" TO THE ORINOCO RIVER.

Mr. Loomis to Mr. Hay.

[Telegram—Paraphrase.]

LEGATION OF THE UNITED STATES,
Caracas, February 12, 1901.

(Mr. Loomis reports that the Venezuelan Government protests most strongly against the presence of the U. S. S. *Scorpion* in the Orinoco River without having asked permission to enter, declaring such presence to be in violation of Venezuelan as well as of international laws.

Instructions as to proper reply requested.)

Mr. Hill to Mr. Loomis.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 13, 1901.

(Mr. Hill states that the *Scorpion's* visit to the Orinoco to obtain information was in accordance with numerous precedents and without offensive intention.

The vessel was ordered to La Guaira, touching at Cumana, Carupano, and Barcelona.)

Mr. Hill to Mr. Loomis.

No. 394.]

DEPARTMENT OF STATE,
Washington, February 14, 1901.

SIR: I confirm your telegram of the 12th instant reporting the Venezuelan Government's protest against the presence of the *Scorpion* in the Orinoco River, and the Department's telegraphic reply of the 13th instant.

I inclose for your information copy of the Navy Department's memorandum of the 13th instant relative to the precedents for the visits of United States war vessels to the Orinoco River.

I am, etc.,

DAVID J. HILL, *Acting Secretary.*

[Inclosure.]

NAVY DEPARTMENT,
Washington, February 13, 1901.

Memorandum.

The records of the Department show that naval vessels have visited the Orinoco River on a number of occasions. When no survey has been undertaken these visits have been without previous notice, so far as the Department's records show. Two recent cases of visits to the Orinoco are the visit of the *Kearsarge*, November 7, 1892, and the visit of the *Wilmington*, January 23, 1899. The *Kearsarge* carried on a running survey, without, however, erecting shore stations. There is no record of any protest or objection from the Venezuelan Government on the occasion of either of these visits.

The Navy Department understands the status of the Orinoco River, in regard to navigation, to be in all respects similar to that of the Mississippi River. Foreign war vessels pass freely up the Mississippi River without previous notice to this Government. Our war vessels have done the same in the Orinoco River. In the Amazon, for instance, the case is understood to be different. This river, though open to commercial navigation, is not open to war vessels except on special notice and permission.

It may be that the minister to Venezuela on his own account, in the case of the visit of the *Wilmington*, asked permission or notified the Government of what was contemplated. If so, this is unknown to the Navy Department.

On the occasion of the visit of the *Wilmington* the Venezuelan Government marked its acquiescence and gratification in that visit by desiring to decorate the commanding officer of the vessel with the order of Bolivar.

JOHN D. LONG, *Secretary.*

Mr. Loomis to Mr. Hay.

No. 564.]

LEGATION OF THE UNITED STATES,
Caracas, February 23, 1901.

SIR: I have the honor to inclose a copy of a note from the minister of foreign affairs, with translation of same, in reference to the presence of the *Scorpion* in the Orinoco River. I also inclose a copy of my answer to this note based upon your cabled instructions.

In this connection it may be of interest to the Department to know that when the British gunboat *Alert* went to Ciudad Bolivar last summer to inquire into the facts concerning the killing of the British consular clerk at that port, Mr. Grant-Duff, the British chargé d'affaires here, asked permission from the Venezuelan Government for the gunboat to go to Ciudad Bolivar. He reported his action to the foreign

office in London and was promptly informed that what he had done was not at all necessary, and that in the future permission for English war vessels to navigate the Orinoco River was not to be asked.

I have, etc.,

FRANCIS B. LOOMIS.

The Minister for Foreign Affairs to Mr. Loomis.

[Inclosure 1.—Translation.]

MINISTRY OF FOREIGN AFFAIRS,
UNITED STATES OF VENEZUELA,
Caracas, February 9, 1901.

MR. MINISTER: The law of May 15, 1882, numbered 2419 in the national compilation, gives to the head of the Government the power to grant or not, in his judgment, permission to foreign men-of-war to enter, for scientific purposes, ports that are not open. Every time that a war vessel of the United States has made a request of this nature it has been granted without any difficulty, and not long ago United States war vessels were engaged in scientific work in the Caño of San Juan and at the bar at the mouth of the Orinoco, but these vessels had gone through with the legal formality above mentioned, and this formality can not be dispensed with, except in violation of the well-established principles of international law.

By direction of the Supreme Chief of the Republic, I call your excellency's attention to the aforementioned law for the reason that this Government has been disagreeably surprised to learn that a war vessel called *Scorpion*, flying the flag of the United States, had entered the harbor of Santa Catalina, a port that is not open, and situated in the Dalla Costa district of the State of Guayana; that an officer in uniform went ashore from said war vessel and returned on board accompanied by a gentleman called Boynton, an employee of the company which has its agency at said port, and that no explanation was given for this flagrant violation of the usual formalities.

The grave nature of this act, violating, as it does, the very principles on which national sovereignty are based, compels the Supreme Chief of the Republic to respectfully call the attention of the Government of the United States to this delicate question, and to protest in the most solemn manner against the action of the man-of-war *Scorpion* as opposed to the principles of international law and a violation of the laws of this Republic.

In compliance with an imperative duty, I have directed the foregoing communication to your excellency, and I renew, etc.,

EDUARDO BLANCO.

[Inclosure 2.]

Mr. Loomis to the Minister for Foreign Affairs.

LEGATION OF THE UNITED STATES,
Caracas, February 16, 1901.

MR. MINISTER: I have the honor to acknowledge receipt of your note of February 9 in which you state that an American war vessel, the *Scorpion*, has been seen in the Orinoco River at Santa Catalina and that her presence there was not in conformity with certain sections of the law of Venezuela, which, as I gather from your note, provides that foreign men-of-war shall not enter the Orinoco River for scientific purposes without first having asked permission of the chief of the Venezuelan Government. I was not aware that there was a law in force closing the Orinoco River to the public vessels of a friendly nation bent on the peaceful and inoffensive mission of seeking information from its nationals engaged in lawful business on the banks of that stream. It is true that when it was desired to do certain scientific work for the benefit of navigation and the shipping of all nations at the bars of the Orinoco and San Juan rivers, the formal permission of the Venezuelan Government was asked; but in these cases it was deemed necessary to keep a war vessel in Venezuelan waters for many weeks, and the officers and men on these scientific expeditions were at work in small boats taking many observations and measurements, so it was only natural that their presence for a long period, and their activity, should be explained in the form of asking permission for the performance of the task in question.

The *Scorpion*, as I understand it, recently made a very quick trip to Santa Catalina and immediately returned to the coast. Her visit was of course wholly inoffensive in character and devoid of significance in any other sense than the one I have the honor to indicate, and, as your excellency knows, there are precedents for the informal visits on the part of war vessels of a friendly nation.

I should esteem it a favor if you would be kind enough to furnish me with a list of the Venezuelan ports, streams, and harbors, concerning which there is a special provision of law respecting the entry of foreign men-of-war.

I take, etc.,

FRANCIS B. LOOMIS.

Mr. Loomis to Mr. Hay.

No. 572.]

LEGATION OF THE UNITED STATES,
Caracas, March 1, 1901.

SIR: I inclose a copy of a second note from the minister of foreign affairs concerning the *Scorpion*, with a translation.

On Tuesday last the minister of foreign affairs said he would send me a list of the closed ports, and I was led to believe that the incident would be closed in that way, but it seems that such is not the case. I purposely made my answer to the minister's first note a little vague, because I was not fully acquainted with all of the facts concerning the *Scorpion*.

I regret to say that the legation does not own a set of the laws of Venezuela.

I inclose a copy of my answer to the minister's second note. It seems to me that nothing further ought to be expected.

I have, etc.,

FRANCIS B. LOOMIS.

The Minister for Foreign Affairs to Mr. Loomis.

[Inclosure 1.—Translation.]

MINISTRY OF FOREIGN AFFAIRS,
UNITED STATES OF VENEZUELA,
Caracas, February 26, 1901.

YOUR EXCELLENCY: Referring to your excellency's note of the 16th of the present month, I am sorry that I did not succeed in explaining with sufficient clearness in my note of the 9th, No. 208, the spirit of the law of the 15th of May, 1882, regarding the entrance of foreign men-of-war in the ports of the Republic. I stated that the above-mentioned law "gives to the head of the Government the power to grant or not, in his judgment, permission to foreign men-of-war to enter, for scientific purposes, ports that are not open." I could not refer in a general sense to the Orinoco, as Ciudad Bolivar, situated on one of its banks, is a port open to foreign commerce, in accordance with the provisions of Law XIV of the finance code.

The *Scorpion* entered Santa Catalina, a port not open to foreign commerce, which constituted a distinct violation of the law, and of which I spoke to you in the name of the Supreme Chief of the Republic.

In a communication of July 1, 1882, the law in question was made known to all the diplomatic corps resident in Caracas soon after it was passed by the Congress of the Republic. Said law is the same one cited by one of my predecessors to your legation in notes of January 14 and April 20, 1899, and the same law that another of my predecessors referred to in notes of December 19 and December 23, 1899.

So that when, in the note protesting against the act of the *Scorpion*, mention was made of the law of 1882, it was done with the idea that attention was being called to a well-known public act, an act that had been made known to foreign Governments, inserted in the official compilation of laws, and referred to frequently in the corre-

spondence with the representatives of friendly nations. The existence of said law, and the knowledge of its existence on the part of other Governments, fully justifies and makes obligatory in the name of the sovereignty of the Republic, the protest contained in my note of the 9th of the present month, and which I hereby confirm by order of the chief of the Venezuelan Government.

In regard to the list of the ports, rivers, and harbors which your excellency asks for I need only refer to Law XIV of the finance code, which specifies the points open to foreign commerce, and these are the only ones in which foreign men-of-war may enter; and article 3 of said law establishes the only exception which can only by made effective by means of a special permit from the chief of the Republic.

Accept, etc.,

EDUARDO BLANCO.

[Inclosure 2.]

Mr. Loomis to Mr. Blanco.

LEGATION OF THE UNITED STATES,
Caracas, March 1, 1901.

MR. MINISTER: I have the honor to acknowledge receipt of your note of February 26, relating to the visit of the United States man-of-war *Scorpion* to Santa Catalina, in the Orinoco River, and the protest made by the supreme chief of the Republic.

I will forward your excellency's note to Washington by the first mail, whither all of the correspondence concerning the matter has been sent.

