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## **Papers relating to the foreign relations of the United States, with the annual message of the president transmitted to Congress December 3, 1900. 1900**

United States Department of State

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# PAPERS

RELATING TO THE

# FOREIGN RELATIONS

OF

THE UNITED STATES,

WITH

THE ANNUAL MESSAGE OF THE PRESIDENT

TRANSMITTED TO CONGRESS

DECEMBER 3, 1900.



WASHINGTON:  
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# MESSAGE.

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*To the Senate and House of Representatives:*

At the outgoing of the old and the incoming of the new century you begin the last session of the Fifty-sixth Congress with evidences on every hand of individual and national prosperity and with proof of the growing strength and increasing power for good of Republican institutions. Your countrymen will join with you in felicitation that American liberty is more firmly established than ever before, and that love for it and the determination to preserve it are more universal than at any former period of our history.

The Republic was never so strong, because never so strongly intrenched in the hearts of the people as now. The Constitution, with few amendments, exists as it left the hands of its authors. The additions which have been made to it proclaim larger freedom and more extended citizenship. Popular government has demonstrated in its one hundred and twenty-four years of trial here its stability and security, and its efficiency as the best instrument of national development and the best safeguard to human rights.

When the Sixth Congress assembled in November, 1800, the population of the United States was 5,308,483. It is now 76,304,799. Then we had sixteen States. Now we have forty-five. Then our territory consisted of 909,050 square miles. It is now 3,846,595 square miles. Education, religion, and morality have kept pace with our advancement in other directions, and while extending its power the Government has adhered to its foundation principles and abated none of them in dealing with our new peoples and possessions. A nation so preserved and blessed gives reverent thanks to God and invokes His guidance and the continuance of His care and favor.

In our foreign intercourse the dominant question has been the treatment of the Chinese problem. Apart from this our relations with the powers have been happy.

The recent troubles in China spring from the antiforeign agitation which for the past three years has gained strength in the northern provinces. Their origin lies deep in the character of the Chinese races and in the traditions of their Government. The T'ai-ping rebellion and the opening of Chinese ports to foreign trade and settlement disturbed alike the homogeneity and the seclusion of China.

Meanwhile foreign activity made itself felt in all quarters, not alone on the coast, but along the great river arteries and in the remoter districts, carrying new ideas and introducing new associations among a primitive people which had pursued for centuries a national policy of isolation.

The telegraph and the railway spreading over their land, the steamers plying on their waterways, the merchant and the missionary penetrating year by year farther to the interior, became to the Chinese mind types of an alien invasion, changing the course of their national life and fraught with vague forebodings of disaster to their beliefs and their self-control.

For several years before the present troubles all the resources of foreign diplomacy, backed by moral demonstrations of the physical force of fleets and arms, have been needed to secure due respect for the treaty rights of foreigners and to obtain satisfaction from the responsible authorities for the sporadic outrages upon the persons and property of unoffending sojourners, which from time to time occurred at widely separated points in the northern provinces, as in the case of the outbreaks in Sze-chuen and Shan-tung.

Posting of antiforeign placards became a daily occurrence, which the repeated reprobation of the Imperial power failed to check or punish. These inflammatory appeals to the ignorance and superstition of the masses, mendacious and absurd in their accusations and deeply hostile in their spirit, could not but work cumulative harm. They aimed at no particular class of foreigners; they were impartial in attacking everything foreign.

An outbreak in Shan-tung, in which German missionaries were slain, was the too natural result of these malevolent teachings. The posting of seditious placards, exhorting to the utter destruction of foreigners and of every foreign thing, continued unrebuked. Hostile demonstrations toward the stranger gained strength by organization.

The sect, commonly styled the Boxers, developed greatly in the provinces north of the Yang-Tse, and with the collusion of many notable officials, including some in the immediate councils of the Throne itself, became alarmingly aggressive. No foreigner's life,



outside of the protected treaty ports, was safe. No foreign interest was secure from spoliation.

The diplomatic representatives of the powers in Peking strove in vain to check this movement. Protest was followed by demand and demand by renewed protest, to be met with perfunctory edicts from the Palace and evasive and futile assurances from the Tsung-li Yamen. The circle of the Boxer influence narrowed about Peking, and while nominally stigmatized as seditious, it was felt that its spirit pervaded the capital itself, that the Imperial forces were imbued with its doctrines, and that the immediate counselors of the Empress Dowager were in full sympathy with the antforeign movement.

The increasing gravity of the conditions in China and the imminence of peril to our own diversified interests in the Empire, as well as to those of all the other treaty governments, were soon appreciated by this Government, causing it profound solicitude. The United States from the earliest days of foreign intercourse with China had followed a policy of peace, omitting no occasions to testify good will, to further the extension of lawful trade, to respect the sovereignty of its Government, and to insure by all legitimate and kindly but earnest means the fullest measure of protection for the lives and property of our law-abiding citizens and for the exercise of their beneficent callings among the Chinese people.

Mindful of this, it was felt to be appropriate that our purposes should be pronounced in favor of such course as would hasten united action of the powers at Peking to promote the administrative reforms so greatly needed for strengthening the Imperial Government and maintaining the integrity of China, in which we believed the whole western world to be alike concerned. To these ends I caused to be addressed to the several powers occupying territory and maintaining spheres of influence in China the circular proposals of 1899, inviting from them declarations of their intentions and views as to the desirability of the adoption of measures insuring the benefits of equality of treatment of all foreign trade throughout China.

With gratifying unanimity the responses coincided in this common policy, enabling me to see in the successful termination of these negotiations proof of the friendly spirit which animates the various powers interested in the untrammelled development of commerce and industry in the Chinese Empire as a source of vast benefit to the whole commercial world.

In this conclusion, which I had the gratification to announce as a completed engagement to the interested powers on March 20, 1900, I hopefully discerned a potential factor for the abatement of the distrust of foreign purposes which for a year past had appeared to inspire the policy of the Imperial Government, and for the effective exertion by it of power and authority to quell the critical antiforeign movement in the northern provinces most immediately influenced by the Manchu sentiment.

Seeking to testify confidence in the willingness and ability of the Imperial administration to redress the wrongs and prevent the evils we suffered and feared, the marine guard, which had been sent to Peking in the autumn of 1899 for the protection of the legation, was withdrawn at the earliest practicable moment, and all pending questions were remitted, as far as we were concerned, to the ordinary resorts of diplomatic intercourse.

The Chinese Government proved, however, unable to check the rising strength of the Boxers and appeared to be a prey to internal dissensions. In the unequal contest the antiforeign influences soon gained the ascendancy under the leadership of Prince Tuan. Organized armies of Boxers, with which the Imperial forces affiliated, held the country between Peking and the coast, penetrated into Manchuria up to the Russian borders, and through their emissaries threatened a like rising throughout northern China.

Attacks upon foreigners, destruction of their property, and slaughter of native converts were reported from all sides. The Tsung-li Yamen, already permeated with hostile sympathies, could make no effective response to the appeals of the legations. At this critical juncture, in the early spring of this year, a proposal was made by the other powers that a combined fleet should be assembled in Chinese waters as a moral demonstration, under cover of which to exact of the Chinese Government respect for foreign treaty rights and the suppression of the Boxers.

The United States, while not participating in the joint demonstration, promptly sent from the Philippines all ships that could be spared for service on the Chinese coast. A small force of marines was landed at Taku and sent to Peking for the protection of the American legation. Other powers took similar action, until some four hundred men were assembled in the capital as legation guards.

Still the peril increased. The legations reported the development of the seditious movement in Peking and the need of increased provision for defense against it. While preparations were in progress for a larger expedition, to strengthen the legation guards and keep the railway open, an attempt of the foreign ships to make a landing

at Taku was met by a fire from the Chinese forts. The forts were thereupon shelled by the foreign vessels, the American admiral taking no part in the attack, on the ground that we were not at war with China and that a hostile demonstration might consolidate the antiforeign elements and strengthen the Boxers to oppose the relieving column.

Two days later the Taku forts were captured after a sanguinary conflict. Severance of communication with Peking followed, and a combined force of additional guards, which was advancing to Peking by the Pei-Ho, was checked at Langfang. The isolation of the legations was complete.

The siege and the relief of the legations has passed into undying history. In all the stirring chapter which records the heroism of the devoted band, clinging to hope in the face of despair, and the undaunted spirit that led their relievers through battle and suffering to the goal, it is a memory of which my countrymen may be justly proud that the honor of our flag was maintained alike in the siege and the rescue, and that stout American hearts have again set high, in fervent emulation with true men of other race and language, the indomitable courage that ever strives for the cause of right and justice.

By June 19th the legations were cut off. An identical note from the Yamen ordered each minister to leave Peking, under a promised escort, within twenty-four hours. To gain time they replied, asking prolongation of the time, which was afterwards granted, and requesting an interview with the Tsung-li Yamen on the following day. No reply being received, on the morning of the 20th the German minister, Baron von Ketteler, set out for the Yamen to obtain a response, and on the way was murdered.

An attempt by the legation guard to recover his body was foiled by the Chinese. Armed forces turned out against the legations. Their quarters were surrounded and attacked. The mission compounds were abandoned, their inmates taking refuge in the British legation, where all the other legations and guards gathered for more effective defense. Four hundred persons were crowded in its narrow compass. Two thousand native converts were assembled in a near-by palace under protection of the foreigners. Lines of defense were strengthened, trenches dug, barricades raised, and preparations made to stand a siege, which at once began.

From June 20th until July 17th, writes Minister Conger, "there was scarcely an hour during which there was not firing upon some part of our lines and into some of the legations, varying from a single shot to a general and continuous attack along the whole

line." Artillery was placed around the legations and on the overlooking palace walls, and thousands of 3-inch shot and shell were fired, destroying some buildings and damaging all. So thickly did the balls rain that, when the ammunition of the besieged ran low, five quarts of Chinese bullets were gathered in an hour in one compound and recast.

Attempts were made to burn the legations by setting neighboring houses on fire, but the flames were successfully fought off, although the Austrian, Belgian, Italian, and Dutch legations were then and subsequently burned. With the aid of the native converts, directed by the missionaries, to whose helpful cooperation Mr. Conger awards unstinted praise, the British legation was made a veritable fortress. The British minister, Sir Claude MacDonald, was chosen general commander of the defense, with the secretary of the American legation, Mr. E. G. Squiers, as chief of staff.

To save life and ammunition the besieged sparingly returned the incessant fire of the Chinese soldiery, fighting only to repel attack or make an occasional successful sortie for strategic advantage, such as that of fifty-five American, British, and Russian marines led by Captain Myers, of the United States Marine Corps, which resulted in the capture of a formidable barricade on the wall that gravely menaced the American position. It was held to the last, and proved an invaluable acquisition, because commanding the water gate through which the relief column entered.

During the siege the defenders lost 65 killed, 135 wounded, and 7 by disease—the last all children.

On July 14th the besieged had their first communication with the Tsung-li Yamen, from whom a message came inviting to a conference, which was declined. Correspondence, however, ensued and a sort of armistice was agreed upon, which stopped the bombardment and lessened the rifle fire for a time. Even then no protection whatever was afforded, nor any aid given, save to send to the legations a small supply of fruit and three sacks of flour.

Indeed, the only communication had with the Chinese Government related to the occasional delivery or dispatch of a telegram or to the demands of the Tsung-li Yamen for the withdrawal of the legations to the coast under escort. Not only are the protestations of the Chinese Government that it protected and succored the legations positively contradicted, but irresistible proof accumulates that the attacks upon them were made by Imperial troops, regularly uniformed, armed, and officered, belonging to the command of Jung Lu, the Imperial commander in chief. Decrees encouraging the Boxers, organizing them under prominent Imperial

officers, provisioning them, and even granting them large sums in the name of the Empress Dowager, are known to exist. Members of the Tsung-li Yamen who counseled protection of the foreigners were beheaded. Even in the distant provinces men suspected of foreign sympathy were put to death, prominent among these being Chang Yen-hoon, formerly Chinese minister in Washington.

With the negotiation of the partial armistice of July 14th, a proceeding which was doubtless promoted by the representations of the Chinese envoy in Washington, the way was opened for the conveyance to Mr. Conger of a test message sent by the Secretary of State through the kind offices of Minister Wu Ting-fang. Mr. Conger's reply, dispatched from Peking on July 18th through the same channel, afforded to the outside world the first tidings that the inmates of the legations were still alive and hoping for succor.

This news stimulated the preparations for a joint relief expedition in numbers sufficient to overcome the resistance which for a month had been organizing between Taku and the capital. Reinforcements sent by all the cooperating governments were constantly arriving. The United States contingent, hastily assembled from the Philippines or dispatched from this country, amounted to some 5,000 men, under the able command first of the lamented Colonel Liscum and afterwards of General Chaffee.

Toward the end of July the movement began. A severe conflict followed at Tientsin, in which Colonel Liscum was killed. The city was stormed and partly destroyed. Its capture afforded the base of operations from which to make the final advance, which began in the first days of August, the expedition being made up of Japanese, Russian, British, and American troops at the outset.

Another battle was fought and won at Yangtsun. Thereafter the disheartened Chinese troops offered little show of resistance. A few days later the important position of Ho-si-woo was taken. A rapid march brought the united forces to the populous city of Tung Chow, which capitulated without a contest.

On August 14th the capital was reached. After a brief conflict beneath the walls the relief column entered and the legations were saved. The United States soldiers, sailors, and marines, officers and men alike, in those distant climes and unusual surroundings, showed the same valor, discipline, and good conduct and gave proof of the same high degree of intelligence and efficiency which have distinguished them in every emergency.

The Imperial family and the Government had fled a few days before. The city was without visible control. The remaining Imperial soldiery had made on the night of the 13th a last attempt

to exterminate the besieged, which was gallantly repelled. It fell to the occupying forces to restore order and organize a provisional administration.

Happily the acute disturbances were confined to the northern provinces. It is a relief to recall and a pleasure to record the loyal conduct of the viceroys and local authorities of the southern and eastern provinces. Their efforts were continuously directed to the pacific control of the vast populations under their rule and to the scrupulous observance of foreign treaty rights. At critical moments they did not hesitate to memorialize the Throne, urging the protection of the legations, the restoration of communication, and the assertion of the Imperial authority against the subversive elements. They maintained excellent relations with the official representatives of foreign powers. To their kindly disposition is largely due the success of the consuls in removing many of the missionaries from the interior to places of safety. In this relation the action of the consuls should be highly commended. In Shan-tung and eastern Chi-li the task was difficult, but, thanks to their energy and the cooperation of American and foreign naval commanders, hundreds of foreigners, including those of other nationalities than ours, were rescued from imminent peril.

The policy of the United States through all this trying period was clearly announced and scrupulously carried out. A circular note to the powers dated July 3d proclaimed our attitude. Treating the condition in the north as one of virtual anarchy, in which the great provinces of the south and southeast had no share, we regarded the local authorities in the latter quarters as representing the Chinese people with whom we sought to remain in peace and friendship. Our declared aims involved no war against the Chinese nation. We adhered to the legitimate office of rescuing the imperiled legation, obtaining redress for wrongs already suffered, securing wherever possible the safety of American life and property in China, and preventing a spread of the disorders or their recurrence.

As was then said, "The policy of the Government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international law, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire."

Faithful to those professions which, as it proved, reflected the views and purposes of the other cooperating governments, all our efforts have been directed toward ending the anomalous situation in China by negotiations for a settlement at the earliest possible

moment. As soon as the sacred duty of relieving our legation and its dependents was accomplished we withdrew from active hostilities, leaving our legation under an adequate guard in Peking as a channel of negotiation and settlement—a course adopted by others of the interested powers. Overtures of the empowered representatives of the Chinese Emperor have been considerably entertained.

The Russian proposition looking to the restoration of the Imperial power in Peking has been accepted as in full consonance with our own desires, for we have held and hold that effective reparation for wrongs suffered and an enduring settlement that will make their recurrence impossible can best be brought about under an authority which the Chinese nation reverences and obeys. While so doing we forego no jot of our undoubted right to exact exemplary and deterrent punishment of the responsible authors and abettors of the criminal acts whereby we and other nations have suffered grievous injury.

For the real culprits, the evil counselors who have misled the Imperial judgment and diverted the sovereign authority to their own guilty ends, full expiation becomes imperative within the rational limits of retributive justice. Regarding this as the initial condition of an acceptable settlement between China and the powers, I said in my message of October 18th to the Chinese Emperor:

I trust that negotiations may begin so soon as we and the other offended governments shall be effectively satisfied of Your Majesty's ability and power to treat with just sternness the principal offenders, who are doubly culpable, not alone toward the foreigners, but toward Your Majesty, under whose rule the purpose of China to dwell in concord with the world had hitherto found expression in the welcome and protection assured to strangers.

Taking, as a point of departure, the Imperial edict appointing Earl Li Hung Chang and Prince Ching plenipotentiaries to arrange a settlement, and the edict of September 25th, whereby certain high officials were designated for punishment, this Government has moved, in concert with the other powers, toward the opening of negotiations, which Mr. Conger, assisted by Mr. Rockhill, has been authorized to conduct on behalf of the United States.

General bases of negotiation formulated by the Government of the French Republic have been accepted with certain reservations as to details, made necessary by our own circumstances, but, like similar reservations by other powers, open to discussion in the progress of the negotiations. The disposition of the Emperor's Government to admit liability for wrongs done to foreign governments and their nationals, and to act upon such additional designa-

tion of the guilty persons as the foreign ministers at Peking may be in a position to make, gives hope of a complete settlement of all questions involved, assuring foreign rights of residence and intercourse on terms of equality for all the world.

I regard as one of the essential factors of a durable adjustment the securing of adequate guarantees for liberty of faith, since insecurity of those natives who may embrace alien creeds is a scarcely less effectual assault upon the rights of foreign worship and teaching than would be the direct invasion thereof.

The matter of indemnity for our wronged citizens is a question of grave concern. Measured in money alone, a sufficient reparation may prove to be beyond the ability of China to meet. All the powers concur in emphatic disclaimers of any purpose of aggrandizement through the dismemberment of the Empire. I am disposed to think that due compensation may be made in part by increased guarantees of security for foreign rights and immunities, and, most important of all, by the opening of China to the equal commerce of all the world. These views have been and will be earnestly advocated by our representatives.

The Government of Russia has put forward a suggestion, that in the event of protracted divergence of views in regard to indemnities the matter may be relegated to the Court of Arbitration at The Hague. I favorably incline to this, believing that high tribunal could not fail to reach a solution no less conducive to the stability and enlarged prosperity of China itself than immediately beneficial to the powers.

Ratifications of a treaty of extradition with the Argentine Republic were exchanged on June 2d last.

While the Austro-Hungarian Government has in the many cases that have been reported of the arrest of our naturalized citizens for alleged evasion of military service faithfully observed the provisions of the treaty and released such persons from military obligations, it has in some instances expelled those whose presence in the community of their origin was asserted to have a pernicious influence. Representations have been made against this course whenever its adoption has appeared unduly onerous.

We have been urgently solicited by Belgium to ratify the International Convention of June, 1899, amendatory of the previous Convention of 1890 in respect to the regulation of the liquor trade in Africa. Compliance was necessarily withheld, in the absence of the



advice and consent of the Senate thereto. The principle involved has the cordial sympathy of this Government, which in the revisionary negotiations advocated more drastic measures, and I would gladly see its extension, by international agreement, to the restriction of the liquor traffic with all uncivilized peoples, especially in the Western Pacific.

A conference will be held at Brussels December 11th, 1900, under the Convention for the protection of industrial property, concluded at Paris March 20th, 1883, to which delegates from this country have been appointed. Any lessening of the difficulties that our inventors encounter in obtaining patents abroad for their inventions and that our farmers, manufacturers, and merchants may have in the protection of their trade-marks is worthy of careful consideration, and your attention will be called to the results of the conference at the proper time.

In the interest of expanding trade between this country and South America, efforts have been made during the past year to conclude conventions with the southern republics for the enlargement of postal facilities. Two such agreements, signed with Bolivia on April 24th, of which that establishing the money-order system is undergoing certain changes suggested by the Post-Office Department, have not yet been ratified by this Government. A treaty of extradition with that country, signed on the same day, is before the Senate.

A boundary dispute between Brazil and Bolivia over the territory of Acre is in a fair way of friendly adjustment, a protocol signed in December, 1899, having agreed on a definite frontier and provided for its demarcation by a joint commission.

Conditions in Brazil have weighed heavily on our export trade to that country in marked contrast to the favorable conditions upon which Brazilian products are admitted into our markets. Urgent representations have been made to that Government on the subject and some amelioration has been effected. We rely upon the reciprocal justice and good will of that Government to assure to us a further improvement in our commercial relations.

The Convention signed May 24, 1897, for the final settlement of claims left in abeyance upon the dissolution of the Commission of 1893, was at length ratified by the Chilean Congress and the supplemental Commission has been organized.

It remains for the Congress to appropriate for the necessary expenses of the Commission.

The insurrectionary movement which disturbed Colombia in the latter part of 1899 has been practically suppressed, although guerrillas still operate in some departments. The executive power of that Republic changed hands in August last by the act of Vice-President Marroquin in assuming the reins of government during the absence of President San Clemente from the capital. The change met with no serious opposition, and, following the precedents in such cases, the United States minister entered into relations with the new de facto Government on September 17th.

It is gratifying to announce that the residual questions between Costa Rica and Nicaragua growing out of the Award of President Cleveland in 1888 have been adjusted through the choice of an American engineer, General E. P. Alexander, as umpire to run the disputed line. His task has been accomplished to the satisfaction of both contestants.

A revolution in the Dominican Republic toward the close of last year resulted in the installation of President Jimenez, whose Government was formally recognized in January. Since then final payment has been made of the American claim in regard to the Ozama bridge.

The year of the Exposition has been fruitful in occasions for displaying the good will that exists between this country and France. This great competition brought together from every nation the best in natural productions, industry, science, and the arts, submitted in generous rivalry to a judgment made all the more searching because of that rivalry. The extraordinary increase of exportations from this country during the past three years and the activity with which our inventions and wares had invaded new markets caused much interest to center upon the American exhibit, and every encouragement was offered in the way of space and facilities to permit of its being comprehensive as a whole and complete in every part.

It was, however, not an easy task to assemble exhibits that could fitly illustrate our diversified resources and manufactures. Singularly enough, our national prosperity lessened the incentive to exhibit. The dealer in raw materials knew that the user must come to him; the great factories were contented with the phenomenal demand for their output, not alone at home, but also abroad, where merit had already won a profitable trade.

Appeals had to be made to the patriotism of exhibitors to induce

them to incur outlays promising no immediate return. This was especially the case where it became needful to complete an industrial sequence or illustrate a class of processes. One manufacturer after another had to be visited and importuned, and at times, after a promise to exhibit in a particular section had been obtained, it would be withdrawn, owing to pressure of trade orders, and a new quest would have to be made.

The installation of exhibits, too, encountered many obstacles and involved unexpected cost. The Exposition was far from ready at the date fixed for its opening. The French transportation lines were congested with offered freight. Belated goods had to be hastily installed in unfinished quarters with whatever labor could be obtained in the prevailing confusion. Nor was the task of the Commission lightened by the fact that, owing to the scheme of classification adopted, it was impossible to have the entire exhibit of any one country in the same building or more than one group of exhibits in the same part of any building. Our installations were scattered on both sides of the Seine and in widely remote suburbs of Paris, so that additional assistants were needed for the work of supervision and arrangement.

Despite all these drawbacks the contribution of the United States was not only the largest foreign display, but was among the earliest in place and the most orderly in arrangement. Our exhibits were shown in one hundred and one out of one hundred and twenty-one classes; and more completely covered the entire classification than those of any other nation. In total number they ranked next after those of France, and the attractive form in which they were presented secured general attention.

A criterion of the extent and success of our participation and of the thoroughness with which our exhibits were organized is seen in the awards granted to American exhibitors by the international jury, namely, grand prizes, 240; gold medals, 597; silver medals, 776; bronze medals, 541, and honorable mentions, 322—2,476 in all, being the greatest total number given to the exhibit of any exhibiting nation, as well as the largest number in each grade. This significant recognition of merit in competition with the chosen exhibits of all other nations and at the hands of juries almost wholly made up of representatives of France and other competing countries is not only most gratifying, but is especially valuable, since it sets us to the front in international questions of supply and demand, while the large proportion of awards in the classes of art and artistic manufactures afforded unexpected proof of the stimulation of national culture by the prosperity that flows from natural productiveness joined to industrial excellence.

Apart from the Exposition several occasions for showing international good will occurred. The inauguration in Paris of the Lafayette Monument, presented by the school children of the United States, and the designing of a commemorative coin by our Mint and the presentation of the first piece struck to the President of the Republic, were marked by appropriate ceremonies, and the Fourth of July was especially observed in the French capital.

Good will prevails in our relations with the German Empire. An amicable adjustment of the long-pending question of the admission of our life-insurance companies to do business in Prussia has been reached. One of the principal companies has already been readmitted and the way is opened for the others to share the privilege.

The settlement of the Samoan problem, to which I adverted in my last Message, has accomplished good results. Peace and contentment prevail in the islands, especially in Tutuila, where a convenient administration that has won the confidence and esteem of the kindly disposed natives has been organized under the direction of the commander of the United States naval station at Pago-Pago.

An Imperial meat-inspection law has been enacted for Germany. While it may simplify the inspections, it prohibits certain products heretofore admitted. There is still great uncertainty as to whether our well-nigh extinguished German trade in meat products can revive under its new burdens. Much will depend upon regulations not yet promulgated, which we confidently hope will be free from the discriminations which attended the enforcement of the old statutes.

The remaining link in the new lines of direct telegraphic communication between the United States and the German Empire has recently been completed, affording a gratifying occasion for exchange of friendly congratulations with the German Emperor.

Our friendly relations with Great Britain continue. The war in Southern Africa introduced important questions. A condition unusual in international wars was presented in that while one belligerent had control of the seas, the other had no ports, shipping, or direct trade, but was only accessible through the territory of a neutral. Vexatious questions arose through Great Britain's action in respect to neutral cargoes, not contraband in their own nature, shipped to Portuguese South Africa, on the score of probable or suspected ultimate destination to the Boer States.

Such consignments in British ships, by which alone direct trade is kept up between our ports and Southern Africa, were seized in application of a municipal law prohibiting British vessels from trading with the enemy without regard to any contraband character of the goods, while cargoes shipped to Delagoa Bay in neutral bottoms were arrested on the ground of alleged destination to enemy's country. Appropriate representations on our part resulted in the British Government agreeing to purchase outright all such goods shown to be the actual property of American citizens, thus closing the incident to the satisfaction of the immediately interested parties, although, unfortunately, without a broad settlement of the question of a neutral's right to send goods not contraband *per se* to a neutral port adjacent to a belligerent area.

The work of marking certain provisional boundary points, for convenience of administration, around the head of Lynn Canal, in accordance with the temporary arrangement of October, 1899, was completed by a joint survey in July last. The *modus vivendi* has so far worked without friction, and the Dominion Government has provided rules and regulations for securing to our citizens the benefit of the reciprocal stipulation that the citizens or subjects of either power found by that arrangement within the temporary jurisdiction of the other shall suffer no diminution of the rights and privileges they have hitherto enjoyed. But however necessary such an expedient may have been to tide over the grave emergencies of the situation, it is at best but an unsatisfactory makeshift, which should not be suffered to delay the speedy and complete establishment of the frontier line to which we are entitled under the Russo-American treaty for the cession of Alaska.

In this relation I may refer again to the need of definitely marking the Alaskan boundary where it follows the one hundred and forty-first meridian. A convention to that end has been before the Senate for some two years, but as no action has been taken I contemplate negotiating a new convention for a joint determination of the meridian by telegraphic observations. These, it is believed, will give more accurate and unquestionable results than the sidereal methods heretofore independently followed, which, as is known, proved discrepant at several points on the line, although not varying at any place more than 700 feet.

The pending claim of R. H. May against the Guatemalan Government has been settled by arbitration, Mr. George F. B. Jenner, British minister at Guatemala, who was chosen as sole arbitrator, having awarded \$143,750.73 in gold to the claimant.

Various American claims against Haiti have been or are being advanced to the resort of arbitration.

As the result of negotiations with the Government of Honduras in regard to the indemnity demanded for the murder of Frank H. Pears in Honduras, that Government has paid \$10,000 in settlement of the claim of the heirs.

The assassination of King Humbert called forth sincere expressions of sorrow from this Government and people, and occasion was fitly taken to testify to the Italian nation the high regard here felt for the memory of the lamented ruler.

In my last Message I referred at considerable length to the lynching of five Italians at Tallulah. Notwithstanding the efforts of the Federal Government, the production of evidence tending to inculcate the authors of this grievous offense against our civilization, and the repeated inquests set on foot by the authorities of the State of Louisiana, no punishments have followed. Successive grand juries have failed to indict. The representations of the Italian Government in the face of this miscarriage have been most temperate and just.

Setting the principle at issue high above all consideration of merely pecuniary indemnification, such as this Government made in the three previous cases, Italy has solemnly invoked the pledges of existing treaty and asked that the justice to which she is entitled shall be meted in regard to her unfortunate countrymen in our territory with the same full measure she herself would give to any American were his reciprocal treaty rights contemned.

I renew the urgent recommendations I made last year that the Congress appropriately confer upon the Federal courts jurisdiction in this class of international cases where the ultimate responsibility of the Federal Government may be involved, and I invite action upon the bills to accomplish this which were introduced in the Senate and House. It is incumbent upon us to remedy the statutory omission which has led, and may again lead, to such untoward results. I have pointed out the necessity and the precedent for legislation of this character. Its enactment is a simple measure of previsory justice toward the nations with which we as a sovereign equal make treaties requiring reciprocal observance.

While the Italian Government naturally regards such action as the primary and, indeed, the most essential element in the disposal of the Tallulah incident, I advise that, in accordance with precedent, and in view of the improbability of that particular case being

reached by the bill now pending, Congress make gracious provision for indemnity to the Italian sufferers in the same form and proportion as heretofore.

In my Inaugural Address I referred to the general subject of lynching in these words:

Lynching must not be tolerated in a great and civilized country like the United States; courts, not mobs, must execute the penalties of the law. The preservation of public order, the right of discussion, the integrity of courts, and the orderly administration of justice must continue forever the rock of safety upon which our Government securely rests.

This I most urgently reiterate and again invite the attention of my countrymen to this reproach upon our civilization.

The closing year has witnessed a decided strengthening of Japan's relations to other States. The development of her independent judicial and administrative functions under the treaties which took effect July 17, 1899, has proceeded without international friction, showing the competence of the Japanese to hold a foremost place among modern peoples.

In the treatment of the difficult Chinese problems Japan has acted in harmonious concert with the other Powers, and her generous cooperation materially aided in the joint relief of the beleaguered legations in Peking and in bringing about an understanding preliminary to a settlement of the issues between the Powers and China. Japan's declarations in favor of the integrity of the Chinese Empire and the conservation of open world trade therewith have been frank and positive. As a factor for promoting the general interests of peace, order, and fair commerce in the Far East the influence of Japan can hardly be overestimated.

The valuable aid and kindly courtesies extended by the Japanese Government and naval officers to the battle ship *Oregon* are gratefully appreciated.

Complaint was made last summer of the discriminatory enforcement of a bubonic quarantine against Japanese on the Pacific coast and of interference with their travel in California and Colorado under the health laws of those States. The latter restrictions have been adjudged by a Federal court to be unconstitutional. No recurrence of either cause of complaint is apprehended.

No noteworthy incident has occurred in our relations with our important southern neighbor. Commercial intercourse with Mexico continues to thrive, and the two Governments neglect no opportunity to foster their mutual interests in all practicable ways.

Pursuant to the declaration of the Supreme Court that the awards of the late Joint Commission in the La Abra and Weil claims were obtained through fraud, the sum awarded in the first case, \$403,030.08, has been returned to Mexico, and the amount of the Weil award will be returned in like manner.

A Convention indefinitely extending the time for the labors of the United States and Mexican International (Water) Boundary Commission has been signed.

It is with satisfaction that I am able to announce the formal notification at The Hague, on September 4, of the deposit of ratifications of the Convention for the Pacific Settlement of International Disputes by sixteen Powers, namely, the United States, Austria, Belgium, Denmark, England, France, Germany, Italy, Persia, Portugal, Roumania, Russia, Siam, Spain, Sweden and Norway, and the Netherlands. Japan also has since ratified the Convention.

The Administrative Council of the Permanent Court of Arbitration has been organized and has adopted rules of order and a constitution for the International Arbitration Bureau. In accordance with Article XXIII of the Convention providing for the appointment by each signatory power of persons of known competency in questions of international law as arbitrators, I have appointed as members of this Court, Hon. Benjamin Harrison, of Indiana, ex-President of the United States; Hon. Melville W. Fuller, of Illinois, Chief Justice of the United States; Hon. John W. Griggs, of New Jersey, Attorney-General of the United States; and Hon. George Gray, of Delaware, a judge of the circuit court of the United States.

As an incident of the brief revolution in the Mosquito district of Nicaragua early in 1899 the insurgents forcibly collected from American merchants duties upon imports. On the restoration of order the Nicaraguan authorities demanded a second payment of such duties on the ground that they were due to the titular Government and that their diversion had aided the revolt.

This position was not accepted by us. After prolonged discussion a compromise was effected under which the amount of the second payments was deposited with the British consul at San Juan del Norte in trust until the two Governments should determine whether the first payments had been made under compulsion to a *de facto* authority. Agreement as to this was not reached, and the point was waived by the act of the Nicaraguan Government in requesting the British consul to return the deposits to the merchants.

Menacing differences between several of the Central American



States have been accommodated, our ministers rendering good offices toward an understanding.

The all-important matter of an interoceanic canal has assumed a new phase. Adhering to its refusal to reopen the question of the forfeiture of the contract of the Maritime Canal Company, which was terminated for alleged nonexecution in October, 1899, the Government of Nicaragua has since supplemented that action by declaring the so-styled Eyre-Cragin option void for nonpayment of the stipulated advance. Protests in relation to these acts have been filed in the State Department and are under consideration. Deeming itself relieved from existing engagements, the Nicaraguan Government shows a disposition to deal freely with the canal question either in the way of negotiations with the United States or by taking measures to promote the waterway.

Overtures for a convention to effect the building of a canal under the auspices of the United States are under consideration. In the meantime, the views of the Congress upon the general subject, in the light of the report of the Commission appointed to examine the comparative merits of the various trans-Isthmian ship-canal projects, may be awaited.

I commend to the early attention of the Senate the Convention with Great Britain to facilitate the construction of such a canal and to remove any objection which might arise out of the Convention commonly called the Clayton-Bulwer Treaty.

The long-standing contention with Portugal, growing out of the seizure of the Delagoa Bay Railway, has been at last determined by a favorable award of the tribunal of arbitration at Berne, to which it was submitted. The amount of the award, which was deposited in London awaiting arrangements by the Governments of the United States and Great Britain for its disposal, has recently been paid over to the two Governments.

A lately signed Convention of Extradition with Peru as amended by the Senate has been ratified by the Peruvian Congress.

Another illustration of the policy of this Government to refer international disputes to impartial arbitration is seen in the agreement reached with Russia to submit the claims on behalf of American sealing vessels seized in Bering Sea to determination by Mr. T. M. C. Asser, a distinguished statesman and jurist of the Netherlands.

Thanks are due to the Imperial Russian Government for the kindly aid rendered by its authorities in eastern Siberia to American missionaries fleeing from Manchuria.

Satisfactory progress has been made toward the conclusion of a general treaty of friendship and intercourse with Spain, in replacement of the old treaty, which passed into abeyance by reason of the late war. A new convention of extradition is approaching completion, and I should be much pleased were a commercial arrangement to follow. I feel that we should not suffer to pass any opportunity to reaffirm the cordial ties that existed between us and Spain from the time of our earliest independence, and to enhance the mutual benefits of that commercial intercourse which is natural between the two countries.

By the terms of the Treaty of Peace the line bounding the ceded Philippine group in the southwest failed to include several small islands lying westward of the Sulús, which have always been recognized as under Spanish control. The occupation of Sibutú and Cagayan Sulú by our naval forces elicited a claim on the part of Spain, the essential equity of which could not be gainsaid. In order to cure the defect of the treaty by removing all possible ground of future misunderstanding respecting the interpretation of its third article, I directed the negotiation of a supplementary treaty, which will be forthwith laid before the Senate, whereby Spain quits all title and claim of title to the islands named as well as to any and all islands belonging to the Philippine Archipelago lying outside the lines described in said third article, and agrees that all such islands shall be comprehended in the cession of the archipelago as fully as if they had been expressly included within those lines. In consideration of this cession the United States is to pay to Spain the sum of \$100,000.

A bill is now pending to effect the recommendation made in my last Annual Message that appropriate legislation be had to carry into execution Article VII of the Treaty of Peace with Spain, by which the United States assumed the payment of certain claims for indemnity of its citizens against Spain. I ask that action be taken to fulfill this obligation.

The King of Sweden and Norway has accepted the joint invitation of the United States, Germany, and Great Britain to arbitrate claims growing out of losses sustained in the Samoan Islands in the course of military operations made necessary by the disturbances in 1899.