I desire to repeat in this connection that the visit of the *Scorpion* was wholly inoffensive in character, and that I trust it will be so understood. There is nothing further from the desire of my Government than to give offense to the Government of Venezuela, and I trust your excellency, who so well understands this, will assure the supreme chief of the Republic that it is the sincere purpose of the United States Government at all times to further strengthen the cordial relations that have long existed between it and the Government of Venezuela.

There does not seem to be in this legation a copy of the laws to which your excellency refers, but I shall try to obtain one at my earliest convenience.

I take this occasion, etc.,

FRANCIS B. LOOMIS.

Mr. Hay to Mr. Loomis.

No. 402.]

DEPARTMENT OF STATE,
Washington, March 18, 1901.

SIR: Referring to your No. 564, of February 23 last, in regard to the visit of the U. S. S. *Scorpion* to Santa Catalina, I inclose for your information copy of a letter from the Secretary of the Navy, pointing out the distinction existing between the ordinary visit of a man-of-war and a visit for "scientific purposes."

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Long to Mr. Hay.

NAVY DEPARTMENT,
Washington, March 13, 1901.

SIR: The receipt is acknowledged of the letter of the Department of State of March 11, 1901, inclosing a copy of a letter from the United States minister to Venezuela to the State Department with copies of its two inclosures, being a letter of the United States minister to Venezuela to the foreign office of that country, and a copy of the translation of the reply thereto.

In the practice of this Department there is a distinct and well-recognized difference between the visit of a man-of-war and a visit for "scientific purposes," such scientific purposes being usually hydrographic and occasionally topographic examination of territorial waters or shores of a foreign country.

The Department would ordinarily not order one of its vessels to any port of any country having a recognized Government to conduct surveys or examinations, without having first not only notified that Government of its wish, but having obtained explicit permission for conducting the survey upon the occasion of the visit.

On the other hand, it would neither send notice nor request permission in case the visit was not undertaken for the purposes of conducting such survey or other similar purpose, unless the waters proposed to be visited were expressly denied to passage of men-of-war by national decree, as in the case of the Amazon.

Very respectfully,

JOHN D. LONG.

Mr. Russell to Mr. Hay.

No. 610.]

LEGATION OF THE UNITED STATES,
Caracas, May 4, 1901.

SIR: I have the honor to herewith inclose a copy, with translation, of the law passed by the Venezuelan Congress of 1882 in regard to the entrance of foreign men-of-war into Venezuelan ports.

This law was published in the Official Gazette of April 30 last, as the law in force at present.

The Belgian legation here had sent to the foreign office a copy of the late Belgian regulations on this same subject, and the foreign minister in acknowledging the communication of the Belgian chargé d'affaires sent a copy of the inclosed decree as the law in force on the subject in Venezuela at present.

I have, etc.,

WILLIAM W. RUSSELL.

[Inclosure.—Translation.]

The Congress of the United States of Venezuela decrees:

ARTICLE 1. The ports where foreign men-of-war can enter are only those open to foreign commerce.

ART. 2. Foreign men-of-war can not enter the above-mentioned ports except to the number of three or four, at most, nor can they remain longer than thirty days.

ART. 3. When for any good reason foreign men-of-war are obliged to enter a port in a greater number than above mentioned, or prolong their stay for more than thirty days, or visit for scientific purposes ports that are not open, they must ask special permission from the President of the Republic, who may grant it or not, in his judgment.

ART. 4. Foreign men-of-war are subject to all police regulations of the ports, such as health laws, anchorage regulations, etc.

ART. 5. In case of any infraction of the foregoing articles the local authorities shall not take any measures against the men-of-war, out of regard for their extra-territoriality, but the Chief of the National Executive shall be immediately informed and he will proceed in accordance with international usages.

Given in the federal palace of the legislative body, at Caracas, May 11, 1882, nineteenth year of the Law and twenty-fourth of the Federation.

President of the Senate,

J. P. ROJAS PAUL

President of the House,

A. COVA.

Secretary of the Senate,

M. CABALLERO.

VISIT OF THE U. S. S. "MAYFLOWER" TO THE ISLAND OF MARGARITA.

Mr. Russell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Caracas, June 15, 1901.

(Mr. Russell reports that information has been received by the President of Venezuela that a war vessel of the United States has been anchored off the island of Margarita, and that full details have been requested by the President by cable of the governor of the island.)

Mr. Russell to Mr. Hay.

No. 629.]

LEGATION OF THE UNITED STATES,
Caracas, June 15, 1901.

SIR: I have the honor to inform you that on the 9th instant a cable was received by the President of Venezuela from the governor of the island of Margarita, notifying him that an American man-of-war (presumably the *Mayflower*) was anchored off the port of Juan Griego, but had not entered.

The President has cabled for details regarding the arrival and anchorage of the *Mayflower*.

I have, etc.,

WILLIAM W. RUSSELL.

Mr. Russell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Caracas, June 19, 1901.

(Mr. Russell reports that an explanation has been requested by the Venezuelan Government of the entry by the U. S. S. *Mayflower* of a closed port in the island of Margarita, and asks what answer he shall make.)

Mr. Russell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Caracas, June 22, 1901.

(Mr. Russell reports that the Venezuelan Government claims that the State Department, Navy Department, and United States legation at Caracas are aware of the law upon the subject of closed ports of Venezuela, and menacingly repeats request for explanation of the *Mayflower's* entrance of a closed port in the island of Margarita.

A reply is requested.)

Mr. Hay to Mr. Russell.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 22, 1901.

(Mr. Hay states that the visit of the *Mayflower* to Margarita Island was in accordance with custom, and that the request of the United States Government to be furnished with a list of closed Venezuelan ports has not been complied with.)

Mr. Hill to Mr. Russell.

No. 426.]

DEPARTMENT OF STATE,
Washington, July 3, 1901.

SIR: Referring to your No. 629, of the 15th, and the Department's telegram of the 22d ultimo, I have to say that the Department is in receipt of a letter from the Acting Secretary of the Navy stating that his Department is unable to understand how the *Mayflower* violated treaty stipulations with Venezuela by visiting Porlamar, inasmuch as that port is declared by the Hacienda code to be open for export and for the importation of certain articles.

You may take this statement to the Government of Venezuela.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Russell to Mr. Hay.

No. 643.]

LEGATION OF THE UNITED STATES,
Caracas, July 14, 1901.

SIR: I have the honor to herewith forward a copy and translation of the answer to my note to the foreign office in regard to the anchorage of the U. S. S. *Mayflower* in a port of the island of Margarita. I also inclose a copy of my note.

I think the incident is now closed.

I have, etc.,

WILLIAM W. RUSSELL.

[Inclosure 1.]

Mr. Russell to Mr. Blanco.

LEGATION OF THE UNITED STATES,
Caracas, June 26, 1901.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's communication of June 15, 1901, in regard to the anchorage of the United States man-of-war *Mayflower* in a port of the island of Margarita, said port not being open to foreign commerce.

The Department of State, in a communication dated May 24, 1901, requested to be furnished with a list of the Venezuelan ports^a not open to foreign commerce, and

^a For law in regard to entrance of foreign men-of-war into Venezuelan ports see inclosure with dispatch No. 610, page 546. For list of open ports see dispatch No. 655, p. 549.

your excellency, at my request, kindly furnished me with said list, which was sent to Washington by the mail which left La Guaira June 16, last. So that at the time of the departure of the *Mayflower* for the Venezuelan coast both the State and Navy Departments were in ignorance as to what ports a foreign man-of-war could not enter.

The *Mayflower's* visit to the island of Margarita was made in accordance with custom, and with no intention to violate any of the Venezuelan laws, and my Government, desirous of maintaining its friendly relations with Venezuela, has in this instance merely followed the precedents of former years in sending one of its war vessels to Venezuela on a friendly visit.

In requesting your excellency to acquaint His Excellency the President of the contents of this communication, I beg to be allowed to renew to you the assurances of my highest and most distinguished consideration.

WILLIAM W. RUSSELL.

Mr. Blanco to Mr. Russell.

[Inclosure 2.—Translation.]

MINISTRY OF FOREIGN AFFAIRS OF THE
UNITED STATES OF VENEZUELA,
Caracas, July 3, 1901.

SIR: On receiving your attentive note of the 26th of last month in regard to the entrance of the man-of-war *Mayflower* into a port of the island of Margarita, I informed the President of the Republic of its contents. The President took note of all you had to say on the subject, and in addition expressed himself as being much gratified at the prompt investigation made by you of this matter, which was of the utmost importance as referring to the categorical provisions of a law of Venezuela.

Accept, etc.,

EDUARDO BLANCO.

Mr. Hill to Mr. Russell.

No. 432.]

DEPARTMENT OF STATE,
Washington, July 27, 1901.

SIR: I have to acknowledge the receipt of your No. 643, of the 14th instant, inclosing copy of your note to the Venezuelan foreign office explaining the visit of the *Mayflower* to Margarita Island, and a copy of the foreign office's reply.

The incident appears thus to have been satisfactorily closed.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. Russell to Mr. Hay.

No. 655.]

LEGATION OF THE UNITED STATES,
Caracas, July 28, 1901.

SIR: Referring to your No. 426 of July 3, 1901, in which it is stated that the Acting Secretary of the Navy in a communication to the Department of State states that he is unable to understand how the *Mayflower* violated any of the Venezuelan laws by entering the port of Porlamar, inasmuch as said port is open for export according to the Hacienda code, I have the honor to report that I have made this statement to the Government of Venezuela. The foreign office, replying to my note on the subject states that the law of May 15, 1882, provides that foreign men-of-war can only enter those ports that are open to foreign commerce, and that according to the Hacienda code

the ports open to foreign commerce are La Guaira, Puerto Cabello, Maracaibo, Ciudad Bolivar, and Carúpano.

The minister also adds that the Government did not complain of the *Mayflower's* visiting Porlamar, but Pampatar.

I have, etc.,

WILLIAM W. RUSSELL.

CLAIMS OF FOREIGNERS AGAINST VENEZUELA GROWING OUT OF THE CASTRO REVOLUTION.

Mr. Russell to Mr. Hay.

No. 637.]

LEGATION OF THE UNITED STATES,
Caracas, June 30, 1901.

SIR: I have the honor to inform you that the commission appointed to examine and pass upon claims for damages arising from the revolution which placed General Castro in power has completed its work and closed its sessions.

Seven hundred and twenty-five claims, natives and foreigners, were presented to the commission, amounting to 16,438,034.73 bolivars. Two hundred and twelve claims were accepted, amounting to 3,676,202.12 bolivars, and of this amount 1,223,200 bolivars were recognized.