Our claims upon the Government of the Sultan for reparation for injuries suffered by American citizens in Armenia and elsewhere give promise of early and satisfactory settlement. His Majesty's good disposition in this regard has been evinced by the issuance of an iradé for rebuilding the American college at Harpoot.

The failure of action by the Senate at its last session upon the commercial conventions then submitted for its consideration and approval, although caused by the great pressure of other legislative business, has caused much disappointment to the agricultural and industrial interests of the country, which hoped to profit by their provisions. The conventional periods for their ratification having expired, it became necessary to sign additional articles extending the time for that purpose. This was requested on our part, and the other governments interested have concurred with the exception of one convention, in respect to which no formal reply has been received.

Since my last communication to the Congress on this subject special commercial agreements under the third section of the tariff act have been proclaimed with Portugal, with Italy, and with Germany. Commercial conventions under the general limitations of the fourth section of the same act have been concluded with Nicaragua, with Ecuador, with the Dominican Republic, with Great Britain on behalf of the island of Trinidad, and with Denmark on behalf of the island of St. Croix. These will be early communicated to the Senate. Negotiations with other governments are in progress for the improvement and security of our commercial relations.

The policy of reciprocity so manifestly rests upon the principles of international equity and has been so repeatedly approved by the people of the United States that there ought to be no hesitation in either branch of the Congress in giving to it full effect.

This Government desires to preserve the most just and amicable commercial relations with all foreign countries, unmoved by the industrial rivalries necessarily developed in the expansion of international trade. It is believed that the foreign governments generally entertain the same purpose, although in some instances there are clamorous demands upon them for legislation specifically hostile to American interests. Should these demands prevail I shall communicate with the Congress with the view of advising such legislation as may be necessary to meet the emergency.

The Exposition of the resources and products of the Western Hemisphere to be held at Buffalo next year promises important results not only for the United States but for the other participating countries.

It is gratifying that the Latin-American States have evinced the liveliest interest, and the fact that an international American congress will be held in the City of Mexico while the Exposition is in progress encourages the hope of a larger display at Buffalo than might otherwise be practicable. The work of preparing an exhibit of our national resources is making satisfactory progress under the direction of different officials of the Federal Government, and the various States of the Union have shown a disposition toward the most liberal participation in the enterprise.

The Bureau of the American Republics continues to discharge, with the happiest results, the important work of promoting cordial relations between the United States and the Latin-American countries, all of which are now active members of the International Union. The Bureau has been instrumental in bringing about the agreement for another international American congress, which is to meet in the City of Mexico in October, 1901. The Bureau's future for another term of ten years is assured by the international compact, but the congress will doubtless have much to do with shaping new lines of work and a general policy. Its usefulness to the interests of Latin-American trade is widely appreciated and shows a gratifying development.

The practical utility of the consular service in obtaining a wide range of information as to the industries and commerce of other countries and the opportunities thereby afforded for introducing the sale of our goods have kept steadily in advance of the notable expansion of our foreign trade, and abundant evidence has been furnished, both at home and abroad, of the fact that the Consular Reports, including many from our diplomatic representatives, have to a considerable extent pointed out ways and means of disposing of a great variety of manufactured goods which otherwise might not have found sale abroad.

Testimony of foreign observers to the commercial efficiency of the consular corps seems to be conclusive, and our own manufacturers and exporters highly appreciate the value of the services rendered not only in the printed reports but also in the individual efforts of consular officers to promote American trade. An increasing part of the work of the Bureau of Foreign Commerce, whose primary duty it is to compile and print the reports, is to answer inquiries from trade organizations, business houses, etc., as to conditions in various parts of the world, and, notwithstanding the smallness of the force employed, the work has been so systematized

that responses are made with such promptitude and accuracy as to elicit flattering encomiums. The experiment of printing the Consular Reports daily for immediate use by trade bodies, exporters, and the press, which was begun in January, 1898, continues to give general satisfaction.

It is gratifying to be able to state that the surplus revenues for the fiscal year ended June 30, 1900, were \$79,527,060.18. For the six preceding years we had only deficits, the aggregate of which from 1894 to 1899, inclusive, amounted to \$283,022,991.14. The receipts for the year from all sources, exclusive of postal revenues, aggregated \$567,240,851.89, and expenditures for all purposes, except for the administration of the postal department, aggregated \$487,713,791.71. The receipts from customs were \$233,164,871.16, an increase over the preceding year of \$27,036,389.41. The receipts from internal revenue were \$295,327,926.76, an increase of \$21,890,765.25 over 1899. The receipts from miscellaneous sources were \$38,748,053.97, as against \$36,394,976.92 for the previous year.

It is gratifying also to note that during the year a considerable reduction is shown in the expenditures of the Government. The War Department expenditures for the fiscal year 1900 were \$134,774,767.78, a reduction of \$95,066,486.69 over those of 1899. In the Navy Department the expenditures were \$55,953,077.72 for the year 1900, as against \$63,942,104.25 for the preceding year, a decrease of \$7,989,026.53. In the expenditures on account of Indians there was a decrease in 1900 over 1899 of \$2,630,604.38; and in the civil and miscellaneous expenses for 1900 there was a reduction of \$13,418,065.74.

Because of the excess of revenues over expenditures the Secretary of the Treasury was enabled to apply bonds and other securities to the sinking fund to the amount of \$56,544,556.06. The details of the sinking fund are set forth in the report of the Secretary of the Treasury, to which I invite attention. The Secretary of the Treasury estimates that the receipts for the current fiscal year will aggregate \$580,000,000 and the expenditures \$500,000,000, leaving an excess of revenues over expenditures of \$80,000,000. The present condition of the Treasury is one of undoubted strength. The available cash balance November 30 was \$139,303,794.50. Under the form of statement prior to the financial law of March 14 last there would have been included in the statement of available cash gold coin and bullion held for the redemption of United States notes.

If this form were pursued, the cash balance, including the present gold reserve of \$150,000,000, would be \$289,303,794.50. Such bal-

ance November 30, 1899, was \$296,495,301.55. In the general fund, which is wholly separate from the reserve and trust funds, there was on November 30, \$70,090,073.15 in gold coin and bullion, to which should be added \$22,957,300 in gold certificates subject to issue, against which there is held in the Division of Redemption gold coin and bullion, making a total holding of free gold amounting to \$93,047,373.15.

It will be the duty as I am sure it will be the disposition of the Congress to provide whatever further legislation is needed to insure the continued parity under all conditions between our two forms of metallic money, silver and gold.

Our surplus revenues have permitted the Secretary of the Treasury since the close of the fiscal year to call in the funded loan of 1891 continued at 2 per cent, in the sum of \$25,364,500. To and including November 30, \$23,458,100 of these bonds have been paid. This sum, together with the amount which may accrue from further redemptions under the call, will be applied to the sinking fund.

The law of March 14, 1900, provided for refunding into 2 per cent thirty-year bonds, payable, principal and interest, in gold coin of the present standard value, that portion of the public debt represented by the 3 per cent bonds of 1908, the 4 percents of 1907, and the 5 percents of 1904, of which there was outstanding at the date of said law \$839,149,930. The holders of the old bonds presented them for exchange between March 14 and November 30 to the amount of \$364,943,750. The net saving to the Government on these transactions aggregates \$9,106,166.

Another effect of the operation, as stated by the Secretary, is to reduce the charge upon the Treasury for the payment of interest from the dates of refunding to February 1, 1904, by the sum of more than seven million dollars annually. From February 1, 1904, to July 1, 1907, the annual interest charge will be reduced by the sum of more than five millions, and for the thirteen months ending August 1, 1908, by about one million. The full details of the refunding are given in the Annual Report of the Secretary of the Treasury.

The beneficial effect of the financial act of 1900, so far as it relates to a modification of the national banking act, is already apparent. The provision for the incorporation of national banks with a capital of not less than \$25,000 in places not exceeding three thousand inhabitants has resulted in the extension of banking facilities to many small communities hitherto unable to provide themselves with banking institutions under the national system. There were organized

from the enactment of the law up to and including November 30, 369 national banks, of which 266 were with capital less than \$50,000, and 103 with capital of \$50,000 or more.

It is worthy of mention that the greater number of banks being organized under the new law are in sections where the need of banking facilities has been most pronounced. Iowa stands first, with 30 banks of the smaller class, while Texas, Oklahoma, Indian Territory, and the middle and western sections of the country have also availed themselves largely of the privileges under the new law.

A large increase in national-bank-note circulation has resulted from the provision of the act which permits national banks to issue circulating notes to the par value of the United States bonds deposited as security instead of only 90 per cent thereof, as heretofore. The increase in circulating notes from March 14 to November 30 is \$77,889,570.

The party in power is committed to such legislation as will better make the currency responsive to the varying needs of business at all seasons and in all sections.

Our foreign trade shows a remarkable record of commercial and industrial progress. The total of imports and exports for the first time in the history of the country exceeded two billions of dollars. The exports are greater than they have ever been before, the total for the fiscal year 1900 being \$1,394,483,082, an increase over 1899 of \$167,459,780, an increase over 1898 of \$163,000,752, over 1897 of \$343,489,526, and greater than 1896 by \$511,876,144.

The growth of manufactures in the United States is evidenced by the fact that exports of manufactured products largely exceed those of any previous year, their value for 1900 being \$433,851,756, against \$339,592,146 in 1899, an increase of 28 per cent.

Agricultural products were also exported during 1900 in greater volume than in 1899, the total for the year being \$835,858,123, against \$784,776,142 in 1899.

The imports for the year amounted to \$849,941,184, an increase over 1899 of \$152,792,695. This increase is largely in materials for manufacture, and is in response to the rapid development of manufacturing in the United States. While there was imported for use in manufactures in 1900 material to the value of \$79,768,972 in excess of 1899, it is reassuring to observe that there is a tendency toward decrease in the importation of articles manufactured ready for consumption, which in 1900 formed 15.17 per cent of the total imports, against 15.54 per cent in 1899 and 21.09 per cent in 1896.

I recommend that the Congress at its present session reduce the internal-revenue taxes imposed to meet the expenses of the war with Spain in the sum of thirty millions of dollars. This reduction should be secured by the remission of those taxes which experience has shown to be the most burdensome to the industries of the people.

I specially urge that there be included in whatever reduction is made the legacy tax on bequests for public uses of a literary, educational, or charitable character.

American vessels during the past three years have carried about 9 per cent of our exports and imports. Foreign ships should carry the least, not the greatest, part of American trade. The remarkable growth of our steel industries, the progress of shipbuilding for the domestic trade, and our steadily maintained expenditures for the Navy have created an opportunity to place the United States in the first rank of commercial maritime powers.

Besides realizing a proper national aspiration this will mean the establishment and healthy growth along all our coasts of a distinctive national industry, expanding the field for the profitable employment of labor and capital. It will increase the transportation facilities and reduce freight charges on the vast volume of products brought from the interior to the seaboard for export, and will strengthen an arm of the national defense upon which the founders of the Government and their successors have relied. In again urging immediate action by the Congress on measures to promote American shipping and foreign trade, I direct attention to the recommendations on the subject in previous messages, and particularly to the opinion expressed in the Message of 1899:

I am satisfied the judgment of the country favors the policy of aid to our merchant marine, which will broaden our commerce and markets and upbuild our sea-carrying capacity for the products of agriculture and manufacture, which, with the increase of our Navy, mean more work and wages to our countrymen, as well as a safeguard to American interests in every part of the world.

The attention of the Congress is invited to the recommendation of the Secretary of the Treasury in his Annual Report for legislation in behalf of the Revenue-Cutter Service, and favorable action is urged.

In my last Annual Message to the Congress I called attention to the necessity for early action to remedy such evils as might be found to exist in connection with combinations of capital organized into



trusts, and again invite attention to my discussion of the subject at that time, which concluded with these words:

It is apparent that uniformity of legislation upon this subject in the several States is much to be desired. It is to be hoped that such uniformity, founded in a wise and just discrimination between what is injurious and what is useful and necessary in business operations, may be obtained, and that means may be found for the Congress, within the limitations of its constitutional power, so to supplement an effective code of State legislation as to make a complete system of laws throughout the United States adequate to compel a general observance of the salutary rules to which I have referred.

The whole question is so important and far-reaching that I am sure no part of it will be lightly considered, but every phase of it will have the studied deliberation of the Congress, resulting in wise and judicious action.

Restraint upon such combinations as are injurious, and which are within Federal jurisdiction, should be promptly applied by the Congress.

In my last Annual Message I dwelt at some length upon the condition of affairs in the Philippines. While seeking to impress upon you that the grave responsibility of the future government of those islands rests with the Congress of the United States, I abstained from recommending at that time a specific and final form of government for the territory actually held by the United States forces and in which as long as insurrection continues the military arm must necessarily be supreme. I stated my purpose, until the Congress shall have made the formal expression of its will, to use the authority vested in me by the Constitution and the statutes to uphold the sovereignty of the United States in those distant islands as in all other places where our flag rightfully floats, placing, to that end, at the disposal of the Army and Navy all the means which the liberality of the Congress and the people have provided. No contrary expression of the will of the Congress having been made, I have steadfastly pursued the purpose so declared, employing the civil arm as well toward the accomplishment of pacification and the institution of local governments within the lines of authority and law.

Progress in the hoped-for direction has been favorable. Our forces have successfully controlled the greater part of the islands, overcoming the organized forces of the insurgents and carrying order and administrative regularity to all quarters. What opposition remains is for the most part scattered, obeying no concerted plan of strategic action, operating only by the methods common to the traditions of guerrilla warfare, which, while ineffective to alter the

general control now established, are still sufficient to beget insecurity among the populations that have felt the good results of our control and thus delay the conferment upon them of the fuller measures of local self-government, of education, and of industrial and agricultural development which we stand ready to give to them.

By the spring of this year the effective opposition of the dissatisfied Tagals to the authority of the United States was virtually ended, thus opening the door for the extension of a stable administration over much of the territory of the Archipelago. Desiring to bring this about, I appointed in March last a civil Commission composed of the Hon. William H. Taft, of Ohio; Prof. Dean C. Worcester, of Michigan; the Hon. Luke I. Wright, of Tennessee; the Hon. Henry C. Ide, of Vermont, and Prof. Bernard Moses, of California. The aims of their mission and the scope of their authority are clearly set forth in my instructions of April 7, 1900, addressed to the Secretary of War to be transmitted to them:

In the Message transmitted to the Congress on the 5th of December, 1899, I said, speaking of the Philippine Islands: "As long as the insurrection continues the military arm must necessarily be supreme. But there is no reason why steps should not be taken from time to time to inaugurate governments essentially popular in their form as fast as territory is held and controlled by our troops. To this end I am considering the advisability of the return of the Commission, or such of the members thereof as can be secured, to aid the existing authorities and facilitate this work throughout the islands."

To give effect to the intention thus expressed, I have appointed Hon. William H. Taft, of Ohio; Prof. Dean C. Worcester, of Michigan; Hon. Luke I. Wright, of Tennessee; Hon. Henry C. Ide, of Vermont, and Prof. Bernard Moses, of California, Commissioners to the Philippine Islands to continue and perfect the work of organizing and establishing civil government already commenced by the military authorities, subject in all respects to any laws which Congress may hereafter enact.

The Commissioners named will meet and act as a board, and the Hon. William H. Taft is designated as president of the board. It is probable that the transfer of authority from military commanders to civil officers will be gradual and will occupy a considerable period. Its successful accomplishment and the maintenance of peace and order in the meantime will require the most perfect cooperation between the civil and military authorities in the island, and both should be directed during the transition period by the same Executive Department. The Commission will therefore report to the Secretary of War, and all their action will be subject to your approval and control.

You will instruct the Commission to proceed to the city of Manila, where they will make their principal office, and to communicate with the Military Governor of the Philippine Islands, whom you will at

the same time direct to render to them every assistance within his power in the performance of their duties. Without hampering them by too specific instructions, they should in general be enjoined, after making themselves familiar with the conditions and needs of the country, to devote their attention in the first instance to the establishment of municipal governments, in which the natives of the islands, both in the cities and in the rural communities, shall be afforded the opportunity to manage their own local affairs to the fullest extent of which they are capable and subject to the least degree of supervision and control which a careful study of their capacities and observation of the workings of native control show to be consistent with the maintenance of law, order, and loyalty.

The next subject in order of importance should be the organization of government in the larger administrative divisions corresponding to counties, departments, or provinces, in which the common interests of many or several municipalities falling within the same tribal lines, or the same natural geographical limits, may best be subserved by a common administration. Whenever the Commission is of the opinion that the condition of affairs in the islands is such that the central administration may safely be transferred from military to civil control they will report that conclusion to you, with their recommendations as to the form of central government to be established for the purpose of taking over the control.

Beginning with the 1st day of September, 1900, the authority to exercise, subject to my approval, through the Secretary of War, that part of the power of government in the Philippine Islands which is of a legislative nature is to be transferred from the Military Governor of the islands to this Commission, to be thereafter exercised by them in the place and stead of the Military Governor, under such rules and regulations as you shall prescribe, until the establishment of the civil central government for the islands contemplated in the last foregoing paragraph, or until Congress shall otherwise provide. Exercise of this legislative authority will include the making of rules and orders, having the effect of law, for the raising of revenue by taxes, customs duties, and imposts; the appropriation and expenditure of public funds of the islands; the establishment of an educational system throughout the islands; the establishment of a system to secure an efficient civil service; the organization and establishment of courts; the organization and establishment of municipal and departmental governments, and all other matters of a civil nature for which the Military Governor is now competent to provide by rules or orders of a legislative character.

The Commission will also have power during the same period to appoint to office such officers under the judicial, educational, and civil-service systems and in the municipal and departmental governments as shall be provided for. Until the complete transfer of control the Military Governor will remain the chief executive head of the government of the islands, and will exercise the executive authority now possessed by him and not herein expressly assigned to the Commission, subject, however, to the rules and orders enacted by the Commission in the exercise of the legislative powers conferred

upon them. In the meantime the municipal and departmental governments will continue to report to the Military Governor and be subject to his administrative supervision and control, under your direction, but that supervision and control will be confined within the narrowest limits consistent with the requirement that the powers of government in the municipalities and departments shall be honestly and effectively exercised and that law and order and individual freedom shall be maintained.

All legislative rules and orders, establishments of government, and appointments to office by the Commission will take effect immediately, or at such times as they shall designate, subject to your approval and action upon the coming in of the Commission's reports, which are to be made from time to time as their action is taken. Wherever civil governments are constituted under the direction of the Commission such military posts, garrisons, and forces will be continued for the suppression of insurrection and brigandage and the maintenance of law and order as the Military Commander shall deem requisite, and the military forces shall be at all times subject, under his orders, to the call of the civil authorities for the maintenance of law and order and the enforcement of their authority.

In the establishment of municipal governments the Commission will take as the basis of their work the governments established by the Military Governor under his order of August 8, 1899, and under the report of the board constituted by the Military Governor by his order of January 29, 1900, to formulate and report a plan of municipal government, of which His Honor Cayetano Arellano, President of the Audiencia, was chairman, and they will give to the conclusions of that board the weight and consideration which the high character and distinguished abilities of its members justify.

In the constitution of departmental or provincial governments they will give especial attention to the existing government of the island of Negros, constituted, with the approval of the people of that island, under the order of the Military Governor of July 22, 1899, and after verifying, so far as may be practicable, the reports of the successful working of that government they will be guided by the experience thus acquired so far as it may be applicable to the condition existing in other portions of the Philippines. They will avail themselves, to the fullest degree practicable, of the conclusions reached by the previous Commission to the Philippines.

In the distribution of powers among the governments organized by the Commission, the presumption is always to be in favor of the smaller subdivision, so that all the powers which can properly be exercised by the municipal government shall be vested in that government, and all the powers of a more general character which can be exercised by the departmental government shall be vested in that government, and so that in the governmental system, which is the result of the process, the central government of the islands, following the example of the distribution of the powers between the States and the National Government of the United States, shall have no direct administration except of matters of purely general concern,

and shall have only such supervision and control over local governments as may be necessary to secure and enforce faithful and efficient administration by local officers.

The many different degrees of civilization and varieties of custom and capacity among the people of the different islands preclude very definite instruction as to the part which the people shall take in the selection of their own officers; but these general rules are to be observed: That in all cases the municipal officers, who administer the local affairs of the people, are to be selected by the people, and that wherever officers of more extended jurisdiction are to be selected in any way, natives of the islands are to be preferred, and if they can be found competent and willing to perform the duties, they are to receive the offices in preference to any others.

It will be necessary to fill some offices for the present with Americans which after a time may well be filled by natives of the islands. As soon as practicable a system for ascertaining the merit and fitness of candidates for civil office should be put in force. An indispensable qualification for all offices and positions of trust and authority in the islands must be absolute and unconditional loyalty to the United States, and absolute and unhampered authority and power to remove and punish any officer deviating from that standard must at all times be retained in the hands of the central authority of the islands.

In all the forms of government and administrative provisions which they are authorized to prescribe the Commission should bear in mind that the government which they are establishing is designed not for our satisfaction, or for the expression of our theoretical views, but for the happiness, peace, and prosperity of the people of the Philippine Islands, and the measures adopted should be made to conform to their customs, their habits, and even their prejudices, to the fullest extent consistent with the accomplishment of the indispensable requisites of just and effective government.

At the same time the Commission should bear in mind, and the people of the islands should be made plainly to understand, that there are certain great principles of government which have been made the basis of our governmental system which we deem essential to the rule of law and the maintenance of individual freedom, and of which they have, unfortunately, been denied the experience possessed by us; that there are also certain practical rules of government which we have found to be essential to the preservation of these great principles of liberty and law, and that these principles and these rules of government must be established and maintained in their islands for the sake of their liberty and happiness, however much they may conflict with the customs or laws of procedure with which they are familiar.

It is evident that the most enlightened thought of the Philippine Islands fully appreciates the importance of these principles and rules, and they will inevitably within a short time command universal assent. Upon every division and branch of the government of the Philippines, therefore, must be imposed these inviolable rules:

That no person shall be deprived of life, liberty, or property without due process of law; that private property shall not be taken for

public use without just compensation; that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense; that excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted; that no person shall be put twice in jeopardy for the same offense, or be compelled in any criminal case to be a witness against himself; that the right to be secure against unreasonable searches and seizures shall not be violated; that neither slavery nor involuntary servitude shall exist except as a punishment for crime; that no bill of attainder or ex-post-facto law shall be passed; that no law shall be passed abridging the freedom of speech or of the press, or the rights of the people to peaceably assemble and petition the Government for a redress of grievances; that no law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof, and that the free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be allowed.

It will be the duty of the Commission to make a thorough investigation into the titles to the large tracts of land held or claimed by individuals or by religious orders; into the justice of the claims and complaints made against such landholders by the people of the island or any part of the people, and to seek by wise and peaceable measures a just settlement of the controversies and redress of wrongs which have caused strife and bloodshed in the past. In the performance of this duty the Commission is enjoined to see that no injustice is done; to have regard for substantial rights and equity, disregarding technicalities so far as substantial right permits, and to observe the following rules:

That the provision of the Treaty of Paris pledging the United States to the protection of all rights of property in the islands, and as well the principle of our own Government which prohibits the taking of private property without due process of law, shall not be violated; that the welfare of the people of the islands, which should be a paramount consideration, shall be attained consistently with this rule of property right; that if it becomes necessary for the public interest of the people of the islands to dispose of claims to property which the Commission finds to be not lawfully acquired and held disposition shall be made thereof by due legal procedure, in which there shall be full opportunity for fair and impartial hearing and judgment; that if the same public interests require the extinguishment of property rights lawfully acquired and held due compensation shall be made out of the public treasury therefor; that no form of religion and no minister of religion shall be forced upon any community or upon any citizen of the islands; that, upon the other hand, no minister of religion shall be interfered with or molested in following his calling, and that the separation between state and church shall be real, entire, and absolute.

It will be the duty of the Commission to promote and extend, and,

as they find occasion, to improve, the system of education already inaugurated by the military authorities. In doing this they should regard as of first importance the extension of a system of primary education which shall be free to all, and which shall tend to fit the people for the duties of citizenship and for the ordinary avocations of a civilized community. This instruction should be given in the first instance in every part of the islands in the language of the people. In view of the great number of languages spoken by the different tribes, it is especially important to the prosperity of the islands that a common medium of communication may be established, and it is obviously desirable that this medium should be the English language. Especial attention should be at once given to affording full opportunity to all the people of the islands to acquire the use of the English language.

It may be well that the main changes which should be made in the system of taxation and in the body of the laws under which the people are governed, except such changes as have already been made by the military government, should be relegated to the civil government which is to be established under the auspices of the Commission. It will, however, be the duty of the Commission to inquire diligently as to whether there are any further changes which ought not to be delayed, and if so, they are authorized to make such changes, subject to your approval. In doing so they are to bear in mind that taxes which tend to penalize or repress industry and enterprise are to be avoided; that provisions for taxation should be simple, so that they may be understood by the people; that they should affect the fewest practicable subjects of taxation which will serve for the general distribution of the burden.

The main body of the laws which regulate the rights and obligations of the people should be maintained with as little interference as possible. Changes made should be mainly in procedure, and in the criminal laws to secure speedy and impartial trials, and at the same time effective administration and respect for individual rights.

In dealing with the uncivilized tribes of the islands the Commission should adopt the same course followed by Congress in permitting the tribes of our North American Indians to maintain their tribal organization and government, and under which many of those tribes are now living in peace and contentment, surrounded by a civilization to which they are unable or unwilling to conform. Such tribal governments should, however, be subjected to wise and firm regulation, and, without undue or petty interference, constant and active effort should be exercised to prevent barbarous practices and introduce civilized customs.

Upon all officers and employees of the United States, both civil and military, should be impressed a sense of the duty to observe not merely the material but the personal and social rights of the people of the islands, and to treat them with the same courtesy and respect for their personal dignity which the people of the United States are accustomed to require from each other.

The articles of capitulation of the city of Manila on the 13th of August, 1898, concluded with these words:

"This city, its inhabitants, its churches and religious worship, its educational establishments, and its private property of all descriptions, are placed under the special safeguard of the faith and honor of the American Army."

I believe that this pledge has been faithfully kept. As high and sacred an obligation rests upon the Government of the United States to give protection for property and life, civil and religious freedom, and wise, firm, and unselfish guidance in the paths of peace and prosperity to all the people of the Philippine Islands. I charge this Commission to labor for the full performance of this obligation, which concerns the honor and conscience of their country, in the firm hope that through their labors all the inhabitants of the Philippine Islands may come to look back with gratitude to the day when God gave victory to American arms at Manila and set their land under the sovereignty and the protection of the people of the United States.

Coincidentally with the entrance of the Commission upon its labors I caused to be issued by General MacArthur, the Military Governor of the Philippines, on June 21, 1900, a proclamation of amnesty in generous terms, of which many of the insurgents took advantage, among them a number of important leaders.

This Commission, composed of eminent citizens representing the diverse geographical and political interests of the country, and bringing to their task the ripe fruits of long and intelligent service in educational, administrative, and judicial careers, made great progress from the outset. As early as August 21, 1900, it submitted a preliminary report, which will be laid before the Congress, and from which it appears that already the good effects of returning order are felt; that business, interrupted by hostilities, is improving as peace extends; that a larger area is under sugar cultivation than ever before; that the customs revenues are greater than at any time during the Spanish rule; that economy and efficiency in the military administration have created a surplus fund of \$6,000,000, available for needed public improvements; that a stringent civil-service law is in preparation; that railroad communications are expanding, opening up rich districts, and that a comprehensive scheme of education is being organized.

Later reports from the Commission show yet more encouraging advance toward insuring the benefits of liberty and good government to the Filipinos, in the interest of humanity and with the aim of building up an enduring, self-supporting, and self-administering community in those far eastern seas. I would impress upon the Congress that whatever legislation may be enacted in respect to



the Philippine Islands should be along these generous lines. The fortune of war has thrown upon this nation an unsought trust which should be unselfishly discharged, and devolved upon this Government a moral as well as material responsibility toward these millions whom we have freed from an oppressive yoke.

I have on another occasion called the Filipinos "the wards of the nation." Our obligation as guardian was not lightly assumed; it must not be otherwise than honestly fulfilled, aiming first of all to benefit those who have come under our fostering care. It is our duty so to treat them that our flag may be no less beloved in the mountains of Luzon and the fertile zones of Mindanao and Negros than it is at home, that there as here it shall be the revered symbol of liberty, enlightenment, and progress in every avenue of development.

The Filipinos are a race quick to learn and to profit by knowledge. He would be rash who, with the teachings of contemporaneous history in view, would fix a limit to the degree of culture and advancement yet within the reach of these people if our duty toward them be faithfully performed.

The civil government of Porto Rico provided for by the act of the Congress approved April 12, 1900, is in successful operation. The courts have been established. The Governor and his associates, working intelligently and harmoniously, are meeting with commendable success.

On the 6th of November a general election was held in the island for members of the Legislature, and the body elected has been called to convene on the first Monday of December.

I recommend that legislation be enacted by the Congress conferring upon the Secretary of the Interior supervision over the public lands in Porto Rico, and that he be directed to ascertain the location and quantity of lands the title to which remained in the Crown of Spain at the date of cession of Porto Rico to the United States, and that appropriations necessary for surveys be made, and that the methods of the disposition of such lands be prescribed by law.

On the 25th of July, 1900, I directed that a call be issued for an election in Cuba for members of a constitutional convention to frame a constitution as a basis for a stable and independent government in the island. In pursuance thereof the Military Governor issued the following instructions:

Whereas the Congress of the United States by its joint resolution of April 20, 1898, declared—

"That the people of the island of Cuba are, and of right ought to be, free and independent.

“That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said island except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of the island to its people;”

And whereas, the people of Cuba have established municipal governments, deriving their authority from the suffrages of the people given under just and equal laws, and are now ready, in like manner, to proceed to the establishment of a general government which shall assume and exercise sovereignty, jurisdiction, and control over the island:

Therefore, it is ordered that a general election be held in the island of Cuba on the third Saturday of September, in the year nineteen hundred, to elect delegates to a convention to meet in the city of Havana at twelve o'clock noon on the first Monday of November, in the year nineteen hundred, to frame and adopt a constitution for the people of Cuba, and as a part thereof to provide for and agree with the Government of the United States upon the relations to exist between that Government and the government of Cuba, and to provide for the election by the people of officers under such constitution and the transfer of government to the officers so elected.

The election will be held in the several voting precincts of the island under, and pursuant to, the provisions of the electoral law of April 18, 1900, and the amendments thereof.

The election was held on the 15th of September, and the convention assembled on the 5th of November, 1900, and is now in session.

In calling the convention to order, the Military Governor of Cuba made the following statement:

As Military Governor of the island, representing the President of the United States, I call this convention to order.

It will be your duty, first, to frame and adopt a constitution for Cuba, and when that has been done to formulate what in your opinion ought to be the relations between Cuba and the United States.

The constitution must be adequate to secure a stable, orderly, and free government.

When you have formulated the relations which in your opinion ought to exist between Cuba and the United States the Government of the United States will doubtless take such action on its part as shall lead to a final and authoritative agreement between the people of the two countries to the promotion of their common interests.

All friends of Cuba will follow your deliberations with the deepest interest, earnestly desiring that you shall reach just conclusions, and that by the dignity, individual self-restraint, and wise conservatism which shall characterize your proceedings the capacity of the Cuban people for representative government may be signally illustrated.

The fundamental distinction between true representative government and dictatorship is that in the former every representative of the people, in whatever office, confines himself strictly within the

limits of his defined powers. Without such restraint there can be no free constitutional government.

Under the order pursuant to which you have been elected and convened you have no duty and no authority to take part in the present government of the island. Your powers are strictly limited by the terms of that order.

When the convention concludes its labors I will transmit to the Congress the constitution as framed by the convention for its consideration and for such action as it may deem advisable.

I renew the recommendation made in my Special Message of February 10, 1899, as to the necessity for cable communication between the United States and Hawaii, with extension to Manila. Since then circumstances have strikingly emphasized this need. Surveys have shown the entire feasibility of a chain of cables which at each stopping place shall touch on American territory, so that the system shall be under our own complete control. Manila once within telegraphic reach, connection with the systems of the Asiatic coast would open increased and profitable opportunities for a more direct cable route from our shores to the Orient than is now afforded by the trans-Atlantic, continental, and trans-Asian lines. I urge attention to this important matter.

The present strength of the Army is 100,000 men—65,000 regulars and 35,000 volunteers. Under the act of March 2, 1899, on the 30th of June next the present volunteer force will be discharged and the Regular Army will be reduced to 2,447 officers and 29,025 enlisted men.

In 1888 a Board of Officers convened by President Cleveland adopted a comprehensive scheme of coast-defense fortifications, which involved the outlay of something over one hundred million dollars. This plan received the approval of the Congress, and since then regular appropriations have been made and the work of fortification has steadily progressed.

More than sixty millions of dollars have been invested in a great number of forts and guns, with all the complicated and scientific machinery and electrical appliances necessary for their use. The proper care of this defensive machinery requires men trained in its use. The number of men necessary to perform this duty alone is ascertained by the War Department, at a minimum allowance, to be 18,420.

There are fifty-eight or more military posts in the United States other than the coast-defense fortifications.

The number of these posts is being constantly increased by the Congress. More than \$22,000,000 have been expended in building and equipment, and they can only be cared for by the Regular Army. The posts now in existence and others to be built provide for accommodations for, and if fully garrisoned require, 26,000 troops. Many of these posts are along our frontier or at important strategic points, the occupation of which is necessary.

We have in Cuba between 5,000 and 6,000 troops. For the present our troops in that island can not be withdrawn or materially diminished, and certainly not until the conclusion of the labors of the constitutional convention now in session and a government provided by the new constitution shall have been established and its stability assured.

In Porto Rico we have reduced the garrisons to 1,636, which includes 879 native troops. There is no room for further reduction here.

We will be required to keep a considerable force in the Philippine Islands for some time to come. From the best information obtainable we will need there for the immediate future from 45,000 to 60,000 men. I am sure the number may be reduced as the insurgents shall come to acknowledge the authority of the United States, of which there are assuring indications.

It must be apparent that we will require an army of about 60,000, and that during present conditions in Cuba and the Philippines the President should have authority to increase the force to the present number of 100,000. Included in this number authority should be given to raise native troops in the Philippines up to 15,000, which the Taft Commission believe will be more effective in detecting and suppressing guerrillas, assassins, and ladrones than our own soldiers.

The full discussion of this subject by the Secretary of War in his Annual Report is called to your earnest attention.

I renew the recommendation made in my last Annual Message that the Congress provide a special medal of honor for the volunteers, regulars, sailors, and marines on duty in the Philippines who voluntarily remained in the service after their terms of enlistment had expired.

I favor the recommendation of the Secretary of War for the detail of officers from the line of the Army when vacancies occur in the Adjutant-General's Department, Inspector-General's Department, Quartermaster's Department, Subsistence Department, Pay Department, Ordnance Department, and Signal Corps.

The Army can not be too highly commended for its faithful and effective service in active military operations in the field and the difficult work of civil administration.

The continued and rapid growth of the postal service is a sure index of the great and increasing business activity of the country. Its most striking new development is the extension of rural free delivery. This has come almost wholly within the last year. At the beginning of the fiscal year 1899-1900 the number of routes in operation was only 391, and most of these had been running less than twelve months. On the 15th of November, 1900, the number had increased to 2,614, reaching into forty-four States and Territories, and serving a population of 1,801,524. The number of applications now pending and awaiting action nearly equals all those granted up to the present time, and by the close of the current fiscal year about 4,000 routes will have been established, providing for the daily delivery of mails at the scattered homes of about three and a half millions of rural population.

This service ameliorates the isolation of farm life, conduces to good roads, and quickens and extends the dissemination of general information. Experience thus far has tended to allay the apprehension that it would be so expensive as to forbid its general adoption or make it a serious burden. Its actual application has shown that it increases postal receipts, and can be accompanied by reductions in other branches of the service, so that the augmented revenues and the accomplished savings together materially reduce the net cost. The evidences which point to these conclusions are presented in detail in the Annual Report of the Postmaster-General, which with its recommendations is commended to the consideration of the Congress. The full development of this special service, however, requires such a large outlay of money that it should be undertaken only after a careful study and thorough understanding of all that it involves.

Very efficient service has been rendered by the Navy in connection with the insurrection in the Philippines and the recent disturbance in China.

A very satisfactory settlement has been made of the long-pending question of the manufacture of armor plate. A reasonable price has been secured and the necessity for a Government armor plant avoided.

I approve of the recommendations of the Secretary for new vessels and for additional officers and men which the required increase of the Navy makes necessary. I commend to the favorable action of the Congress the measure now pending for the erection of a statue to the memory of the late Admiral David D. Porter. I commend also the establishment of a national naval reserve and of the grade

of vice-admiral. Provision should be made, as recommended by the Secretary, for suitable rewards for special merit. Many officers who rendered the most distinguished service during the recent war with Spain have received in return no recognition from the Congress.

The total area of public lands as given by the Secretary of the Interior is approximately 1,071,881,662 acres, of which 917,135,880 acres are undisposed of and 154,745,782 acres have been reserved for various purposes. The public lands disposed of during the year amount to 13,453,887.96 acres, including 62,423.09 acres of Indian lands, an increase of 4,271,474.80 over the preceding year. The total receipts from the sale of public lands during the fiscal year were \$4,379,758.10, an increase of \$1,309,620.76 over the preceding year.