In the list of foreign claimants appear the names of Richard Morgan Olcott and Felipe Soto Linares, North Americans. Mr. Olcott's claim is stated to be 100,000 bolivars, all of which is recognized. The 100,000 bolivars due Mr. Olcott is not in the nature of a claim to be passed upon by the commission, but is the second payment due in accordance with an agreement entered into by Mr. Olcott with the Venezuelan Government on the 12th of December, 1900, and it would appear that this is an attempt to pay it with the scrip to be issued for the debts recognized by this commission. The other North American mentioned is a Porto Rican, whose claim I know nothing of.

The foreigners whose claims were allowed by the commission are as follows: Italians, 38; Turks, 1; Germans, 7; Spanish, 2; Colombian, 2; French, 1; Arab, 1; Dane, 1; North American, 2; total, 55.

In this connection I would state that several of the foreign ministers have approached me lately and suggested that there should be some combined action in regard to claims. In accordance with instructions the Venezuelan Government has been informed several times that our Government could see no reason for departing from its practice of treating the claims of its nationals only on a diplomatic basis, and the only answer to these representations was in the case of the claim of Ford Dix, which was forwarded to the Department.

In case a meeting of the diplomatic corps is called for concerted action I will cable for specific instructions.

I have, etc.,

WILLIAM W. RUSSELL.

Mr. Russell to Mr. Hay.

No. 646.]

LEGATION OF THE UNITED STATES,
Caracas, July 14, 1901.

SIR: I have the honor to report that the Government has issued a decree in reference to the claims allowed by the late claims commission.

The decree states that as the Government is at present short of cash with which to meet these obligations, the matter is referred to the next Congress which will decide as to how the claims shall be paid.

In the list I inclosed in a former dispatch you will notice that the largest number of claims passed on by the commission were from Italians. Italy has a clause in her treaty with Venezuela by which claims against Venezuela from Italians must be submitted to the Venezuelan tribunals, and this would appear as the reason why so many Italian claims were presented to the commission. "La Voce d'Italia," an important Italian journal of this city, published an article last week stating that, although Italian claims had been presented to the commission, it had been done with the understanding that the Italian Government was not bound by the decision of the commission, and that there could always be an appeal to the legation. Whether this was an authorized statement is not known, but the Government organ here, commenting upon the article of "La Voce d'Italia," made it the occasion for a violent attack on all foreigners, stating that they were here for no other purpose than to rifle the national treasury.

I have, etc.,

WILLIAM W. RUSSELL.

Mr. Hay to Mr. Russell.

No. 431.]

DEPARTMENT OF STATE,
Washington, July 17, 1901.

SIR: I have to acknowledge the receipt of your No. 637, of the 30th ultimo, reporting that the commission appointed to examine and pass upon claims for damages arising from the revolution which placed General Castro in power has completed its work and closed its sessions.

It is not in accordance with the policy of this Government to act in concert with foreign governments in protesting against the barring of the claims of its citizens, but it reserves entire freedom of action, as regards the right to intervene in support of any of its citizens.

I am, etc.,

JOHN HAY.

PROTECTION BY UNITED STATES REPRESENTATIVES OF COLOMBIAN INTERESTS IN VENEZUELA.

Mr. Russell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES TO VENEZUELA,
San Juan, P. R., July 31, 1901.

(Mr. Russell reports that a revolutionary force from Colombia, commanded by an important Venezuelan, Rangel Garbiras, is invading Venezuela, which Government has sent 10,000 men to meet the invading force, and that all individual guaranties under the constitution have been suspended by the President of Venezuela.)

Mr. Russell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Caracas, August 3, 1901.

(Mr. Russell inquires if he can take charge of Colombian interests in Venezuela in the event that the Colombian minister is given his passport.)

Mr. Adee to Mr. Russell.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 5, 1901.

(Mr. Adee authorizes Mr. Russell to take charge of Colombian interests by way of good offices, without assuming any representative character, if he is requested by the Colombian minister to do so and the Government of Venezuela acquiesces.)

Mr. Russell to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Caracas, August 16, 1901.

(Mr. Russell reports that the Colombian minister left Caracas voluntarily, with the intention of returning, and that he is in charge of the property and archives of the Colombian legation.)

Mr. Bowen to Mr. Hay.

No. 6.]

LEGATION OF THE UNITED STATES,
Caracas, August 24, 1901.

SIR: * * * I have the honor to inform you that the Colombian minister left here on the 12th instant with his secretary of legation. On that day Mr. Russell informed the Venezuelan Government that he had consented to take charge of the Colombian legation premises and the archives belonging thereto. The Venezuelan Government, on the 13th instant, acknowledged the receipt of Mr. Russell's letter without giving or withholding therein its consent. The keys of the Colombian legation were delivered to Mr. Russell by the Colombian minister on the 12th. Inclosed you will find a copy of the agreement between the Colombian minister and Mr. Russell in regard to the duties to be assumed by the latter.

It would appear from the foregoing statements, together with the inclosure, that no request has been made of this legation to take charge of the interests of Colombia in Venezuela; and that Mr. Russell, and he only, is authorized or obliged to take charge of the Colombian legation, property, and archives.

As communication by cablegram or letter between Colombia and Venezuela may be impossible, I would respectfully suggest that any modification of the present agreement or any additional responsibility the Colombian Government desires us to assume should be settled by direct communication between Bogotá and Washington, and that then the necessary instructions should be sent by you to me.

* * * * *

I have, etc.,

HERBERT W. BOWEN.

[Inclosure.—Translation.]

Agreement between the Colombian Minister and Mr. Russell.

LEGATION OF COLOMBIA.

Luis Carlos Rico, minister of Colombia, being obliged to go temporarily to his country, and leaving no chargé d'affaires, in view of the good relations that exist between his Government and that of the United States, has decided to leave to the care of the Hon. W. W. Russell, chargé d'affaires of the latter country, the archives of the legation, which are in two sealed boxes and in a package also sealed, which contains two copy books. He also leaves in his care the legation building, its keys, official newspapers, and various books, which are in the bookcases in the office. The boxes, the package, the newspapers, and the books shall not leave the care of the honorable diplomatic representative of the United States, nor shall the legation seals, except to be delivered to the Government of Colombia or its representatives in this city.

In witness whereof Luis Carlos Rico, minister of Colombia, and W. W. Russell, chargé d'affaires of the United States, subscribe in duplicate this agreement, and seal it with their respective seals.

Caracas, August 11, 1901.

W. W. RUSSELL.
LUIS CARLOS RICO.

CONDOLENCES ON ASSASSINATION OF PRESIDENT MCKINLEY.

The President of Venezuela to the President of the United States.

[Telegram.]

CARACAS, *September 21, 1901.*

The Venezuelan Government and people join in the mourning of your great Republic.

CASTRO.

The President of the United States to the President of Venezuela.

[Telegram.]

EXECUTIVE MANSION,
September 21, 1901.

The sympathy of Venezuelan Government and people is deeply appreciated.

ROOSEVELT.

**RECEPTION AT GERMAN LEGATION TO GERMAN COLONY AT
CARACAS AND OFFICERS OF GERMAN WAR SHIP "VINETA."**

Mr. Bowen to Mr. Hay.

No. 34.]

LEGATION OF THE UNITED STATES,
Caracas, October 19, 1901.

SIR: I have the honor to report that I attended this afternoon at the German legation a reception given by the chargé to the German colony at Caracas and the officers of the German war ship *Vineta*, now at La Guaira. About 250 Germans were present, not counting the band of the *Vineta*. While there I made a short friendly speech, in which I referred to the pride we Americans take in the German part of our population, and to the good will that exists between us and the Germans whenever and wherever we meet.

Whatever were the shortcomings of my speech, they were evidently completely forgotten when I concluded it by raising my glass on high and proposing the health of the Emperor and his navy. The chargé and the captain of the *Vineta* replied very gracefully to my speech, and called for cheers—first for the President and people of the United States, and then for the American Navy. The cheers were given with remarkable enthusiasm, and then the band played the Star-Spangled Banner and the German national anthem.

I have, etc.,

HERBERT W. BOWEN.

INDEX.

A.	Page.
Accession:	
of Edward VII of England.....	213
of President Roosevelt.....	6
of President Roosevelt: congratulations of the Shah of Persia.....	425
Action, joint, against anarchists: proposed by Germany and Russia.....	196
Advent of Commodore Perry, United States Navy, in Japan in July, 1853: monument erected in commemoration of.....	378
Africa, South: claims of United States citizens <i>v.</i> Great Britain on ac- count of deportation from.....	216
Alien:	
law of 1870: rights of British subjects in Cuba are governed by.....	225
parents: citizenship of a child born in the United States of.....	303
Alleged:	
Chinese student, Yip Wah, and others: case of.....	59
discrimination in the United States against Japanese in the matter of quarantine.....	375
harsh and unfair enforcement of Chinese-exclusion laws: complaints of.....	72
American:	
Baptist Church at Nictheroy, Brazil: sacking of, and payment of indemnity.....	28
interests in Turkey: protection of, by British consuls.....	521
interests: protection of by British consul in the Congo Free State.....	205
Anarchists: proposed joint action against.....	196
Annapolis, U. S. S.: courtesies to by commandant of French naval station at Algiers.....	154
Anniversary of the birthday of the Shah of Persia: congratulations on.....	425
Announcement of death of President McKinley, and accession of President Roosevelt.....	6
Annual award, first, of the Nobel prizes.....	497
Applications:	
for naturalization: construction of words "resided uninterruptedly" in for passport—	519
of Carl F. Kupfer: passport issued by the Department should always be accepted prima facie as proof of citizenship.....	508
of persons born in the United States: production of certificate of father's naturalization not to be required.....	178
of persons claiming United States citizenship through naturaliza- tion of parents.....	206
of a native of the island of Guam.....	484
of a Porto Rican.....	32
of Frank H. Bowers.....	1
of Mrs. Louisa Lassonne, widow of a naturalized United States citi- zen, residing without the United States.....	442
Argentine Republic:	
announcement of death of President McKinley and accession of Presi- dent Roosevelt.....	6
condolences on assassination of President McKinley.....	6
passport application of Frank H. Bowers.....	1
political disturbances: state of siege declared in Buenos Ayres on account of public disorder caused by opposition to bill consolidating public debt.....	2
Arrest:	
and ill treatment of Thomas de St. Bris in Belgium.....	17
and release of United States consular agent at Barcelona, Venezuela, and delay in transmission of legation's telegram.....	534

	Page.
Assassination of President McKinley. (<i>See Condolences on.</i>)	385
Assistance rendered United States transport Hancock by Japanese navy	250
Athens, riot at, caused by the translation of the Bible into vulgar Greek	161
Attachment, writ of: previous notice to consuls of service on merchant vessels not required under Article XII, consular convention of 1871 between the United States and Germany	166
Attempt on German Emperor's life at Bremen	201
Australasian and British vessels: exclusion from trade between the United States and Hawaii	14
Austria-Hungary:	
condolences on assassination of President McKinley	8
expulsion of John Richter	7
liability of naturalized citizens of the United States under military and expatriation laws of their native country	11
passport denied to Carl Schimaneck	231
Award:	
by Great Britain of £600 to Charles Lillywhite, a naturalized citizen of the United States, on account of his arrest, false imprisonment, and deportation from New Zealand to England	497
first annual, of the Nobel prizes	224
Azores: protection by United States consul of British interests in	
B.	
Balz, Xaver Sylvester: military-service case in Germany	167
Baptist Church, American, at Nictheroy, Brazil; sacking of, and payment of indemnity	28
Barcelona, Venezuela: arrest and release of United States consular agent at	534
Belgium:	
arrest and ill treatment of Thomas de St. Bris	17
condolences on assassination of President McKinley	23
liability of naturalized citizens of the United States under military and expatriation laws of their native country	16
Benjamin Constant, Brazilian school-ship: visit to the United States	27
Bible: translation of into vulgar Greek: riot at Athens caused by	250
Bill consolidating public debt of Argentine Republic: state of siege declared in Buenos Ayres on account of public disorder caused by opposition to	2
Birthday of the Shah of Persia: congratulations on anniversary of	425
Bolivia:	
condolences on assassination of President McKinley	26
good offices of United States minister in behalf of George Melville, a British subject, imprisoned in Bolivia	24
massacre of soldiers: punishment of offenders	26
Bond for payment of indemnity demanded of China by the powers	129
Bowers, Frank H.: passport application of	1
Boycott of business of Chinese subjects residing at Butte, Mont.; claims on account of	100
Brazil:	
condolences on assassination of President McKinley	31
missionary troubles; sacking of American Baptist Church at Nictheroy, and payment of indemnity	28
riots at Rio de Janeiro over increase in street-railway fares	30
visit of Brazilian school-ship Benjamin Constant to the United States	27
Brazilian school-ship Benjamin Constant: visit to United States	27
Bremen: attempt on German Emperor's life at	166
British:	
and Australasian vessels: exclusion of, from trade between the United States and Hawaii	201
interests in the Azores: protection by United States consul	224
subjects in Cuba: rights of, are not governed by treaties, either with the United States or Spain, but by alien law of 1870	225
Britten, Nick: military-service case in Germany	170
Brooklyn, U. S. S.: visit to Australia and New Zealand on occasion of tour of Duke and Duchess of Cornwall and York	214
Buenos Ayres: state of siege declared in, on account of public disorder caused by opposition to bill consolidating public debt	2
Butte, Mont.: claims of Chinese subjects residing at, on account of boycott of their business	100

	Page.
C.	
Canal:	
interoceanic: treaty	237
Kaiser Wilhelm: passage of United States naval vessels through	184
Cancellation of passport of Emile Stolz by United States legation at Berne because of Stolz's continued residence without the United States	509
Castro revolution: claims of foreigners against Venezuela growing out of the	550
Ceded or relinquished territory: royal Spanish degree determining questions of nationality in	473
Chile:	
condolences on assassination of President McKinley	38
courtesies of Chilean officials in connection with removal of remains of the late Lieut. S. E. Woodworth, U. S. Navy	33
death of President Errázuriz: condolences of the United States	36
passport application of a Porto Rican	32
visit of Chilean training ship General Baquedano to the United States	35
China:	
bond for payment of indemnity demanded of China by the powers	129
citizenship of Lam Chung Wa, a Chinese naturalized in Hawaii prior to August 12, 1898, and subsequently residing in China	130
claims—	
of Chinese subjects residing at Butte, Mont., on account of boycott of their business	100
of missionaries: direct settlement with Chinese officials	97
condolences on assassination of President McKinley	128
death of Earl Li Hung Chang	132
Emperor of: special envoy of, Na Tung: expiatory mission to Japan	384
exclusion laws—	
case of alleged Chinese student Yip Wah, and others	59
case of Chinese student Tong Tseng	68
complaints of alleged harsh and unfair enforcement of	72
representations against reenactment as affecting the United States and Territories, and extension to the Philippine Islands	75
foreign settlements: encroachments of various powers at Tientsin	39
Prince Tschun: expiatory mission to Germany	187
Chinese-exclusion laws:	
complaints of alleged harsh and unfair enforcement of	72
question as to whether they have proved to be for the best interests of the United States	85
question as to whether they have worked hardships to the subjects of China	78
representations against application to Hawaiian Islands	91
representations against reenactment as affecting the United States and Territories, and extension to the Philippine Islands	75, 91, 93
Chinese:	
immigration treaties: diplomatic history of	76
officials: direct settlement of claims of missionaries against China with	97
persons: exclusion from the Philippine Islands	213
question as to whether the laws of the United States have worked hardships to	78
residing at Butte, Mont.: claims on account of boycott to their business	100
student, alleged: case of Yip Wah and others	59
student Tong Tseng: case of	68
Chong, Tong, Chinese student: case of	68
Chryssanthides, Demetrius, passport of: construction of words "resided uninterruptedly" in applications for naturalization	519
Church, American Baptist, at Nictheroy, Brazil: sacking of, and payment of indemnity	28
Citizens:	
American, railway employees: imprisonment in Mexico	407
American: treaty rights in interior of Korea	387
American, naturalized, of Jewish faith: protection of, in Russia	446
naturalized, of the United States: liability of, under military and expatriation laws of their native country. (See Liability of naturalized citizens, etc.)	
of the United States: Filipino seamen held not to be	199

	Page.
Citizenship:	
of a child born in the United States and taken abroad during its minority	174
of a child born in the United States of alien parents	303
of a son born in France of an American father and a French mother prior to their marriage	511
of a son born of American parents temporarily sojourning in Germany	179
of Guilloid, Julienne, born in Haiti of a mulatto, former resident of Louisiana	279
of Hine, Rafael F., born in Costa Rica of an American father	420
of Jensen, Lars Chris., a former subject of Denmark	135
of Lam Chung Wa, a Chinese naturalized in Hawaii prior to August 12, 1898, and subsequently residing in China	130
of minor son of a United States citizen, born and residing without the United States	531
passport applications of persons claiming, through naturalization of parents	206
proof of: passport issued by the Department should always be accepted as prima facie (application of Carl F. Kupfer)	508
Claims:	
assumed by the United States Government under the treaty of peace: consent of Spanish Government to assist the United States Government in procuring evidence to defend	477
indemnity, of United States citizens against Turkey: settlement of	518
of Chinese subjects residing at Butte, Mont., on account of boycott of their business	100
of foreigners against Venezuela growing out of the Castro revolution	550
of Fowks, William, <i>v.</i> Peru	430
of Hayball, James H., <i>v.</i> Peru	427
of Marty & d'Abbadie <i>v.</i> United States on account of detention of steamship Sullberg at Manila	147
of Metzger & Co., John D., <i>v.</i> Haiti	262
of missionaries against China: direct settlement with Chinese officials	97
of United States citizens <i>v.</i> Great Britain on account of deportation from South Africa	216
Clayton-Bulwer treaty of April 19, 1850	238
Coin, silver, which Siegfried Koenigsberger attempted to smuggle out of Guatemala: confiscation of	252
Cole, Rev. R. M.: refusal of Turkish officials to issue traveling <i>teskeréh</i> to Colombia:	523
condolences on assassination of President McKinley	134
interests of, in Venezuela: protection by United States representatives of	551
Commandant of French naval station at Algiers: courtesies to U. S. S. Annapolis	154
Complaints of alleged harsh and unfair enforcement of the Chinese-exclusion laws	72
Compulsory insurance tax, German: liability of employees of United States consulates to	172
Condolences:	
on account of the death of President Errázuriz, of Chile	36
on assassination of President McKinley—	
of Argentine Republic	6
of Austria-Hungary	14
of Belgium	23
of Bolivia	26
of Brazil	31
of Chile	38
of China	128
of Colombia	134
of Costa Rica	422
of Denmark	142
of Dominican Republic	143
of Ecuador	146
of France	156
of Germany	189
of Great Britain	237
of Greece	249
of Guatemala	260

Condolences—Continued.

	Page.
on assassination of President McKinley—	
of Haiti	280
of Holy See	312
of Honduras	261
of Italy	311
of Japan	384
of Korea	405
of Liberia	406
of Mexico	415
of Netherlands	419
of Nicaragua	422
of Paraguay	533
of Persia	424
of Peru	434
of Portugal	440
of Roumania	441
of Russia	453
of Salvador	423
of Servia	455
of Siam	456
of Spain	483
of Sweden and Norway	494
of Switzerland	512
of Turkey	529
of Uruguay	533
of Venezuela	553
Confiscation of silver coin which Siegfried Koenigsberger attempted to smuggle out of Guatemala	252
Congo Free State: protection of American interests by British consul	205
Congratulations:	
of the Shah of Persia on the accession of President Roosevelt	425
on anniversary of the birthday of the Shah of Persia	425
on occasion of the national holiday of Siam	456
Consent of Spanish Government to assist the United States Government in procuring evidence to defend claims assumed by the latter under the treaty of peace	477
Construction of words "resided uninterruptedly" in applications for natu- ralization	519
Consular agent of the United States at Barcelona, Venezuela: arrest and release of	534
Consular convention (Article XII) of 1871 between the United States and Germany: previous notice to consuls of service on merchant vessels of writ of attachment not required	161
Consular immunities: liability of employees of United States consulates to German compulsory insurance tax	172
Convention, consular (Article XII), of 1871 between the United States and Germany: previous notice to consuls of service on merchant vessels of writ of attachment not required	161
Correspondence, subjects of, and list of papers in this volume	LV
Costa Rica (<i>see</i> Nicaragua, Costa Rica, and Salvador).	
Courtesies:	
of Chilean officials in connection with removal of remains of the late Lieut. S. E. Woodworth, U. S. Navy	33
to United States military attaché at French grand autumn maneuvers ..	154
to United States naval attaché in Germany	192
to United States naval officers at Habana, by a Spanish naval officer ..	463
to U. S. S. Annapolis by commandant of French naval station at Algiers ..	154
to U. S. S. Hartford in Scotland	231
to U. S. S. Kentucky by Turkish officials	514
Courts, foreign: testimony of the United States diplomatic representatives in	302
Cuba: rights of British subjects in are not governed by treaties, either with the United States or Spain, but by the alien law of 1870	225
Cubans:	
protection of by representatives of the United States	457
registration of in Spain	480
Custom-house, Turkish, at Mytilene: seizure of by France	529