The results obtained from our forest policy have demonstrated its wisdom and the necessity in the interest of the public for its continuance and increased appropriations by the Congress for the carrying on of the work. On June 30, 1900, there were thirty-seven forest reserves, created by Presidential proclamations under section 24 of the act of March 3, 1891, embracing an area of 46,425,529 acres.

During the past year the Olympic Reserve, in the State of Washington, was reduced 265,040 acres, leaving its present area at 1,923,840 acres. The Prescott Reserve, in Arizona, was increased from 10,240 acres to 423,680 acres, and the Big Horn Reserve, in Wyoming, was increased from 1,127,680 acres to 1,180,800 acres. A new reserve, the Santa Ynez, in California, embracing an area of 145,000 acres, was created during this year. On October 10, 1900, the Crow Creek Forest Reserve, in Wyoming, was created, with an area of 56,320 acres.

At the end of the fiscal year there were on the pension roll 993,529 names, a net increase of 2,010 over the fiscal year 1899. The number added to the rolls during the year was 45,344. The amount disbursed for army pensions during the year was \$134,700,597.24, and for navy pensions \$3,761,533.41, a total of \$138,462,130.65, leaving an unexpended balance of \$5,542,768.25 to be covered into the Treasury, which shows an increase over the previous year's expenditure of \$107,077.70. There were 684 names added to the rolls during the year by special acts passed at the first session of the Fifty-sixth Congress.

The act of May 9, 1900, among other things provides for an extension of income to widows pensioned under said act to \$250 per annum. The Secretary of the Interior believes that by the

operations of this act the number of persons pensioned under it will increase and the increased annual payment for pensions will be between \$3,000,000 and \$4,000,000.

The Government justly appreciates the services of its soldiers and sailors by making pension payments liberal beyond precedent to them, their widows and orphans.

There were 26,540 letters patent granted, including reissues and designs, during the fiscal year ended June 30, 1900; 1,660 trademarks, 682 labels, and 93 prints registered. The number of patents which expired was 19,988. The total receipts for patents were \$1,358,228.35. The expenditures were \$1,247,827.58, showing a surplus of \$110,400.77.

The attention of the Congress is called to the report of the Secretary of the Interior touching the necessity for the further establishment of schools in the Territory of Alaska, and favorable action is invited thereon.

Much interesting information is given in the report of the Governor of Hawaii as to the progress and development of the islands during the period from July 7, 1898, the date of the approval of the joint resolution of the Congress providing for their annexation, up to April 30, 1900, the date of the approval of the act providing a government for the Territory, and thereafter.

The last Hawaiian census, taken in the year 1896, gives a total population of 109,020, of which 31,019 were native Hawaiians. The number of Americans reported was 8,485. The results of the Federal census, taken this year, show the islands to have a total population of 154,001, showing an increase over that reported in 1896 of 44,981, or 41.2 per cent.

There has been marked progress in the educational, agricultural, and railroad development of the islands.

In the Territorial act of April 30, 1900, section 7 of said act repeals Chapter 34 of the Civil Laws of Hawaii, whereby the Government was to assist in encouraging and developing the agricultural resources of the Republic, especially irrigation. The Governor of Hawaii recommends legislation looking to the development of such water supply as may exist on the public lands, with a view of promoting land settlement. The earnest consideration of the Congress is invited to this important recommendation and others, as embodied in the report of the Secretary of the Interior.

The Director of the Census states that the work in connection with the Twelfth Census is progressing favorably. This national

undertaking, ordered by the Congress each decade, has finally resulted in the collection of an aggregation of statistical facts to determine the industrial growth of the country, its manufacturing and mechanical resources, its richness in mines and forests, the number of its agriculturists, their farms and products, its educational and religious opportunities, as well as questions pertaining to sociological conditions.

The labors of the officials in charge of the Bureau indicate that the four important and most-desired subjects, namely, population, agricultural, manufacturing, and vital statistics, will be completed within the limit prescribed by the law of March 3, 1899.

The field work incident to the above inquiries is now practically finished, and as a result the population of the States and Territories, including the Hawaiian Islands and Alaska, has been announced. The growth of population during the last decade amounts to over 13,000,000, a greater numerical increase than in any previous census in the history of the country.

Bulletins will be issued as rapidly as possible giving the population by States and Territories, by minor civil divisions. Several announcements of this kind have already been made, and it is hoped that the list will be completed by January 1. Other bulletins giving the results of the manufacturing and agricultural inquiries will be given to the public as rapidly as circumstances will admit.

The Director, while confident of his ability to complete the different branches of the undertaking in the allotted time, finds himself embarrassed by the lack of a trained force properly equipped for statistical work, thus raising the question whether in the interest of economy and a thorough execution of the census work there should not be retained in the Government employ a certain number of experts not only to aid in the preliminary organization prior to the taking of the decennial census, but in addition to have the advantage in the field and office work of the Bureau of trained assistants to facilitate the early completion of this enormous undertaking.

I recommend that the Congress at its present session apportion representation among the several States as provided by the Constitution.

The Department of Agriculture has been extending its work during the past year, reaching farther for new varieties of seeds and plants; cooperating more fully with the States and Territories in research along useful lines; making progress in meteorological work relating to lines of wireless telegraphy and forecasts for ocean-going vessels; continuing inquiry as to animal disease; looking into



the extent and character of food adulteration; outlining plans for the care, preservation, and intelligent harvesting of our woodlands; studying soils that producers may cultivate with better knowledge of conditions, and helping to clothe desert places with grasses suitable to our arid regions. Our island possessions are being considered that their peoples may be helped to produce the tropical products now so extensively brought into the United States. Inquiry into methods of improving our roads has been active during the year; help has been given to many localities, and scientific investigation of material in the States and Territories has been inaugurated. Irrigation problems in our semiarid regions are receiving careful and increased consideration.

An extensive exhibit at Paris of the products of agriculture has made the peoples of many countries more familiar with the varied products of our fields and their comparative excellence.

The collection of statistics regarding our crops is being improved and sources of information are being enlarged, to the end that producers may have the earliest advices regarding crop conditions. There has never been a time when those for whom it was established have shown more appreciation of the services of the Department.

In my Annual Message of December 5, 1898, I called attention to the necessity for some amendment of the alien contract law. There still remain important features of the rightful application of the eight-hour law for the benefit of labor and of the principle of arbitration, and I again commend these subjects to the careful attention of the Congress.

That there may be secured the best service possible in the Philippine Islands, I have issued, under date of November 30, 1900, the following order:

The United States Civil Service Commission is directed to render such assistance as may be practicable to the Civil Service Board, created under the act of the United States Philippine Commission, for the establishment and maintenance of an honest and efficient civil service in the Philippine Islands, and for that purpose to conduct examinations for the civil service of the Philippine Islands, upon the request of the Civil Service Board of said islands, under such regulations as may be agreed upon by the said Board and the said United States Civil Service Commission.

The Civil Service Commission is greatly embarrassed in its work for want of an adequate permanent force for clerical and other assistance. Its needs are fully set forth in its report. I invite atten-

tion to the report, and especially urge upon the Congress that this important bureau of the public service, which passes upon the qualifications and character of so large a number of the officers and employees of the Government, should be supported by all needed appropriations to secure promptness and efficiency.

I am very much impressed with the statement made by the heads of all the Departments of the urgent necessity of a hall of public records. In every departmental building in Washington, so far as I am informed, the space for official records is not only exhausted, but the walls of rooms are lined with shelves, the middle floor space of many rooms is filled with file cases, and garrets and basements, which were never intended and are unfitted for their accommodation, are crowded with them. Aside from the inconvenience there is great danger, not only from fire, but from the weight of these records upon timbers not intended for their support. There should be a separate building especially designed for the purpose of receiving and preserving the annually accumulating archives of the several Executive Departments. Such a hall need not be a costly structure, but should be so arranged as to admit of enlargement from time to time. I urgently recommend that the Congress take early action in this matter.

I transmit to the Congress a resolution adopted at a recent meeting of the American Bar Association concerning the proposed celebration of John Marshall Day, February 4, 1901. Fitting exercises have been arranged, and it is earnestly desired by the committee that the Congress may participate in this movement to honor the memory of the great jurist.

The transfer of the Government to this city is a fact of great historical interest. Among the people there is a feeling of genuine pride in the Capital of the Republic.

It is a matter of interest in this connection that in 1800 the population of the District of Columbia was 14,093; to-day it is 278,718. The population of the city of Washington was then 3,210; to-day it is 218,196.

The Congress having provided for "an appropriate national celebration of the Centennial Anniversary of the Establishment of the Seat of Government in the District of Columbia," the committees authorized by it have prepared a programme for the 12th of December, 1900, which date has been selected as the anniversary day. Deep interest has been shown in the arrangements for the celebration

by the members of the committees of the Senate and House of Representatives, the committee of Governors appointed by the President, and the committees appointed by the citizens and inhabitants of the District of Columbia generally. The programme, in addition to a reception and other exercises at the Executive Mansion, provides commemorative exercises to be held jointly by the Senate and House of Representatives in the Hall of the House of Representatives, and a reception in the evening at the Corcoran Gallery of Art in honor of the Governors of the States and Territories.

In our great prosperity we must guard against the danger it invites of extravagance in Government expenditures and appropriations; and the chosen representatives of the people will, I doubt not, furnish an example in their legislation of that wise economy which in a season of plenty husbands for the future. In this era of great business activity and opportunity caution is not untimely. It will not abate, but strengthen, confidence. It will not retard, but promote, legitimate industrial and commercial expansion. Our growing power brings with it temptations and perils requiring constant vigilance to avoid. It must not be used to invite conflicts, nor for oppression, but for the more effective maintenance of those principles of equality and justice upon which our institutions and happiness depend. Let us keep always in mind that the foundation of our Government is liberty; its superstructure peace.

WILLIAM MCKINLEY.

EXECUTIVE MANSION,  
*December 3, 1900.*



# LIST OF PAPERS, WITH SUBJECTS OF CORRESPONDENCE.

## ARGENTINE REPUBLIC.

No.	From and to whom.	Date.	Subject.	Page.
769	Mr. Jones to Mr. Hay.....	1900. Feb. 3	Interference with official duties of foreign representatives in matters of quarantine and bills of health. Reports fruitless action of diplomatic corps toward having objectional clause in sanitary decree stricken out, and requests instructions.	1
507	Mr. Hay to Mr. Jones.....	Feb. 27	Courtesies to U. S. S. <i>Chicago</i> at Buenos Ayres. Department is pleased to learn of.	7
508	Mr. Hay to Mr. Lord.....	Mar. 15	Same subject. Incloses letter from Navy Department transmitting one from commander in chief of South Atlantic Station expressing gratification at.	7
14	Same to same.....	May 8	Interference with official duties of foreign representatives in matters of quarantine and bills of health. Approves action reported in No. 769, and incloses Department's instruction to consul at Buenos Ayres, showing its views on the subject.	6
23	Mr. Lord to Mr. Hay.....	May 10	Message of the President of the Argentine Republic. Transmits that part relating to foreign relations.	8
	Mr. Wilde to Mr. Hay.....	June 18	Visit of Argentine school-ship <i>Presidente Sarmiento</i> to the United States. Desires to present officers to the President and Secretaries of State and Navy.	10
3	Mr. Hay to Mr. Wilde.....	June 20	Same subject. Responds favorably to above note.	10
4	Same to same.....	June 28	Same subject. Incloses letters from Secretary of the Navy to officers in his Department, directing that courtesies be shown on occasion of.	10
48	Mr. Lord to Mr. Hay.....	July 25	Same subject. Reports gratification of Argentine minister of marine at courtesies extended.	11

## AUSTRIA-HUNGARY.

68	Mr. Harris to Mr. Hay.....	1900. Jan. 2	Effect of naturalization of a husband or father on wife or minor children. Discusses question, and asks whether passport may issue.	12
65	Mr. Hay to Mr. Harris.....	Jan. 22	Same subject. Department concludes that the children acquire citizenship if they reside in or come to the United States during minority.	13
80	Mr. Harris to Mr. Hay.....	Mar. 21	Expulsion of Gustav Wolf Louis Fischer. Austrian Government admits that it is ordered merely as an "example." Legation contends that Fischer is exempt from punishment. Incloses correspondence.	16
86	Same to same.....	Apr. 9	Military service case of Franz Rath, who went to the United States with a "pass" after performing active service, became a naturalized citizen, and is declared a deserter because he failed to answer a call for the reserve. Submits case for instructions.	29
79	Mr. Hay to Mr. Harris.....	Apr. 13	Expulsion of Gustav W. L. Fischer. Compares situation in Germany, and while admitting right of expulsion if presence of naturalized citizen be pernicious, Department can not consent to treaty being amended to comply with domestic requirement as to permission for emigration that came after it, nor that expulsion of naturalized citizens be ordered for "example."	18

## AUSTRIA-HUNGARY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
86	Mr. Hay to Mr. Harris.....	1900. May 10	Military service case of Franz Rath. Naturalized citizens, except when they come under one of the three provisions of Article II of the treaty, are exempt from service and from punishment for nonfulfillment of same.	30
98	Mr. Harris to Mr. Hay.....	June 27	Expulsion of Gustav W. L. Fischer. Austrian foreign office has been informed that cause is not considered sufficient for expulsion. Incloses correspondence.	19
	Mr. Hay to Mr. Herdlika (telegram).	July 3	China. Negotiations for the restoration of order. Outlines policy of the United States and instructs to communicate it to minister for foreign affairs.	299
	Mr. Herdlika to Mr. Hay (telegram).	July 4	Same subject. Above telegram has been communicated to foreign office.	299
96	Mr. Hay to Mr. Harris.....	July 19	Expulsion of Gustav W. L. Fischer. Discusses case in general light of the treaty and as compared with the polity of Germany in similar cases, disputes the right of Austria to order expulsion of all naturalized citizens, and incloses dispatch No. 1228 from Germany on the general question.	22
115	Mr. Herdlika to Mr. Hay ..	Aug. 4	Offer and acceptance of use of hospital ship <i>Maine</i> for wounded Austrian soldiers. Incloses correspondence.	31
	Mr. Adee to Mr. Herdlika (telegram).	Aug. 8	China. Negotiations for the restoration of order. Transmits text of edict relative to measures for the safety of foreign ministers at Peking, and reply of United States Government.	300
118	Mr. Herdlika to Mr. Hay ..	Aug. 9	Same subject. Reports having communicated above telegram to foreign office.	301
	Mr. Hengelmüller to Mr. Adee.	Aug. 11	Same subject. Acknowledges circular note of August 9. Austrian Government concurs in views of the United States.	308
	Mr. Adee to Mr. Herdlika (telegram).	Aug. 12	Same subject. Transmits text of memorandum handed to Chinese minister in reply to edict announcing Li Hung Chang as commissioner to negotiate for suspension of hostilities.	301
120	Mr. Herdlika to Mr. Hay ..	Aug. 13	Same subject. Reports having communicated above telegram to foreign office.	302
	Mr. Adee to Mr. Herdlika (telegram).	Aug. 22	Same subject. Gives substance of Li Hung Chang's proposition for negotiations and text of reply given to Chinese legation. Asks whether Austria has received similar proposition, and what reply was made.	302
123	Mr. Herdlika to Mr. Hay...	Aug. 25	Same subject. Replying to above telegram, states that Austria has received similar proposals, but does not intend to answer them.	303
	Mr. Adee to Mr. Herdlika (telegram).	Aug. 29	Same subject. Intention of Russia to withdraw minister and troops from Peking. Gives substance of oral statement of Russian chargé and text of memorandum sent him in reply.	304
	Mr. Herdlika to Mr. Hay (telegram).	Sept. 8	Same subject. Austria hopes that an agreement will be arrived at by the powers as to date of withdrawal of foreign contingents from Peking.	305
106	Mr. Hill to Mr. Herdlika...	Sept. 13	Offer and acceptance of use of hospital ship <i>Maine</i> for wounded Austrian soldiers. Directs that this Government's appreciation be expressed to the executive committee in control of the vessel.	33
	Same to same (telegram)...	Sept. 21	China. Negotiations for the restoration of order. Quotes text of replies made to Chinese, German, and Russian representatives in respect of entering upon negotiations.	305
135	Mr. Herdlika to Mr. Hay...	Sept. 24	Same subject. Replying to above telegram, communicates replies made by Austrian Government to propositions referred to.	306
	Mr. Hay to Mr. Herdlika (telegram).	Oct. 22	Same subject. Gives substance of correspondence with French chargé and of President's reply to message of the Emperor of China.	307
141	Mr. Herdlika to Mr. Hay...	Oct. 24	Same subject. Replying to above telegram, states that American proposition is approved by Austria.	308

## LIST OF PAPERS.

LV

## BELGIUM.

No.	From and to whom.	Date.	Subject.	Page.
38	Mr. Townsend to Mr. Hay ..	1900. Jan. 27	Regulation of the importation of spirituous liquors into certain regions of Africa. Minister of foreign affairs desires adherence of Liberia to convention of June 8, 1899.	34
37	Mr. Hay to Mr. Townsend ..	Mar. 8	Same subject. Incloses instruction to United States minister at Monrovia regarding adhesion of Liberia to convention of June 8, 1899. Adhesion of the United States will not be complete until the Senate shall have passed upon it.	35
47	Mr. Townsend to Mr. Hay ..	Mar. 20	Same subject. Has communicated above instruction to minister for foreign affairs.	36
41	Mr. Hay to Mr. Townsend ..	Apr. 24	Expulsion of Paul Edwards on the ground that he was practicing the art of healing contrary to the laws of Belgium. Incloses Edwards's letter, and requests report.	45
53	Mr. Townsend to Mr. Hay ..	May 8	Same subject. Reports attitude of Belgian Government, and incloses correspondence.	47
43	Mr. Hay to Mr. Townsend ..	May 21	Regulation of the importation of spirituous liquors into certain regions of Africa. Incloses adhesion of Liberia to convention of June 8, 1899.	36
54	Mr. Townsend to Mr. Hay ..	.....do....	Expulsion of Paul Edwards. Incloses clippings from Paris newspaper in regard to Edwards.	52
55	Same to same .....	June 1	Regulation of the importation of spirituous liquors into certain regions of Africa. Has communicated adhesion of Liberia to convention of June 8, 1899, to minister for foreign affairs, who wishes to know when adhesion of United States will reach Brussels.	36
44	Mr. Hay to Mr. Townsend ..	June 2	Expulsion of Paul Edwards. Approves minister's course as reported to Department.	53
57	Mr. Townsend to Mr. Hay ..	June 4	Regulation of the importation of spirituous liquors into certain regions of Africa. Incloses note from minister of foreign affairs expressing thanks for assistance of United States in obtaining adhesion of Liberia to convention of June 8, 1899.	37
45	Mr. Hay to Mr. Townsend ..	June 7	Same subject. Attention of Senate committee has been called to urgency of action on adhesion to convention of June 8, 1899.	37
46	Same to same.....	June 15	Same subject. Senate has adjourned without action on the convention.	38
	Count de Lichtervelde to Mr. Hay.	Aug. 16	China. Negotiations for the restoration of order. Requests consent of the United States to cooperation of a Belgian volunteer corps.	308
239	Mr. Adee to Count de Lichtervelde.	Aug. 22	Same subject. Cooperation of Belgian volunteer corps will be acceptable to United States if necessity therefor arises.	309
	Count de Lichtervelde to Mr. Hay.	Sept. 16	Same subject. Conveys thanks of Belgian Government for part taken by United States forces in release of its legation at Pekin.	310
243	Mr. Hill to Count de Lichtervelde.	Sept. 20	Same subject. Acknowledges above note.....	311
	Mr. Hay to Mr. Townsend (telegram).	Dec. 21	Regulation of the importation of spirituous liquors into certain regions of Africa. Asks if it is too late for United States to adhere to convention.	38
	Mr. Townsend to Mr. Hay (telegram).	Dec. 22	Same subject. It is not too late for United States to adhere to convention.	38
75	Same to same.....	.....do....	Same subject. Confirms above telegram.....	38
62	Mr. Hay to Mr. Townsend..	Dec. 24	Same subject. Instruction to announce to Belgian Government that United States is prepared to adhere to convention of June 8, 1899.	39
77	Mr. Townsend to Mr. Hay..	1901. Jan. 11	Same subject. Reports having complied with above instruction, and incloses list of countries adhering.	39
68	Mr. Hay to Mr. Townsend..	Feb. 5	Same subject. Instruction to deposit formal instrument of adhesion of United States to convention of June 8, 1899.	40
70	Mr. Hill to Mr. Townsend..	Feb. 16	Same subject. Incloses President's proclamation concerning adhesion of United States to convention of June 8, 1899.	40

## BRAZIL.

No.	From and to whom.	Date.	Subject.	Page.
194	Mr. Hay to Mr. Bryan .....	1900. May 23	Law, and repeal of same, prohibiting the importation into Brazil of merchandise bearing Portuguese labels. Incloses correspondence and requests report.	54
195	Mr. Hill to Mr. Bryan.....	May 25	Same subject. Incloses further correspondence.	55
249	Mr. Bryan to Mr. Hay .....	June 1	Same subject. Reports efforts to secure delay in execution of the law.	56
	Mr. Hill to Mr. Bryan (telegram).	....do...	Same subject. Instruction to remonstrate against law.	56
252	Mr. Bryan to Mr. Hay .....	....do...	Same subject. Acknowledges above telegram and refers to his No. 249.	57
196	Mr. Hay to Mr. Bryan .....	....do...	Same subject. Incloses correspondence, and instructs to energetically protest against enforcement of law.	57
254	Mr. Bryan to Mr. Hay .....	June 11	Same subject. Reports further in regard to his protest against the law.	58
258	Same to same .....	June 15	Visit of South Atlantic Squadron to Brazil. Reports courtesies shown on occasion of.	65
205	Mr. Hill to Mr. Bryan.....	June 29	Law, and repeal of same, prohibiting the importation into Brazil of merchandise bearing Portuguese labels. Directs remonstrance against the law, independently of other diplomatic agents.	59
269	Mr. Bryan to Mr. Hay .....	July 30	Same subject. Reports an amendment to the law, and incloses correspondence.	59
278	Same to same .....	Sept. 20	Same subject. Reports further extension of time for enforcement of the law.	60
215	Mr. Hay to Mr. Bryan .....	Oct. 17	Same subject. Requests a complete copy of the law.	61
222	Same to same .....	Nov. 23	Same subject. Incloses letter of protest from Stearns & Co.	61
290	Mr. Bryan to Mr. Hay .....	Nov. 30	Same subject. Transmits copy of the law .....	62
223	Mr. Hay to Mr. Bryan .....	Dec. 1	Same subject. Incloses letter from the Secretary of the Interior, stating that if the law is amended as suggested no objection could be found against it.	62
293	Mr. Bryan to Mr. Hay .....	Dec. 5	Same subject. Incloses his letter of protest against certain proposed amendments.	64
301	Same to same .....	1901. Jan. 4	Same subject. Incloses copy of the law, satisfactorily amended.	64

## CHILE.

	Memorandum of Chilean legation.	1897. May 12	Claim of Patrick Shields. Suggests protocol to dispose of claim.	66
23	Señor Gana to Mr. Sherman.	May 18	Same subject. Will be pleased to sign protocol ..	67
	Mr. Sherman to Señor Gana.	May 22	Same subject. Is ready to sign protocol .....	67
	Text of protocol .....	May 24	.....	68
8	Mr. Hay to Señor Morla Vicuña.	1899. Jan. 25	Same subject. Calls attention to protocol, and hopes that Chile's agreement will be fulfilled.	68
	Señor Morla Vicuña to Mr. Hay.	Jan. 27	Same subject. Has communicated above note to his Government.	69
11	Mr. Hay to Señor Morla Vicuña.	Mar. 4	Chilean Claims Convention. Senate has consented to amendment extending time.	71
	Señor Morla Vicuña to Mr. Hay.	Mar. 13	Same subject. Above note referred to his Government.	71
12	Mr. Hay to Señor Morla Vicuña.	Mar. 17	Same subject. Acknowledges above note. Exchange of ratifications should be postponed until Oct. 15, next.	72
16	Mr. Hay to Señor Infante ..	June 5	Claim of Patrick Shields. Asks that arrangement for payment be promptly carried out by Chile.	69
	Señor Infante to Mr. Hay ..	June 8	Same subject. Hopes he will soon receive authority to make the payment.	69
24	Mr. Hay to Señor Infante...	Nov. 1	Same subject. Again expresses the hope that payment will be made at an early date.	70
	Mr. Wilson to Mr. Hay (telegram).	Nov. 10	Chilean Claims Convention approved by Chilean Congress; two House amendments.	72
	Señor Infante to Mr. Hay...	Nov. 11	Claim of Patrick Shields. Especial recommendation for payment of claim will be made to Chilean legislative corps.	70
	Same to same.....	....do...	Chilean Claims Convention. Same tenor as above note.	72
26	Mr. Hay to Señor Infante...	Nov. 17	Same subject. Advises receipt of Mr. Wilson's telegram of the 10th instant.	73



## CHILE—Continued.

No.	From and to whom.	Date.	Subject.	Page.
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	Señor Infante to Mr. Hay...	Jan. 22	Claim of Patrick Shields. Transmits \$3,500 in payment of.	71
28	Mr. Hay to Señor Infante...	Jan. 23	Same subject. Acknowledges receipt of above note and inclosure.	71
31	Mr. Hay to Señor Morla Vi- cuña.	Mar. 8	Chilean Claims Convention. Invites exchange of ratifications, and arrangement for appointment of third arbitrator.	73
	Text of convention.....	Mar. 12	.....	73
139	Mr. Wilson to Mr. Hay.....	Mar. 24	Visit of the U. S. S. <i>Hartford</i> to Valparaiso. Reports courtesies on occasion of.	75
	The President of Chile to the President of the United States (telegram).	Sept. 16	Condolences on disaster at Galveston .....	76
	The President of the United States to the President of Chile (telegram).	....do...	Same subject. Gratefully acknowledges above..	76

## CHINA.

205	Mr. Adee to Mr. Conger....	1899. Aug. 25	Consular jurisdiction at Chinese ports leased to foreign powers. Requests report as to what other powers are doing. Incloses memorandum prepared in Consular Bureau.	382
283	Mr. Conger to Mr. Hay.....	Nov. 28	Passports of missionaries in China. Has declined to issue to certain applicants because they had no intention of returning to the United States. Incloses correspondence.	390
289	Same to same .....	Dec. 7	Uprising against foreigners. Reports danger to missionaries in Shantung from riots between converts and members of the Chinese secret society, the "Boxers," who are receiving at least tacit support from the governor. Incloses correspondence.	77
291	Same to same .....	Dec. 11	Consular jurisdiction at Chinese ports leased to foreign powers. All diplomatic representatives, except Japanese, concede that sovereignty has passed to lessee.	385
295	Same to same .....	Dec. 20	Protection to Chinese employees of American citizens. Reports indignities to certain of such employees, and his protest. Incloses correspondence.	394
		1900.		
304	Same to same .....	Jan. 2	Uprising against foreigners. Incloses Imperial circular and decree directing Chinese officials to resist foreign aggressions.	84
	Same to same (telegram) ..	Jan. 5	Same subject. Reports the murder of an English missionary in Shantung.	86
307	Same to same .....	Jan. 6	Same subject. Confirms above telegram. The incident awakened a sense of responsibility in the Yamen and dictated energetic measures for the suppression of antforeign riots. Incloses correspondence.	86
221	Mr. Hay to Mr. Conger.....	Jan. 8	Protection of Chinese employees of American citizens. Instructs to demand adequate retribution for incident reported in inclosed dispatch from consul at Chin-Kiang.	396
312	Mr. Conger to Mr. Hay.....	Jan. 15	Uprising against foreigners. Incloses decree which enjoins discrimination between dangerous and lawful societies. It is looked upon as destroying the effect of decree inclosed in dispatch No. 307, and the German minister has already made oral representations.	88
222	Mr. Hay to Mr. Conger.....	Jan. 18	Passports of missionaries in China. Applications referred to in dispatch No. 283 should be granted. Defines Department's position in regard to Americans residing in countries where the United States exercises extraterritorial jurisdiction.	393
223	Same to same.....	....do...	Uprising against foreigners. Incloses letter from American Board of Commissioners for Foreign Missions in regard to danger to missionaries. Instructs to afford all possible protection.	89
	Mr. Conger to Mr. Hay (tel- egram).	Jan. 24	Same subject. Reports publication of decree summoning all high officials to an audience at Imperial palace. Purpose unknown; trouble feared.	91
	Same to same (telegram)...	Jan. 25	Same subject. Imperial decree appoints P'u Ch'un, aged 14, heir apparent.	91

## CHINA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
315	Mr. Conger to Mr. Hay.....	1900. Jan. 29	Uprising against foreigners. Incloses decrees above referred to, gives brief sketch of the heir apparent and of the motives which led to the selection. Abdication of the Emperor is looked upon as likely to occur in the near future.	91
316	Same to same.....	do	Same subject. Reports danger to missionaries increasing. Representatives of the United States, Great Britain, Germany, and France have demanded the dispersion of the "Boxers" and "Big Sword" societies.	93
223	Mr. Hay to Mr. Conger.....	Feb. 1	Same subject. Instructs to insist that copies of orders given to governor of Shantung be communicated to legation.	96
229	Same to same.....	Feb. 3	Consular jurisdiction at Chinese ports leased to foreign powers. The relinquishment of consular jurisdiction in leased territory by all foreign powers except Japan, as reported in dispatch No. 291, would seem to involve also the loss of the right to exercise of ordinary consular functions. Points out that American interests can not be left without protection, and instructs to arrange with his colleagues some method by which the present anomalous procedure of referring these matters to diplomatic officers may be superseded by a more expeditious one. Incloses memorandum prepared by the Solicitor of the Department.	386
230	Same to same.....	Feb. 10	Protection of Chinese employees of American citizens. Refers to instruction No. 221 and incloses No. 50 from consul at Chin-Kiang.	399
234	Same to same.....	Feb. 20	Uprising against foreigners. Incloses letter from American Board of Commissioners for Foreign Missions containing further information.	97
237	Same to same.....	Feb. 26	Protection of Chinese employees of American citizens. Reviews correspondence with consul, and refers to instruction No. 221.	401
332	Mr. Conger to Mr. Hay.....	do	Uprising against foreigners. Incloses letter from Presbyterian Mission ascribing danger to missionaries to German activity and aggression in Shantung.	101
	Same to same (telegram) ..	Mar. 9	Same subject. Reports missionary troubles still spreading. Situation very critical. Ministers of United States, Great Britain, Germany, France, and Italy made second demand for strong Imperial decree. Suggests naval demonstration.	102
338	Same to same.....	Mar. 10	Same subject. The Tsungli Yamen, while issuing orders against "Boxer" society, did not mention "Big Sword" society, and declined to publish decree as demanded. Urges naval demonstration and sending of marine guard to Pekin. Correspondence inclosed.	102
339	Same to same .....	Mar. 10	Same subject. Incloses copy of his protest against appointment of late governor of Shantung to any place having jurisdiction over missionaries.	108
342	Same to same .....	Mar. 13	Same subject. Reports that antiforeign propensities of Chinese Government are evidenced in a decree ordering punishment of literati, whose chief though unmentioned offense is association with Europeans.	109
	Mr. Hay to Mr. Conger (telegram).	Mar. 15	Same subject. War vessel will be detailed for protection of American citizens and interests in China.	110
246	Same to same .....	Mar. 22	Same subject. Approves action reported in dispatch No. 316, instructs to follow it up with stronger representations; identical note is not objectionable, but Department would prefer legation to act singly if similarly to the action of other powers. Suppression of antiforeign societies and punishment of responsible officials should be insisted upon, and Chinese Government be made to understand that disturbances would conduce to the annulment of the recent efforts of the United States Government to obtain declarations for the benefit of Chinese integrity.	111
344	Mr. Conger to Mr. Hay.....	Mar. 23	Consular jurisdiction at Chinese ports leased to foreign power. Diplomatic corps agree in the opinion that it can be exercised only upon an exequatur of the power in possession of the territory.	389

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No.	From and to whom.	Date.	Subject.	Page.
345	Mr. Conger to Mr. Hay.....	1900. Mar. 23	Uprising against foreigners. Reports that, in spite of caveat inclosed in dispatch No. 339, antifoiegn governor of Yu Hsien has been appointed governor of Shansi, in which there are large British interests. British and German ministers will protest.	112
249	Mr. Hay to Mr. Conger.....	Apr. 9	Same subject. Incloses letters from American Board of Commissioners for Foreign Missions.	112
356	Mr. Conger to Mr. Hay.....	Apr. 12	Same subject. While request that decree be published in Pekin Gazette has not been complied with, proclamations naming the objectionable societies have been posted in Shantung, and offenders have been arrested. Incloses correspondence.	113
360	Same to same.....	Apr. 16	Same subject. Decree has at last been published in Pekin Gazette, embodied in a report from the Viceroy of Chihli.	117
252	Mr. Hay to Mr. Conger.....	.....do ..	Same subject. Acknowledges dispatch No. 332, and referring to assurances given by German minister at Pekin and German Government in April, 1899, instructs to inform his German colleague that the United States Government relies on the German authorities extending equal protection to American residents in the German zone of action.	118
362	Mr. Conger to Mr. Hay.....	Apr. 19	Same subject. Incloses decree making distinction between local volunteers or train bands and the dangerous associations, and warning them against molestation of Christians.	119
367	Same to same.....	May 3	Same subject. U. S. S. <i>Wheeling</i> arrived at Taku April 7, and departed on the 30th.	119
180	Mr. Wu Ting-fang to Mr. Hay.	May 7	Exclusion laws. Extension to Philippine Islands. Requests that certain of his notes on the subject be communicated to Congress.	402
368	Mr. Conger to Mr. Hay.....	May 8	Uprising against foreigners. Punishment of ring-leaders in antifoiegn cases has again been asked. As to officials, the well-known disinclination of the Chinese Government to comply with requests for their punishment suggested the wisdom of refraining from making any. Gives some details of the manner in which the "Boxers" recruit adherents, and incloses specimens of placards by which antifoiegn feeling is aroused. Representations have been made against the antifoiegn demonstrations made in Pekin.	120
369	Same to same.....	May 14	Same subject. British commission of demarcation at Wei Hai Wei attacked by natives. Chinese commissioners are believed to have instigated the attack.	126
262	Mr. Hay to Mr. Conger.....	May 15	Same subject. Approves action reported in dispatch No. 345.	126
372	Mr. Conger to Mr. Hay.....	May 18	Same subject. Incloses his letter and telegram to Admiral Kempff requesting war ship at Taku.	126
	Same to same (telegram) ...	May 21	Same subject. Reports outrages by "Boxers" on native Christians. Effective measures demanded by diplomatic corps and promised by Chinese Government.	127
376	Same to same.....	.....do ..	Same subject. Confirms above telegram. Reports interview with tsungli yamen. Incloses demands made by diplomatic corps and letters from missionaries.	127
265	Mr. Hay to Mr. Conger.....	May 22	Consular jurisdiction at Chinese ports leased to foreign powers. Replying to dispatch No. 344, states that United States embassies to Great Britain, Germany, and Russia have been instructed to arrange for the recognition of the nearest United States consul in China.	390
141	Mr. Hay to Mr. Wu Ting-fang.	May 24	Exclusion laws. Extension to Philippine Islands. Mr. Wu's former notes have been communicated to Congress, as requested.	403
	Mr. Conger to Mr. Hay (telegram).	May 26	Uprising against foreigners. Reports situation unchanged and asks if he can arrange with admiral for legation guards.	131
	Mr. Hill to Mr. Conger (telegram).	.....do ..	Same subject. Permission to confer with admiral about sending guards, if necessary.	132
	Mr. Conger to Mr. Hay (telegram).	May 28	Same subject. Reports further outrages. Legations have ordered guards.	132
	Same to same (telegram)...	June 1	Same subject. Reports arrival of legation guards.	132