	Page.
Death:	
of Earl Li Hung Chang	132
of President Errázuriz of Chile: condolences of the United States	35
of President McKinley, and accession of President Roosevelt: announcement of	6
of Queen Victoria	208
of the Dowager Empress and Queen Frederick, of Germany	185
Debt, public, of Argentine Republic: bill consolidating: state of siege declared in Buenos Ayres on account of public disorder caused by opposition to	2
Decree, royal Spanish, determining questions of nationality in ceded or relinquished territory	473
Delay in transmission of legation's telegram to United States consular agent at Barcelona, Venezuela	534
Denial of passport to Carl Schimaneck	11
Denmark:	
citizenship of Lars Chris. Jensen	135
condolences on assassination of President McKinley	142
liability of naturalized citizens of the United States under military and expatriation laws of their native country	139
military service case of Sören L. Sörensen	136
permission for Mormon missionary to visit Denmark	140
Deportation:	
from South Africa: claims of United States citizens <i>v.</i> Great Britain on account of	216
of Charles Lillywhite, a naturalized citizen of the United States, from New Zealand to England: award by Great Britain of £600 on account of	231
of Japanese immigrants from Seattle, Wash.	366
Deserters from merchant vessels: no law or regulation in the United States providing for their punishment	483
de St. Bris, Thomas: arrest and ill-treatment of, in Belgium	17
Detention:	
at Seattle, Wash., and deportation of Japanese immigrants	366
of steamship Sullberg at Manila: claim of Marty & d'Abbadie <i>v.</i> United States on account of	147
Difficulty of Germany with Venezuela	192
Diplomatic:	
action may not properly be taken until remedies in local courts have been exhausted: indemnity suit of Mrs. Fenice Ferrara, an Italian subject, in a Colorado court	305
history of the Chinese immigration treaties	76
immunities: testimony of United States diplomatic representatives in foreign courts	302
representatives, United States: testimony in foreign courts	302
Direct settlement with Chinese officials of claims of missionaries against China	97
Discrimination, alleged, in the United States against Japanese in the matter of quarantine	375
Disorder, public: state of siege declared in Buenos Ayres on account of, caused by opposition to bill consolidating public debt	2
Disturbances, political, in Argentine Republic: state of siege declared in Buenos Ayres on account of public disorder caused by opposition to bill consolidating public debt	2
Dominican Republic: condolences on assassination of President McKinley	143
Dowager Empress and Queen Frederick of Germany: death of	185
Dues, tonnage, in Haiti on American vessels	276
E.	
Earl Li Hung Chang: death of	132
Ebken, Diedrich: military service case in Germany	168
Economopoulos, Louis (Leonidas): military service case in Greece	247
Ecuador:	
condolences on assassination of President McKinley	146
internal policy of Ecuador	145
registry and educational laws	144

	Page.
Educational and registry laws of Ecuador.....	144
Edward VII of England: accession of.....	213
Efforts to divert German emigration from North America to German colonies and South America.....	191
Egypt: protection by United States officials of Swiss citizens in.....	504
Emden, Germany: opening of the port of.....	190
Emigration:	
German: efforts to divert from North America to German colonies and South America.....	191
"unauthorized," from Germany: fine on Paul N. Friedlaender for.....	180
Emperor of China: special envoy of, Na Tung: expiatory mission to Japan.....	384
Emperor's (German) response to the President's message of good will.....	191
Employees:	
of United States consulates: liability of, to German compulsory insurance tax.....	172
railway, American citizens: imprisonment in Mexico.....	407
Encroachments of various powers in foreign settlements at Tientsin, China.....	39
Enforcement of Chinese-exclusion laws: complaints of alleged harsh and unfair.....	72
Envoy, special, of the Emperor of China, Na Tung: expiatory mission to Japan.....	384
Erection of tablet in memory of Frederick W. Ramsden, late British consul-general at Santiago de Cuba.....	215
Ericsson, John: unveiling of monument at Stockholm.....	495
Errázuriz, President of Chile: death of, and condolences of the United States.....	36
Erwin, Mississippi: lynching of persons of Italian origin at.....	283
Evidence to defend claims assumed by United States Government under the treaty of peace: consent of Spanish Government to assist United States Government in procuring.....	477

E.

Exclusion:	
of British and Australasian vessels from trade between the United States and Hawaii.....	201
of Chinese persons from the Philippine Islands.....	213
Exclusion laws:	
case of alleged Chinese student, Yip Wah, and others.....	59
case of Chinese student, Tong Tseng.....	68
Chinese: complaints of alleged harsh and unfair enforcement.....	72
Chinese: question as to whether they have proved to be for the best interests of the United States.....	85
Chinese: question as to whether they have worked hardships to the subjects of China.....	78
Chinese: representations against application to Hawaiian Islands.....	91
Chinese: representations against reenactment as affecting the United States and Territories, and extension to the Philippine Islands.....	75-91-93
Expatriation:	
and military laws of their native country: liability of naturalized citizens of the United States under. (<i>See</i> Liability of naturalized citizens, etc.).....	156
right of, denied to Emile Robin by France.....	156
Expiatory mission:	
of Prince Tschun, of China, to Germany.....	187
to Japan of Na Tung, special envoy of the Emperor of China.....	384
Expulsion:	
of Kennan, George, from Russia.....	451
of Mormon missionaries from Germany.....	165
of Richter, John, from Austria-Hungary.....	8
of Schaaf, Max Friedrich, from Germany.....	158
Extension of Chinese-exclusion laws to the Philippine Islands: representations against.....	75-91-93
Extradition:	
of criminals: treaty between the United States and Switzerland for the supplementary treaty of, between the United States and Great Britain.....	500 222

F.

	Page.
Fares, street railway: riots in Rio de Janeiro over increase in	30
Ferrara, Mrs. Fenice, an Italian subject, indemnity suit in a Colorado court: remedies in local courts must be exhausted before diplomatic action may properly be taken	305
Filipino:	
Junta at Madrid, and petition of Isabelo de los Reyes, one of its members, for permission to return to the Philippine Islands	471
seamen held not to be citizens of the United States	199
Filipinos: protection by representatives of the United States of	457
Fine on Paul N. Friedlaender for "unauthorized" emigration	180
First annual award of the Nobel prizes	497
Foreign courts: testimony of United States diplomatic representatives in	302
Foreign powers: encroachments in foreign settlements at Tientsin, China ..	39
Foreign settlements in China: encroachments of various powers at Tientsin ..	39
Fowles, William: claim <i>v.</i> Peru	430
France:	
claim of Marty & d'Abbadie on account of detention of steamship Sullberg at Manila	147
condolences on assassination of President McKinley	156
courtesies to U. S. S. Annapolis by commandant of French naval station at Algiers	154
courtesies to United States military attaché at French grand autumn maneuvers	154
liability of naturalized citizens of the United States under military and expatriation laws of their native country	153
right of expatriation denied Emile Robin	156
Frederick, Dowager Empress and Queen of Germany, death of	185
French grand autumn maneuvers: courtesies to United States military attaché at	154
French naval station at Algiers: courtesies of commandant of to U. S. S. Annapolis	154
Friedlaender, Paul N.: fine on for "unauthorized" emigration from Germany	180
Friendly relations of United States legation with Governments of Uruguay and Paraguay	532

G.

General Baquedano, Chilean training ship: visit to the United States	35
Gent, Michael, Nicholas, and Mathias: military-service cases in Germany	167
German emigration: efforts to divert from North America to German colonies and South America	191
German Emperor:	
attempt at Bremen on life of	166
response to President's message of good will	191
German school ships Moltke and Stein: visit to the United States, Porto Rican, and Cuban ports	190
Germany:	
anarchists: proposed joint action against	196
attempt on German Emperor's life at Bremen	166
citizenship of a child born in the United States and taken abroad during its minority	174
citizenship of a son born of American parents temporarily sojourning in Germany	179
compulsory insurance tax: liability of employees of United States consulates to	172
condolences on assassination of President McKinley	189
consular convention (Article XII) of 1871 between the United States and Germany: previous notice to consuls of service on merchant vessels of writ of attachment not required	161
consular immunities: liability of employees of United States consulates to German compulsory insurance tax	172
courtesies to United States naval attaché in Germany	192
death of Dowager Empress and Queen Frederick	185
difficulty of Germany with Venezuela	192
efforts to divert German emigration from North America to German colonies and South America	191

	Page.
Germany—Continued.	
expiatory mission of Prince Tschun of China	187
expulsion of Mormon missionaries from Germany	165
expulsion of Max Friedrich Schaaf	158
fine on Paul N. Friedlaender for "unauthorized" emigration	180
German Emperor's response to the President's message of good will	191
Kaiser Wilhelm Canal: passage of United States naval vessels through liability of naturalized citizens of the United States under military and expatriation laws of their native country	184
military-service cases of—	160
Balz, Xaver Sylvester	167
Britten, Nick	170
Ebken, Diedrich	168
Gent, Michael, Nicholas, and Mathias	167
Golus, Ladislaus	167
Häberle, (John) Jacob	168
Just, Robert H.	168
Kammerer, Karl	171
Kauffmann, Henry	167
Koch, Friedrich	170
Kuechlin, Max	168
Meisner, Herrmann E	170
Metzger, Lawrence M	170
Meyer, August	170
Meyers (Mayer), Sigmund	168
Nachtigall, Alfred	167
Seitz, Gustav E	168
Stern, Siegmund	168
Wiess, Louis	168
opening of the port of Emden	190
passport applications of persons born in the United States: production of certificate of father's naturalization not to be required	178
restrictions on sojourn in their country of origin of Germans naturalized in the United States	175
visit of German school-ships Moltke and Stein to United States, Porto Rican, and Cuban ports	190
Golus, Ladislaus: military-service case in Germany	167
Good offices of United States minister in behalf of George Melville, a British subject, imprisoned in Bolivia	24
Great Britain:	
accession of Edward VII	213
award by Great Britain of £600 to Charles Lillywhite, a naturalized United States citizen, on account of his arrest, false imprisonment, and deportation from New Zealand to England	231
claims of United States citizens <i>v.</i> Great Britain on account of deportation from South Africa	216
condolences on assassination of President McKinley	237
condolences on death of Queen Victoria	208
courtesies shown U. S. S. Hartford in Scotland	231
death of Queen Victoria	208
erection of tablet in memory of Frederick W. Ramsden, late British consul-general at Santiago de Cuba	215
exclusion of British and Australasian vessels from trade between the United States and Hawaii	201
exclusion of Chinese persons from the Philippine Islands	213
Filipino seamen held not to be citizens of the United States	199
interoceanic canal treaty	237
passport applications of persons claiming United States citizenship through naturalization of parents	206
protection by United States consul of British interests in the Azores	224
protection of American interests by British consul in the Kongo Free State	205
rights of British subjects in Cuba are not governed by treaties, either with the United States or Spain, but by alien law of 1870	225
supplementary treaty of extradition between the United States and Great Britain	222
visit of U. S. S. Brooklyn to Australia and New Zealand on occasion of tour of Duke and Duchess of Cornwall and York	214

	Page.
Greece:	
condolences on assassination of President McKinley	249
liability of naturalized citizens of the United States under military and expatriation laws of their native country	247
military-service case of Louis (Leonidas) Economopoulos	247
riot at Athens caused by the translation of the Bible into vulgar Greek	250
Guam: passport application of a native of	484
Guatemala and Honduras:	
condolences on assassination of President McKinley	260
confiscation of silver coin which Siegfried Koenigsberger attempted to smuggle out of Guatemala	252
Guilloid, Julienne, born in Haiti of a mulatto, former resident of Louisiana: citizenship of	279
H.	
Habana: courtesies shown by a Spanish naval officer to United States naval officers at	463
Häberle, (John) Jacob: military-service case in Germany	168
Haiti:	
citizenship of Julienne Guilloid, born in Haiti of a mulatto, former resident of Louisiana	279
claim of John D. Metzger & Co. v. Haiti	262
condolences on assassination of President McKinley	280
tonnage dues on American vessels	276
Hancock, U. S. transport: assistance rendered to by Japanese navy	385
Hardships to the subjects of China: question as to whether laws of the United States have worked	78
Harsh and unfair enforcement of Chinese-exclusion laws: complaints of alleged	72
Hartford, U. S. S.: courtesies shown to in Scotland	231
Hawaii:	
citizenship of Lam Chung Wa, a Chinese naturalized in, prior to August 12, 1898, and subsequently residing in China	130
exclusion of British and Australasian vessels from trade between the United States and	201
Hawaiian Islands: representations against application of Chinese-exclusion laws to	91
Hayball, James H.: claim v. Peru	427
Hay-Pauncefote treaty	241-243
Hine, Rafael F., born in Costa Rica of an American father: citizenship of	420
History, diplomatic, of the Chinese immigration treaties	76
Hoiland, Johannes P.: military-service case in Norway	487
Holiday, national, of Siam: congratulations on occasion of	456
I.	
Ill-treatment and arrest of Thomas de St. Bris in Belgium	17
Immigrants, Japanese: detention at Seattle, Wash., and deportation of	366
Immigration treaties, Chinese: diplomatic history of	76
Immunities:	
consular: liability of employees of United States consulates to German compulsory insurance tax	172
diplomatic: testimony of United States diplomatic representatives in foreign courts	302
Imprisonment:	
of American citizens, railway employees, in Mexico	407
of George Melville, a British subject, in Bolivia: good offices of United States minister in behalf of	24
Increase in street-railway fares: riots in Rio de Janeiro over	30
Indemnity:	
claims of United States citizens against Turkey: settlement of	518
demand of China by the powers: bond for payment of	129
payment of, on account of sacking of American Baptist Church at Nictheroy, Brazil	28
suit of Mrs. Fenice Ferrara, an Italian subject, in a Colorado court: remedies in local courts must be exhausted before diplomatic action may properly be taken	305

	Page.
Insurance tax, German compulsory: liability of employees of United States consulates to	172
Interests:	
American—	
protection by British consul in the Kongo Free State	205
protection by British consuls in Turkey	521
British: protection by United States consul in the Azores	224
Colombian: protection by United States representatives in Venezuela ..	551
International policy of Ecuador	145
Interoceanic canal: treaty	237
Iowa, U. S. S.: visit to Salvador	420
Islands:	
Hawaiian. (See Hawaiian Islands.)	
Philippine. (See Philippine Islands.)	
Italy:	
citizenship of a child born in the United States of alien parents	303
condolences on assassination of President McKinley	311
diplomatic immunities: testimony of United States diplomatic represent-	
atives in foreign courts	302
indemnity suit of Mrs. Fenice Ferrara, an Italian subject, in a Colorado	
court: remedies in local courts must be exhausted before diplomatic	
action may be properly taken	305
liability of naturalized citizens of the United States under military and	
expatriation laws of their native country	282
lynching of persons of Italian origin at Erwin, Miss.	283
sovereignty of Italy over Somaliland recognized by Sultan Osman	
Mahmud	299

J.

Japan:	
alleged discrimination in the United States against Japanese in the mat-	
ter of quarantine	375
assistance rendered United States transport <i>Hancock</i> by Japanese navy ..	385
condolences on assassination of President McKinley	384
detention at Seattle, Wash., and deportation of Japanese immigrants ..	366
expiatory mission to Japan of Na Tung, special envoy of the Emperor	
of China	384
monument erected in Japan in commemoration of the advent of Com-	
modore Perry, U. S. Navy, in July, 1853	378
registration of titles to perpetual leases in Japan	313
Jensen, Lars Chris., a former subject of Denmark: citizenship of	135
Jew: protection in Russia of a naturalized American	446
Jews: right to three months' sojourn in Palestine	516
Joint action against anarchists: proposed by Germany and Russia	196
Junta, Filipino, at Madrid, and petition of Isabelo de los Reyes, one of its	
members, for permission to return to the Philippine Islands	471
Just, Robert H.: military service case in Germany	168

K.

Kaiser Wilhelm Canal: passage of United States naval vessels through	184
Kammerer, Karl: military-service case in Germany	171
Kauffmann, Henry: military-service case in Germany	167
Kennan, George: expulsion from Russia	451
Kentucky, U. S. S.: courtesies to, by Turkish officials	514
Koch, Friedrich: military-service case in Germany	170
Koenigsberger, Siegfried: confiscation of silver coin which he attempted to	
smuggle out of Guatemala	252
Kongo Free State: protection of American interests by British consul	205
Korea:	
condolences on assassination of President McKinley	405
treaty rights of United States citizens in interior of Korea	387
Kuechlin, Max: military-service case in Germany	168
Kupfer, Carl F.: passport application of: passport issued by the Depart-	
ment should always be accepted prima facie as proof of citizenship	508

L.

	Page.
Lassonne, Mrs. Louisa, widow of a naturalized United States citizen, residing without the United States: passport application of	442
Laws:	
alien, of 1870: rights of British subjects in Cuba are governed by	225
educational and registry, of Ecuador	144
exclusion (<i>see</i> Exclusion laws, etc).	
of the United States: question as to whether they have worked hard-ship to subjects of China	78
Leases, perpetual, in Japan: registration of titles to	313
Liability of employees of United States consulates to German compulsory insurance tax	172
Liability of naturalized citizens of the United States under military and expatriation laws of their native country:	
in Austria-Hungary	7
in Belgium	16
in Denmark	139
in France	153
in Germany	160
in Greece	247
in Italy	282
in Netherlands	418
in Persia	424
in Portugal	439
in Roumania	441
in Russia	453
in Servia	455
in Sweden and Norway	486
in Switzerland	499
in Turkey	515
Liberia: condolences on assassination of President McKinley	406
Li Hung-chang, Earl: death of	132
Lillywhite, Charles, a naturalized citizen of the United States: award by Great Britain of £600 to, on account of his arrest, false imprisonment, and deportation from New Zealand to England	231
List of papers, with subjects of correspondence, of this volume	LV
Llaveria y Pascual, Benito: military-service case in Spain	464
Lynching of persons of Italian origin at Erwin, Miss	283

M.

Madrid, Filipino Junta at: and petition of Isabelo de los Reyes, one of its members, for permission to return to the Philippine Islands	471
Mahmud, Sultan Osman: recognition of sovereignty of Italy over Somaliland	299
Manila: claim of Marty & d'Abbadie <i>v.</i> United States on account of detention of steamship Sullberg at	147
Margarita, Island of: visit of U. S. S. Mayflower to	547
Marriage of Queen Wilhelmina of the Netherlands	416
Marty & d'Abbadie: claim <i>v.</i> United States on account of detention of steamship Sullberg at Manila	147
Massacre of soldiers in Bolivia: punishment of offenders	26
Mayer, Sigmund: military service case in Germany	168
Mayflower, U. S. S.: visit to the Island of Margarita	547
McKinley, President (<i>see</i> Condolences on assassination of).	
Medicines of American manufacture: refusal of permission for sale in Portugal of certain	435
Meisner, Hermann E.: military-service case in Germany	170
Melville, George, a British subject imprisoned in Bolivia: good offices of United States minister in behalf of	24
Merchant vessels:	
deserters from: no law or regulation in the United States providing for their punishment	483
previous notice to consuls of service of writ of attachment on, not required by Article XII, consular convention of 1871 between the United States and Germany	161