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No.	From and to whom.	Date.	Subject.	Page.
383	Mr. Conger to Mr. Hay.....	1900. June 2	Uprising against foreigners. Reports outrages committed by the Boxers, action taken by the diplomatic corps, arrival of guards for the legations, the Americans being the first to arrive; and incloses correspondence.	132
	Same to same (telegram)...	June 3	Same subject. Further outrages. Chinese Government can not or will not suppress.	139
386	Same to same .....	June 4	Same subject. Confirms above telegram. Reports that Chinese authorities are unable or unwilling to suppress the movement. Soldiers in sympathy with insurgents. Imperial cabinet divided as to policy toward foreigners. Gives names of officials on either side and suggests that combined action of the powers may become necessary.	139
	Same to same (telegram)....do...	....do...	Same subject. Reports probability that legations will be besieged in Peking. Suggests measures for eventual delivery.	141
387	Same to same .....	....do...	Same subject. Confirms above telegram and gives additional particulars.	141
	Same to same (telegram) ..	June 5	Same subject. "More ships are badly needed at Taku."	142
	Mr. Hay to Mr. Conger (telegram).	June 6	Same subject. Authorization to take measures for protection of legation and American interests.	142
	Mr. Hill to Mr. Conger (telegram).	....do...	Same subject. Asks if missionaries at Paotingfu are adequately protected.	142
	Mr. Conger to Mr. Hay (telegram).	June 7	Same subject. Situation unimproved. Asks if he shall join in demand for special audience with Emperor.	142
	Same to same (telegram) ..	June 8	Same subject. Paotingfu missionaries safe up to present.	142
	Mr. Hay to Mr. Conger (telegram).	....do...	Same subject. Instructs to act independently in protection of American interests where practicable, and concurrently with representatives of other powers if necessity arise.	143
	Mr. Conger to Mr. Hay (telegram).	....do...	Same subject. Chinese Government becoming more helpless. Foreign troops will have to protect railways. Twenty-four foreign war vessels at Taku.	143
	Same to same (telegram)....do...	....do...	Same subject. Asks if he shall join in demand of audience with Emperor, and states that unless order is immediately restored foreign powers will take measures to that end.	143
	Mr. Hay to Mr. Conger (telegram).	June 9	Same subject. Answers above telegram affirmatively.	143
	Same to same (telegram)....do...	June 10	Same subject. States that United States has no policy in China except to protect American interests. There must be no alliances.	143
391	Mr. Conger to Mr. Hay.....	June 11	Same subject. Reports outrages of Boxers and inaction of Chinese Government; measures taken for protection of American missionaries; refusal of permission to bring additional guards; railway and telegraph communication cut. American and British admirals advised to advance on Peking. Appointment of Prince Tuan and other antiforeign officials to the tsungli yamen. Incloses correspondence, decrees, etc.	144
	Same to same (telegram)....do...	....do...	Same subject. Antiforeign officials appointed to tsungli yamen. Situation not improved; 700 additional guards en route.	154
392	Same to same .....	June 15	Same subject. Confirms above telegram. Legations are besieged and hoping for arrival of relief. Further outrages reported. Boxers openly or covertly assisted by soldiers. Communications with yamen interrupted.	154
	Mr. Hay to Mr. Conger (telegram).	....do...	Same subject. Asks if more force is needed and instructs to communicate with admiral and report.	155
393	Mr. Conger to Mr. Hay.....	June 18	Same subject. Soldiers taking part in attacks on legations. Incendiary fires in Peking. Reports interview with two members of tsungli yamen, who promise protection, but virtually confess their powerlessness. Incloses edicts issued upon the murder of the Japanese chancellor.	151
	Memorandum of interview between the Chinese minister and the Secretary of State.	June 22	Same subject. Viceroy of the Liang Hu says southern provinces are at peace and begs that United States will not send military or naval forces into the Yangtze Kiang so long as no breach of peace takes place.	273

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No.	From and to whom.	Date.	Subject.	Page.
		1900.		
	Mr. Hay to Mr. Wu Ting-fang.	June 22	Uprising against foreigners. Replying to above states that military and naval forces will not be sent into provinces mentioned so long as peace is preserved.	274
	Mr. Wu Ting-fang to Mr. Hay.	June 23	Same subject. Acknowledges above. Has received a telegram to effect that all foreign ministers in Peking are well.	274
	Viceroy of Hunan and Hupoh provinces to Minister Wu Ting-fang (telegram).	June 25	Same subject. Disclaims responsibility on part of Chinese Government for uprising of "Boxers," promising strenuous efforts to suppress it, and begging that European forces desist from further fighting.	274
150	Mr. Hay to Mr. Wu Ting-fang.	....do....	Same subject. The President, while gratified at above telegram, is unable to give any orders which would prevent naval and military officers from doing everything in their power to open communications with Peking and Tientsin.	275
	Mr. Goodnow to Mr. Hay (telegram).	....do....	Same subject. Reports no communication with Peking since 14th	248
	Same to same (telegram)...	June 26	Same subject. Reports that viceroys of Nankin and Hankow guarantee peace in Yangtze Valley, we guaranteeing noninterference.	248
	Mr. Hay to Mr. Wu Ting-fang.	June 27	Same subject. United States consuls instructed to communicate with viceroys as to preservation of peace and order.	276
265	Mr. Goodnow to Mr. Hay ..	June 28	Same subject. Has notified consuls to consult viceroys about measures to preserve peace.	248
267	Mr Goodnow to Mr. Cridler.	June 29	Same subject. Reports in regard to present conditions at Shanghai.	249
269	Same to same.....	....do....	Same subject. Quotes telegrams received from various consuls relative to existing conditions and attitude of certain viceroys.	250
270	Same to same .....	....do....	Same subject. Quotes telegram from consul at Foochow stating that all is quiet.	251
	Same to same .....	July 3	Same subject. Incloses proclamation issued at request of admirals.	251
	Viceroy Liu Kun-Yih and Viceroy Chang Chih-Tung to Minister Wu Ting-fang (telegram).	....do....	Same subject. Request that forces be not sent to Yangtze Valley or Kiangsu and Chekiang, the viceroys guaranteeing protection to life and property.	276
	Mr. Hay to Mr. Wu Ting-fang.	July 5	Same subject. Incloses telegrams sent to United States consul-general at Shanghai.	277
	Mr. Hay to Mr. Goodnow (telegram).	....do....	Same subject. The President trusts to responsible provincial authorities to maintain order.	252
272	Mr. Goodnow to Mr. Hay ..	July 8	Same subject. Reports in regard to conditions in central and southern China.	252
	Mr. Wu Ting-fang to Mr. Hay.	July 11	Same subject. Acknowledges Department's note of 5th instant.	277
	Memorandum of Chinese minister.	....do....	Same subject. Transmits Imperial edict reciting origin and spread of the Boxer movement, and laying part of the blame for the outbreak on the action of foreign guards at Peking and fleet at Taku; promises protection for legations, and punishment of anarchists.	277
	Mr. Hay to Mr. Conger (telegram).	July 11	Siege and relief of legations. Instructs to communicate tidings to bearer.	155
	Mr. Goodnow to Mr. Hay...	July 13	Uprising against foreigners. Incloses edict of June 29.	255
48	Mr. Ragsdale, consul, to the Assistant Secretary of State.	July 16	Siege of Tientsin. Reports in regard to .....	268
	Mr. Conger to Mr. Hay (telegram).	....do....	Siege and relief of legations. Quick relief only can prevent massacre.	156
276	Mr Goodnow to Mr. Hay...	July 17	Uprising against foreigners. Reports in detail, and confirms telegrams.	257
	Memorandum of Chinese minister.	....do....	Same subject. Transmits telegram from viceroys reporting foreign ministers well, and requesting powers to preserve Tientsin from destruction.	279
	Mr. Hay to Mr. Wu Ting-fang.	July 18	Same subject. The President has transmitted above request to officers at Tientsin.	279
	Pro memoria of Chinese minister.	....do....	Same subject. Li Hung Chang desires information as to obtaining from treaty powers either guarantee of territorial integrity of China or self-denying ordinance in any action they may take.	279
	Mr. Hay to Mr. Wu Ting-fang.	....do....	Same subject. Replying to above states that views of United States are set forth in circular of July 3.	279
	Mr. Goodnow to Mr. Hay (telegram).	....do....	Same subject. Reports bombardment of legations, and casualties.	259

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No.	From and to whom.	Date.	Subject.	Page.
1	Mr. Hay to Mr. Rockhill ...	1900. July 19	Siege and relief of legations. Appointment as commissioner.	156
	Mr. Goodnow to Mr. Hay (telegram).	July 20	Uprising against foreigners. Reports much ammunition going up Grand Canal, and that governor of Shantung says he sent to Department a message from Mr. Conger.	259
	Mr. Cridler to Mr. Goodnow.	July 20	Same subject. Replying to above says statement is true; quotes Mr. Conger's telegram.	259
	Memorandum of Chinese minister.	....do ...	Same subject. Transmits telegram from Shanghai Taotal Yu relative to telegrams to and from Mr. Conger.	280
	Same .....	....do ...	Negotiations for restoration of order. Transmits message from the Emperor of China to the President.	293
	Mr. Hay to Mr. Conger (telegram).	July 21	Siege and relief of legations. Doubts authenticity of dispatch received. Instructs to report attitude and position of Chinese Government.	156
	Mr. Conger to Mr. Hay (telegram).	....do ...	Same subject. Reports all well. No fighting since 16th. Hope for speedy relief.	156
277	Mr. Goodnow to Mr. Hay....	....do ...	Uprising against foreigners. Reports arrival of Li Hung Chang at Shanghai.	259
	Memorandum of Chinese minister.	....do ...	Same subject. Transmits telegram from viceroy at Nankin stating that all foreign ministers, except German, are unharmed.	280
	Mr. Wu Ting-fang to Mr. Hay.	July 23	Same subject. Acknowledges Department's note of 18th instant, regarding circular of July 3.	280
	Mr. Goodnow to Mr. Hay (telegram).	....do ...	Same subject. Reports that officer of tsungli-yamen saw all the ministers on the 18th.	259
	Mr. Hay to Mr. Goodnow (telegram).	....do ...	Same subject. Instructs to call on Viceroy Li and ascertain his purpose.	260
	Mr. Hay to Mr. Wu Ting-fang.	....do ...	Negotiations for restoration of order. Incloses letter from President to Emperor of China for transmission by telegraph.	294
	Memorandum of Chinese minister.	....do ...	Uprising against foreigners. Transmits edict enjoining protection of foreigners.	280
	Mr. Goodnow to Mr. Hay (telegram).	July 24	Same subject. Li's purpose is to assure safety of ministers and stop military operations.	260
	Mr. Wu Ting-fang to Mr. Hay.	....do ...	Same subject. Has transmitted the President's letter to the Emperor of China.	281
	Mr. Goodnow to Mr. Hay (telegram).	July 27	Same subject. Reports disturbances and casualties at Paotingfu and Yunnan.	260
2	Mr. Hay to Mr. Rockhill ...	....do ...	Siege and relief of legations. General instructions as to Mr. Rockhill's duties as commissioner.	157
	Mr. Hay to Mr. Goodnow (telegram).	July 30	Uprising against foreigners. United States will not enter into any arrangement regarding disposition of legation without first having free communication with Mr. Conger.	260
	Same to same (telegram) ..	Aug. 1	Same subject. Inexpedient to submit Earl Li's proposition to other powers. Free communication with representatives at Peking is demanded as a right.	260
	Mr. Goodnow to Mr. Hay (telegram).	....do ...	Same subject. Reports of attacks on legations received by courier.	261
	Mr. Hay to Mr. Wu Ting-fang.	....do ...	Same subject. Incloses copy of telegram to consul at Shanghai.	281
	Mr. Wu Ting-fang to Mr. Hay.	....do ...	Same subject. Telegram above referred to transmitted to Earl Li, urging him to memorialize the Throne on the subject.	282
	Mr. Goodnow to Mr. Hay (telegram).	Aug. 2	Same subject. Li says tsungli yamen seriously considering sending ministers to Tientsin.	261
285	Mr. Goodnow to Mr. Cridler.	....do ...	Same subject. Reports his efforts to communicate by telegraph with Mr. Conger.	261
287	Same to same.....	....do ...	Same subject. Reports interviews with Earl Li.	262
	Mr. Wu Ting-fang to Mr. Hay.	Aug. 3	Same subject. Expresses gratification at confirmation of Mr. Conger's telegram.	282
	Mr. Conger to Mr. Hay (telegram).	....do ...	Siege and relief of legations. Continuation of siege reported.	157
	Mr. Conger to General Chaffee (telegram).	Aug. 4	Same subject. Reports situation critical. Hopes relief will arrive soon.	157
288	Mr. Goodnow to Mr. Cridler.	....do ...	Uprising against foreigners. No messages will be delivered to ministers because foreigners advancing on Peking. Proforeign Chinese officials have been beheaded.	264
	Memorandum of Chinese minister.	....do ...	Same subject. Transmits telegram reporting safety of legations.	282
	Mr. Adee to Mr. Goodnow (telegram).	Aug. 5	Same subject. President directs protest against any limitation of full communication with Mr. Conger.	264
	Mr. Goodnow to Mr. Hay (telegram).	....do ...	Same subject. Mr. Conger telegraphs all well. Reports communication with ministers still interrupted.	264

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No.	From and to whom.	Date.	Subject.	Page.
		1900.		
	Mr. Conger to Mr. Hay (telegram).	Aug. 5	Siege and relief of legations. Chinese officials desire departure of ministers; they will not go without foreign escort.	157
	Mr. Adee to Mr. Conger (telegram).	Aug. 8	Same subject. Requests full report on siege and conditions.	158
	Mr. Cridler to Mr. Goodnow (telegram).	....do...	Uprising against foreigners. Advises of imperial edict allowing cipher communication between ministers and Governments.	264
	Mr. Goodnow to Mr. Hay	....do...	Same subject. Reports renewed attacks on legations, and interruption of communications.	265
	Memorandum of Chinese minister.	....do...	Same subject. Transmits edict prescribing measures for the transfer of foreign ministers to Tientsin under escort.	283
	Same .....	....do...	Same subject. Free cipher communication between Government and ministers will be allowed.	283
	Memorandum handed Chinese minister.	....do...	Same subject. Department is availing of opportunity to communicate with minister. Urges that Chinese Government cooperate with relief expedition.	284
	Mr. Conger to Mr. Hay (telegram).	Aug. 9	Siege and relief of legations. Reports attacks upon legation, and casualties.	159
	Mr. Adee to Mr. Conger (telegram).	Aug. 10	Same subject. Approves determination not to accept Chinese escort.	159
	Mr. Conger to Mr. Hay (telegram).	Aug. 11	Same subject. Reports in detail upon siege, attitude of Chinese Government, casualties, etc.	159
	Memorandum of Chinese minister.	....do...	Uprising against foreigners. Transmits joint telegram from Chinese officials in regard to conditions at Shanghai, and requests Department's good office in stopping reported movement of foreign troops in that vicinity.	284
	Mr. Adee to Mr. Wu Tingfang.	....do...	Same subject. Impossible to comply with request for good offices until Chinese Government complies with requirements of President's letter of July 23.	285
	Memorandum of Chinese minister.	Aug. 12	Negotiations for restoration of order. Transmits edict appointing Li Hung Chang commissioner to negotiate peace.	285
	Memorandum handed Chinese minister.	....do...	Same subject. Negotiations with Li Hung Chang will be entered into, but a precedent condition must be that a sufficient body of troops will be allowed to enter Peking and escort foreign ministers unmolested back to Tientsin.	286
	Mr. Adee to Mr. Wu Tingfang.	....do...	Same subject. Quotes instructions to commander of American forces in China in regard to his relations with Li Hung Chang.	286
	Mr. Adee to Mr. Conger (telegram).	Aug. 14	Siege and relief of legations. Chinese Government requested armistice, and reply was made that Mr. Conger must first be delivered to relief column.	160
	Mr. Conger to Mr. Hay (telegram).	....do...	Same subject. Reports arrival of relief column at Peking.	160
	Mr. Goodnow to Mr. Hay (telegram).	Aug. 15	Same subject. Reports telegram from Mr. Conger still imprisoned and attacked.	160
394	Mr. Conger to Mr. Hay	Aug. 16	Same subject. Reports details of arrival of relief column.	160
	Memorandum of Chinese minister.	....do...	Negotiations for restoration of order. Proposition that a Chinese envoy be sent to meet allied forces and arrange peaceable delivery of the legations.	287
	Memorandum handed Chinese minister.	....do...	Same subject. Quotes instructions to commander of United States forces authorizing him to arrange for safe and peaceable rescue of the legations.	287
	Mr. Conger to Mr. Hay (telegram).	Aug. 17	Siege and relief of legations. Reports occupation of Peking by allied forces.	161
395	Same to same .....	....do...	Same subject. Reports at length in regard to siege; true character and purposes of Li Hung Chang; murder of German minister; Chinese Government's hand in operations; destruction of life and property throughout China; and incloses correspondence and maps.	161
	Mr. Goodnow to Mr. Hay (telegram).	....do...	Uprising against foreigners. Transmits telegram from Wuchang and Nankin viceroys requesting information as to plans of allies. Reports landing of foreign troops.	265
	Same to same (telegram)	Aug. 18	Same subject. Reports that viceroys are satisfied with allied Governments' position re Emperor and Empress.	265
	Mr. Adee to Mr. Goodnow (telegram).	Aug. 19	Same subject. States policy of United States in reply to telegram of the two viceroys.	265

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No.	From and to whom.	Date.	Subject.	Page.
		1900.		
	The President to Mr. Conger (telegram).	Aug. 19	Siege and relief of legations. Felicitations for survivors, and condolences for the fallen.	188
	Memorandum of Chinese minister.	Aug. 20	Negotiations for restoration of order. Transmits telegram from Li Hung Chang urging that negotiations be begun.	288
	Same .....	Aug. 21	Same subject. Transmits second telegram from Li Hung Chang urging withdrawal of troops and appointment of envoy to negotiate.	289
	Same .....	do	Same subject. Transmits telegram from viceroys explaining purpose of their request that Emperor and Empress be given no alarm. Their majesties having left the capital, the viceroys will maintain order in eastern and southern provinces.	289
	Memorandum handed Chinese minister.	do	Same subject. Replying to above note, quotes telegraphic correspondence with consul-general at Shanghai in same connection.	289
	Same .....	Aug. 22	Same subject. Overtures for peace are welcome, although ministers had to be released by force. When Chinese Government shows itself able to suspend hostilities in China the United States will be prepared to appoint a representative to join with other powers in attaining the ends declared in circular telegram of July 3.	290
214	Mr. Adee to Mr. Goodnow ..	do	Uprising against foreigners. Expresses Department's appreciation of Mr. Goodnow's watchfulness.	266
	Mr. Adee to Mr. Conger (telegram).	do	Negotiations for settlement and reparation. Reports overtures made by Earl Li; asks if Mr. Conger has any suggestions.	197
	Mr. Conger to Mr. Hay (telegram).	Aug. 23	Same subject. Reports endeavors of military to restore order.	198
	Same to same (telegram) ...	Aug. 25	Same subject. Imperial palace will be entered by allies on Aug. 28.	198
303	Mr. Goodnow to Mr. Cridler.	Aug. 25	Uprising against foreigners. Transmits telegram from viceroy at Nankin expressing thanks for friendly intentions of United States.	266
	Mr. Adee to Mr. Conger (telegram).	Aug. 26	Negotiations for settlement and reparation. Instructs to confer with Mr. Rockhill, who has been appointed United States Commissioner.	198
	Mr. Conger to Mr. Hay (telegram).	Aug. 27	Same subject. Reports incidents of siege.....	198
	Mr. Adee to Mr. Conger (telegram).	Aug. 28	Siege and relief of legations. Desires information as to fate of Americans at Paoting.	188
	Mr. Conger to Mr. Hay (telegram).	Aug. 29	Negotiations for settlement and reparation. Suggestions as to negotiations.	199
	Mr. Goodnow to Mr. Hay (telegram).	do	Uprising against foreigners. Japanese Government has landed small force at Amoy	266
	Same to same (telegram) ...	Aug. 30	Same subject. Japanese troops ordered withdrawn from Amoy.	267
	Mr. Conger to Mr. Hay (telegram).	do	Negotiations for settlement and reparation. Reports outrages in interior. Asks instructions.	199
399	Same to same.....	Sept. 1	Siege and relief of legations. Incloses hospital records of United States marines	189
400	Same to same.....	Sept. 3	Same subject. Cites instances of Empress's purpose to kill all foreigners after repulse of relief expedition. Reports decapitation of proforeign ministers, desecration of English graveyard, and murder of missionaries at Paotingfu.	190
	Same to same (telegram) ...	do	Same subject. Denies reports that protection was extended to legations and foreigners by Chinese Government.	191
	Same to same.....	Sept. 4	Same subject. Incloses proclamations giving proof of responsibility of Chinese Government for "Boxer" movement.	192
	Same to same (telegram) ...	Sept. 6	Negotiations for settlement and reparation. Chinese commissioners are ready to negotiate. Suggests Shanghai as a suitable place.	200
	Mr. Goodnow to Mr. Hay (telegram).	do	Uprising against foreigners. Reports agreement to withdraw all marines from Amoy.	267
	Memorandum of Chinese minister.	Sept. 10	Negotiations for restoration of order. Transmits edict vesting Li Hung Chang with full powers.	290
	Memorandum handed Chinese minister.	Sept. 11	Same subject. Hopes Li Hung Chang's authority will enable him to assure safety of American life and property.	291
	Memorandum of Chinese minister.	do	Same subject. Transmits order directing Li Hung Chang, in connection with Prince Ching, to proceed with negotiations.	291
218	Mr. Cridler to Mr. Goodnow.	do	Uprising against foreigners. Expresses Department's approval of action reported in dispatch No. 285.	267



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No.	From and to whom.	Date.	Subject.	Page.
	Mr. Conger to Mr. Hay .....	1900. Sept. 12	Negotiations for settlement and reparation. Thinks plan for pacification must be devised by foreign powers.	200
	Memorandum handed Chinese minister.	....do ...	Negotiations for restoration of order. United States Government will facilitate journey of Earl Li to Peking.	292
	Memorandum of Chinese minister.	Sept. 13	Same subject. Earl Li has proper credentials for conducting negotiations. Life and property of Americans will be respected.	292
413	Mr. Conger to Mr. Hay .....	Sept. 16	Negotiations for settlement and reparation. No progress made by reason of Li Hung Chang's absence.	200
	Memorandum of Chinese minister.	Sept. 17	Negotiations for restoration of order. Prince Ching has been appointed plenipotentiary and wishes to open negotiations.	292
152	Mr. Wu to Mr. Hill .....	Sept. 18	Condolences on Galveston disaster .....	403
	Mr. Hill to Mr. Wu .....	Sept. 20	Same subject. Acknowledges above with thanks.	403
416	Mr. Conger to Mr. Hay .....	....do ...	Negotiations for settlement and reparation. Prince Ching will memorialize for the return of the Emperor to Peking.	201
	Memorandum of Chinese minister.	....do ...	Negotiations for restoration of order. Transmits cable of viceroys desiring that no more troops will be advanced.	293
	Mr. Hill to Mr. Wu .....	Sept. 21	Same subject. Accepts plenipotentiary authority of Earl Li Hung Chang and Prince Ching as sufficient for preliminary negotiations.	293
	Mr. Hill to Mr. Conger (telegram).	....do ...	Siege and relief of legations. Directs to extend protection to Swedish and Norwegian missionaries.	194
417	Mr. Conger to Mr. Hay .....	Sept. 22	Same subject. Reports massacre of Americans at Paotingfu.	193
	Mr. Hill to Mr. Conger (telegram).	....do ...	Negotiations for settlement and reparation. Résumé of correspondence with Russian and German embassies and Chinese legation regarding authority of Chinese plenipotentiaries.	202
281	Same to same .....	Sept. 25	Siege and relief of legations. Protection of Swedish and Norwegian missionaries. Incloses note in regard to.	194
	Mr. Conger to Mr. Hay (telegram).	Sept. 27	Negotiations for settlement and reparation. Reports that Chinese plenipotentiaries have made no request to negotiate.	204
	Mr. Hill to Mr. Conger (telegram).	Sept. 29	Same subject. General directions as to conducting negotiations.	204
	Mr. Conger to Mr. Hay (telegram).	....do ...	Same subject. Russian legation removed to Tientsin.	205
	Same to same (telegram) ...	Oct. 1	Same subject. Acknowledges Department's telegram of September 22.	205
8	Mr. Rockhill to Mr. Hay .....	....do ...	Same subject. Reports condition of affairs at Peking and Tientsin; views of Mr. Conger and himself; outlook for negotiations.	205
	Memorandum of Chinese minister.	Oct. 2	Negotiations for restoration of order. Advises punishments inflicted on offending officials.	296
	Memorandum handed Chinese minister.	Oct. 3	Same subject. Acknowledges receipt of above note. Report will be requested of United States Minister to China.	296
9	Mr. Rockhill to Mr. Hay .....	....do ...	Negotiations for settlement and reparation. Incloses decrees granting funeral sacrifices in honor of late Baron von Ketteler, etc.	209
	Mr. Conger to Mr. Hay (telegram).	....do ...	Same subject. Reports decree inflicting punishment on certain officials.	210
	Mr. Hay to Mr. Conger (telegram).	....do ...	Same subject. Instructs to report if punishment decree is satisfactory.	210
	Mr. Conger to Mr. Hay (telegram).	Oct. 4	Same subject. Acknowledges Department's telegram of September 29.	211
423	Same to same .....	....do ...	Same subject. Incloses punishment decree; comments on its gross inadequacy.	211
	Mr. Conger to Mr. Hay (telegram).	Oct. 6	Same subject. Further report on punishment decree.	212
	Same to same (telegram) ...	Oct. 7	Same subject. Reports additional punishment edict.	213
285	Mr. Hay to Mr. Conger .....	Oct. 11	Siege and relief of legations. Incloses letter from American Board of Commissioners for Foreign Missions relative to massacre of missionaries in Shansi.	195
	Mr. Conger to Mr. Hay (telegram).	Oct. 12	Negotiations for settlement and reparation. Reports departure of joint military expedition for Paotingfu and Chentingfu, and fears negotiations will be delayed thereby. Earl Li has arrived.	213

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No.	From and to whom.	Date.	Subject.	Page.
	Emperor of China to the President.	1900. Oct. 14	Negotiations for restoration of order. Thanks for good offices of United States in withdrawal of troops from Peking, etc.	295
	Mr. Conger to Mr. Hay (telegram).	Oct. 16	Negotiations for settlement and reparation. Transmits preliminary treaty submitted by Prince Ching and Earl Li, and suggests desirable additions.	213
	Mr. Rockhill to Mr. Hay (telegram).	....do....	Same subject. Submits proposition of Viceroy at Hankow to isolate guilty officials, their punishment to be decided upon later.	214
	The President to the Emperor of China.	Oct. 18	Negotiations for restoration of order. States that the United States desires a speedy adjustment, and hopes that negotiations will begin as soon as other Governments are satisfied of the Emperor's ability to punish the guilty.	295
	Mr. Hay to Mr. Rockhill (telegram).	Oct. 19	Negotiations for settlement and reparation. Proposition of Viceroy at Hankow should be presented to the full board of negotiators.	214
427	Mr. Conger to Mr. Hay .....	....do....	Same subject. Discusses situation at Peking; incloses correspondence with Prince Ching regarding extermination of the "Boxers" by the Chinese Government. Reports removal of Russian legation to Tientsin.	214
	Mr. Hay to Mr. Conger (telegram).	....do....	Same subject. Terms of peace proposed by China are in the main acceptable, with incorporation of Mr. Conger's suggestions. Recommends beginning negotiations as early as possible, and safeguarding open-door policy.	217
	Same to same (telegram)....	Oct. 22	Same subject. United States favors return of summer palace to Emperor upon his return to Peking.	218
289	Same to same.....	Oct. 23	Same subject. Degradation of Major Siao, of the Chinese army, for saving lives of T. D. Holmes and family. Incloses Holmes's letter and points out that this and other instances of pro-foreign officials being punished destroys confidence in Chinese Government's professions that it proposes to punish antiforeign officials.	218
	Mr. Conger to Mr. Hay (telegram).	Oct. 24	Same subject. Reports that Emperor has given no intimation of returning; punishment of designated leaders and restoration of order may have to be accepted as proof of Imperial authority.	219
	Mr. Hay to Mr. Conger (telegram).	....do....	Same subject. If Emperor's reported intention to remove Yangtze viceroys is probable, instructs to protest.	219
	Mr. Rockhill to Mr. Hay (telegram).	Oct. 25	Same subject. Emperor should be notified that United States insists upon retention of Yangtze viceroys.	219
	Mr. Hay to Mr. Rockhill (telegram).	....do....	Same subject. Mr. Conger has been instructed in regard to Yangtze viceroys. Directs Mr. Rockhill to aid Mr. Conger in negotiations.	219
	Mr. Conger to Mr. Hay (telegram).	....do....	Same subject. Reported intention to remove Yangtze viceroys is said by Earl Li to be untrue.	220
	Memorandum of Chinese minister.	Oct. 26	Negotiations for restoration of order. Advises of punishment of guilty officials.	297
	Mr. Conger to Mr. Hay (telegram).	....do....	Negotiations for settlement and reparation. Advises demand of death punishment for certain guilty officials.	220
292	Mr. Hay to Mr. Conger .....	Oct. 27	Siege and relief of legations. Incloses note from chargé d'affaires of Sweden and Norway expressing thanks for protection of missionaries.	195
18	Mr. Rockhill to Mr. Hay.....	....do....	Negotiations for settlement and reparation. Incloses decree explaining Emperor's flight from Peking and conditions under which he will return.	220
431	Mr. Conger to Mr. Hay.....	....do....	Same subject. Confirms telegram of this date. Reports proceedings of diplomatic corps; gives names of officials whose death is demanded, and reasons in support of the demand.	221
	Same to same (telegram) ..	Oct. 28	Same subject. Asks if indemnity for Chinese Christians shall be demanded.	223
17	Mr. Rockhill to Mr. Hay.....	....do....	Same subject. Reports in regard to punishment of certain guilty officials.	223
	Mr. Hay to Mr. Conger (telegram).	Oct. 29	Same subject. The President thinks that before demand for punishment of guilty officials is made the Chinese Government should be asked what punishment it proposes to inflict.	224
	Same to same (telegram)....	Oct. 30	Same subject. Demand should be made for protection of Chinese Christians.	224
	Mr. Conger to Mr. Hay (telegram).	Nov. 3	Same subject. Reports demands agreed upon by the leading foreign ministers.	224

## CHINA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Conger to Mr. Hay (telegram).	1900. Nov. 6	Negotiations for settlement and reparation. Reports demands agreed upon by all but Russian and French ministers.	225
	Memorandum of Chinese minister.	....do...	Negotiations for restoration of order. Report of suicide of Yu Hsien.	297
	Same .....	Nov. 7	Same subject. Advises of punishment of guilty officials.	298
	Mr. Hay to Mr. Conger (telegram).	Nov. 9	Negotiations for settlement and reparation. Comments on proposed conditions, which are generally acceptable to United States.	225
	Same to same (telegram) ..	....do...	Same subject. Department's telegram of Oct. 29 still expresses views of the President. Instructs to insist on adequate punishment, though the President does not undertake to determine what it shall be.	226
	Same to same (telegram) ..	Nov. 16	Same subject. Directions as to demands to be made during negotiations.	226
	Same to same (telegram) ..	....do...	Same subject. The United States favors securing foreign rights at treaty ports by adequate concession, not by forcible appropriation.	227
	Mr. Conger to Mr. Hay (telegram).	....do...	Same subject. Reports decapitation of officials at Paotingfu.	227
451	Same to same .....	....do...	Same subject. Confirms above telegram and gives particulars. While the punishment was deserved, its effect on Chinese court will be such as to defer its return to Peking.	227
	Same to same (telegram) ..	Nov. 19	Same subject. Reports decree imposing totally inadequate punishments.	228
454	Same to same .....	Nov. 20	Same subject. Confirms above telegram and comments on leniency of punishment of ring-leaders.	229
455	Same to same.....	....do...	Same subject. Acknowledges and comments on Department's telegram of Nov. 16 relative to points to be pressed. Reports attitude of Russian and French ministers in regard to indemnity. Naval station for United States had best be treated for separately.	228
	Mr. Hay to Mr. Conger (telegram).	....do...	Same subject. The President is most solicitous that negotiations should not fail. It would be unfortunate to have any ultimatum made withdrawn. The President favors exaction of lump sum for indemnity to be equitably distributed. Desires negotiations brought to a speedy close.	231
	Mr. Conger to Mr. Hay (telegram).	Nov. 21	Same subject. Reports progress of negotiations..	232
	Mr. Hay to Mr. Conger (telegram).	Nov. 23	Same subject. General instructions as to negotiations.	232
	Mr. Conger to Mr. Hay (telegram).	....do...	Same subject. Views of diplomatic corps as to demand for punishments.	232
	Same to same (telegram) ..	Nov. 24	Same subject. Reports unanimous agreement of ministers to demands communicated in his telegrams of Oct. 26, Nov. 1, 6, and 21.	233
459	Same to same.....	Nov. 26	Same subject. Confirms above telegram and incloses text of note as agreed upon.	233
	Mr. Hay to Mr. Conger (telegram).	Nov. 27	Same subject. Acknowledges above telegram, and gives views of the President on the joint demands.	235
	Memorandum of Chinese minister.	Nov. 28	Negotiations for restoration of order. Reports punishments inflicted upon Boxer leaders.	298
300	Mr. Hay to Mr. Conger (telegram).	....do...	Siege and relief of legations. Thanks of United States have been conveyed to Dr. Velde for services rendered by him during siege.	196
301	Same to same.....	Nov. 30	Same subject. Incloses thanks of Presbyterian Board of Foreign Missions for good offices in behalf of missionaries.	196
	Mr. Conger to Mr. Hay (telegram).	Dec. 4.	Negotiations for settlement and reparation. Transmits full text of note as amended and asks instructions to sign.	235
466	Mr. Conger to Mr. Hay.....	Dec. 5	Same subject. Reports proceedings and status of negotiations.	237
	Mr. Hay to Mr. Conger (telegram).	....do...	Same subject. Instructs to sign joint note as transmitted.	238
	Mr. Conger to Mr. Hay (telegram).	Dec. 16	Same subject. Reports amendment proposed by British minister.	239
478	Same to same .....	Dec. 17	Same subject. Reports progress of negotiations..	239
	Mr. Hay to Mr. Conger (telegram).	....do...	Same subject. Comments on, and objects to certain portions of note as amended.	240
	Same to same (telegram) ...	Dec. 19	Same subject. Instructs to insist upon omission of word "irrevocable."	241
	Mr. Conger to Mr. Hay (telegram).	....do...	Same subject. Gives reasons why it is improbable that his colleagues will agree to omit word above referred to.	241

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	Same to same (telegram).....do...	.....do...	Same subject. Urges acceptance of note containing word "irrevocable."	242
	Mr. Rockhill to Mr. Hay (telegram).	.....do...	Same subject. Same tenor as above telegram....	242
	Mr. Hay to Mr. Conger (telegram).	Dec. 21	Same subject. Authority to sign note.....	242
	Mr. Conger to Mr. Hay (telegram).	Dec. 22	Same subject. Note signed this date. Will be handed to Chinese plenipotentiaries on the 24th instant.	242
482	Same to same .....	Dec. 23	Same subject. Reports conclusion of negotiations and incloses text of note.	243
	Mr. Conger to Mr. Hay (telegram).	Dec. 24	Same subject. Formal meeting with prince and delivery to him of joint note reported.	246
483	Same to same .....	.....do...	Same subject. Confirms above telegram with details.	246
	Same to same (telegram)....	Dec. 30	Same subject. Conditions accepted by China. Plenipotentiaries ask that military excursions in the interior cease.	248
	Mr. Hay to Mr. Conger (telegram).	Dec. 31	Same subject. Replying to above, the President thinks expeditions should cease. Instructs to endeavor to have forts disarmed instead of destroyed.	248

## COLOMBIA.

	Señor Marquez to Mr. Hay..	1900. July 25	Request of Colombian Government that vessels of insurgents be treated as pirates. Advances reasons.	404
27	Mr. Hay to Señor Marquez..	Aug. 1	Same subject. Denies request, with reasons for so doing.	405
	Mr. Hart to Mr. Hay (telegram).	Aug. 5	Recognition of new Government of Colombia. Reports that vice-president has taken possession of the government.	406
391	Same to same.....do...	.....do...	Same subject. Reports at length in regard to the coup d'état.	406
395	Same to same.....do...	Aug. 15	Same subject. Continuation of above report....	407
400	Same to same.....do...	Sept. 7	Same subject. Continues report, and states that vice-president's government seems to be gaining strength.	409
	Mr. Hill to Mr. Hart (telegram).	Sept. 8	Same subject. Instruction to recognize new government when it is in possession of machinery of administration.	410
316	Same to same.....do...	.....do...	Same subject. Confirms and amplifies above telegram.	410
	Mr. Hart to Mr. Hay (telegram).	Sept. 12	Same subject. Reports Government announcement that Liberal revolution is ended; and states that provisional government of vice-president will probably be maintained.	411
	Same to same (telegram)....	Sept. 17	Same subject. Reports having entered into relations with new Government.	411
407	Same to same.....do...	Sept. 18	Same subject. Confirms above telegram, giving particulars.	412

## DENMARK.

160	Mr. Swenson to Mr. Hay ...	1900 Mar. 29	Expulsion of Mormon missionaries. Minister of justice refuses to revoke decree. Reports case at length and incloses correspondence.	413
95	Mr. Hay to Mr. Swenson ...	May 1	Same subject. Approves his course as reported above.	422
169	Mr. Swenson to Mr. Hay ...	May 22	Military-service case of Frederic̄k Albert Sundberg. Danish Government concurs in interpretation of treaty of 1872 that residence of more than two years in native country does not make evidence of nonintention to return; and ordered release of Sundberg. Incloses correspondence.	423
99	Mr. Hay to Mr. Swenson ...	June 5	Same subject. Approves his course as reported above.	424

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182	Same to same.....	Jan. 18	Same subject. Reports reception by President Jimenez, and substance of conversation.	426
200	Same to same.....	Feb. 9	Same subject and tenor.	428
101	Mr. Hay to Mr. Powell.....	Mar. 5	Same subject. Approves his course as reported.	428

## FRANCE.

656	Mr. Adee to Mr. Porter.....	1899. Aug. 9	Consular immunities. Violation of dwelling (at Arcachon) of consul at Bordeaux by French officials. Recites the circumstances under which the dwelling was entered under a writ of search and seizure, and failure of local authorities to make proper reparation, and instructs to ask that the judicial act be disavowed and the offending officials punished.	429
	The French embassy to the Department of State.	Aug. 14	Same subject. Presents views of French Government in consequence of investigation and asks whether United States consider that immunities extend to dwelling outside of city where consul has his office, and if so, whether same treatment would be accorded to French consuls in United States.	450
	The Department of State to the French embassy.	Oct. 27	Same subject. Holds that the inviolability secured by the treaty applies to the premises occupied by the consul at Arcachon.	451
683	Mr. Hay to Mr. Porter.....	Nov. 3	Same subject. Incloses copies of memoranda from and to French embassy.	452
560	Mr. Porter to Mr. Hay.....	Nov. 13	Same subject. Minister for foreign affairs has replied to his note on the subject in terms almost identical with those in memorandum of French embassy of Aug. 14.	453
	Memorandum of French chargé d'affaires.	Dec. 26	Samoa claims of French citizens. Requests that they be admitted to arbitration.	473
611	Mr. Porter to Mr. Hay.....	1900. Jan. 15	Presentation of Lafayette memorial coin to the French mint. Transmits request for.	470
722	Mr. Hay to Mr. Porter.....	Feb. 2	Presentation of Lafayette memorial coin to President of France. Instructs to make appointment for audience of special commissioner.	468
736	Same to same .....	Feb. 21	Presentation of Lafayette memorial coin to French mint. Incloses specimen coin for.	470
638	Mr. Porter to Mr. Hay.....	Mar. 10	Presentation of Lafayette memorial coin to President of France. Reports on.	468
644	Same to same .....	Mar. 17	Presentation of Lafayette memorial coin to French mint. Thanks for.	470
	Same to same (telegram) ..	Mar. 28	Monument at Vendôme to Marshal Rochambeau. Reports laying of corner stone.	471
	Mr. Hay to Mr. Porter (telegram).	....do....	Same subject. Instructs to express appreciation of friendly feeling shown on occasion.	471
649	Mr. Porter to Mr. Hay.....	Mar. 29	Same subject. Reports in detail .....	471
654	Same to same .....	Apr. 3	Rescue by U. S. S. <i>Chicago</i> of French steamship <i>La Bretagne</i> . Incloses letter of thanks.	476
757	Mr. Hay to Mr. Porter.....	Apr. 9	Consular immunities. Violation of dwelling (at Arcachon) of consul at Bordeaux by French officials. Inquires present status of discussion.	453
758	Same to same .....	Apr. 10	Monument at Vendôme to Marshal Rochambeau. Acknowledges dispatch No. 649.	472
300	Mr. Cambon to Mr. Hay....	May 3	Condolences on mine explosion in Utah .....	481
	Mr. Hay to Mr. Cambon.....	....do....	Same subject. Acknowledges above note, with thanks.	482
	Mr. Hay to Mr. Porter (telegram).	....do....	Same subject. Instructs to express appreciation to President Loubet.	482
664	Mr. Porter to Mr. Hay.....	May 7	Same subject. Incloses note of appreciation to minister for foreign affairs.	482
309	Mr. Hay to Mr. Cambon....	May 18	Same subject. Incloses letter of thanks from governor of Utah.	483
667	Mr. Porter to Mr. Hay.....	May 19	Consular immunities. Violation of dwelling (at Arcachon) of consul at Bordeaux by French officials. French Government considers that inviolability extends to residences of consuls only in the place of their official residence. Incloses correspondence.	454
783	Mr. Hill to Mr. Porter.....	May 25	Rescue by U. S. S. <i>Chicago</i> of French steamship <i>La Bretagne</i> . Thanks of company forwarded to Admiral Schley.	477

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793	Same to same .....	June 14	Fire in San Francisco harbor. Instructs to render thanks to French Government for assistance of French cruiser <i>Protet</i> .	478
	Mr. Cambon to Mr. Hay....	June 19	Rescue by U. S. S. <i>Chicago</i> of French steamship <i>La Bretange</i> . Expresses appreciation of French Government.	477
326	Mr. Hay to Mr. Cambon....	June 21	Same subject. Above note transmitted to Secretary of the Navy.	478
	Mr. Hay to Mr. Porter.....	June 22	China. Negotiations for the restoration of order. Instructs to communicate to minister for foreign affairs that United States has no disposition to send forces into Chinese territory where order is maintained.	311
	Memorandum handed French Ambassador.	June 26	Samoan claims of French citizens. Admission to arbitration is agreeable to United States if Great Britain and Germany agree.	473
680	Mr. Porter to Mr. Hay.....	June 27	China. Negotiations for the restoration of order. Telegraphic instructions of 22d inst. complied with. Incloses reply of minister for foreign affairs.	311
	Mr. Hay to Mr. Porter (telegram).	July 2	Same subject. Instructs to inform minister for foreign affairs that United States forces will not attack central and southern provinces so long as order is maintained.	312
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	Mr. Hay to Mr. Thiébaud....	July 3	China. Negotiations for restoration of order. United States is ready to act concurrently with other powers for the rescue of diplomatic representatives, insure protection of American lives and interests, prevent spread of disturbances, and preserve Chinese entity with equal rights for all.	318
685	Mr. Porter to Mr. Hay.....	July 5	Lafayette statue. Detailed report of unveiling..	457
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687	Mr. Porter to Mr. Hay.....	.....do...	China. Negotiations for restoration of order. Minister for foreign affairs is thankful for being kept informed of intentions of United States.	312
808	Mr. Hay to Mr. Porter.....	July 9	Consular immunities. Violation of dwelling (at Arcachon) of consul at Bordeaux by French officials. Expresses regret that French Government is unable to concur in our construction of Article III of Consular Convention; they will not, of course, expect a more liberal interpretation in favor of French consuls.	456
690	Mr. Porter to Mr. Hay.....	July 12	China. Negotiations for restoration of order. Policy of France regarding the uprising in accord with that of United States. Incloses statement of minister for foreign affairs in the Chamber of Deputies.	312
	Mr. Thiébaud to Mr. Hay....	July 17	Lafayette statue. Incloses resolution of thanks of Chamber of Deputies.	466
695	Mr. Porter to Mr. Hay.....	July 19	Fire in San Francisco harbor. Has transmitted thanks for assistance rendered by French cruiser <i>Protet</i> in extinguishing.	478
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	Memorandum to French Embassy.	.....do...	Same subject. Advises of steps taken by United States to prevent shipment of arms to China.	319
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	Mr. Thiébaud to Mr. Hay....	Aug. 8	Samoan claims of French citizens. Transmits agreement of Great Britain to admit them to arbitration.	474
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831	Same to same.....	Apr. 22	Same subject. Reports beginning of discussion of bill in Reichstag.	489
	Same to same (telegram)...	May 9	Same subject. States that there is reason to anticipate unfavorable report on bill by committee.	490
841	Same to same.....	May 10	Same subject. Confirms above telegram; incloses newspaper clipping regarding present aspect of the bill.	490
917	Mr. Jackson to Mr. Hay ....	June 23	Same subject. Reports adjournment of Reichstag without action on bill.	492

## GERMANY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
946	Mr. Jackson to Mr. Hay ....	1899. July 8	Meat inspection. Suggests that action on complaints relative to restrictions had better be deferred until general bill has been disposed of.	492
948	Same to same.....	July 11	Same subject. Reports that meat from Belgium is prohibited, as American cattle are allowed to be slaughtered in Belgium.	493
952	Same to same.....	July 14	Same subject. Suggests that retaliation, without discussion, appears to be the most effectual way to secure fair treatment for American products.	494
958	Same to same .....	July 17	Same subject. Reports that the whole of Germany is practically closed against meats from Belgium.	494
	Mr. Hay to Mr. White (telegram).	....do...	Same subject. Instructs to remonstrate against recent decrees prohibiting importation of Belgian fresh beef.	495
	Mr. Jackson to Mr. Hay (telegram).	July 18	Same subject. German Government maintains that so long as direct importation of American beef is prohibited its indirect importation could not be permitted.	495
962	Same to same .....	....do...	Same subject. Confirms above telegrams, and reports interview with minister for foreign affairs.	496
1142	Same to same .....	Dec. 30	Military service. Cases of Herman F. Dietmann, Alfred Knudsen, Joseph Rhinehart, George Rosebrock, John M. Munsch, and Hugo Wagner.	512
		1900.		
1164	Mr. White to Mr. Hay.....	Jan. 23	Extradition between Alsace-Lorraine and the United States is not regulated by treaty.	520
1169	Same to same .....	Jan. 25	Application for passport of Bernard Ehlers, a citizen of the Hawaiian Islands. Submitted for instructions.	520
1170	Same to same .....	....do...	Meat inspection. Reports and comments on restrictions in Germany in regard to importation of cattle from abroad.	497
	Mr. von Holleben to Mr. Hay.	Feb. 6	Marriage of aliens in Prussia. Requirement of certificate that no impediment exists. Asks if similar regulations are in force in America.	521
384	Mr. Hay to Mr. von Holleben.	Feb. 21	Same subject. States there is no provision in the United States for such certificates.	522
1010	Mr. Hay to Mr. White.....	....do...	Application for passport of Bernard Ehlers, a citizen of the Hawaiian Islands. Department is investigating.	521
1196	Mr. White to Mr. Hay .....	Feb. 22	Meat inspection. Reports provisions of amended bill.	498
1017	Mr. Hay to Mr. White .....	Mar. 8	Same subject. Suggests representations to German Government.	499
	Mr. White to Mr. Hay (telegram).	Mar. 10	Same subject. Reports passage of bill in severe form.	500
1206	Same to same.....	....do...	Same subject. Reports on bill as passed second reading.	500
1210	Same to same.....	Mar. 17	Same subject. Reports actions of various factions in Germany in regard to the proposed bill.	503
1214	Same to same.....	Mar. 24	Same subject. Reports representations made to German Government against a too stringent bill.	504
1029	Mr. Hay to Mr. White .....	Apr. 2	Application for passport of Bernard Ehlers, a citizen of the Hawaiian Islands. Instructs as to document to be issued to Ehlers.	521
1222	Mr. White to Mr. Hay .....	Apr. 14	Meat inspection. Reports that German Government has declared its opposition to the bill, but the Agrarian party remains firm.	505
1237	Same to same.....	Apr. 30	Military service. Cases of Joseph Gresser, Rudolph Teutsch, Jens C. Andersen, August Dalesch, George von Staden, Siegfried Lehden, Siegmund Wollenberg, Frederick H. Kruse, and Julius Burger.	514
1241	Same to same .....	May 3	Meat inspection. Reports on amended section of the bill.	507
1250	Same to same .....	May 19	Same subject. Reports further amendments to bill.	507
1253	Same to same.....	May 22	Same subject. Transmits text of bill as passed ..	508
	Mr. Hay to Mr. von Holleben.	June 26	Samoan claims of French (and other) citizens. Inquires if Germany is willing to their admission to arbitration.	522
1284	Mr. White to Mr. Hay .....	June 30	Military-service cases of Peter F. Hinrichsen, Max Abel, F. P. and E. F. Waggershauser, Albert Ganslen, and Philip Enoch.	516
1291	Same to same .....	July 5	China. Negotiations for restoration of order. Reports having informed German Government of policy of United States.	326
1067	Mr. Hay to Mr. White .....	July 6	Same subject. Regrets at murder of Baron von Ketteler.	326



## GERMANY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1900.		
	The German Emperor to the President.	July 6	China. Acknowledges above, with thanks.	327
1297	Mr. White to Mr. Hay.....	July 9	Same subject. Transmits offer of reward made by the Emperor for the rescue of foreigners shut up in Peking.	327
1301	Same to same .....	July 13	Same subject. Transmits statement of Germany's attitude.	327
1307	Same to same .....	July 19	Same subject. Transmits regulation as to telegrams permitted to be sent by the Chinese legation at Berlin.	328
1311	Same to same .....	July 21	Same subject. Minister for foreign affairs has little hope of securing authentic information from China at present.	329
	Mr. Jackson to Mr. Hay (telegram).	July 25	Same subject. German Government doubts authenticity of telegram purporting to be from the Emperor of China to the German Emperor.	329
1318	Same to same .....	July 26	Same subject. German Government is in accord with expressed policy of United States.	329
1319	Same to same .....	.....do...	Offer of use of hospital ship <i>Maine</i> for wounded German soldiers and sailors reported.	525
1320	Same to same .....	.....do...	China. Negotiations for restoration of order. Thanks of foreign office for President's telegram regarding the murder of Baron von Ketteler.	330
	Mr. von Holleben to Mr. Hay.	July 30	Same subject. Transmits regulation as to telegrams permitted to be sent by the Chinese legation at Berlin.	338
	Memorandum of German ambassador.	July 31	Same subject. German officials in China will extend protection to all foreigners.	338
444	Mr. Hay to Mr. von Holleben.	Aug. 3	Same subject. Acknowledges note of July 30....	338
1336	Mr. Jackson to Mr. Hay....	Aug. 6	Offer of use of hospital ship <i>Maine</i> for wounded German soldiers and sailors. Reports thanks of German Government.	525
	Same to same (telegram) ..	Aug. 7	China. Negotiations for restoration of order. Asks views of United States as to command of allied troops.	330
1338	Same to same .....	.....do...	Same subject. Confirms above telegram, and states that Count Waldersee is suggested as commander.	331
	Mr. Adee to Mr. Jackson (telegram).	Aug. 10	Same subject. Agrees to above suggestion.....	331
	The German Emperor to the President.	Aug. 11	Same subject. Expresses gratification at agreement of United States to appointment of Count Waldersee.	332
	Mr. Adee to Count von Hacke.	.....do...	Same subject. Communicates telegram of 10th instant to Mr. Jackson.	339
	The President to the German Emperor.	Aug. 12	Same subject. Acknowledges telegram of 11th instant, with gratification.	332
	Memorandum of German embassy.	Aug. 13	Same subject. States that Russia proposes to send detachment to Peking to bring back foreign envoys.	339
	Memorandum to German embassy.	.....do...	Same subject. Defines position of United States on question mentioned in above memorandum.	339
1363	Mr. Jackson to Mr. Hay....	Aug. 16	Same subject. Reports time of Count Waldersee's departure.	332
1364	Same to same.....	Aug. 18	Same subject. Transmits communication from the Imperial Government to the Chinese legation.	333
1091	Mr. Adee to Mr. Jackson...	Aug. 20	Same subject. Acknowledges above. German position appears to coincide with that of United States.	333
1367	Mr. Jackson to Mr. Hay....	Aug. 23	Same subject. Reports that only one written reply (that transmitted with dispatch No. 1364) has been made by German Government to communications of Chinese minister.	334
	Memorandum of German embassy.	.....do...	Same subject. Germany can not enter into negotiations with Li Hung Chang on account of doubts as to his credentials.	340
1368	Mr. Jackson to Mr. Hay....	.....do...	Offer of use of hospital ship <i>Maine</i> for wounded German soldiers and sailors. Reports reciprocal action of German Trained Nurse Association.	525
	Baron von Sternburg to Mr. Hay.	Sept. 1	China. Negotiations for restoration of order. Advises of Count Waldersee's departure for China.	340
	Mr. Jackson to Mr. Hay (telegram).	Sept. 4	Same subject. Reports German answer to Russian proposal as to withdrawal of troops from Peking.	334
	Same to same .....	.....do...	Same subject. Confirms above telegram, and incloses memorandum from German foreign office.	335

## GERMANY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1900.		
1105	Mr. Hill to Mr. Jackson.....	Sept. 11	Offer of use of hospital ship <i>Maine</i> for wounded German soldiers and sailors. Instructs to express appreciation of reciprocal action by German Trained Nurse Association.	526
	The German Emperor to the President.	Sept. 13	Condolences on Galveston disaster .....	527
	The President to the German Emperor.	Sept. 14	Same subject. Acknowledges above, with thanks.	528
1405	Mr. Jackson to Mr. Hay....	Sept. 17	Citizenship of children of an alien woman who married an American citizen and brought them to the United States. Submits question for ruling of Department.	526
	Baron von Sternburg to Mr. Hay.	Sept. 18	China. Negotiations for restoration of order. Submits preliminary conditions suggested by the German Government as necessary before entering upon negotiations with China.	341
	Mr. Hill to Baron von Sternburg.	Sept. 21	Same subject. Replying to above note, defines position of United States.	341
1407	Mr. Jackson to Mr. Hay....	Sept. 22	Same subject. Reports attitude of German Government with respect to Russian proposition.	336
1414	Same to same .....	Sept. 27	Same subject. Refers to above dispatch, and incloses memorandum from foreign office.	336
1416	Same to same .....	Sept. 29	Military service cases of Lawrence M. Metzger, Francis X. Hossenlopp, Albert Ganslen, Anton Esser, Otto Graul, Fritz Hillens, Hieronimus Bayer, Simon Moeller, Wilhelm Ritterhoff, and Alfred Kundsén.	517
	Memorandum of German embassy.	Oct. 2	China. Negotiations for restoration of order. Requests opinion of United States Government as to edict ordering punishment of guilty Chinese officials.	342
	Memorandum to German embassy.	Oct. 3	Same subject. Minister at Pekin has been instructed to report on punishment edict.	342
1115	Mr. Hay to Mr. Jackson.....	....do....	Citizenship of children of an alien woman who married an American citizen and brought them to the United States, is that of the United States.	527
	Count von Quadt to Mr. Hay.	Oct. 15	Samoan claims of French (and other) citizens. Germany consents to their admission to arbitration.	523
	Same to same .....	Oct. 20	China. Negotiations for restoration of order. Incloses agreement between German ambassador to Great Britain and Lord Salisbury.	343
483	Mr. Hay to Count von Quadt.	Oct. 22	Samoan claims of French (and other) citizens. Assents to their admission to arbitration.	524
1434	Mr. Jackson to Mr. Hay....	Oct. 23	China. Negotiations for restoration of order. Has communicated to German Government the United States answer to French propositions.	337
485	Mr. Hay to Count Isny.....	Oct. 29	Same subject. Outlines position of United States in regard to negotiations.	343
1136	Mr. Hay to Mr. White.....	Nov. 28	Same subject. Instructs to convey appreciation of United States for services of Dr. Velde during siege of legations.	337
	The President to the German Emperor (telegram).	Dec. 18	Condolences on loss of German training ship, <i>Gneisenau</i> , at Malaga.	528
1492	Mr. White to Mr. Hay.....	Dec. 31	Military service cases of Hermann Karl, Adolph Brück, Heinrich Bernsmann, and Christian Boder.	519

## GREAT BRITAIN.

		1899.		
1612	Mr. Hay to Lord Pauncefote.	Nov. 11	Exercise of good offices of United States consul in behalf of British prisoners of Boers in South Africa. Communicates information received in regard to.	619
496	Mr. Hay to Mr. Choate.....	Nov. 19	Courtesies extended to an officer of the United States Army by British forces in South Africa. Instructs to express thanks.	631
	Lord Pauncefote to Mr. Hay.	Nov. 22	Exercise of good offices of United States consul in behalf of British prisoners of Boers in South Africa. Cites precedents in support of request for.	619
1619	Mr. Hay to Lord Pauncefote.	Nov. 28	Same subject. Consul at Pretoria has been instructed to communicate to Government of South African Republic in line with above note.	620

## GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
191	Mr. Stowe to Mr. Cridler...	1899. Dec. 6	Seizure of American merchandise off east coast of Africa. Reports seizure of British steamer <i>Mashona</i> with American cargo.	529
	Messrs. Hopkins & Hopkins to Mr. Hay.	Dec. 12	Same subject. Request that inquiry and representations be made in regard to seizure.	529
	Mr. Geldart to Mr. Hay ....	Dec. 15	Same subject. Inquires as to right of British Government to seize goods shipped by him on steamship <i>Beatrice</i> .	533
	Messrs. Hopkins & Hopkins to Mr. Adee.	....do ...	Same subject. State that Flint, Eddy & Co., shippers of goods aboard the <i>Mashona</i> and <i>Maria</i> , are American citizens.	533
262	Mr. Hay to Mr. Choate .....	Dec. 21	Same subject. Incloses correspondence, and instructs to bring matter to attention of British Government.	534
263	Same to same .....	....do ...	Same subject and tenor.....	534
	Mr. Geldart to Mr. Hay ....	Dec. 22	Same subject. Gives particulars in regard to shipments made by him.	534
	Messrs. W. H. Crossman & Bro. to Mr. Hay.	Dec. 26	Same subject. Gives particulars in regard to shipments made by them.	535
49	Mr. Cridler to Mr. Hollis...	Dec. 27	Same subject. Incloses complaint of Mr. Geldart, and instructs to investigate.	538
50	Same to same.....	....do ...	Same subject. Incloses complaints in regard to shipments of Messrs. Flint, Eddy & Co., and instructs to investigate.	538
	Mr. Hay to Mr. Hollis (telegram).	Dec. 28	Same subject. Instructs to ascertain facts regarding seizures.	538
	Mr. Choate to Mr. Hay (telegram).	1900. Jan. 1	Same subject. British Government states that the <i>Mashona</i> was arrested for trading with the enemy.	538
267	Mr. Hay to Mr. Choate.....	Jan. 2	Same subject. Incloses correspondence with Messrs. W. H. Crossman & Bro. in regard to shipments made by them, and instructs to make proper representations to British Government.	539
268	Same to same .....	....do ...	Same subject. Instructs in line with above in regard to shipments of R. W. Geldart and Norton & Sons.	539
	Same to same (telegram)...	....do ...	Same subject. States that if the <i>Mashona</i> was seized for violation of British law prompt restitution of goods of American owners should be made; if seizure was made on account of the merchandise the United States Government could not recognize its validity.	539
	Pennsylvania Milling and Export Co. to Mr. Hay.	Jan. 3	Same subject. Incloses affidavit in regard to seized shipments.	540
51	Mr. Cridler to Mr. Hollis...	Jan. 4	Same subject. Incloses correspondence and directs investigation.	541
	Mr. Choate to Mr. Hay (telegram).	....do ...	Same subject. Reports interview with Lord Salisbury, who has the cases under consideration.	542
	Mr. Cridler to Messrs. Crossman & Bro.	Jan. 5	Same subject. Matter is being investigated by Department.	542
	Mr. Cridler to Mr. R. W. Geldart.	....do ...	Same subject and tenor.....	543
	Mr. Cridler to Messrs. Hopkins & Hopkins.	....do ...	Same subject and tenor.....	544
227	Mr. Choate to Mr. Hay .....	....do ...	Same subject. Incloses copy of his note to Lord Salisbury.	543
	Mr. Hay to Mr. Choate (telegram).	Jan. 6	Same subject. The United States Government expects a speedy decision in accordance with principles of justice. Instructs to bring matter to attention of British foreign office.	545
	Pennsylvania Milling and Export Co. to Mr. Hay.	....do ...	Same subject. Recapitulates marks of their flour shipments.	545
	Same to same (telegram).....	....do ...	Same subject and tenor.....	546
228	Mr. Choate to Mr. Hay .....	....do ...	Same subject. Incloses clipping from the Times relating to prize law, and Delagoa Bay.	546
	Mr. Hay to Pennsylvania Milling and Export Co. (telegram).	Jan. 9	Same subject. Inquiries if flour was sold for future delivery, and how their present interest appears.	547
	Pennsylvania Milling and Export Co. to Mr. Hay (telegram).	....do ...	Same subject. Give particulars of sales. Suggests that British Government use flour, and make reasonable indemnification.	547
	Same to same (telegram)...	Jan. 10	Same subject. State that flour was their property until delivery fulfilled at Delagoa Bay.	548
	Messrs. Henry W. Peabody & Co. to Mr. Hay.	....do ...	Same subject. Give details in regard to certain of their shipments, and inquire what action Department has taken.	548
	Mr. Hay to Mr. Choate (telegram).	....do ...	Same subject. Communicates substance of telegram of 9th instant from Pennsylvania Milling and Export Co.	548

## GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1900.		
	Mr. Choate to Mr. Hay (telegram).	Jan. 10	Seizure of American merchandise off east coast of Africa. Reports interview with Lord Salisbury, who stated that the British officials would consider an offer to sell the goods.	549
	Mr. Hay to Messrs. H. W. Peabody & Co. (telegram).	Jan. 11	Same subject. Suggests disposition of flour already landed, and asks if they desire to sell flour seized to British Government.	550
	Mr. Choate to Mr. Hay (telegram).	....do....	Same subject. Reports having asked restitution of all American merchandise seized.	550
	Messrs. C. C. Abel & Co. to Mr. Hay.	Jan. 12	Same subject. Report seizure of goods shipped by them on the <i>Beatrice</i> .	550
	Mr. Choate to Mr. Hay (telegram.)	....do....	Same subject. Suggests that if seized goods are sold both consignor and consignee unite in sale.	551
	Messrs. Arkell & Douglas to Mr. Hay.	....do....	Same subject. Request protection of their interests and ask present status of matter.	551
	Messrs. W. H. Crossman & Bro. to Mr. Hay (telegram.)	....do....	Same subject. Are not certain as to title to goods seized.	552
	Mr. Choate to Mr. Hay (telegram.)	....do....	Same subject. Foreign office has no information in matter not already possessed by United States Government.	552
231	Same to same.....	....do....	Same subject. Reports at length; explains certain delays; incloses correspondence.	552
	Messrs. Norton & Son to Mr. Hay.	Jan. 13	Same subject. Ask results of Department's investigations.	556
	Messrs. W. H. Crossman & Bro. to Mr. Hay.	....do....	Same subject. Should drafts drawn to cover their shipments be paid, they will make no claim.	556
	Messrs. Hopkins & Hopkins to Mr. Hay.	....do....	Same subject. Request that question of sale of goods to British Government be held in abeyance.	557
	Mr. Hay to Mr. Choate (telegram.)	....do....	Same subject. Quotes telegram from Pennsylvania Milling Co., claiming title to flour until delivery completed.	558
	Messrs. W. H. Crossman & Bro. to Mr. Hay (telegram.)	Jan. 15	Same subject. Do not desire attempt for settlement made at present.	558
	Mr. Choate to Mr. Hay (telegram.)	....do....	Same subject. Inquires if the <i>Mashona</i> had a manifest. British foreign office is advised to the contrary.	558
	Messrs. Arkell & Douglas to Mr. Hay.	....do....	Same subject. Do not desire immediate steps looking to settlement with British Government.	558
	Messrs. H. W. Peabody & Co. to Mr. Hay.	....do....	Same subject and tenor as above.....	559
	Mr. Gage to Mr. Hay.....	Jan. 16	Same subject. Collector of customs at New York has been instructed to forward copy of manifest of the <i>Mashona</i> .	560
	Mr. Hay to Mr. Choate (telegram).	....do....	Same subject. Instructs to ascertain status of American cargoes on the <i>Maria</i> , <i>Mashona</i> , and <i>Beatrice</i> .	560
	Messrs. C. C. Abel & Co. to Mr. Hay.	Jan. 17	Same subject. After further correspondence with consignees they will communicate with Department.	561
	Messrs. W. H. Crossman & Bro. to Mr. Hay.	....do....	Same subject. Do not wish to make claim.....	561
	Mr. Choate to Mr. H y (telegram).	....do....	Same subject. Reports particulars in possession of foreign office in regard to American shipments aboard the <i>Beatrice</i> , <i>Maria</i> , and <i>Mashona</i> .	561
	Pennsylvania Milling and Export Co. to Mr. Hay.	....do....	Same subject. Documents in relation to their shipments are being prepared.	562
	Mr. Hay to Messrs. Arkell & Douglas.	Jan. 18	Same subject. Quotes substance of Mr. Choate's telegram of 17th instant.	562
	Mr. Hay to Messrs. Norton & Son (telegram).	....do....	Same subject and tenor. Gives also attitude of British Government on question of contraband.	563
234	Mr. Choate to Mr. Hay.....	....do....	Same subject. Reports interviews with British foreign office, and incloses correspondence.	563
	Same to same (telegram)...	Jan. 19	Same subject. It is reported that all goods shipped by the <i>Maria</i> to Delagoa Bay have been delivered.	567
	Messrs. Flint, Eddy & Co. to Mr. Hay.	....do....	Same subject. Inclose documents covering such goods as they desire to make claim for.	567
	Same to same.....	....do....	Same subject and tenor.....	568
	Messrs. W. H. Crossman & Bro. to Mr. Hay.	Jan. 20	Same subject. Acknowledge Department's telegram of 18th instant.	571
	Mr. Hay to Messrs. Norton & Son.	Jan. 22	Same subject. Gives attitude of British Government in regard to contraband.	572
	Mr. Hay to Mr. Choate (telegram).	Jan. 24	Same subject. Inquiries if copy of manifest of <i>Mashona</i> is needed.	572
237	Mr. Choate to Mr. Hay.....	Jan. 26	Same subject. Reports action on Department's various telegrams. Offer to purchase flour is made contingent upon either of the colonies undertaking to buy. Goods going to South African Republic will be held. Represents difficulty in getting at facts, and suggests that United States consuls be called upon for accurate reports. Incloses correspondence.	572

## GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Choate to Mr. Hay (telegram).	1900. Jan. 26	Seizure of American merchandise off east coast of Africa. Reports reasons why cargo of <i>Beatrice</i> was landed at East London, adding that merchandise for bona fide Portuguese consumption has been removed from time to time.	576
286	Mr. Hay to Mr. Choate.....	.....do...	Same subject. Incloses correspondence in regard to goods of Pennsylvania Milling and Export Co.	581
	Same to same (telegram) ..	Jan. 27	Same subject. Points out contradiction of above telegram with assurances that food stuffs not for belligerents would not be considered as contraband. Instructs to draw attention of foreign office to this point.	577
	Mr. Choate to Mr. Hay .....	Jan. 29	Same subject. American owners of cargo in the <i>Mashona</i> should prove damages in prize court.	577
	Mr. Hay to Mr. Choate .....	Jan. 30	Same subject. Transmits copy of manifest of <i>Mashona</i> .	577
241	Mr. Choate to Mr. Hay .....	.....do...	Same subject. Reports further action and incloses copy of the note to Lord Salisbury.	577
290	Mr. Hay to Mr. Choate .....	Feb. 2	Same subject. Pennsylvania Milling Co. are the only owners who have expressed willingness to sell captured goods to British Government. Hopes that rules of prize procedure will not be rigidly enforced. Commends skill and vigilance of ambassador.	579
244	Mr. Choate to Mr. Hay .....	.....do...	Same subject. Apparent contradiction referred to in Department's telegram of Jan. 27th was not intended. Incloses note from foreign office.	579
246	Same to same.....	Feb. 7	Same subject. Reports and explains certain delays. Incloses note to Lord Salisbury.	585
	Same to same (telegram)...	Feb. 8	Same subject. Reports that high commissioner in South Africa says no representations have been made on behalf of American owners.	581
	Same to same (telegram)...	Feb. 9	Same subject. Reports in regard to consul-general at Cape Town representing American claimants.	581
251	Same to same.....	Feb. 10	Same subject. Gives information concerning consignees of goods on the <i>Beatrice</i> , <i>Maria</i> , and <i>Mashona</i> , and discusses question of title to the merchandise. Incloses correspondence.	586
307	Mr. Hay to Mr. Choate.....	Feb. 19	Same subject. Incloses documents in regard to shipments of Peabody & Co., who desire steps taken to protect their interests.	588
308	Same to same.....	.....do...	Same subject. Incloses letter from Pennsylvania Milling Co. stating that they sent nothing to the Transvaal.	589
311	Same to same.....	Feb. 20	Same subject. Incloses documents in regard to shipments of R. W. Geldart.	589
313	Same to same.....	Feb. 21	Same subject. Incloses documents in regard to shipments of Arkell & Douglas.	591
314	Same to same.....	.....do...	Same subject. Incloses documents in regard to shipments of Peabody & Co.	592
	Same to same (telegram)...	.....do...	Same subject. Instructs to represent that reported seizure of the <i>Sabine</i> is unnecessary and destructive of legitimate American trade.	594
	Mr. Choate to Mr. Hay (telegram).	Feb. 22	Same subject. Foreign office has not heard of seizure of the <i>Sabine</i> .	594
262	Same to same .....	Feb. 24	Same subject. Communicates press reports concerning release of the <i>Sabine</i> .	594
	Same to same (telegram)...	.....do...	Same subject. Reports interview with Lord Salisbury, who confirms report of release of the <i>Sabine</i> .	595
264	Same to same .....	Feb. 26	Same subject. Confirms above telegram, giving particulars of interview.	595
315	Mr. Hay to Mr. Choate .....	.....do...	Same subject. States that in order to support a claim the shipper should be an American citizen and owner of the goods when seized. Reserves expression of opinion as to "indirect loss," etc. Incloses correspondence with shippers.	596
316	Same to same .....	.....do...	Courtesies to U. S. F. C. S. <i>Albatross</i> by British deputy commissioner and vice-consul at Suva Harbor, Fiji Islands. Instructs to express thanks.	629
265	Mr. Choate to Mr. Hay .....	Feb. 27	Seizure of American merchandise off east coast of Africa. Purchase is still contemplated by British Government, but minister for foreign affairs thinks that, owing to questions of ownership, matter should be left with United States consul and British commissioner in South Africa to settle.	600

## GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1900.		
	Mr. Hay to Mr. Choate (telegram).	Mar. 2	Seizure of American merchandise off east coast of Africa. States that prolonged detention of the <i>Mashona</i> is an injury to American shipping interests. United States Government desires her release.	601
268	Mr. Choate to Mr. Hay.....	Mar. 3	Same subject. Incloses note to minister for foreign affairs asking that an offer be made for goods of Pennsylvania Milling Co.	601
	Same to same (telegram)...	Mar. 6	Same subject. Reports discrepancies in lists of owners presented to British commissioner in South Africa, who can not go to prize court without further information.	602
	Same to same (telegram)...	Mar. 7	Same subject. British Government is prepared to buy goods, but evidence of ownership must be furnished.	603
274	Same to same .....	do	Same subject. British Government denies liability for damages on account of detention, but assumes that purchase of goods would cover all claims.	603
275	Same to same .....	Mar. 8	Same subject. Reports conversation with minister for foreign affairs relative to question of damages.	605
276	Same to same .....	do	Same subject. Request for early release of the <i>Mashona</i> has been orally presented to minister for foreign affairs.	605
	Mr. Hay to Mr. Choate (telegram).	do	Same subject. Suggests danger of continued confinement of shipment of oil on <i>Mashona</i> .	606
325	Same to same .....	Mar. 9	Same subject. Approves action reported in dispatch No. 265 and recites that taken by Department with the shippers.	606
278	Mr. White to Mr. Hay.....	Mar. 10	Same subject. Department's telegram of 8th instant has been communicated to the foreign office.	607
	Same to same (telegram)...	Mar. 12	Same subject. Colonial secretary has been asked to ascertain value of flour. Matter would be expedited if embassy could give assurance of Pennsylvania Milling Co.'s ownership and receive and receipt for amount. Arrangement contingent upon release of goods by prize court.	607
329	Mr. Hay to Mr. White.....	Mar. 15	Same subject. Pennsylvania Milling Co. has sent to consul at Cape Town all papers and information required.	608
283	Mr. White to Mr. Hay.....	do	Same subject. Incloses correspondence in regard to proposed purchase of flour of Pennsylvania Milling Co.	608
333	Mr. Hay to Mr. White .....	Mar. 20	Courtesies of British naval officers on occasion of an explosion aboard the U. S. S. <i>Wheeling</i> at Hongkong. Instructs to express thanks.	630
334	Same to same .....	do	Seizure of American merchandise off east coast of Africa. Theory that goods for the enemy's country, even though consigned to British ports, make the carrying British vessels amenable to municipal law need not be discussed at present, but United States would regret to see it raised by British Government in future.	609
1753	Mr. Hay to Lord Pauncefote.	Apr. 9	Exercise of good offices of United States consul in behalf of British prisoners of Boers in South Africa will be permitted.	620
1752	Same to same .....	do	Same subject. Incloses correspondence with consul at Pretoria.	620
300	Mr. Choate to Mr. Hay.....	Apr. 11	Seizure of American merchandise off east coast of South Africa. Incloses note from foreign office in relation to flour shipped by Pennsylvania Milling Co.	609
301	Same to same .....	Apr. 14	Same subject. Incloses correspondence with foreign office in regard to shipments of R. W. Geldart.	610
302	Same to same .....	do	Same subject. Incloses correspondence with foreign office in regard to shipments of Peabody & Co.	611
304	Same to same .....	Apr. 16	Same subject. Incloses correspondence with foreign office in regard to shipments of Arkell & Douglas.	612
111	Lord Pauncefote to Mr. Hay.	Apr. 18	Exercise of good offices of United States consul in behalf of British prisoners of Boers in South Africa. Expresses thanks of British Government.	623
378	Mr. Hay to Mr. Choate.....	May 24	Seizure of American merchandise off east coast of Africa. Incloses letter from R. W. Geldart in regard to judgment of prize court, and instructs to take proper steps to effect sales.	612

## GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Lord Pauncefote to Mr. Hay.	1900. June 19	Samoan claims of French citizens. Asks views of United States Government as to their admission to arbitration.	625
	Mr. Choate to Mr. Hay (telegram).	June 20	Seizure of American merchandise off east coast of Africa. Asks what price will reimburse Mr. Geldart.	614
344	Same to same .....	.....do....	Same subject. Confirms above telegram with particulars of interview with Lord Salisbury.	614
	Mr. Hay to Mr. Choate (telegram).	June 22	Same subject. \$1,575 would cover Mr. Geldart's shipments.	615
	Mr. Choate to Mr. Hay (telegram).	June 23	China. Negotiations for restoration of order. British Government's views are similar to those expressed by United States.	344
	Mr. Hay to Lord Pauncefote.	June 25	Samoan claims of French citizens. United States Government will consent to their admission to arbitration if Great Britain and Germany also consent.	626
401	Mr. Hay to Mr. Choate.....	.....do....	Seizure of American merchandise off east coast of Africa. Confirms telegram of 22d instant, and incloses letter from Mr. Geldart.	616
350	Mr. Choate to Mr. Hay.....	June 27	Same subject. Incloses copy of note to Lord Salisbury on subject of Mr. Geldart's shipments.	616
195	Lord Pauncefote to Mr. Hay.	July 6	China. Negotiations for restoration of order. Transmits memorandum communicated by British foreign office to Chinese minister.	350
356	Mr. Choate to Mr. Hay.....	July 7	Same subject. British Government concurs in policy of United States.	345
	Mr. Hay to Mr. Choate (telegram).	July 18	Same subject. United States officials in China have been instructed that nothing but military necessity would justify destruction of Tientsin.	345
	Lord Pauncefote to Mr. Hay (telegram).	July 20	Same subject. Asks if report that message has been received from Minister Conger is true.	350
	Mr. Hill to Lord Pauncefote (telegram).	.....do....	Same subject. Gives substance of telegram received from Mr. Conger.	350
361	Mr. Choate to Mr. Hay.....	July 23	Seizure of American merchandise off east coast of Africa. Transmits offer of \$1,575 in settlement of claims of Mr. Geldart.	617
208	Lord Pauncefote to Mr. Hay.	July 24	China. Negotiations for restoration of order. Communicates telegram from British consul-general at Shanghai to foreign office.	350
361a	Mr. Choate to Mr. Hay.....	July 25	Same subject. Reports interviews with Lord Salisbury.	345
	Lord Pauncefote to Mr. Hay (telegram).	Aug. 1	Same subject. Advises of news of attacks on legations received from British minister to China.	351
372	Mr. Choate to Mr. Hay.....	Aug. 4	Same subject. Incloses note from Lord Salisbury in regard to proposed negotiations.	346
	Lord Pauncefote to Mr. Hay.	Aug. 5	Same subject. Incloses statement of policy of British Government.	351
381	Mr. Choate to Mr. Hay.....	Aug. 11	Same subject. Has communicated Department's telegram of 8th instant to foreign office.	347
388	Same to same.....	Aug. 14	Same subject and tenor in regard to Department's telegram of 12th instant.	347
432	Mr. Adee to Mr. Choate....	Aug. 15	Seizure of American merchandise off east coast of Africa. Incloses Mr. Geldart's acceptance of offer of settlement of his claim.	618
387	Mr. Choate to Mr. Hay.....	Aug. 24	China. Negotiations for restoration of order. Has communicated Department's telegram of 23d instant to foreign office.	347
	Same to same (telegram)..	Aug. 27	Same subject. Reply made by British Government to Li Hung Chang's proposals for negotiations is similar to that of United States.	347
	Same to same (telegram)...	Aug. 30	Same subject. British minister to China has received no messages from his Government except a short test message.	348
	Same to same (telegram)...	Sept. 3	Same subject. Until information is received from British officials in China British Government is unable to form judgment on questions raised in Russian communication.	348
254	Lord Pauncefote to Mr. Adee.	.....do....	Same subject. Incloses proclamation of British Government prohibiting importation of arms to China.	352
257	Same to same.....	Sept. 4	Same subject. Until information is received from British officials in China British Government is unable to form judgment on questions raised in Russian communication.	352
	Lord Pauncefote to Mr. Hill.	Sept. 5	Same subject. Thanks for kindness of Mr. Richard T. Greener, United States commercial agent at Vladivostock, to missionaries.	353
	Mr. White to Mr. Hay (telegram).	Sept. 11	Same subject. British Government think time has not arrived for withdrawing their forces from Peking.	348

## GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
445	Mr. Hill to Mr. White .....	1900. Sept. 11	Award by British Government to Mrs. George F. Labram, in recognition of her husband's services during the siege of Kimberley. Instructs to formally present the case to British Government.	623
	Lord Pauncefote to Mr. Hill.	Sept. 15	Condolences of Queen on Galveston disaster .....	632
	Same to same.....	.....do .....	Condolences of British Government on Galveston disaster.	632
	Same to same .....	Sept. 17	Condolences of governor of Windward Islands...	632
	Mr. Adee to Lord Pauncefote.	.....do .....	China. Negotiations for restoration of order. Acknowledges note of 5th instant transmitting thanks for Mr. Greener's kindness to missionaries at Vladivostock.	354
1924	Mr. Hill to Lord Pauncefote.	Sept. 19	Condolences on Galveston disaster. Acknowledges note of 15th instant.	633
	Same to same .....	Sept. 20	Same subject. Acknowledges note of 15th instant.	633
1925	Same to same .....	.....do .....	Same subject. Acknowledges note of 17th instant.	633
285	Lord Pauncefote to Mr. Hay	Oct. 1	Samoan claims of French citizens. King of Sweden is willing to consider claims of all foreigners. Asks views of United States as to their admission to arbitration.	626
1952	Mr. Hay to Lord Pauncefote	Oct. 13	Same subject. Assents to admission of claims of foreigners to arbitration in case Great Britain and Germany do likewise.	627
303	Lord Pauncefote to Mr. Hay	Oct. 16	Same subject. Transmits correspondence showing assent of German Government to admission of such claims to arbitration.	627
1958	Mr. Hay to Lord Pauncefote	Oct. 22	Same subject. Incloses correspondence with German chargé relative to subject.	629
315	Lord Pauncefote to Mr. Hay	Oct. 23	China. Negotiations for restoration of order. Incloses agreement between Great Britain and Germany in regard to.	354
1967	Mr. Hay to Lord Pauncefote	Oct. 29	Same subject. The United States accepts principles laid down in Clauses I and II of agreement above referred to.	355
420	Mr. Choate to Mr. Hay .....	Nov. 1	Same subject. Incloses correspondence with foreign office in regard to French proposal.	349
340	Lord Pauncefote to Mr. Hay	Nov. 12	Same subject. Commendations of services of Maj. William Quinton and Capt. J. R. M. Taylor, U. S. A., during relief of Peking.	356
1978	Mr. Hay to Lord Pauncefote	Nov. 16	Same subject. A copy of above note has been communicated to the War Department.	356
459	Mr. Choate to Mr. Hay .....	Dec. 19	Award by British Government to Mrs. George F. Labram in recognition of her husband's services during the siege of Kimberley. Incloses check for £1,000.	624
522	Mr. Hay to Mr. Choate .....	Dec. 29	Same subject. Acknowledges above dispatch and inclosure.	625

## GREECE.

30	Mr. Hardy to Mr. Hay.....	1900. Mar. 1	Military-service case of Louis Economopoulos. Right of expatriation not recognized by constitution of Greece.	634
32	Same to same.....	Mar. 22	Same subject. If release is refused, legation will take the ground that under Greek law subjects naturalized abroad are liable to penalty, but not to actual service. Incloses correspondence.	636
33	Same to same.....	Apr. 5	Same subject. Release having been refused, legation has made plea referred to above. Incloses correspondence.	640
18	Mr. Hay to Mr. Hardy.....	Apr. 6	Same subject. Approves his course as reported, and instructs to inform Greek Government that the United States will be pleased to conclude a naturalization convention similar to that with Austria-Hungary.	641
19	Same to same.....	Apr. 13	Same subject. Approves his course. It is not seen what more can be done in absence of a naturalization treaty.	642
20	Same to same.....	Apr. 28	Same subject. Approves his action in matter....	642
39	Mr. Hardy to Mr. Hay.....	May 19	Same subject. Case is still pending. Greek Government proposes exchange of notes, under which no Greek subject should be admitted to United States citizenship without producing authentic authority from the Greek Government. Incloses correspondence.	642



## GREECE—Continued.

No.	From and to whom.	Date.	Subject.	Page.
23	Mr. Hay to Mr. Hardy.....	1900. June 6	Military-service case of Louis Economopoulos. Department is unwilling to conclude naturalization convention unless it recognize right of the individual to change his allegiance.	644
48	Mr. Hardy to Mr. Hay.....	June 8	Same subject. Greek minister of war refuses release, and does not answer arguments of the legation. No further effort will be made unless so directed. Incloses correspondence.	644
59	Same to same .....	Oct. 2	Same subject. Economopoulos has not seen fit to appeal to the council of doubtful cases on administration, as advised by the legation.	646
32	Mr. Hay to Mr. Hardy.....	Oct. 24	Same subject. Legation appears to have done all that it properly could.	647

## GUATEMALA AND HONDURAS.

92	Mr. Hay to Mr. Hunter .....	1898. Nov. 4	Claim of Robert H. May <i>v.</i> Guatemala. Recites position of the Department; instructs him to investigate, and make earnest representations to the Guatemalan Government in May's behalf.	648
115	Mr. Hunter to Mr. Hay .....	Nov. 12	Same subject. Reports at length. Thinks Guatemalan Government intended no injury to May, and that his claims, when audited, will be paid.	650
124	Same to same.....	Dec. 24	Same subject. Guatemalan Government claims that audited accounts make May a debtor to the Northern Railroad. Incloses correspondence.	652
131	Mr. Hay to Mr. Hunter .....	1899. Mar. 16	Murder of Frank Pears in Honduras. Reviews facts in the case, and directs demand be made of the Government of Honduras that the sentinel who killed Pears be punished, and that indemnity of \$10,000 be paid.	674
	Mr. Hunter to Mr. Hay (telegram).	Apr. 26	Same subject. Arbitration is suggested by Government of Honduras. Asks if he shall entertain the proposition.	676
	Mr. Hay to Mr. Hunter (telegram).	Apr. 27	Same subject. Instruction to press for immediate satisfaction of Pears's claim.	676
186	Mr. Hunter to Mr. Hay .....	May 13	Same subject. Incloses correspondence with representative of Honduras.	677
	Same to same (telegram)...	July 6	Same subject. Honduras denies liability, refuses demand, and again suggests arbitration.	678
	Same to same (telegram)...	July 21	Same subject. He has received copy of proceedings in trial of sentinel who did killing; asks if it shall be forwarded to Department. Honduras still denies responsibility and refuses demand.	678
	Mr. Hay to Mr. Hunter (telegram).	July 22	Same subject. Instruction to transmit correspondence and await instructions from Department.	678
227	Mr. Hunter to Mr. Hay .....	....do....	Same subject. Incloses correspondence in compliance with above instruction.	679
195	Mr. Hill to Mr. Hunter .....	Oct. 6	Claim of R. H. May <i>v.</i> Guatemala. Discusses merits of the case as apparent from the evidence and allegations on either side, concludes that May is entitled to indemnity, and offers that amount be determined by arbitration.	654
	Mr. Hunter to Mr. Hay (telegram).	Nov. 7	Same subject. Guatemala denies May's right to indemnity, but offers to submit all disputed points to arbitration, with instructions to determine if rights to damage exist, and if so, the amount.	656
230	Mr. Hay to Mr. McNally....	1900 Mar. 2	Same subject. Incloses protocol of agreement submitting case to arbitration.	656
236	Mr. Hay to Mr. Hunter .....	Mar. 20	Murder of Frank Pears in Honduras. Reviews circumstances and evidence, which leave no doubt that the shooting by the sentinel was unjustifiable, and in view of the failure of Honduras to punish the murderer or his superior officers responsible for the deed, instructs to insist upon payment of \$10,000 indemnity.	685
	Mr. Hay to Mr. McNally (telegram).	Mar. 28	Claim of R. H. May <i>v.</i> Guatemala. Instruction to inform Guatemalan Government that this Government asks for and expects an extension of the date mentioned in the protocol to enable it to furnish copies of memorial and protocol to the arbitrators.	658

## GUATEMALA AND HONDURAS—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1900.		
	Mr. Hunter to Mr. Hay (telegram).	Mar. 29	Claim of R. H. May <i>v.</i> Guatemala. Guatemalan minister at Washington has full power to grant extension.	658
	Text of supplemental protocol.	May 10	Same subject .....	658
251	Mr. Hay to Mr. Hunter.....	May 24	Murder of Frank Pears in Honduras. Asks if Honduras has replied to demand for indemnity.	689
398	Mr. Hunter to Mr. Hay.....	June 30	Same subject. Honduras promises a definite answer at an early date. Incloses correspondence.	689
270	Mr. Eay to Mr. Hunter.....	July 22	Same subject. Department is not disposed to require punishment of the sentinel who killed Pears, but delay in responding to demand for indemnity should not be allowed to pass unnoticed.	691
410	Mr. Hunter to Mr. Hay.....	July 27	Same subject. Incloses correspondence, including report of commission appointed by Honduras to review case. Honduras adheres to its refusal of demands of United States, and states that claimants have requested suspension of action in the matter.	692
	Mr. Hay to Mr. Hunter (telegram).	Oct. 6	Same subject. All members of Pears's family have united in written request to Department to push demand for indemnity. Instructs to renew demand for \$10,000.	696
280	Same to same .....	do	Same subject. Confirms above telegram, and incloses original letter from Pears's family.	696
	Mr. Everett to Mr. Hay (telegram).	Oct. 8	Same subject. Honduras offers to pay \$5,000 currency at once.	696
	Mr. Hay to Mr. Everett (telegram).	Oct. 10	Same subject. Instructs to insist upon payment of \$10,000, gold.	696
446	Mr. Everett to Mr. Hay.....	Oct. 12	Same subject. Has demanded immediate payment of \$10,000, gold. Incloses correspondence.	697
454	Same to same.....	Oct. 25	Same subject. Quotes telegraphic correspondence with minister for foreign affairs of Honduras, who promises definite reply soon.	698
	Same to same (telegram)...	Nov. 6	Same subject. Government of Honduras has ordered immediate payment of indemnity demanded.	699
459	Same to same.....	Nov. 9	Same subject. Confirms above and incloses telegraphic correspondence with minister of foreign affairs of Honduras.	699
293	Mr. Hay to Mr. Everett.....	Nov. 12	Same subject. Acknowledges, with gratification, telegram of 6th instant.	700
294	Same to same.....	Nov. 14	Same subject. Acknowledges dispatch No. 454. His action is approved by the President.	700
	Text of award of arbitrator.	Nov. 16	Claim of R. H. May <i>v.</i> Guatemala.....	659
465	Mr. Hunter to Mr. Hay .....	Nov. 26	Murder of Frank Pears in Honduras. Incloses draft for \$10,000, gold, and correspondence relating to same.	700
481	Same to same.....	Dec. 19	Consular immunities in connection with judicial summons. Incloses correspondence, and requests instructions.	703
		1901.		
311	Mr. Hill to Mr. Hunter.....	Jan. 9	Same subject. Consuls of whatever character are exempt from summons and judicial process only when their official duties or archives are involved; right to give testimony at their consulates depends on treaties, but should be extended by comity to United States consuls if enjoyed by other nations.	705

## HAITI.

687	Mr. Powell to Mr. Hay .....	1899. Dec. 16	Jurisdiction over aliens waived by Haitian courts. German minister denies right of local courts to waive jurisdiction, and holds that if upheld by supreme court it will be incumbent on his Government to establish German courts in Haiti.	706
390	Mr. Hay to Mr. Powell.....	1900. Jan. 8	Same subject. Article 6 of the treaty of 1864 between the United States and Haiti guarantees to American citizens the right in controversy between Germany and Haiti.	706

## HAITI—Continued.

No.	From and to whom.	Date.	Subject.	Page.
758	Mr. Powell to Mr. Hay .....	1900. Apr. 24	Jurisdiction over aliens waived by Haitain courts. Supreme court has confirmed decision reported in dispatch No. 687, by which the lower court declined to assume jurisdiction. German minister proposes cooperation to bring about the creation of a special court in such cases. Incloses decree of supreme court and German minister's letter.	707
410	Mr. Hay to Mr. Powell .....	May 18	Same subject. The scheme favored by the German minister is too much like interference with sovereign rights of Haiti to be supported, but Haitian Government may be informally advised to remedy by legislation the alleged lack of jurisdiction.	712
783	Mr. Powell to Mr. Hay .....	May 30	Same subject. Substance of above instruction communicated to minister of foreign affairs, who feels assured that a law will shortly be passed meeting the case.	713
50	Mr. Léger to Mr. Hay .....	Sept. 15	Condolences on Galveston disaster .....	714
	Mr. Adee to Mr. Léger.....	Sept. 18	Same subject. Acknowledges with appreciation.	714

## ITALY.

	Baron Fava to Mr. Hay ....	1900. Jan. 15	Lynching of persons of Italian origin at Tallulah, La. Incloses documents bearing on the case and asks that Louisiana authorities be moved to take action.	715
557	Mr. Hay to Baron Fava ....	Feb. 15	Same subject. Copy of above note has been sent to governor of Louisiana.	718
	Baron Fava to Mr. Hay ....	Mar. 5	Same subject. Asks what reply governor of Louisiana has made.	718
566	Mr. Hay to Baron Fava ....	Mar. 15	Same subject. No reply has been received from governor of Louisiana.	719
	Baron Fava to Mr. Hay ....	....do...	Same subject. Asks what measures the Federal Government intends to take.	719
	Mr. Hay to Mr. Draper (telegram).	Mar. 16	Courtesies to U. S. S. <i>Dixie</i> . Gives dates of arrival at Italian ports.	732
	Mr. Draper to Mr. Hay (telegram).	Mar. 18	Same subject. Arrangements have been made as directed.	732
582	Same to same.....	Mar. 23	Same subject. Reports having carried out instructions.	732
569	Mr. Hay to Baron Fava ....	Mar. 31	Lynching of persons of Italian origin at Tallulah, La. Governor of Louisiana states that he has laid Department's communications before proper officials for action.	719
	Baron Fava to Mr. Hay ....	Apr. 2	Same subject. Asks that Governor of Louisiana be informed that there is no reason why proceedings against lynchers should be further delayed.	720
587	Mr. Draper to Mr. Hay .....	....do...	Courtesies to U. S. S. <i>Dixie</i> . Orders have been issued by minister of foreign affairs.	733
574	Mr. Hill to Baron Fava ....	Apr. 17	Lynching of persons of Italian origin at Tallulah, La. Incloses letter from district attorney stating that the third grand jury has investigated affair without finding evidence to implicate anyone.	721
	Baron Fava to Mr. Hay ....	May 6	Same subject. Refrains from discussing report of district attorney communicated in above note, and asks what measures the Federal Government proposes to take to fulfill its obligations.	721
461	Mr. Hay to Mr. Draper.....	May 16	Courtesies to U. S. S. <i>Dixie</i> . Incloses letter of thanks from the Secretary of the Navy.	733
587	Mr. Hay to Baron Fava ....	June 12	Lynching of persons of Italian origin at Tallulah, La. States that the question of indemnity to families of the victims will be laid before the next session of Congress.	722
	Baron Fava to Mr. Hay ....	June 15	China. Negotiations for restoration of order. Italy desires to join in action of other powers.	359
	Mr. Iddings to Mr. Hay (telegram).	July 3	Same subject. Has complied with instructions in circular telegram of 2d instant.	356
	Same to same (telegram)...	July 4	Same subject. Reports that minister for foreign affairs says course of Italy will depend largely upon that of other powers.	357
	Same to same (telegram)...	July 22	Same subject. Has communicated Mr. Conger's message to minister for foreign affairs, who desires news from Italian legation in China.	357
	Baron Fava to Mr. Hay.....	July 30	Assassination of King Humbert. Communicates news of.	734

## ITALY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1900.		
	The President to the King of Italy (telegram).	July 30	Assassination of King Humbert. Offers condolences.	734
	Mr. Hay to Baron Fava	.....do	Same subject. Offers condolences	734
	Baron Fava to Mr. Hay	.....do	Same subject. Acknowledges condolences, with thanks.	734
	Mr. Iddings to Mr. Hay (telegram).	.....do	Same subject. Reports	735
636	Same to same	July 31	Same subject. Confirms above telegram, with particulars.	735
	The King of Italy to the President (telegram).	Aug. 3	Same subject. Thanks for condolences	736
	Baron Fava to Mr. Adee (telegram).	Aug. 13	China. Negotiations for restoration of order. Asks views of United States as to armistice and as to telegrams sent to ministers at Peking.	360
	Mr. Adee to Baron Fava (telegram).	.....do	Same subject. Above inquiries are virtually answered by memorandum sent to United States chargé at Rome.	360
	Mr. Iddings to Mr. Hay (telegram).	Aug. 25	Same subject. Reports that Italian Government has not replied to propositions of Li Hung Chang.	357
664	Same to same	Sept. 18	Same subject. Incloses note from Italian foreign office in regard to the Russian proposals as to withdrawal of legations and troops from Peking.	357
	Same to same (telegram)	Oct. 6	Same subject. Transmits text of Italian Government's reply to Russian and German proposals.	358
	Baron Fava to Mr. Hay	Oct. 14	Lynching of persons of Italian origin at Tallulah, La. Accepts proposition of indemnity, but asks that the two bills increasing Federal jurisdiction for the protection of aliens be first considered by Congress.	723
	Same to same	.....do	Same subject. Incloses papers showing that Giuseppe Defina, brother-in-law of lynched Italians, had to flee from his residence and lost his property. Requests indemnity.	724
621	Mr. Adee to Baron Fava	Oct. 19	Same subject. Suggestion in his note of 14th instant will be considered.	730
	Memorandum of Italian embassy.	.....do	China. Negotiations for the restoration of order. Communicates response of diplomatic corps at Peking to German circular.	360
	Memorandum to Italian embassy.	.....do	Same subject. United States minister has been instructed that ministers may designate names in addition to those named in edict for punishment.	361
	Baron Fava to Mr. Hay	Oct. 25	Same subject. Italian minister at Peking has been authorized to send identic note to Chinese plenipotentiaries.	361
683	Mr. Iddings to Mr. Hay	Nov. 7	Same subject. Views of Italian Government coincide with those of the United States.	359
	Baron Fava to Mr. Hay	Nov. 26	Lynching of persons of Italian origin at Tallulah, La. Submits certain requests, especially that subject of reparation be mentioned in President's message to Congress.	730
	Mr. Hay to Baron Fava	Nov. 27	Same subject. Matter will be appropriately treated in President's message.	731
	Baron Fava to Mr. Hay	Dec. 4	Same subject. The King of Italy is gratified at allusion in President's message.	731
	Same to same	.....do	Assassination of King Humbert. Conveys thanks of Italian Government for sympathy expressed in President's message.	736

## JAPAN.

		1900.		
	Mr. Buck to Mr. Hay	Jan. 16	Landing, by courtesy, of United States troops in Japan. Reports.	757
404	Same to same	Feb. 21	Passport application of A. M. Tracey Woodward, born abroad of American parents and still residing without the United States. Submits for instructions.	758
279	Mr. Hay to Mr. Buck	Mar. 21	Same subject. Mr. Woodward's status in Japan, is substantially the same as would be that of an American going to and residing indefinitely in a European state.	759
424	Mr. Buck to Mr. Hay	May 9	Income tax. Reports that missionaries' salaries are held to be subject to payment.	760
18	Mr. Nabeshima to Mr. Hay	May 22	Alleged discrimination in United States against Japanese, in the matter of quarantine against bubonic plague. Protests against order of Marine-Hospital Service as being in violation of treaty.	737

## JAPAN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
19	Mr. Nabeshima to Mr. Hay.	1900, May 23	Alleged discrimination in United States against Japanese, in the matter of quarantine against bubonic plague. Gives instances of discrimination against Japanese, even some of good standing and reputation.	738
37	Mr. Hill to Mr. Nabeshima.	May 25	Same subject. Above notes have been sent to the Secretary of the Treasury for consideration and action.	738
21	Mr. Nabashima to Mr. Hay.	May 30	Same subject. Emphasizes representations in his Nos. 18 and 19, and incloses correspondence between Japanese officials and United States health authorities.	739
38	Mr. Hay to Mr. Nabeshima.	June 1	Same subject. Copy of above note has been sent to the Secretary of the Treasury.	744
	Mr. Nabeshima to Mr. Hay.	June 6	Same subject. Desires reply to his communications on the subject.	745
	Mr. Hill to Mr. Nabeshima.	....do...	Same subject. Incloses letter from Surgeon-General of Marine-Hospital Service giving facts of the case.	745
22	Mr. Nabeshima to Mr. Hay..	June 7	Same subject. Incloses letter from general passenger agent of Southern Pacific Railway in regard to quarantine against Japanese in Colorado, and requests investigation.	746
39	Mr. Hay to Mr. Nabeshima..	June 11	Same subject. Incloses telegram from governor of Colorado in reply to above note.	747
23	Mr. Nabeshima to Mr. Hay..	June 12	Same subject. Regrets that above note fails to express the opinion of the United States Government on the question, and that his notes relating to San Francisco have remained unanswered. The whole matter has been submitted to the Japanese Government.	748
40	Mr. Hay to Mr. Nabeshima..	June 15	Same subject. Complaints referred to in above note are receiving careful consideration.	748
41	Same to same .....	June 18	Same subject. His notes of May 22, 23, and 30, June 7 and 12, have been referred to the Treasury; those of June 7 and 12 to governor of Colorado, with request for prompt report.	748
	Mr. Buck to Mr. Hay (telegram.)	June 23	China. Negotiations for restoration of order. Japanese Government desires information as to proposed course of other powers.	361
	Memorandum of Japanese legation.	June 25	Same subject. Transmits telegram from Viscount Aoki in line with above telegram from Mr. Buck.	367
43	Mr. Hay to Mr. Nabeshima..	....do..	Alleged discrimination in United States against Japanese in the matter of quarantine against bubonic plague. Surgeon-General of Marine-Hospital Service reports that quarantine in California was lifted upon United States court injunction, and that in Colorado is regulated by the State.	749
25	Mr. Nabeshima to Mr. Hay..	June 26	Same subject. Above note establishes the fact that quarantine was in operation in San Francisco until brought under judicial injunction; as to that in Colorado, it is in violation of treaty, which State authorities should observe. Regrets that no intimation of redress or measures to prevent recurrence have been given.	749
442	Mr. Buck to Mr. Hay.....	June 26	China. Negotiations for restoration of order. Confirms his telegram of June 23.	362
	Mr. Hay to Mr. Nabeshima.	June 27	Same subject. United States Government sees no objection to dispatch of Japanese reinforcements.	367
444	Mr. Buck to Mr. Hay.....	June 29	Income tax. Incloses correspondence relative to payment by officers and men of United States Navy and Marine Corps stationed at United States naval hospital at Yokohama.	762
44	Mr. Hill to Mr. Nabeshima..	....do...	Alleged discrimination in United States against Japanese, in the matter of quarantine against bubonic plague. Refers to report of Surgeon-General of Marine-Hospital Service; quotes from reply of governor of Colorado, and suggests that good understanding would be maintained by his explaining that the precautions against bubonic plague, which are of general interest, are not taken against Japanese because of their nationality, but because of their coming from a country geographically exposed to the pestilence.	750
45	Mr. Hay to Mr. Nabeshima.	July 6	Same subject. Quotes from letter of June 28 from governor of Colorado pointing out that the discrimination is not racial, but is necessary because Chinese and Japanese persons are known to be the only ones subject to the plague.	752

## JAPAN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1900.		
	Mr. Buck to Mr. Hay (telegram).	July 6	China. Negotiations for restoration of order. Japanese Government has ordered about 22,000 men to China.	362
	Mr. Nabeshima to Mr. Hay.	....do....	Same subject. Same tenor as above telegram from Mr. Buck.	368
	Memorandum of Japanese legation.	....do....	Same subject. Transmits telegram from Viscount Aoki, asking views of United States.	368
29	Mr. Nabeshima to Mr. Hay.	July 12	Alleged discrimination in United States against Japanese, in the matter of quarantine against bubonic plague. Reviews and comments on previous correspondence, and reaffirms his belief in racial discrimination.	753
48	Mr. Hay to Mr. Nabeshima.	July 16	Same subject. Above note has been referred to governor of Colorado.	755
	Memorandum of Japanese legation.	July 18	China. Negotiations for restoration of order. Transmits telegram from minister for foreign affairs reporting correspondence with Emperor of China regarding amicable settlement.	368
453	Mr. Buck to Mr. Hay	July 19	Income tax. Japanese treasury department will not press payment by officers and men of United States Navy and Marine Corps stationed at United States naval hospital at Yokohama.	765
456	Same to same	July 22	China. Negotiations for restoration of order. Reports interview with minister for foreign affairs.	362
299	Mr. Hay to Mr. Buck	July 27	Income tax. Approves course reported in dispatch No. 442.	766
464	Mr. Buck to Mr. Hay	Aug. 6	China. Negotiations for restoration of order. Japan intends to act in accord with other powers.	363
	Memorandum of Japanese legation.	Aug. 11	Same subject. Transmits telegrams from Viscount Aoki reporting overtures of Li Hung Chang.	369
	Same	....do....	Same subject. Transmits telegram from Viscount Aoki proposing that an armistice be granted.	369
	Memorandum to Japanese legation.	Aug. 12	Same subject. Defines position of United States in matter of cessation of hostilities.	369
470	Mr. Buck to Mr. Hay	Aug. 16	Same subject. Japanese Government has received proposal from Li Hung Chang similar to that received by United States.	363
474	Same to same	Aug. 17	Expressions of sympathy by Emperor and Empress of Japan for sick and wounded United States soldiers and sailors in marine hospital at Yokohama, reported.	767
306	Mr. Adee to Mr. Buck	Aug. 20	Income tax. Concurs in view that missionaries' salaries are subject to payment.	762
	Mr. Buck to Mr. Hay (telegram).	Aug. 25	China. Negotiations for restoration of order. Japanese Government has made reply to overtures of Li Hung Chang similar to that of United States, and desires that United States take initiative in negotiations.	363
309	Mr. Hill to Mr. Buck	Sept. 5	Income tax. Navy Department concurs in suggestion that incident in connection with demand for payment by officers and men of United States Navy and Marine Corps stationed at United States Naval Hospital at Yokohama be considered as satisfactorily closed.	766
	Mr. Buck to Mr. Hay	Sept. 6	China. Negotiations for restoration of order. Department's telegram of Aug. 29 has been communicated to Japanese minister for foreign affairs.	364
	Same to same (telegram)	Sept. 7	Same subject. Refers to above, and communicates reply made by Japanese Government to Russian minister.	364
314	Mr. Adee to Mr. Buck	Sept. 14	Expressions of sympathy by Emperor and Empress of Japan for sick and wounded United States soldiers and sailors in marine hospital at Yokohama. Instructs to express appreciation.	767
315	Same to same	Sept. 15	China. Negotiations for restoration of order. Instructs to express appreciation for kindness of Mr. Tayui in assisting Consul Fowler to secure a steamship.	365
46	Mr. Takahira to Mr. Hill	Sept. 21	Condolences on Galveston disaster	767
	Mr. Buck to Mr. Hay (telegram).	Sept. 22	China. Negotiations for restoration of order. Japanese Government thinks guilty leaders should be punished.	365
	Same to same (telegram)	Sept. 25	Same subject. Reports replies made to Russian, German, and Chinese proposals by minister for foreign affairs.	365
9	Mr. Hill to Mr. Takahira	Sept. 26	Condolences on Galveston disaster. Acknowledges note of 21st instant, with appreciation.	768

## JAPAN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Memorandum of Japanese legation.	1900. Oct. 4	Alleged discrimination in United States against Japanese, in the matter of quarantine against bubonic plague. Inquires whether United States Government, in view of action taken in Colorado and California, will concede that they agree with Japanese Government, and promise that they will at least use best efforts to prevent a recurrence of the quarantine.	756
	Memorandum to Japanese legation.	Oct. 13	Same subject. States that judicial action in California, though based on constitutional considerations, enables the United States Government to take in the future a course coincident with the views of the Japanese Government as to treaty rights. As to recurrence of quarantine in Colorado, the Federal Government can only promise to use its best efforts to prevent it.	756
	Mr. Buck to Mr. Hay.....	Oct. 16	China. Negotiations for restoration of order. Incloses copies of Japan's answers to last proposals of France and Germany.	366
	Memorandum of Japanese legation.	Oct. 20	Same subject. Suggests that demands should be made collectively by diplomatic representatives at Peking.	370
	Memorandum to Japanese legation.	Oct. 22	Same subject. Above suggestion has been virtually anticipated by United States in its instructions to Mr. Conger.	370

## KOREA.

232	Mr. Allen to Mr. Hay .....	1900. Mar. 13	Right to hold property in Japanese settlements in Korea denied to Americans. Incloses correspondence.	769
241	Same to same .....	Apr. 14	Protection of American interests (Seoul Electric R. R.). Recites at length nature of the difficulty, and reports legation's action. Correspondence inclosed.	771
242	Same to same .....	Apr. 18	Same subject. Japanese minister promises that Japanese railway will not interfere with Seoul Electric Railroad. Correspondence inclosed.	776
149	Mr. Hay to Mr. Allen .....	June 1	Same subject. Department approves his action as reported.	777

## LIBERIA.

46	Mr. Hay to Mr. Smith.....	1900. Mar. 8	Regulation of the importation of spirituous liquors into certain regions of Africa. Belgian Government desires adhesion of Liberia to convention of June 8, 1899.	778
81	Mr. Spurgeon to Mr. Hay ...	Apr. 18	Same subject. Incloses request from Secretary of State that United States notify Belgian Government of Liberia's adhesion to convention of June 8, 1899.	779
49	Mr. Hay to Mr. Spurgeon ...	May 19	Same subject. Above request has been complied with, but Liberian Government should announce its adhesion directly to the Government of Belgium.	780

## MEXICO.

78	Mr. Hay to Señor Azpíroz ..	1900. Mar. 28	Claim of La Abra Silver Mining Company <i>v.</i> Mexico. Return to Government of Mexico of amount awarded to the company.	781
85	Señor Azpíroz to Mr. Hay ...	.....do ...	Same subject. Acknowledges, with gratification, receipt of amount.	782
	Same to same (telegram) ...	Sept. 14	Condolences on Galveston disaster .....	784
	Mr. Adee to Señor Azpíroz (telegram).	Sept. 15	Same subject. Acknowledges above, with thanks.	784
123	Señor Azpíroz to Mr. Hay ..	Oct. 2	Galveston disaster. Remits \$30,000 which the Congress of Mexico voted to aid the sufferers.	784
116	Mr. Hay to Señor Azpíroz ..	Oct. 5	Same subject. Acknowledges above, with thanks.	785

## MEXICO—Continued.

No.	From and to whom.	Date.	Subject.	Page.
127	Señor Azpíroz to Mr. Hay ..	1900. Oct. 8	Water boundary convention between the United States and Mexico. Proposition to extend for an indefinite period the treaty of Mar. 1, 1889.	786
121	Mr. Hay to Señor Azpíroz ..	Oct. 17	Galveston disaster. Incloses letter from governor of Texas acknowledging, with thanks, sum voted by Mexican Congress.	785
127	Same to same.....	Oct. 31	Water boundary convention. This Government is prepared to enter into an agreement as proposed in note of 8th instant.	786
130	Same to same.....	Nov. 10	Claim of Benjamin Weil v. Mexico. Return to Government of Mexico of amount awarded to Weil.	783
147	Señor Azpíroz to Mr. Hay ..	Nov. 12	Same subject. Acknowledges, with gratification, receipt of amount.	783
153	Same to same.....	Nov. 15	Water boundary convention. Is ready to sign new convention.	787
134	Mr. Hay to Señor Azpíroz ..	Nov. 20	Same subject. Is ready to sign new convention.	787
	Text of convention .....	Dec. 24	Same subject .....	788