	Page.
Message:	
of good will of the President of the United States: German Emperor's response to.....	191
of the President of the United States to the Congress.....	IX
Metzger, John D., & Co.: claim <i>v.</i> Haiti.....	262
Metzger, Lawrence M.: military service case in Germany.....	170
Mexico:	
condolences on assassination of President McKinley.....	415
imprisonment of American citizens, railway employees, in.....	407
Meyer, August: military service case in Germany.....	170
Meyers, Sigmund: military service case in Germany.....	168
Military and expatriation laws of their native country: liability of naturalized citizens of the United States under (<i>see</i> Liability of naturalized citizens, etc.).	
Military service cases of:	
Balz, Xaver Sylvester, in Germany.....	167
Britten, Nick, in Germany.....	170
Ebken, Diedrich, in Germany.....	168
Economopoulos, Louis (Leonidas), in Greece.....	247
Gent, Michael, Nicholas, and Mathias, in Germany.....	167
Golus, Ladislaus, in Germany.....	167
Haberle, (John) Jacob, in Germany.....	168
Hoiland, Johannes P., in Norway.....	487
Just, Robert H., in Germany.....	168
Kammerer, Karl, in Germany.....	171
Kauffmann, Henry, in Germany.....	167
Koch, Friedrich, in Germany.....	170
Kuechlin, Max, in Germany.....	168
Llaveria y Pascual, Benito, in Spain.....	464
Meisner, Herrmann E., in Germany.....	170
Metzger, Lawrence M., in Germany.....	170
Meyer, August, in Germany.....	170
Meyers (Mayer), Sigmund, in Germany.....	168
Nachtigall, Alfred, in Germany.....	167
Seitz, Gustav A., in Germany.....	168
Sørensen, Sören L., in Denmark.....	136
Stern, Siegmund, in Germany.....	168
Wiess, Louis, in Germany.....	168
Missionaries:	
claims of, against China; direct settlement with Chinese officials.....	97
Mormon:	
expulsion from Germany.....	165
permission to visit Denmark.....	140
troubles: sacking of American Baptist Church at Nictheroy, Brazil, and payment of indemnity.....	28
Missions, expiatory:	
to Germany, of Prince Tschun of China.....	187
to Japan, of Na Tung, special envoy of the Emperor of China.....	384
" Moltke," German schoolship: visit to United States, Porto Rican, and Cuban ports.....	190
Monuments:	
erected in Japan in commemoration of the advent of Commodore Perry, U. S. Navy, in July, 1853.....	378
to John Ericsson at Stockholm.....	495
Mormon missionaries:	
expulsion from Germany.....	165
permission to visit Denmark.....	140
Mytilene: seizure by France of Turkish custom-house at.....	529
N.	
Nachtigall, Alfred: military-service case in Germany.....	167
Na Tung, special envoy of the Emperor of China: expiatory mission to Japan.....	384
National holiday of Siam: congratulations on occasion of.....	456
Nationality in ceded or relinquished territory: Royal Spanish decree determining question of.....	473

	Page.
Naturalization:	
applications for: construction of words "resided uninterruptedly" in... of parents: passport applications of persons claiming citizenship through	519
Naturalized:	
citizen of Jewish faith: protection of in Russia	446
citizens of the United States: liability of, under military and expatriation laws of their native country (<i>see</i> Liability of naturalized citizens, etc.).	
Germans: restrictions on sojourn in their country of origin	175
Netherlands:	
condolences on assassination of President McKinley	419
liability of naturalized citizens of the United States under military and expatriation laws of their native country	418
marriage of Queen Wilhelmina	416
Nicaragua, Costa Rica, and Salvador:	
citizenship of Rafael F. Hine, born in Costa Rica of an American father ..	420
condolences on assassination of President McKinley	422
visit of U. S. S. Iowa and Philadelphia to Salvador	420
Nittheroy, Brazil: sacking of American Baptist Church at, and payment of indemnity	28
Nobel prizes: first annual award of	497
Norway (<i>see</i> Sweden and Norway).	
Notice, previous, to consuls of service on merchant vessels of writ of attachment not required under Article XII, consular convention of 1871 between the United States and Germany	161
O.	
Officials, Chinese: direct settlement of claims of missionaries against China with	97
Opening of the port of Emden, Germany	190
Opposition to bill consolidating public debt of Argentine Republic: state of siege declared in Buenos Ayres on account of public disorder caused by ..	2
Orinoco River: visit of the U. S. S. Scorpion to	541
Oscar, King of Sweden and Norway: reassumption of Government by	486
Osman Mahmud, Sultan: recognition of sovereignty of Italy over Somaliland	299
P.	
Palestine: right of Jews to three months' sojourn in	516
Paraguay (<i>see</i> Uruguay and Paraguay).	
Pascual, Benito Llavera y: military-service case in Spain	464
Passage of United States naval vessels through Kaiser Wilhelm Canal	184
Passport applications:	
of a native of the island of Guam	484
of a Porto Rican	32
of Frank H. Bowers	1
of Mrs. Louisa Lassone, widow of a naturalized United States citizen, residing without the United States	442
of persons born in the United States: production of certificate of father's naturalization not to be required	178
of persons claiming United States citizenship through naturalization of parents	206
Passports:	
denied to Carl Schimaneck	11
issued by the Department should always be accepted <i>prima facie</i> as proof of citizenship (application of Carl F. Kupfer)	508
of Demetrius Chryssanthides: construction of words "resided uninterruptedly" in applications for naturalization	519
of Emile Stolz: cancellation of, by United States legation at Berne, because of Stolz's continued residence without the United States	509
Payment of indemnity demanded of China by the powers: bond for	129
Permission:	
for Mormon missionaries to visit Denmark	140
for sale in Portugal of certain medicines of American manufacture: refusal of	485

	Page.
Perpetual leases in Japan: registration of titles to	313
Perry, Commodore, U. S. Navy: monument erected in Japan in commemoration of the advent of, in July, 1853	378
Persia:	
condolences on assassination of President McKinley	424
congratulations of the Shah on the accession of President Roosevelt	425
congratulations on the anniversary of the Shah's birthday	425
liability of naturalized citizens of the United States under military and expatriation laws of their native country	424
Peru:	
claim of Fowks, William	430
claim of Hayball, James H	427
condolences on assassination of President McKinley	434
Petition of Isabelo de los Reyes, a member of the Filipino junta at Madrid, for permission to return to the Philippine Islands	471
Philadelphia, U. S. S.; visit to Salvador	420
Philippine Islands:	
exclusion of Chinese persons from	213
representations against extension of Chinese-exclusion laws to	75, 91, 93
Policy, international, of Ecuador	145
Political disturbances in Argentine Republic: state of siege declared in Buenos Ayres on account of public disorder caused by opposition to bill consolidating public debt	2
Port of Emden, Germany: opening of	190
Porto Ricans:	
passport application of	32
protection by representatives of the United States of	457
registration of, in Spain	480
Portugal:	
condolences on assassination of President McKinley	440
liability of naturalized citizens of the United States under military and expatriation laws of their native country	439
refusal of permission for sale in Portugal of certain medicines of American manufacture	435
Powers, foreign: encroachments in foreign settlements at Tientsin, China	39
President Errázuriz of Chile: death of, and condolences of the United States	36
President of the United States:	
<i>see</i> Announcement of death of President McKinley and accession of President Roosevelt.	
<i>see</i> Condolences on assassination of President McKinley.	
congratulations of the Shah of Persia on the accession of President Roosevelt	425
extends congratulations on the occasion of the national holiday of Siam	456
message to Congress	IX
response of the German Emperor to message of good will of	191
Previous notice to consuls of service on merchant vessels of writ of attachment not required under Article XII, consular convention of 1871, between the United States and Germany	161
Prince Tschun, of China: expiatory mission to Germany	187
Prizes, Nobel: first annual award of	497
Proof of citizenship: passport issued by the Department should always be accepted as <i>prima facie</i> (application by Carl F. Kupfer)	508
Protection:	
of American interests—	
by British consuls in the Kongo Free State	205
by British consuls in Turkey	521
by United States representatives—	
of a naturalized American citizen of Jewish faith, in Russia	446
of British interests in the Azores	224
of Colombian interests in Venezuela	551
of Porto Ricans, Cubans, and Filipinos	457
of Swiss citizens in Egypt	504
Public debt of Argentine Republic: bill consolidating: state of siege declared in Buenos Ayres on account of public disorder caused by opposition to	2

	Page.
Punishment:	
of deserters from merchant vessels: no law or regulation in the United States providing for	483
of murderers of Bolivian soldiers	26
Q.	
Quarantine: alleged discrimination in the United States against Japanese in the matter of	375
Queen Victoria: death of	208
Queen Wilhelmina, of the Netherlands: marriage of	416
R.	
Railway:	
employees, American citizens: imprisonment in Mexico	407
fares, street: riots in Rio de Janeiro over increase in	30
Ramsden, Frederick W., late British consul-general at Santiago de Cuba: erection of tablet in memory of	215
Reassumption of Government of Sweden and Norway by King Oscar	486
Reception of German legation to German colony at Caracas and officers of German war ship Vineta	554
Reenactment of Chinese-exclusion laws as affecting the United States and Territories, and extension to the Philippine Islands: representations against	75-91-93
Refusal:	
by Turkish officials to issue traveling teskeréh to the Rev. R. M. Cole ..	523
of permission for sale in Portugal of certain medicines of America manufacture	435
Registration:	
of Cubans and Porto Ricans in Spain	480
of titles to perpetual leases in Japan	313
Registry and educational laws of Ecuador	144
Relations, friendly, of United States legation with Governments of Uruguay and Paraguay	532
Relinquished or ceded territory: royal Spanish decree determining questions of nationality in	473
Remains of the late Lieut. S. E. Woodworth, U. S. Navy: courtesies of Chilean officials in connection with removal of	33
Remedies in local courts must be exhausted before diplomatic action may properly be taken: indemnity suit of Mrs. Fenice Ferrara, an Italian subject, in a Colorado court	305
Removal of remains of the late Lieut. S. E. Woodworth, U. S. Navy: courtesies of Chilean officials in connection with	33
Representations against reenactment of Chinese-exclusion laws as affecting the United States and Territories, and extension to the Philippine Islands	75-91-93
"Resided uninterruptedly:" construction of phrase in applications for naturalization	519
Restrictions on sojourn in their country of origin of Germans naturalized in the United States	175
Revolution, Castro: claims of foreigners against Venezuela, growing out of ..	550
Reyes, Isabelo de los, a member of the Filipino junta at Madrid: petition for permission to return to the Philippine Islands	471
Richter, John: expulsion from Austria-Hungary	8
Right:	
of expatriation denied Emile Robin (France)	156
of Jews to three months' sojourn in Palestine	516
Rights:	
of British subjects in Cuba are not governed by treaties, either with the United States or Spain, but by alien law of 1870	225
treaty, of United States citizens in interior of Korea	387
Rio de Janeiro: riots over increase in street-railway fares	30
Riots:	
at Athens, caused by the translation of the Bible into vulgar Greek	250
in Rio de Janeiro over increase in street-railway fares	30
Robin, Emile: right of expatriation denied by France	156
Roosevelt:	
President: accession of	6
President: congratulations of Shah of Persia on accession of	425

	Page.
Roumania:	
condolences on assassination of President McKinley	441
liability of naturalized citizens of the United States under military and expatriation laws of their native country	441
Royal decree, Spanish, determining questions of nationality in ceded or relinquished territory	473
Russia:	
anarchists, proposed joint action against	196
condolences on assassination of President McKinley	453
expulsion of George Kennan from Russia	451
liability of naturalized citizens of the United States under military and expatriation laws of their native country	453
passport application of Mrs. Louisa Lassonne, widow of a naturalized United States citizen, residing without the United States	442
protection in Russia of a naturalized American citizen of Jewish faith	446

S.

Sacking of American Baptist Church at Nictheroy, Brazil, and payment of indemnity	28
Sale in Portugal of certain medicines of American manufacture: refusal of permission for	435
Salvador (<i>see</i> Nicaragua, Costa Rica, and Salvador).	
Santiago de Cuba: erection of tablet in memory of Frederick W. Ramsden, late British consul-general at	215
Schaaf, Max Friedrich: expulsion from Germany	158
Schimanek, Carl: passport denied to	11
School-ships:	
Brazilian, Benjamin Constant: visit to the United States	27
German, Moltke and Stein: visit to United States, Porto Rican, and Cuban ports	190
Scorpion, U. S. S.: visit to the Orinoco River	541
Scotland: courtesies shown U. S. S. Hartford in	231
Seamen, Filipino, held not to be citizens of the United States	199
Seattle, Wash.: detention and deportation of Japanese immigrants	366
Seitz, Gustav: military-service case in Germany	168
Seizure by France of Turkish custom-house at Mytilene	529
Servia:	
condolences on assassination of President McKinley	455
liability of naturalized citizens of the United States under military and expatriation laws of their native country	455
Service on merchant vessels of writ of attachment: previous notice to consuls not required under Article XII, consular convention of 1871 between the United States and Germany	161
Settlement:	
direct, with Chinese officia's of claims of missionaries against China	97
of indemnity claims of United States citizens against Turkey	518
Settlements, foreign, in China: encroachments of various powers at Tien- tsin	39
Shah of Persia:	
congratulations on accession of President Roosevelt	425
congratulations on anniversary of birthday of	425
Siam:	
condolences on assassination of President McKinley	456
congratulations on occasion of national holiday of Siam	456
Siege, state of, declared in Buenos Ayres on account of public disorder caused by opposition to bill consolidating public debt	2
Silver coin which Siegfried Koenigsberger attempted to smuggle out of Guatemala: confiscation of	252
Sojourn:	
in their country of origin of Germans naturalized in the United States: restrictions on	175
of Jews in Palestine: right to three months	516
Soldiers in Bolivia: massacre of: punishment of offenders	26
Somaliland: sovereignty of Italy recognized by Sultan Osman Mahmud	299
Sørensen, Sören L.: military-service case in Denmark	136
South Africa: claims of United States citizens <i>v.</i> Great Britain on account of deportation from	216
Sovereignty of Italy over Somaliland recognized by Sultan Osman Mahmud	299

	Page.
Spain:	
condolences on assassination of President McKinley	483
consent of Spanish Government to assist the United States Government in procuring evidence to defend claims assumed by the latter under the treaty of peace	477
courtesies shown by a Spanish naval officer to United States naval officers at Habana	463
deserters from merchant vessels: no law or regulation in the United States providing for their punishment	483
Filipino junta at Madrid, and petition of Isabelo de los Reyes, one of its members, for permission to return to the Philippine Islands	471
military-service case of Benito Llaveria y Pascual	464
passport application of a native of the island of Guam	484
protection by representatives of the United States of Porto Ricans, Cubans, and Filipinos	457
registration of Cubans and Porto Ricans in Spain	480
royal decree determining questions of nationality in ceded or relin- quished territory	473
Special envoy of the Emperor of China, Na Tung: expiatory mission to Japan	384
State of siege declared in Buenos Ayres on account of public disorder caused by opposition to bill consolidating public debt	2
St. Bris, Thomas de: arrest and ill-treatment of, in Belgium	17
Stein, German schoolship: visit to United States, Porto Rican, and Cuban ports	190
Stern, Siegmund: military-service case in Germany	168
Stockholm: unveiling of monument to John Ericsson at	495
Stolz, Emile: cancellation of passport of, by United States legation at Berne because of Stolz's continued residence without the United States	509
Street-railway fares: riots in Rio de Janeiro over increase in	30
Students, Chinese:	
alleged: case of Yip Wah and others	59
Tong Tseng: case of	68
Subjects of correspondence and list of papers in this volume	LV
Suit, indemnity, of Mrs. Fenice Ferrara, an Italian subject, in a Colorado court: remedies in local courts must be exhausted before diplomatic action may properly be taken	305
Sullberg, steamship: claim of Marty & d'Abbadie v. United States on account of detention of at Manila	147
Sultan Osman Mahmud: recognition of sovereignty of Italy over Somali- land	239
Supplementary treaty of extradition between the United States and Great Britain	222
Sweden and Norway:	
condolences on assassination of President McKinley	494
first annual award of the Nobel prizes	497
liability of naturalized citizens of the United States under military and expatriation laws of their native country	486
military service case of Johannes P. Hoiland	487
reassumption of Government by King Oscar	486
unveiling of monument to John Ericsson at Stockholm	495
Switzerland:	
cancellation of passport of Emile Stolz by United States legation at Berne because of Stolz's continued residence without the United States	509
citizenship of a son born in France of an American father and a French mother prior to their marriage	511
condolences on assassination of President McKinley	512
liability of naturalized citizens of the United States under military and expatriation laws of their native country	499
passports issued by Department should always be accepted prima facie as proof of citizenship (application of Carl F. Kupfer)	508
protection by United States officials of Swiss citizens in Egypt	504
treaty between the United States and Switzerland for the extradition of criminals	500
T.	
Table of contents of this volume	III
Tablet in memory of Frederick W. Ramsden, late British consul-general at Santiago de Cuba: erection of	215

	Page.
Tax, German compulsory insurance: liability of employees of United States consulates to	172
Telegram from legation to United States consular agent at Barcelona, Venezuela: delay in transmission of	534
Teskéréh, traveling: refusal of Turkish officials to issue to the Rev. R. M. Cole	523
Testimony of United States diplomatic representatives in foreign courts	302
Tientsin, China: foreign settlements at: encroachments of various powers	39
Titles to perpetual leases in Japan: registration of	313
Tonnage dues in Haiti on American vessels	276
Trade between the United States and Hawaii: exclusion of British and Australasian vessels from	201
Training ship "General Baquedano," Chilean: visit to the United States	35
Translation of the Bible into vulgar Greek: riot at Athens caused by	250
Traveling teskéréh: refusal of Turkish officials to issue to the Rev. R. M. Cole	523
Treaties:	
Chinese immigration: diplomatic history of	76
Clayton-Bulwer, of April 19, 1850	258
extradition of criminals, between the United States and Switzerland	500
extradition, supplementary, between the United States and Great Britain	222
Hay-Pauncefote (interoceanic canal)	241-243
interoceanic canal	237
rights of British subjects in Cuba are not governed by, but by Alien law of 1870	225
Treaty rights of United States citizens in the interior of Korea	387
Troubles, missionary: sacking of American Baptist Church at Nictheroy, Brazil, and payment of indemnity	28
Tschun, Prince, of China: expiatory mission to Germany	187
Tseng, Tong: Chinese student: case of	68
Turkey:	
condolences on assassination of President McKinley	529
courtesies to U. S. S. "Kentucky" by Turkish officials	514
indemnity claims of United States citizens: settlement of	518
liability of naturalized citizens of the United States under military and expatriation laws of their native country	515
passport of Demetrius Chryssanthides: construction of words "resided uninterruptedly" in applications for naturalization	519
protection of American interests by British consuls in Turkey	521
refusal by Turkish officials to issue traveling teskéréh to the Rev. R. M. Cole	523
right of Jews to three months' sojourn in Palestine	516
seizure by France of custom-house at Mytilene	529

U.

"Unauthorized" emigration from Germany: fine on Paul N. Friedlaender for	180
Unfair and harsh enforcement of Chinese-exclusion laws: complaints of alleged	72
Unveiling of monument to John Ericsson at Stockholm	495
Uruguay and Paraguay:	
citizenship of minor son of a United States citizen, born and residing without the United States	531
condolences on assassination of President McKinley	533
friendly relations of United States legation with Governments of Uruguay and Paraguay	532

V.

Venezuela:	
arrest and release of United States consular agent at Barcelona, and delay in transmission of legation's telegram	534
claims of foreigners against Venezuela, growing out of the Castro revolution	550
condolences on assassination of President McKinley	553
difficulty of Germany with	192

Venezuela—Continued.	Page.
protection by United States representatives of Colombian interests in Venezuela	551
reception at German legation to German colony at Caracas and officers of German warship Vineta	554
visit of the U. S. S. Mayflower to the island of Margarita	547
visit of the U. S. S. Scorpion to the Orinoco River	541
Vessels:	
American tonnage dues in Haiti	276
British and Australasian: exclusion from trade between the United States and Hawaii	201
courtesies:	
to U. S. S. Annapolis by commandant of French naval station at Algiers	154
to U. S. S. Hartford in Scotland	231
to U. S. S. Kentucky by Turkish officials	514
German war ship Vineta: reception at German legation at Caracas to officers of	554
merchant:	
deserters from: no law or regulation in the United States providing for their punishment	483
previous notice to consuls of service of writ of attachment on, not required by Article XII, consular convention of 1871 between the United States and Germany	161
United States naval: passage through Kaiser Wilhelm Canal	184
visit of:	
Brazilian school-ship Benjamin Constant to the United States	27
Chilean training ship General Baquedano to the United States	35
German school-ships Moltke and Stein to United States, Porto Rican, and Cuban ports	190
U. S. S. Brooklyn to Australia and New Zealand on occasion of tour of Duke and Duchess of Cornwall and York	214
U. S. S. Mayflower to the island of Margarita	547
U. S. S. Scorpion to the Orinoco River	541
Victoria, Queen: death of	208
Vineta, German war ship: reception at German legation at Caracas to officers of	554

W.

Wah, Yip: alleged Chinese student: case of	59
Wa, Lam Chung, a Chinese naturalized in Hawaii prior to August 12, 1898, and subsequently residing in China: citizenship of	130
Wiess, Louis: military-service case in Germany	168
Wilhelmina, Queen of the Netherlands: marriage of	416
Woodworth, Lieut. S. E., U. S. Navy: courtesies of Chilean officials in connection with removal of the remains of the late	33
Writ of attachment: previous notice to consuls of service on merchant vessels not required under Article XII, consular convention of 1871 between the United States and Germany	161