## NETHERLANDS.

283	Mr. Newel to Mr. Hay .....	1900. Mar. 17	Organization of the Permanent Court of Arbitration provided for by the convention signed at The Hague July 29, 1899. Reports preliminary steps.	790
285	Same to same.....	Mar. 19	Same subject. Further report.....	791
324	Same to same.....	Sept. 24	Same subject. Incloses copy of rules adopted ...	791
255	Mr. Hill to Mr. Newel .....	Sept. 25	Arbitration of claims of American sealing vessels v. Russia. Selection of Mr. Asser, member of council of state of the Netherlands, to act as arbitrator. Instruction to endeavor, in conjunction with Russian minister, to secure Mr. Asser's consent to act.	798
	Mr. Newel to Mr. Hay (telegram).	Oct. 5	Same subject. Russian minister can not act until he receives instructions from his Government.	798
327	Same to same.....	...do...	Same subject. Confirms above telegrams, with particulars.	798
	Mr. Hay to Mr. Newel (telegram).	Oct. 9	Same subject. Instructions were sent from St. Petersburg by courier to Russian minister on Oct. 4.	799
328	Mr. Newel to Mr. Hay .....	Oct. 12	Same subject. Joint note has been addressed to Mr. Asser, requesting an interview.	799
	Same to same (telegram)...	Oct. 13	Same subject. Mr. Asser consents to act as arbitrator.	799
	Mr. Hay to Mr. Newel (telegram).	...do...	Same subject. Instruction to act concurrently with Russian minister in formally inviting Mr. Asser to act as arbitrator.	800
331	Mr. Newel to Mr. Hay .....	...do...	Same subject. Reports interview with Mr. Asser.	800
	Same to same (telegram)...	Oct. 18	Same subject. Identical note delivered by Russian minister and himself to Mr. Asser.	800
338	Same to same.....	...do...	Same subject. Confirms above telegram, and incloses copy of note referred to.	800
	Same to same (telegram)...	Oct. 20	Same subject. Has received Mr. Asser's acceptance in writing.	801
339	Same to same.....	...do...	Same subject. Confirms above telegram, and incloses copy of note referred to.	801
	Mr. Hill to Mr. Newel (telegram).	Nov. 24	Organization of the Permanent Court of Arbitration provided for by the convention signed at The Hague July 29, 1899. Names of members designated by President of the United States.	792
351	Mr. Newel to Mr. Hay.....	Dec. 13	Same subject. Further report.....	793
357	Same to same.....	Dec. 24	Same subject. Incloses list of members of the court.	794
	Same to same.....	1901. Jan. 2	Same subject. Incloses copy of rules adopted ...	797

## NICARAGUA, SALVADOR, AND COSTA RICA.

256	Mr. Hay to Mr. Merry.....	1899. July 26	Customs duties collected by insurgents while in temporary possession of Bluefields, and return of same to American merchants. Reviews reasons justifying the payment of duties, and instructs to ask that amount deposited with British consul under arrangement of Apr. 29, 1899, be returned.	803
295	Mr. Merry to Mr. Hay.....	Aug. 11	Same subject. Above instruction has been communicated to minister of foreign affairs of Nicaragua.	804



## NICARAGUA, SALVADOR, AND COSTA RICA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
308	Mr. Merry to Mr. Hay.....	1899. Sept. 7	Customs duties collected by insurgents while in temporary possession of Bluefields, and return of same to American merchants. Nicaraguan Government contends that Bluefields was closed to commerce by proclamation; that the insurrectionary government was not a de facto government, and asserts that duties were voluntarily paid to aid insurrection. It proposes to have matter brought before the supreme court at Bluefields. Asks whether Department will consent to American merchants testifying before it. Incloses correspondence.	804
270	Mr. Hill to Mr. Merry.....	Sept. 29	Same subject. The matter has been taken up diplomatically by the United States Government, and the extraordinary proposition to lay it before Nicaraguan courts will not be considered or discussed.	809
272	Mr. Hay to Mr. Merry.....	Oct. 2	Same subject. Adduces further argument against the contentions of Nicaraguan Government, and points to the example set by the United States, which did not collect a second time duties paid to the Confederate government.	810
343	Mr. Merry to Mr. Hay.....	Nov. 11	Same subject. Late minister for foreign affairs writes that court will decide that the money deposited with British consul should be returned to the merchants.	811
347	Same to same.....	Nov. 23	Same subject. Consular agent has advised merchants not to heed summons of the court. This action may affect the favorable decision promised in above dispatch.	812
292	Mr. Hay to Mr. Merry.....	Dec. 15	Same subject. Matter is in a way of satisfactory arrangement with Nicaraguan minister at Washington.	813
	Text of protocol.....	1900. Mar. 22	Claims of Orr and Laubenheimer and the Post-Glover Electric Company v. Nicaragua. Arbitration of.	824
	Award of arbitrator.....	June 16	Same subject.....	826
439	Mr. Merry to Mr. Hay.....	June 25	Customs duties collected by insurgents while in temporary possession of Bluefields, and return of same to American merchants. Incloses letter from British consul relative to action taken by court at Bluefields toward collecting amount from merchants. Consul advised that funds held by him should not be delivered except at joint request of the two Governments.	814
446	Same to same.....	July 7	Same subject. Judge Roman has "sentenced" the merchants to pay the duties over again. Incloses letter from consular agent.	815
347	Mr. Hay to Mr. Merry.....	July 9	Same subject. Should Nicaraguan Government demand payment of trust fund in hands of British consul, a decisive note may become necessary, to the effect that only a straightforward disposition of the matter on the basis of existing understanding would be acceptable to United States Government.	816
453	Mr. Merry to Mr. Hay.....	July 22	Same subject. Incloses "sentence" of Judge Roman, requiring payment of duties already paid to insurgents. Protest has been made by legation. British consul has been directed by minister at Guatemala not to deliver the fund deposited with him, except on joint request of the United States and Nicaragua.	817
454	Same to same.....	July 28	Same subject. Incloses note remonstrating against action of the court at Bluefields.	819
352	Mr. Hay to Mr. Merry.....	Aug. 2	Same subject. Judgment reported in dispatch No. 446 is to be considered null and void, and ignored by the parties concerned. Return of money now deposited with British consul is to be demanded, if necessary, and if not referred to in dispatch No. 453, does not result in a satisfactory settlement.	820
	Nicaraguan minister of foreign affairs to secretary of Chilean legation, Washington (telegram).	Aug. 7	Same subject. Asks that he communicate to the Secretary of State that Nicaraguan Government has ordered the return of the duties to American merchants.	820
	Mr. Adee to Mr. Merry (telegram).	Aug. 8	Same subject. Instructs to ignore Department's instruction No. 352 if Nicaraguan Government orders repayment of duties to merchants.	821
	Señor Corea to Department of State (telegram).	....do....	Same subject. Nicaraguan Government has resolved upon return of duties to merchants.	821
17	Mr. Adee to Señor Corea....	Aug. 10	Same subject. Acknowledges above telegram, with gratification.	821

## NICARAGUA, SALVADOR, AND COSTA RICA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
461	Mr. Merry to Mr. Hay.....	1900. Aug. 12	Customs duties collected by insurgents while in temporary possession of Bluefields, and return of same to American merchants. Legation not yet informed of favorable decision communicated in Department's telegram of 8th instant.	821
	Same to same (telegram)...	Aug. 14	Same subject. Funds in possession of British consul are requested to be returned.	822
356	Mr. Adee to Mr. Merry.....	Aug. 15	Same subject. Confirms Department's telegram of the 8th instant.	822
464	Mr. Merry to Mr. Hay.....	Aug. 17	Same subject. Confirms his telegram of the 14th instant. Information has been confirmed by British consul.	822
359	Mr. Hill to Mr. Merry.....	Sept. 8	Same subject. Expresses gratification at decision to return funds. Requests copy of telegram from British consul.	823
473	Mr. Merry to Mr. Hill.....	Sept. 22	Same subject. Money deposited with British consul has been returned by him to depositors. Incloses telegram from British consul.	823
365	Mr. Hay to Mr. Merry.....	Oct. 6	Same subject. Instructs to convey to British consul thorough appreciation of his services.	824

## PERU.

327	Mr. Dudley to Mr. Hay.....	1899. Dec. 6	Extradition treaty has been signed and sent to Peruvian Congress.	836
220	Mr. Hay to Mr. Dudley.....	1900. Jan. 4	Same subject. Copy in dispatch No. 327 has been sent to the United States Senate.	836
224	Same to same.....	Feb. 12	Same subject. Quotes Senate amendment. Instructs to advise Department by cable when it shall have been accepted by Peru.	836
352	Mr. Dudley to Mr. Hay.....	Mar. 10	Same subject. Treaty, as amended by United States Senate, will be laid before Peruvian Congress, which will meet July 28 next. Incloses correspondence.	837
	Señor Calderon to Mr. Hay (telegram).	Sept. 17	Condolences on Galveston disaster.....	843
4	Mr. Adee to Señor Calderon.	Sept. 18	Same subject. Acknowledges above telegram with appreciation.	844
423	Mr. Neill to Mr. Hay.....	Nov. 8	Extradition treaty has been accepted by Peruvian Congress. Correspondence inclosed.	838
	Text of treaty.....	1901. Jan. 29	Same subject.....	839

## PORTUGAL.

	Department memorandum.	1900. June 25	Arbitration in the matter of the Delagoa Bay Rwy. Payment by Portugal of amount awarded by arbitrator. Offer of Portugal to deposit full amount in some safe depository. United States has no objections, but reserves rights of parties in interest.	845
	Same.....	July 21	Same subject. Portugal will deposit this day full amount of award at London office of the Comptoir d'Escompte. Announcement is received without prejudice to claimant's final protest against the award.	845
44	Mr. Duarte to Mr. Hay.....	.....do.....	Same subject. Announcement of deposit.....	846
87	Mr. Thieriot to Mr. Hay.....	July 24	Same subject. Announcement of deposit.....	846
	Mr. Hay to Mr. Duarte.....	July 27	Same subject. Deposit of amount, as notified in note of July 21, is acknowledged without prejudice and with reservation of all rights.	847
19	Mr. Adee to Mr. Thieriot...	Aug. 10	Same subject. Acknowledges his No. 44 and incloses copy of above note.	847
	Viscount Santo Thyerso to Mr. Adee.	Aug. 21	Same subject. Presumes that reservations made in Mr. Hay's note of the 27th ultimo refer to sentence of arbitral tribunal and not to its execution on part of Portuguese Government.	847
91	Mr. Adee to Viscount Santo Thyerso.	Aug. 27	Same subject. Reservations in departments No. 87 were made in view of the provision which requires payment to the two Governments, and to disclaim all responsibility regarding deposit at the Comptoir d'Escompte, which, however, is understood to be allowed by the award.	848
	Viscount Santo Thyerso to Mr. Adee.	Aug. 28	Same subject. Portuguese Government considers itself released from all responsibilities in the premises.	849

## RUSSIA.

No.	From and to whom.	Date.	Subject.	Page.
84	Mr. Tower to Mr. Hay .....	1899. Aug. 29	Arbitration of claims of American sealing and whaling vessels against Russia. Incloses draft presented by him, and counterdraft, with accompanying notes of minister for foreign affairs. Submits certain criticisms of latter draft.	850
94	Mr. Hagerman to Mr. Hay..	Sept. 7	Same subject. States that the phrase "the spirit of international agreements" will not be accepted by Great Britain.	853
89	Mr. Hill to Mr. Hagerman ..	Sept. 28	Same subject. Incloses memorandum containing modifications to Russian counterdraft of protocol.	854
	Mr. Peirce to Mr. Hay (telegram).	Oct. 23	Same subject. Reports that Russian Government adheres to protocol of minister of foreign affairs. Makes suggestions as to modifications of draft of protocol prepared by Department.	855
	Mr. Hay to Mr. Peirce (telegram).	Oct. 26	Same subject. States that phrase "the spirit of international agreements" is not acceptable to United States Government. Instructs to endeavor to secure its omission.	855
133	Mr. Peirce to Mr. Hay .....	Oct. 27	Same subject. Acknowledges above telegram and states that an interview with Mr. de Martens will be sought.	855
134	Mr. Peirce to Mr. Hill.....	do ....	Same subject. Reports at length an interview with Mr. de Martens, at which views communicated in his telegram of 23d instant were set forth.	855
	Mr. Peirce to Mr. Hay (telegram).	Oct. 30	Same subject. Reports that objectionable provision is to be omitted from protocol.	857
139	Same to same.....	do ....	Same subject. Incloses draft of protocol as finally determined upon at interview with Mr. de Martens. Reports desire of Russian Government that United States representative extend coincidentally with Russian invitation to Mr. Asser to act as arbitrator.	857
	Mr. Hay to Mr. Peirce (telegram).	Nov. 14	Same subject. Referring to protocol submitted with above dispatch, states that the <i>Cape Horn Pigeon</i> was engaged in whaling, not sealing; protocol approved with this change.	860
152	Mr. Tower to Mr. Hay .....	Nov. 18	Same subject. Reports that Russian Government insists upon retaining objectionable paragraph, and prefer that papers be presented in French to the arbitrator.	860
157	Same to same .....	Nov. 25	Same subject. Reports that minister of foreign affairs explains that his intention in insisting upon the objectionable phrase is not to make use of any special agreement, but to give the arbitrator latitude for taking notice of any such agreements.	862
	Mr. Hay to Mr. Tower (telegram).	Dec. 5	Same subject. States language United States Government would accept in lieu of objectionable phrase in protocol.	863
124	Same to same .....	1900. Feb. 12	Same subject. Acknowledges dispatches Nos. 152 and 157. Department awaits result of above telegram.	864
192	Mr. Tower to Mr. Hay .....	Feb. 28	Same subject. Reports having urged orally and in writing modification of protocol as suggested in Department's telegram of Dec. 5, 1899, without appreciable results.	864
131	Mr. Hay to Mr. Tower .....	Mar. 16	Same subject. States objections to phrase "spirit of international agreements," which, if insisted upon, should be clearly defined so as not to permit action of retroactive law or treaties. Suggests such a clause.	865
206	Mr. Tower to Mr. Hay .....	Mar. 31	Same subject. Reports interview with minister for foreign affairs at which above instruction was communicated to him. An early reply has been promised.	866
214	Same to same .....	Apr. 14	Same subject. Reports that Russian Government insists upon retention of objectionable phrase and declines to modify as suggested in instruction No. 131. Hopes, however, that satisfactory issue will be reached, and advises that United States employ best legal talent to conduct proceedings before arbitrator.	867

## RUSSIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1900.		
150	Mr. Hay to Mr. Tower.....	May 24	Arbitration of claims of American sealing and whaling vessels against Russia. Points out inconsistency of Russian Government which, while objecting to qualifying clause proposed by United States, asserts that it does not wish to hamper the free judgment of the arbitrator. Instructs to revert to original offer that no such clause be inserted, or that it be qualified as suggested by United States. Also to inquire of British embassy what language is to be used in presenting British claims.	871
230	Mr. Tower to Mr. Hay.....	June 1	Same subject. Reports that Russian Government agrees to qualify objectionable phrase in protocol as desired by the Department. Incloses correspondence.	872
234	Same to same.....	June 6	Same subject. Incloses draft of protocol as suggested by Russia. Russia desires that Mr. Asser be, after signing of protocol, invited to act as arbitrator by United States and Russian representatives at The Hague.	874
	Mr. Hay to Mr. Tower (telegram).	June 15	Same subject. Instructs to conclude protocol as reported in dispatch No. 130.	874
154	Same to same.....	June 18	Same subject. Confirms above telegram and instructs to express appreciation of high sense of justice and equity of Russian Government.	876
	Same to same (telegram)...	June 19	Same subject. States that protocol should contain provision for submission to arbitrator of evidence which has been presented in support of claims.	876
	Mr. Tower to Mr. Hay (telegram).	June 20	Same subject. Reports readiness of Russia to sign protocol, and insistence upon use of French language.	876
	Mr. Hay to Mr. Tower (telegram).	June 21	China. Negotiations for restoration of order. Instructs to inform Russian minister for foreign affairs that a strong United States regiment has been ordered to China.	371
	Same to same (telegram)...	June 22	Arbitration of claims of American sealing and whaling vessels against Russia. Instructs to use his discretion in selection of language for arbitration.	876
250	Mr. Tower to Mr. Hay.....	June 23	China. Negotiations for restoration of order. Department's telegram of 21st instant has been communicated to minister for foreign affairs.	371
256	Same to same.....	June 26	Arbitration of claims of American sealing and whaling vessels against Russia. Acknowledges Department's telegram of 19th instant, and reports interview with minister for foreign affairs.	877
259	Mr. Peirce to Mr. Hay.....	June 29	Same subject. Expresses opinion that the French language should be used in arbitration.	877
260	Same to same.....	June 30	Same subject. Asks instructions as to desires of United States in regard to presenting claims to arbitrator.	878
159	Mr. Hay to Mr. Tower.....	July 3	Same subject. Mr. Peirce is authorized to serve as counsel for claimants.	879
167	Mr. Hay to Mr. Peirce.....	July 17	Same subject. States that communications to arbitrator might be made through respective legations at The Hague, and duplicates exchanged at St. Petersburg.	879
	Mr. Peirce to Mr. Hay (telegram).	Aug. 2	Same subject. Reports receipt from minister for foreign affairs of final draft of protocol, and asks if he is authorized to sign.	880
276	Same to same.....	Aug. 3	Same subject. Incloses draft of protocol referred to in above telegram, and states that services of a competent translator have been arranged for.	880
170	Mr. Adee to Mr. Peirce.....	Aug. 4	Same subject. Instructs to sign protocol when evidence is completed.	882
	Mr. Adee to Mr. De Wollant.	Aug. 13	China. Negotiations for restoration of order. Incloses memorandum setting forth views of United States.	377
	Mr. Peirce to Mr. Hay (telegram).	Aug. 24	Arbitration of claims of American sealing and whaling vessels against Russia. Reports addition to protocol covering question of evidence.	882
	Mr. Adee to Mr. Peirce (telegram).	Aug. 25	Same subject. Authorizes signing of protocol with addition indicated in above telegram.	882
	Mr. Peirce to Mr. Hay (telegram).	Aug. 27	China. Negotiations for restoration of order. Reports that Russian Government approves Li Hung Chang's appointment, but think he should exhibit satisfactory powers.	371
	Memorandum to Russian embassy.	Aug. 29	Same subject. Defines attitude of United States.	378
302	Mr. Peirce to Mr. Adee.....	Aug. 30	Same subject. Reports interview with minister for foreign affairs.	371

## RUSSIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Peirce to Mr. Adee (telegram).	1900. Aug. 31	China. Reports at length views of Russian Government, as explained by minister for foreign affairs.	372
	Mr. Adee to Mr. Peirce (telegram).	Sept. 1	Same subject. States that Department's reply of 29th ultimo was framed on understanding that Russian proposal related to withdrawal from Peking.	373
303	Mr. Peirce to Mr. Adee.....	.....do.....	Same subject. Confirms telegrams, and reports at length interview with minister for foreign affairs.	373
	Mr. Peirce to Mr. Hay (telegram).	Sept. 8	Arbitration of claims of American sealing and whaling vessels against Russia. Reports signature of protocol.	882
310	Mr. Peirce to Mr. Adee.....	.....do.....	Same subject. Confirms above telegram, incloses text of protocol, and reports oral agreements as to inviting Mr. Asser to act as arbitrator.	883
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# CORRESPONDENCE.

## ARGENTINE REPUBLIC.

### **INTERFERENCE WITH OFFICIAL DUTIES OF FOREIGN REPRESENTATIVES IN MATTERS OF QUARANTINE AND BILLS OF HEALTH.**

*Mr. Jones to Mr. Hay.*

No. 769.]

LEGATION OF THE UNITED STATES,  
*Buenos Ayres, February 3, 1900.*

SIR: In connection with my No. 768, of the 29th ultimo, reporting the existence of the bubonic plague at Rosario, I have the honor to inclose herewith copy and translation of a note from the Argentine Government formally apprising the legation of this fact, and a copy of my reply thereto. I likewise beg to inclose copy and translation of the sanitary decree of the 26th ultimo, referred to in my previous dispatch on the subject.

I also inclose copy of the decree of the 24th ultimo, and beg to especially call the Department's attention to an incident arising in connection therewith, and to ask for instructions for my guidance in the conduct of the legation with respect to that incident.

As will be seen, the first three articles are to the effect that notice is at once to be given either to the minister of the interior or the national board of health of any suspicious case by any functionary in the locality to whose knowledge it may come; that the board of health will thereupon dispatch one or more of its employees to the most convenient spot for seeing to the observance of all measures prescribed by law, and that governors of provinces and these sanitary officials must cooperate in providing for the execution of all necessary measures.

The fourth article says that on the national board of health obtaining scientific proof of the existence of exotic disease anywhere within Argentine territory it is to apprise the minister of the interior thereof without delay, in order that the executive may give official notice of the epidemic, with a statement of the places where it exists, and of its nature, and name, and the character it presents.

The fifth article runs as follows:

Until an official declaration has been made of the existence of an exotic disease in Argentine territory, no national or provincial functionary, nor any foreign agent accredited to the National Government, may affirm in any document the existence of such disease, whatever may be the data or reports which are thought to justify the assertion.

According to the sixth article the office of prefect-general of ports is to advise all subordinate offices that no vessel is to be allowed to leave

an Argentine port bearing on its bill of health any statement of the existence of exotic disease in the Republic until the National Executive shall have declared the same by decree.

The seventh article forbids the board of health from supplying any information about investigations carried out for the purpose of diagnosis without permission from the ministry of the interior.

The eighth article provides for the dismissal of any national official who, before declaration of the existence of exotic disease has been made by the President, shall affirm its existence in the press or in any official document, and goes on to say that "the functionaries or agents of foreign nations who commit a similar transgression against the sanitary dispositions of the country will be denounced to the Government in whose service they are in the manner prescribed by international law."

The remaining articles, 9 to 16, inclusive, are of an administrative character and furnish instructions for the guidance of all persons concerned in dealing with cases in point.

Two days after the publication of the decree in the *Boletín Oficial* a meeting of all the heads of missions of the diplomatic body at this capital was called by the British minister, its dean, at the instance of the French minister and the *chargé d'affaires* of Austria-Hungary, whereat strong exception was taken to articles 5 and 8 of the decree on the ground that they infringed upon prerogatives of the diplomatic officer and placed him in the same category with the national official and employee.

After a rather lengthy discussion on the subject, and the motion to address a joint note of protest to the Argentine Government being voted down, it was proposed to choose Mr. Barrington, the British minister; Mr. Cavalcanti, the Brazilian minister, and myself to call on the acting minister of foreign relations and ask in the name of the whole diplomatic body an explanation and rectification of the provisions objected to.

Upon my declining the nomination to be one of the delegates, the following memorandum, for the guidance of the British and Brazilian ministers in their interview with the acting minister of foreign relations, was drawn up:

Les membres du corps diplomatique après une échange de vues et avant de demander des instructions à leurs Gouvernements respectifs sur le fonds et la forme du décret 24 Janvier, ou il y a des prescriptions contraires à leur mandats, ont chargé MM. Barrington et Cavalcanti de rechercher avec le ministre des affaires étrangères les moyens d'établir des formules qui ne portent pas atteinte aux droits qui leur sont reconnus dans tous les pays ainsi qu'aux devoirs qu'ils ont à remplir vis-à-vis de leurs Gouvernements.

In keeping herewith, Mr. Barrington and Mr. Cavalcanti called, on the 30th ultimo, on Dr. Yofre, the minister of the interior and acting minister of foreign relations during the absence of Dr. Alcorta, who is in Paris. They reported at the second meeting of the diplomatic body, held to-day, the result of their proceedings. They pointed out to the minister the unusual form which had been given to the decree, informing him of the feeling of annoyance entertained by the foreign representatives at seeing themselves included in regulations affecting matters of internal administration; at blame being, as it were, imputed to them in advance, and at the minatory language employed in a public document with regard to them in the event of their own sense of duty impelling them to act otherwise than according to the dictation of the Argentine Government.

Dr. Yofre at once said that nothing was further from his thoughts than any idea of wounding the susceptibilities of diplomats accredited to the Argentine Government; that he would willingly try to arrange some means of conciliation, and that, as a matter of fact, the decree, though it might be somewhat faulty in wording, was never meant to apply to them at all, and certainly not to exercise any sort of control over the correspondence they might address to their Governments. The expression, "any document," occurring in the fifth article, applied solely to ships' papers, including bills of health, and the whole purpose of the clauses affecting foreign functionaries was to prevent consular representatives from issuing foul bills of health when the existence of an epidemic had not been formally recognized by the Argentine Government. He could not, however, do anything without previous consultation with the President, and Mr. Barrington and Mr. Cavalcanti left him with the understanding that they would have another interview subsequently.

The British minister having occasion to see the President the next day about another matter, also took advantage of it to allude to this conversation with Dr. Yofre, and to say that he thought it was much to be regretted that the decree had been drawn up in such terms as to raise the objections that were entertained by the foreign representatives here. He remarked, as he tells me, that the right of the Argentine Government to complain of any of them could not be contested, and that in the case of consuls—should such an extreme measure be judged necessary—it was within the powers of the Executive to withdraw their exequaturs. But the President, too, protested that there had been no intention of giving offense, and said that Dr. Yofre would do what he could to come to some compromise.

When Mr. Barrington and Mr. Cavalcanti again saw the acting minister of foreign relations, they again repeated most of the arguments previously employed, and also urged the special difficulties in which diplomatic representatives found themselves who were at the same time discharging consular functions, such as the Italian minister, the French minister, and others. They also pointed out that official instructions on the subject of bills of health varied in different countries, and that those whose duty it was to fill them up might be under the necessity, if not delivering a foul bill, at any rate of recording suspicious circumstances, which might merely entail closer observation of a vessel on arrival at her port of destination. Dr. Yofre, however, maintained that the decree itself could not be changed, and that the phrases to which the diplomatic body took exception were meant to prevent consuls from pleading ignorance of the attitude assumed by the Government as regards the manifestation of an epidemic or exotic disease. He finally stated that he would be quite ready to afford a written explanation of this sort in answer to any note Mr. Barrington might address him on behalf of the diplomatic body, but that he did not see any other way open to him to meet the objections entertained by its members.

Upon this rather unsatisfactory result of Mr. Barrington and Mr. Cavalcanti's interviews being learned, it was eventually decided that, as the Argentine Government maintained that the decree itself could not be altered, an exchange of notes would lead to no practical result, the essence of the objections raised to its terms remaining untouched, and that it would, therefore, be preferable for each representative to refer

the matter to his government and ask for telegraphic instructions in the event of their being deemed requisite under the circumstances.

In conformity with this conclusion, I have considered it my duty to submit the above, and beg to ask the Department for explicit instructions, telegraphic if possible, concerning the attitude to be taken by this legation in the matter. At the meetings of the diplomatic body I have declined to sign any collective note and sought to pursue a conciliatory policy, not wishing in any way to lessen or impair the friendly attitude of the officials of the Argentine Government toward the legation on the one hand and toward me personally on the other.

At the same time it can not be denied that, though the passages of the decree objected to may have been drafted without that intent, yet they, notwithstanding, *officially* express a quasi denial of the extra-territorial attributes of diplomatic officers, which, if allowed to pass without further notice on the part of the governments who are diplomatically represented here, would more than likely tend to lessen the prestige of their representatives.

The reference to foreign agents in the decree appears to me, moreover, entirely superfluous, inasmuch as the Argentine Government has the incontestable right to protest against or complain of them to their own governments, and such right needs, therefore, no special emphasis in a decree. At the same time such reference imputes to the diplomatic or consular officer a looseness of official action which can not be considered other than discourteous to him.

I furthermore beg to draw the Department's attention to section 4 of the quarantine law of the United States approved February 15, 1893, wherein a consular officer is especially enjoined to report weekly the sanitary condition of the port or place at which he is stationed. The question arises here as to the sources from which he is to derive his information. Shall he solely report the *official* declarations of the Argentine Government to his government, which in some cases are liable to be issued tardily in order to avert or postpone as long as possible the deleterious effect such declarations must have upon the trade and commerce of the country, or shall he, in his own judgment, where good and reliable private and even public information is available, report also the facts as they come to him through the latter sources? Would he not be hampered in the full exercise of his official duty to his own government, and might he not endanger the health conditions of his own country if he should not have the right of reporting sanitary information other than official? And yet the above decree deprives him of this right, and explicitly prescribes for him the moment when he may issue "a document" intended to warn his government of impending danger from infection.

I believe, therefore, that a more pronounced action than the diplomatic body has been able to take without instructions would be commendable, with a view to obtaining from the Argentine Government a declaration in the Boletín Oficial offering an explanation, and, if possible, making a withdrawal of the passages complained of.

I also beg to enclose extracts from the daily press, which I regret not to have had time to render into English, but which in substance criticise the Argentine Government for great negligence in the drafting of the decree, and recommend a ratification of the error it has committed.

I have the honor, etc.,

FRANÇOIS S. JONES.

[Inclosure 1.—Translation.]

*Acting Minister Yofre to Mr. Jones.*

ARGENTINE REPUBLIC,  
 MINISTER OF FOREIGN RELATIONS AND WORSHIP,  
*Buenos Ayres, January 27, 1900.*

MR. CHARGÉ D'AFFAIRES: I have the honor to bring to the knowledge of your honor that the bubonic plague having been scientifically proved to be in Rosario, although in a sporadic form, the executive power has by a decree issued yesterday declared the existence of this malady in that city.

I inclose to your honor copy of the decree mentioned, by which your honor will become acquainted with the measures adopted for the suppression of the disease and the prevention of its propagation in the country.

I renew, etc.,

FELIPE YOFRE.

[Inclosure 2.]

*Mr. Jones to Acting Minister Yofre.*

LEGATION OF THE UNITED STATES,  
*Buenos Ayres, January 31, 1900.*

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's note of the 27th instant, wherein you are good enough to advise this legation of the official confirmation by your excellency's Government of the existence of the bubonic plague in Rosario, at the same time kindly transmitting copy of the executive decree providing measures for the suppression of this malady and for the prevention of its dissemination.

I have duly notified my Government by telegraph of the existence of the bubonic plague in Rosario, and entertain the hope to be able to telegraph at an early date the announcement of its total disappearance from your excellency's country.

I avail myself, etc.,

FRANÇOIS S. JONES.

[Inclosure 3.—Translation.]

MINISTRY OF THE INTERIOR,  
*Buenos Ayres, January 26, 1900.*

Having seen the note of the national department of hygiene announcing that the bubonic plague has been scientifically proved to exist in Rosario, although in a sporadic form, and asking that measures for the extinction and prevention of its propagation in the country be adopted, the President of the Republic decrees:

ARTICLE 1. Let it be declared that the plague of the East exists in the city of Rosario, and that said city be isolated from the rest of the Republic.

ART. 2. The river and land routes of that city leading abroad shall be subjected to the sanitary restrictions which the national department of hygiene shall prescribe.

ART. 3. The communication of persons and things between the city of Rosario and the other parts of the Republic shall alone be effected by means of the sanitary stations and under the rules that the national department of hygiene shall adopt.

ART. 4. The ministers of war and marine shall place at the disposition of the national department of hygiene, through the ministry of the interior, the means necessary to enable the execution of the provisions of the present decree.

ART. 5. The national department of hygiene shall daily keep the ministry of the interior informed of the sanitary status of Rosario, in order to lessen the rigor of these rules according to the march of the disease.

ART. 6. Communicate, publish, and give to the National Register.

ROCA.  
 FELIPE YOFRE.

*Mr. Hay to Mr. Lord.*

No. 14.]

DEPARTMENT OF STATE,  
*Washington, May 8, 1900.*

SIR: I have to acknowledge the receipt of a dispatch from Mr. Jones, No. 769, of February 3, 1900, in regard to the sanitary decree of January 24, 1900, and generally to approve his action respecting the subject.

As showing the Department's view respecting Article V of the decree, I inclose for your information and files copy of an instruction addressed to the consul of this Government at Buenos Ayres, No. 71, of the 7th instant. The consul's duty under the law where an epidemic prevails is to notify his Government and the vessel leaving port for any place in the United States, no matter what conditions a foreign government may impose. He would subject himself to severe reprimand not to do so and the vessel to a penalty of \$5,000 for departing without a bill of health.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Cridler to Mr. Newberry.*

No. 71.]

DEPARTMENT OF STATE,  
*Washington, May 7, 1900.*

SIR: The Department is in receipt of a dispatch from the chargé d'affaires ad interim of the United States at Buenos Ayres, No. 769, of February 3, 1900, reporting the attitude of the diplomatic corps in that city respecting the fifth article of the sanitary decree of the Argentine Republic, dated January 24, 1900.

That article runs as follows:

"Until an official declaration has been made of the existence of an exotic disease in Argentine territory, no national or provincial functionary, nor any foreign agent accredited to the National Government, may affirm in any document the existence of such disease, whatever may be the data or reports which are thought to justify the assertion."

I deem it unnecessary to go further into detail respecting this decree, since the Department doubts not you are familiar with it. If not, a copy can be easily obtained and its provisions fully studied. You may likewise, if necessary, call upon Mr. Jones, at Buenos Ayres, who will not only be glad to show you a copy in full of his dispatch, but to render you any service of which he may be capable in case of necessity.

Copy of this dispatch was forwarded to the Secretary of the Treasury, with a request for an expression of his views thereon. Mr. Gage's letter in reply, of April 28, 1900, remarks as follows:

"I am advised by the Surgeon-General of the Marine-Hospital Service that the enforcement of the provisions of the act of February 15, 1893, requiring that vessels at any foreign port clearing for any port or place in the United States shall be required to obtain from the consular officer of the United States at the port of departure a bill of health, is very necessary, inasmuch as this bill of health contains much sanitary information. This law further provides that the said consular or medical officer is required, before granting such duplicate bill of health, to be satisfied that the matters and things therein stated are true. Therefore, a United States consul, being reasonably well satisfied in his own mind that an epidemic disease exists at the port to which he is accredited, although not so notified by the local authorities, he can not, either legally or conscientiously, state that such disease does not exist and sign the bill of health to that effect. Hence he must refuse to issue a bill of health and leave the vessel subject to the penalty of \$5,000 on arrival at a port of the United States without a bill of health.

"The information furnished by the consuls and inscribed upon the bill of health is usually founded upon unofficial reports received from the local authorities; but it

does happen that the local authorities in some ports suppress information for several weeks, in order to prevent injury to the commerce of their ports, and it is therefore extremely undesirable that the consular officers of the United States should be forbidden to furnish sanitary information other than that officially furnished them by the local authorities.

"It can not be otherwise than that a consular officer will occasionally find himself in possession of facts which lead him to believe or to know that quarantinable disease exists at the port where he is stationed, and that the authorities are willfully suppressing information regarding the same, and in such cases it would be the plain duty of the consul under the law to either state the facts in the bill of health or refuse to issue the said bill, which latter alternative would result in damage to the commerce of the port of departure at least equal to any damage accruing from a frank statement of sanitary facts."

It appears from the dispatch of Mr. Jones that the diplomatic body, through two of its members, is giving the subject of this decree careful consideration. The Department is accordingly not without hope that an amicable and friendly understanding may yet be reached, if not a withdrawal of the obnoxious paragraph cited.

Be this as it may, however, the Department is in receipt of a telegram of March 10 and a dispatch of March 12, 1900, No. 5, from the minister of the United States at Buenos Ayres, officially reporting the appearance of bubonic plague there and stating the measures adopted to prevent its spread.

Under these circumstances, the Argentine Government being quarantined against, there would appear to be no reason to apprehend any trouble from any statement you might report upon the subject; but even so, your duty is clear under the law of the United States; approved February 15, 1893, to which Mr. Gage refers.

I am, sir, etc.,

THOS. W. CRIDLER.

#### COURTESIES TO U. S. S. CHICAGO AT BUENOS AYRES.

*Mr. Hay to Mr. Jones.*

No. 507.]

DEPARTMENT OF STATE,  
*Washington, February 27, 1900.*

SIR: I have to inform you that the Department is in receipt of a letter from the Navy Department, inclosing a communication from the commander in chief of the South Atlantic Station, Rear-Admiral Schley, dated December 30, 1899, reporting the incidents of a recent visit of the U. S. S. flagship *Chicago* at Buenos Ayres.

This Department is pleased to learn of the cordial reception accorded Admiral Schley and his staff by President Roca and of the courtesies extended to them on the occasion of their visit.

I am, etc.,

JOHN HAY.

*Mr. Hay to Mr. Lord.*

No. 508.]

DEPARTMENT OF STATE,  
*Washington, March 15, 1900.*

SIR: I inclose for your information copy of a letter from the Secretary of the Navy, transmitting copy of one from the commander in chief of the South Atlantic Station, expressing his gratification at the courteous attentions shown him by the United States chargé d'affaires ad interim at Buenos Ayres.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Long to Mr. Hay.*NAVY DEPARTMENT,  
*Washington, March 9, 1900.*

SIR: I have the honor to inclose herewith for the information of the State Department a copy of a letter received from the commander in chief of the South Atlantic Station, wherein he requests that the Department of State may be informed of the good impression made by Mr. François S. Jones, chargé d'affaires ad interim at Buenos Ayres, Argentina.

I have, etc.,

JOHN D. LONG.

[Subinclosure.]

*Rear-Admiral Schley to Mr. Long.*

No. 26.]

SOUTH ATLANTIC STATION,  
U. S. FLAGSHIP CHICAGO, FIRST RATE,  
*Montevideo, Uruguay, February 6, 1900.*

SIR: 1. Upon the arrival of the flagship in these waters the legation at Buenos Ayres was found to be in charge of Mr. François S. Jones, acting as chargé d'affaires ad interim, who, during our stay there and subsequently while at Ensenada, was most obliging and courteous, and assisted me in every possible way, not only in arranging for my visits to the President and various officials in Buenos Ayres, but also in giving me his aid in facilitating the visit of President Roca and his party to the squadron and on every other occasion when I have requested his cooperation.

2. Mr. Jones seems to have made himself exceedingly popular with the Argentine officials by his command of their language, his unflinching tact, savoir faire, and politeness, and he is in every way a most admirable representative of our Government.

3. It would give me much pleasure to have the foregoing communicated to the Department of State.

Very respectfully,

W. S. SCHLEY.

**MESSAGE OF THE PRESIDENT OF THE ARGENTINE REPUBLIC—  
PART RELATING TO FOREIGN RELATIONS.**

*Mr. Lord to Mr. Hay.*

No. 23.]

LEGATION OF THE UNITED STATES,  
*Buenos Ayres, May 10, 1900.*

SIR: I have the honor to transmit to you under separate cover two copies of President Roca's message submitted to the Argentine Federal Congress at the formal opening of that body on the 1st instant.

I also inclose translation of that part of the message relating to the foreign relations of this country as may prove of possible interest to the Department.

I have, etc.;

WM. P. LORD.

[Inclosure.]

*Message of the President of the Republic at the opening of the session of the National Congress.*

MESSRS. SENATORS AND DEPUTIES: I fulfill a constitutional duty by opening the period of your ordinary sessions and by giving you an account of the general condition of the nation.

The friendly relations which the Republic has always entertained with the other nations have been maintained without alteration whatever, and the old questions



that could have given cause to differences have definitely disappeared or are in process of an easy and peaceful settlement.

The demarcation of the international limits, which have been the object of constant attention, have caused no further difficulties. In fulfillment of agreements and treaties, the frontier line with Chile continues to be determined by the erection of the marks in the part agreed upon, and in the part in which disagreement occurred the solution of the Government of Her Britannic Majesty is awaited, without any trouble whatever arising, it only having entailed a journey of the minister of foreign relations through incidents of an internal character which were easily and definitely settled.

It is pleasing for me to indicate in this connection that, as we have been approaching the settlement of this laborious and complicated matter, we have been able to better appreciate the good will with which the Government of Chile has assisted in smoothing the difficulties in the fulfillment of the international treaties.

With Bolivia the boundary line has been the object of agreements and studies, supported by surveys of the ground, that may be said to be definitely concluded, and will serve to complete the work of demarcation without difficulty, all the more when the Governments have always met each other animated by elevated sentiments with regard thereto.

Since the arbitral award that concluded the boundary questions with Brazil there remains only the tracing of the line fixed and the demarcation of that part which was never object of discussion. To this end the agreement was concluded which received the approval of your honors, and, when once ratified, should be fulfilled in all its parts without objection.

Once that all the above-mentioned work shall have been concluded, the boundary of the Republic will remain determined in an immovable manner, it being even now proper to say that all possible conflict has disappeared.

But though all these solutions facilitate the exercise of territorial sovereignty in its relations with the neighboring States, the attitude of the Republic in the international community demands close and diversified ties that alone can be assured by respecting every right and by manifestations that correspond to friendly sentiments.

In accordance herewith and with the strong belief that the maintenance of peace should be the object of the foreign policy of the Republic, I have celebrated with various nations treaties of arbitration that have been submitted to your consideration, and availing myself of legal authority, I have concluded a commercial agreement with the United States of America, studying at the same time agreements of the same character with other States.

In response to joint indication I have visited their Excellencies the Presidents of Brazil and of the Oriental State of Uruguay, receiving in consequence thereof from those people and Governments special manifestations that impose our recognition, for they demonstrate in how great affection they hold the Argentine people and Government, and how they consider themselves allied with their destiny in the present and in the future.

The voyage of the training ship *Presidente Sarmiento* has been, in all parts of the world where it touched, the object of cordial and spontaneous demonstrations of an official and popular character that especially oblige our gratitude.

The manifestations by which Spain distinguished herself has given occasion to a measure, long required, claimed and imposed by the close ties that unite us to the mother country. I refer to the discreet form in which, at public festivals incident to our anniversaries and other solemn celebrations, the national hymn is to be sung, in order not to wound the patriotic susceptibilities of the Spaniards. This measure has been well received, and has retroacted sympathetically, having the best of effect and originating a fresh current of generous sentiments between the two nations.

Notwithstanding that from special reasons incident to the financial situation of the nation we were prevented from taking part in the Paris International Exposition, we have sought to respond to the various invitations that have been addressed to us to participate in the congresses that are to take place there; and we have named delegates to the congresses of medicine, of hygiene, of demography, of railroads, of public aid and benevolence, whose presence at them and whose reports will redound to the advantage of the nation.

An American congress is to shortly meet by the initiative of the Government of the United States, having the same objects in view as the one held in 1889. Having been especially invited to take part, without the time and place of the meeting having been determined upon, I have accepted the invitation not only as an act of courtesy, but also as I entertain the belief that the holding of such a congress can be fruitful to the relations of the American States living far apart, notwithstanding that common interests and aspirations demand closer ties.

VISIT OF ARGENTINE SCHOOL-SHIP *PRESIDENTE SARMIENTO* TO THE UNITED STATES.

*Mr. Wilde to Mr. Hay.*

[Translation.]

LEGATION OF THE ARGENTINE REPUBLIC,  
*Washington, June 18, 1900.*

MR. SECRETARY OF STATE: I have the honor to lay before your excellency, for such use as may be proper, the information that the Argentine school-ship *Presidente Sarmiento* is to arrive shortly in the port of New York and wishes to present her corps of officers to the Most Excellent President of the United States of America and your excellency, and to the Secretary of the Navy, as I had the honor orally to inform your excellency.

I renew, etc.,

E. WILDE.

*Mr. Hay to Mr. Wilde.*

No. 3.]

DEPARTMENT OF STATE,  
*Washington, June 20, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 18th instant, advising me of the expected early arrival at New York of the Argentine school-ship *Presidente Sarmiento*, and expressing your desire to present the officers to the President and the Secretaries of State and the Navy.

In reply I have the honor to state that I made known their visit to the President, who expressed his gratification at the prospect of receiving them.

My colleague, the Secretary of the Navy, and I will be glad to have the pleasure of meeting them.

Accept, etc.,

JOHN HAY.

*Mr. Hay to Mr. Wilde.*

No. 4.]

DEPARTMENT OF STATE,  
*Washington, June 28, 1900.*

SIR: I have the honor to inclose for your information copies of letters addressed by the Secretary of the Navy to officers of his Department directing that every courtesy shall be shown to the officers and cadets of the Argentine school ship *Presidente Sarmiento*.

Accept, etc.,

JOHN HAY.

[Inclosure 1.]

*Mr. Long to commandant Navy-Yard, Norfolk, Va.*

NAVY DEPARTMENT,  
*Washington, June 26, 1900.*

SIR: The Argentine school ship, at present cruising in North American waters, will probably visit Hampton Roads in the near future.

The Department desires you to extend every courtesy that may be practicable to this vessel. And in the event that it is desired for her officers and cadets to visit the

works of the Newport News Ship Building and Dry Dock Company and the navy-yard, the Department wishes you to arrange for such visits, and facilitate them so far as may be in your power.

Very respectfully,

JOHN D. LONG.

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[Inclosure 2.]

*Mr. Long to commander in chief U. S. naval force on North Atlantic Station.*

NAVY DEPARTMENT,  
Washington, June 26, 1900.

SIR: The Argentine school ship, at present cruising in American waters, may in the near future fall in with the vessels of the squadron under your command. In the event of such a meeting the Department desires that every courtesy which may be practicable be shown to this vessel.

Very respectfully,

JOHN D. LONG.

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[Inclosure 3.]

*Mr. Long to Superintendent Naval Academy.*

NAVY DEPARTMENT, June 26, 1900.

SIR: The Argentine school ship, at present cruising in these waters, will shortly visit the station under your command. The Department desires you to extend to this ship every courtesy which may be in your power, giving every practicable facility for the inspection of the institution under your command.

Very respectfully,

JOHN D. LONG.

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*Mr. Lord to Mr. Hay.*

N<sup>o</sup>. 48.]

LEGATION OF THE UNITED STATES,  
Buenos Ayres, July 25, 1900.

SIR: Deeming it of sufficient importance, I have the pleasure to inform you that the attention bestowed on the officers and cadets of the *Sarmiento* and the reception given them during their visit to the United States is highly gratifying to the Argentine officials and the subject of much eulogistic comment. Commodore Martin Rivadavia, minister of marine, took occasion to express to me his personal gratification at the attention and kindness accorded to them and to assure me that his Government highly appreciated the distinguished compliment expressed by mine in their generous reception.

I believe that the favorable effect produced by this event, although of little consequence itself, will tend to allay any irritation which may linger in the public mind as a result of race feeling or prejudice growing out of the late war with Spain and serve to further manifest our good will and good wishes for the welfare of the Argentine Republic and our constant desire to strengthen and maintain friendly and peaceful relations with its Government.

I have, etc.,

WM. P. LORD.

## AUSTRIA-HUNGARY.

### EFFECT OF NATURALIZATION OF A HUSBAND OR FATHER ON WIFE OR MINOR CHILDREN.

*Mr. Harris to Mr. Hay.*

No. 68.]

UNITED STATES LEGATION,  
*Vienna, January 2, 1900.*

SIR: I have the honor to submit the following case:

Anton Macek was born in Vienna, of Austrian parents, on August 13, 1875. Afterwards, on May 6, 1884, his father, Alois Macek, emigrated to the United States with his entire family, and has resided in Chicago ever since. Before his naturalization and while the son Anton was yet a minor, to wit, on August 16, 1894, the father sent him to Austria to be educated at the Academy of Music in Prague. It is stated that it takes six years to complete the course. Anton arrived in Prague on October 1, 1894, and has remained there uninterruptedly ever since. Afterwards, to wit, on October 22, 1894, the father, Alois Macek, as shown by the certificate produced, was naturalized in the superior court of Cook County, Ill.

Anton Macek now applies for a passport, claiming citizenship through the naturalization of his father. Is Anton Macek a citizen of the United States? The answer turns on the meaning of that clause in section 2172, Revised Statutes, which says the minor children, at the time of the naturalization of their parents, shall, if "*dwelling in the United States*," be considered as citizens thereof."

There is no digest of the decisions of the courts in this legation. The Reports of the Supreme Court are lacking since eighth of Wallace; so I have no means of learning if the phrase "if dwelling in the United States" has been judicially construed.

It seems at least three meanings have been put on these words.

1. Such minors during and after minority, *when* dwelling in the United States, will be accorded the rights of citizenship, but if they go abroad the United States will not undertake to protect them. Mr. Marcy said this section "is only a municipal law, and can have no effect beyond the jurisdiction of this country." (Wharton's International Law Digest, II, sec. 184.) On the same page Mr. Fish seems to limit the words to "*when* dwelling in the United States."

2. Such minors, if actually in the United States at the time of the naturalization of the parent, ipso facto become citizens, otherwise not. Mr. Blaine said this section applies "to such children as were *actually residing* in the United States *at the time* of their father's naturalization." (Id., p. 406.)

Mr. Frelinghuysen said our naturalization laws include the naturalized parents "and their children, minors at the time of naturalization, if *within the jurisdiction* of this country." (Id., p. 407.)

3. That the legal residence of a minor (unless manumitted) is with the parent; that therefore Anton Macek was legally residing in the

United States at the time of the naturalization of his father; that "dwelling," as used in this section, is synonymous with "legally residing," rather than "actual residence." And so, although the minor son was not at the time of the naturalization of the father actually within the jurisdiction of the United States, yet he was vicariously present in the person of the father, who is the family head and representative, and by and through him, under this section, the minor son became then and there a citizen of the United States, the same as if he had been personally present at his father's home in Chicago.

This is the view maintained by Mr. Donzelmann, consul at Prague, a lawyer of distinction, and formerly, I think, attorney-general of the State of Wyoming, who sends to the legation this application.

My mind leans to the second view rather than the first or the last. It seems to me that a minor beyond the boundaries of the United State at the time of the judgment of naturalization of the parent is not affected by it, and can not claim the benefit of it.

And this view seems to find expression in your dispatch to me, No. 2, of the 1st of April, 1899, wherein it is said:

Section 2172 only confers citizenship upon minor children of naturalized aliens when such children were dwelling in the United States; and the Department holds that the prescribed minority residence in this country must have coincided with or been subsequent to the parent's admission to citizenship.

And in the letter of Mr. Hill, Assistant Secretary, therein inclosed, he said:

No law of the United States confers citizenship upon a minor subject of a foreign power residing within the jurisdiction thereof.

The minor son in this case was an Austrian subject as long as he resided in the United States, and also when he arrived in Prague, and I can not persuade myself that while there he himself, or anyone for him, either by statute or under any rule of international law, could transfer his allegiance to the United States.

And so I have felt it to be my duty to withhold the passport and take your instructions.

I have, etc.,

ADDISON C. HARRIS.

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*Mr. Hay to Mr. Harris.*

No. 65.]

DEPARTMENT OF STATE,

*Washington, January 22, 1900.*

SIR: I have to acknowledge the receipt of your No. 68, of the 2d instant, in which, submitting the case of Anton Macek, an applicant for a passport, you ask the Department's instructions respecting the true intent of section 2172, Revised Statutes, in its application to the case before you.

That section provides that—

The children of persons who have been duly naturalized under any law of the United States \* \* \* being under the age of 21 years at the time of the naturalization of their parents, shall, if dwelling in the United States, be considered as citizens thereof.

Anton Macek, according to your statement, was born in Vienna, of Austrian parents, August 13, 1875. In May, 1884, his father, Alois Macek, emigrated to the United States with his entire family and has resided in Chicago ever since. Before his naturalization and while

the son, Anton, was yet a minor—August 16, 1894—the father sent him to Austria to be educated. The father, Alois Macek, was naturalized in the superior court of Cook County, Ill., October 22, 1894; that is, subsequently to the return of the son, Anton Macek, to Austro-Hungarian jurisdiction, where he has since remained.

You have felt it to be your duty to withhold a passport in the view that section 2172 merely confers citizenship upon minors actually residing in the United States at the time of their father's naturalization, in support of which opinion you refer to the Department's instruction to you, No. 2, of April 1, 1899, the pertinent provisions of which you quote.

At the same time you submit to the Department the view, which you state is advocated by the consul at Prague, that the words "dwelling in the United States" refer to the legal residence of a minor which, unless manumitted, is with the parent wherever the minor may happen to be, so that, although not at the time of the naturalization of the father actually within the jurisdiction of the United States, the son, Anton Macek, may be held to have been vicariously present in the person of the father through whom he then and there became a citizen of the United States, the same as though he had been personally present at his father's home in Chicago.

Still another view is brought forward, to the effect that the protective force of section 2172 only applies to the minor children of naturalized aliens while such minor children are actually within the jurisdiction of the United States.

This narrow interpretation is no longer entertained by the Department, although as a proposition in municipal law it has on several occasions in the past been enunciated; but it has been replaced in practice by a quasi conventional interpretation, as will be later shown, by which the acquisition of a parent's citizenship by an alien minor is assimilated to the actual naturalization of the minor himself.

You state that, in the absence of legal authorities in the legation, you have no means of learning if the phrase "if dwelling in the United States" has been judicially construed.

On page 301 of the volume of Foreign Relations for 1890 you will find a carefully formulated instruction sent by Mr. Blaine to Minister Phelps at Berlin, No. 57, February 1, 1890, in which considerable attention is given to the intent and application of section 2172, Revised Statutes. The purport of that opinion (which is understood to have been prepared by Mr. John B. Moore, then Assistant Secretary, and now a known and recognized authority on matters of international law) is that the effect of the American law is to make actual residence in the United States, and not residence at the time of naturalization, the test to the claim of citizenship, inasmuch as the provision relates to children born of parents who are not at the time citizens of the United States, and upon whom the country of the parent, under the same rule of law as that announced by this Government with respect to the children born abroad of citizen parents, might have claims of allegiance. In respect to such persons the words "if dwelling in the United States" recognize a possible conflict of allegiance. In the absence of any such conflict of allegiance being adversely raised by the government within whose jurisdiction the minor may be temporarily dwelling, there could be little doubt that the law of the country which naturalized the father would obtain; and in fact it does obtain, by common consent, in the relations of the United States with Germany. In practice,

therefore, it may be said that the naturalization of the father operates to confer the municipal right of citizenship upon the minor child, if he be at the time of the father's naturalization within the jurisdiction of the United States, or if he come within that jurisdiction subsequent to the father's naturalization and during his own minority.

The principle may be broadly stated that no country can naturalize an inhabitant of another country while that person is dwelling within the jurisdiction of the other country; that naturalization is a municipal act valid within the jurisdiction of the naturalizing power, and that, once performed by due operation of law, it is entitled to respect. It is not necessary that naturalization should be a strictly judicial act, as in the case of the original naturalization of an alien father. The minor son is just as much naturalized by the fact of being within the jurisdiction of the United States at the time of the father's naturalization, or coming within that jurisdiction subsequently during minority, as if he himself had been admitted to citizenship by a decree of the court. Somewhat of the same principle is discernible in the theory that marriage, by investing an alien woman with the citizenship of her husband, operates as naturalization when that effect is recognized by statute. The United States statute in this regard, section 1994, Revised Statutes, which provides that any woman marrying a citizen of the United States, who might herself be lawfully naturalized, shall be deemed a citizen, has been held by the Federal courts to be in fact an act of naturalization. In the case of *Leonard v. Grant* (5 Fed. Rep., 11) it was held that the effect of section 1994, when the contingency occurs, is equivalent to the alien woman being naturalized directly by an act of Congress or in the usual mode thereby prescribed. This, however, is an extreme analogy, inasmuch as marriage may be validly performed outside the country of the husband's nationality, or even in the country of the wife's allegiance, with resultant change of the wife's nationality not merely as the effect of the law of the husband's country, but as a generally admitted doctrine of private international law. The act of naturalization, however, is properly performable in the jurisdiction of the naturalizing State.

The view that citizenship acquired by a minor through the parent's naturalization is in effect a process of naturalization according to law, obtains in applying the German-American naturalization treaties, where evidence that a minor child has acquired citizenship through the father, according to the laws of the United States, coupled with evidence that the minor had resided at least five years in the United States, are taken to fulfill the conditions of the treaty—that is, in effect, to show that the minor child has been naturalized according to law.

These points are, however, adverted to for your information merely and not as controlling your action in respect to Anton Macek's application for a passport. Whatever construction be given to section 2172 of the Revised Statutes, it is quite clear that it can not apply to this present case, because the words "if dwelling in the United States" do not fit the circumstances. The applicant was not dwelling in the United States at the time of his father's naturalization, he has not at any time since dwelt in the United States, and of course is not now dwelling here.

Your action in withholding the passport from Anton Macek is approved.

I am, sir, etc.,

JOHN HAY.

## EXPULSION OF GUSTAV WOLF LOUIS FISCHER.

*Mr. Harris to Mr. Hay.*

No. 80.]

UNITED STATES LEGATION,  
*Vienna, March 21, 1900.*

SIR: I have the honor to submit my action in the matter of Gustav Wolf Louis Fischer, a naturalized citizen of the United States, who is about being banished from Austria. Mr. Fischer is in the employ of Thomas Cook & Son, and is well known to the American and English people residing in and visiting Vienna.

The case came on suddenly. It presents the same question as stated in my dispatch No. 70 of January 10 last, but in a more precise form. The order of expulsion (banishment) in this case is, as I am informed by Mr. Fischer's counsel, in the same words as that set out in my dispatch No. 70, expelling Charles Steidl.

The question exactly stated is: Whether Austria-Hungary has the right to banish naturalized citizens of the United States who were guilty of no crime at the time of immigration therefrom, and have violated no law since their return?

Article 2 of the treaty provides (1) for punishment of crimes committed before immigration, and (2) for emigrating after enrollment as a recruit or while in military service. Mr. Fischer was not enrolled, but on examination was rejected as not then fit for military service, and thereafter emigrated.

The authorities here admit that Mr. Fischer is protected by the treaty from both military duty and punishment, and their insistence is expressed as follows: "And as we can not punish him we will banish him as an example to our young men." These are the words of the governor. It is said Mr. Fischer was required to get permission to emigrate, and reference is made to section 64 of the military law of April 11, 1889. My answer is: The last clause of article 2 of the treaty of September 20, 1870, declares (as applied to this case) that if Mr. Fischer violated this or any other military law "by or after his emigration," that after naturalization he is not punishable on return.

Inclosed please find (1) a copy of my dispatch to the foreign office; (2) a translation of section 64 of the military code.

I have the honor, etc.,

ADDISON C. HARRIS.

[Inclosure 1.]

*Mr. Harris to Count Goluchowski.*

F. O., No. 59.]

UNITED STATES LEGATION,  
*Vienna, March 20, 1900.*

YOUR EXCELLENCY: I have the honor to present to your excellency the case of a citizen of the United States of America resident in Vienna, who is threatened with banishment from Austria. The facts, as I learn them, are as follows:

Gustav Wolf Louis Fischer was born in Saxony on July 14, 1868. On the death of his father the mother removed to Vienna, where he was naturalized and made a citizen of Austria on November 17, 1885. In March, 1888, in obedience to a notice, he appeared before the proper officers and was examined and pronounced unfit for military service and not accepted as a recruit. Thereupon he emigrated to the United States under the provisions of the treaty of September 20, 1870. He resided in the United States continuously more than five years, and, under and in accord-



ance with the said treaty and the laws of the United States, became a citizen thereof by the judgment of a proper court in the city of Chicago and State of Illinois on December 5, 1893. Afterwards, on the 2d day of March, 1895, the Secretary of State of the United States of America issued to him a passport, which he still holds, as evidence of his American citizenship. No claim is made, to my knowledge, that Mr. Fischer is not a citizen of the United States or his naturalization illegal or his passport improperly granted.

If any claim of either kind is made to this legation, permit me to assure your excellency that it will be thoroughly investigated by my Government, and if found to be true, proper steps will be taken to annul the same.

I learn that the authorities having his case in charge do not question Mr. Fischer's American citizenship, but, on the other hand, make that the ground on which is based the order of banishment.

It seems that some weeks ago he was called before the "Magistratisches Bezirksamt" of the ninth district in Vienna, and an order made to the effect that he be banished. From this Mr. Fischer took an appeal to the governor of Lower Austria, in whose office the case is now pending.

In a conversation had on yesterday with His Excellency Count Kielmansegg, governor, it was suggested that it might be better to present the case to your excellency now rather than later. And it is in accordance with such suggestions that I have the honor to bring the case immediately to your attention.

I submit to your excellency that Mr. Fischer is protected from the threatened punishment by the said convention concerning naturalization.

The first clause of article 1 stipulates that "citizens of the Austro-Hungarian Monarchy who have resided in the United States of America uninterruptedly at least five years, and during such residence have become naturalized citizens of the United States, shall be held by the Government of Austria and Hungary to be American citizens and shall be treated as such."

This clause is unlimited and embraces all citizens. The second article of said treaty reserves unto each country, and so unto Austro-Hungary the right, in this case to punish Mr. Fischer on his return for any action punishable by the laws of this Monarchy, "committed before his emigration." I am informed that no claim is made of the right to punish Mr. Fischer under said clause. The second clause of said article reserves the right of the Austro-Hungarian Monarchy to punish such emigrant after naturalization and return in case "(1) if he has emigrated after having been drafted at the time of conscription and thus having become enrolled as a recruit for service in the standing army; (2) if he has emigrated whilst he stood in service under the flag or had a leave of absence only for a limited time; (3) if, having a leave of absence for an unlimited time, or belonging to the reserve or to the militia, he has emigrated after having received a call into service, or after a public proclamation requiring his appearance, or after war has broken out."

It is not claimed, as I am informed, that Mr. Fischer is subject to punishment under the said clause set out. He was never accepted in the army as a recruit or soldier. But the insistence against Mr. Fischer is that because he is by the treaty free from punishment therefore he shall be banished.

Banishment is punishment. Vattel declares that banishment is "a mark of infamy." Another says it is "a disgraceful punishment."

I submit to your excellency that it is a solecism to argue that because Mr. Fischer is free from trial and punishment under the laws of Austria-Hungary therefore he should be banished. The treaty is the law of this case, and binds both nations and protects the citizens of each while in the lands of the other. He was not subject to punishment at the time of emigration. He has violated no law of this Monarchy since he became a citizen of the United States.

It is said that Mr. Fischer violated section 64 of the military law of April 11, 1889. It is urged, as I am informed, that Mr. Fischer violated said section because he emigrated without the permission of the minister of home defense. I do not pause to inquire whether the contention is well taken. The words of the treaty, as applied to Mr. Fischer, are if he, "by or after his emigration has transgressed the legal provisions on military duty" (except the three instances already provided), "on his return he can not be held to military service, nor remain liable to trial and punishment for the nonfulfillment of his military duty."

In this case all right of punishment, if any, is remitted by the terms of the treaty. Mr. Fischer now stands under this treaty an innocent man; as innocent as if he were a native-born citizen of the United States. I have the honor to respectfully request therefore that your excellency will cause the case to be examined. And if it shall be found that I have misstated or omitted any material fact I beg that your excellency will cause it to be brought to my attention. And on such examination I have

the honor to further request your excellency to take such steps as may be proper to cause said order of banishment to be revoked.

I avail, etc.,

ADDISON C. HARRIS.

[Inclosure 2.—Translation.]

*Paragraph 64 of the military law of the 11th of April, 1889.*

Discharge for the purpose of emigration may be granted to a member of the army (navy) by the imperial and royal minister of war.

Emigration of such other persons as may be liable for service, as also of such who have not yet reached the age of conscription, is dependent upon the permission of the minister of home defense.

Permission to emigrate may be granted to a recruit, or to a person not yet liable to present himself for military service, or who has not fully satisfied his liability to present himself for military service, then only in case he emigrates with his parents or parent.

The act of emigration is to be considered as effected then only when the person emigrating has, within a year, in fact removed from this Monarchy and settled within the foreign country with the intention there to take up his permanent residence. If emigration does not take place, the person to whom permission was granted must serve out the remainder of his period of service interrupted by his release from the army (landwehr) for the purpose of emigration.

In times of mobilization and war permission to emigrate is not to be granted to any member of the armed force of the Monarchy.

*Mr. Hay to Mr. Harris.*

No. 79.]

DEPARTMENT OF STATE,  
*Washington, April 13, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 80, of the 21st ultimo, presenting the case of Gustav Wolf Louis Fischer, who has been ordered to be banished from Austria, in violation of the naturalization treaty between the United States and Austro-Hungary, and reporting your action in the matter.

Consideration of the general question of the asserted right of a government to expel pernicious aliens and of the effect of an existing treaty of naturalization upon the exercise of such right may be aided by a brief review of the status of the matter in the neighboring Empire of Germany, with which the United States has treaties similar to that of 1870 with Austria-Hungary, and in which the conditions surrounding the return of subjects naturalized abroad are much the same as in Austria.

The German Government has for years contended for the right to expel a returning naturalized German-American if his presence in the country of origin be detrimental to the public good. This has been repeatedly explained to cover the case of a young man, liable and fit for military service, who has evaded the conscription by emigration, and after acquiring United States citizenship has returned to his native community, there to sow discontent among his associates by parading his acquired immunity. As the right to expel a pernicious alien is claimed by nearly all governments as a prerogative of sovereignty, and may be exercised against all aliens who disturb the welfare of the State, without distinction being made between those born aliens and those who have acquired alienship by naturalization, this Government has not contested the German position whenever the facts show the circum-

stances of the young man's return are as above stated. I am not aware of any case having arisen in Germany where a young man, rejected for disability, emigrating and becoming naturalized as Mr. Fischer was, has been deemed by the Germans open to the charge of fahnenflucht (flight from the flag), nor would the other circumstances of Mr. Fischer's case operate to his prejudice. He is nearly 32 years of age, past the years of active service. He was born in Saxony, and obviously has not returned to his native community to sow discontent among the less fortunate comrades of his youth by boasting of his American citizenship. He is sojourning in Austria in the employ of a reputable Anglo-American house, so that his presence appears to be logical and to suggest no sinister motive.

The Department desires especially to approve the point you make, that the right of expulsion is claimed because Mr. Fischer emigrated without permission of the minister of home defense. This requirement is a municipal regulation enacted long subsequent to the date of the naturalization convention between the United States and Austria-Hungary. It belongs to a class of minor provisions and restrictions which that convention expressly declares shall not operate to the prejudice of the returning naturalized citizen. The two Governments agreed in 1870 upon the precise conditions under which a person so naturalized in the one country should be exempt from penalty of any kind on his return to the other country. This Government can not be expected to consent to those conditions being amended at the will of the other high contracting party.

Moreover, this Government can not be expected to assent to the general proposition, now in effect put forth, that an American citizen, who, as you have shown, has lost his Austrian status in full conformity with the existing convention between the two countries, and who, as you assert, has done no unlawful act since his return to Austrian jurisdiction, should arbitrarily be subjected to an exemplary penalty in order to deter other Austro-Hungarian subjects from acquiring American citizenship under the terms of the convention of September 20, 1870. If it were shown that Mr. Fischer's presence in Austria is pernicious to the well-being of the State, if actions subversive of order and therefore incompatible with the duty of a good American citizen in a foreign land were attributed to him, I might be disposed to consider the evidence in that regard, and, if it appeared sufficient, withhold remonstrance against his expulsion; but no such charges are stated, or even remotely suggested.

You will continue to press the case.

I am, etc.,

JOHN HAY.

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*Mr. Harris to Mr. Hay.*

No. 98.]

UNITED STATES LEGATION,  
Vienna, June 27, 1900.

SIR: I have the honor to make a further report in Mr. Fischer's case.

On receipt of your dispatch No. 79 I had a full discussion with Count Lützow, then in charge of the foreign office. (Count Goluchowski and Count Szeesen were in Budapest in attendance on the Delegations.) He took the ground in the conversation that Mr.

Fischer's conduct was merely colorable. In answer I sent a note to the foreign office, of which I inclose a copy. On the return of Count Goluchowski and Count Szecsen an answer was made, of which a translation is inclosed.

It will be observed that it is asserted that Mr. Fischer is "settled" here. The fact is that he declared to me his purpose to remain during the life of his mother. She is not dependent on him for support or care, as she keeps a leading "pension," and her daughter, the wife of an army officer, lives in Vienna. The expulsion is based on the fact that he is an alien, so that the case is, after all, one of expelling an American, formerly a subject of this monarchy, solely because his *presence* is held, by reason of the example, to create discontent among those who have done or are now doing military duty, and to incite young men not yet enrolled to emigrate to escape it.

The question is, May His Majesty's Government expel Mr. Fischer, whose emigration and naturalization and return were affirmatively authorized by the treaty of 1870, merely because his presence without more tends to create discontent?

On yesterday I went over the case fully with Count Szecsen, His Excellency Count Goluchowski not being at the office. Count Szecsen adheres firmly to the doctrine that the treaty in no wise tends to limit the sovereign power of this State to remove any alien whom the Government thinks should not be permitted to remain. He admits his Government would not expel an American without cause, but adheres to the position that presence of itself may be enough in connection with other facts to make a good cause, and that Fischer's escape from military examination and probable service is sufficient, with presence, to make proper cause. He refers to the statement of Count Goluchowski set forth in my dispatch to you (No. 70) as the settled law of this monarchy.

I insisted that two or more lawful acts could not be used to produce an unlawful result; that the emigration, naturalization, and return of Mr. Fischer were each by the treaty lawful, and he had done no wrongful act since his return. And I protested with emphasis against the rule laid down in his note already inclosed, and said I would confer with you on my return.

I ought to add that it has been said to me on more than one occasion that His Majesty's Government had asked, through its minister in Washington, to take up with our Government the question of making some modifications of the said treaty, but had not as yet been encouraged to proceed. The exact modifications were not stated.

While writing this dispatch I learned through Mr. Fischer that he has asked that the order of expulsion be postponed until September and that it was granted on yesterday.

I have, etc.,

ADDISON C. HARRIS.

[Inclosure No. 1.]

*Mr. Harris to Count Lützow.*

F. O., No. 72.]

UNITED STATES LEGATION,  
Vienna, May 31, 1900.

YOUR EXCELLENCY: Referring to our late conversation touching the case of Mr. Wolf Gustav Louis Fischer, I understand the position taken by your excellency to be that it is apparent that his emigration and naturalization was not bona fide as to

the United States, but merely a cover to escape military duty in Austria. Intention is a matter of fact to be shown by contemporaneous conduct. I beg leave to meet the inference put against him by the fact that while in America he was a member of the Illinois National Guard, and rendered military service to that State, and to the United States, in the Pullman strike; also that for years he was in the employ of Marshall Field, the greatest merchant in Chicago, and also that on coming to Vienna he took service in a non-Austrian company. These facts appear from his military certificates and his personal statement on file in this legation, copies whereof I beg to inclose to you herewith.

I venture to submit that if it be permissible to question the bona fides of his naturalization (except in the usual way) that these facts repel any inference or presumption that his citizenship is colorable or his presence here is not entirely guaranteed by the treaty.

I avail myself at the same time of this opportunity, etc.,

ADDISON C. HARRIS.

[Inclosure 2.—Translation.]

Count Szecsen to Mr. Harris.

VIENNA, June 5, 1900.

The Imperial and Royal ministry of foreign affairs did not fail, in view of the need possibly arising for further competent action in the case, to inform the Imperial and Royal ministry of the interior of the contents of the esteemed note of the 20th of March, 1900, Foreign Office No. 59, relative to the matter of the expulsion of the naturalized American citizen, Gustav Wolf Louis Fischer.

According to information furnished by the ministry of the interior the following are the facts underlying the matter:

Gustav Wolf Louis Fischer, born June 14, 1868, in Chemnitz, Saxony, was a legalized citizen of Vienna before acquiring naturalization in the United States of America.

It is true that Fischer fulfilled his duty by reporting for examination in the first class in 1888, and was at that time classified as "remanded" (*Zurückzustellen*); but before fulfilling his further obligations by reporting for later examination he emigrated without permission to the United States, and, secure against punishment by virtue of the protection which Article II of the treaty of September 20, 1870, now afforded him as a citizen of the United States, he returned to take a permanent position in Vienna.

The Imperial and Royal police direction of Vienna, having its attention called to the action of Fischer in regard to the nonfulfillment of his duty by not reporting for his later examinations, ordered, in accordance with item 5 of paragraph 2 of the law of the 27th of July, 1871, Imperial Law Bulletin No. 88, concerning maintenance of public order, the expulsion of the aforementioned from the kingdoms and lands represented in the Reichsrath.

Fischer appealed against this order to the Imperial and Royal Statthalterci (office of the governor), but the latter, in decision of the 9th of May, 1900, No. 40739, declared itself unable to grant his appeal.

Further appeal against the decision of the Imperial and Royal Statthalterci above referred to is, according to paragraph 7 of the law just cited, not permissible.

Inasmuch as the Imperial and Royal ministry has the honor to inform his excellency, the envoy extraordinary and minister plenipotentiary of the United States of America, Mr. Addison C. Harris, of the foregoing, it is believed that in order to enable a correct understanding of conditions, the following remarks should be added:

The opinion expressed in the esteemed note, referred to at the beginning of this reply, to the effect that the order of expulsion in question is a *punishment* not permitted by the treaty of the 20th of September, 1870, can not be considered correct, when viewed from the standpoint of Austrian law.

The order of expulsion is in no wise to be regarded as a punishment placed upon Fischer because he has not completely fulfilled his military obligations here in this country, as is clearly evident from the one fact that this order is issued by the Vienna police direction, which is an *administrative body*, whereas, had the punishing of an offense against the military regulations been in question, only the judicial or the military officials would have been competent to act in the matter.

And equally little has the expulsion in question any direct connection with the fact that the aforementioned individual acquired naturalization in the United States. The same measures could just as well, under similar conditions, be applied to a per-

son belonging to some other third state, regarding whom the monarchy had reason to maintain the same views as in Fischer's case.

The order against the latter possesses, in fact, no other significance than that of an administrative act which really springs from consideration for public order, and is based on the belief that the latter suffers offense when a person, by assuming foreign citizenship, avoids performance of those duties to his country which are placed upon him as upon all his fellow-citizens, and then, protected by this new citizenship from the punishment otherwise resultant from this avoidance of duty, returns and settles permanently in the midst of his former countrymen, who find themselves in a condition not so favorable as is his.

Such an act is not only provocative of discontent in all those who fulfill their obligations to the State, be their fulfillment voluntary or compulsory, but it acts also as a bad example, and were such proceedings unchecked or of frequent occurrence, would work positive harm to the defensive power of the State.

According to the view points here indicated—which alone have been productive of the order of expulsion issued against Gustav Wolf Louis Fischer—the methods of the Imperial and Royal officials can be regarded only as an act of precaution which the common considerations of State demand for the paralyzing of the damaging influence of such occurrences, and which in no wise is connected with the obligations stipulated for the contracting parties in the treaty of the 20th of September, 1870.

So far as a number of data contained in the esteemed note of the 31st of May, 1900, Foreign Office No. 72, which has been received in the meantime, are concerned, and which are intended to serve as proof that Fischer received his naturalization in the United States in bona fide and not in a certain degree merely pro forma, it may be stated in reply that in those fundamental, and, as it were, prophylactic, considerations which, as was indicated above, were decisive in the removing of the frequently mentioned individual from Austrian territory, no weight was attached to the ascertaining and fixing of the personal *intentions* which may have led him to emigrate from the monarchy and caused him to seek citizenship in the United States.

The offensive impression and the corruptive influence of the action under discussion lie in the *extreme conditions* under which Fischer, who was still pledged to duties to the State in this country, accomplished his naturalization in America, and also in his return here to settle in Austria. It is immaterial whether the intention to return, after avoiding military duty, was already formed in his mind, as it is in the majority of such cases, or whether the intention to return, perhaps originally nonexistent, was formed at a later date.

The undersigned avails himself at the same time of this opportunity to renew, etc.,  
SZECSEN.

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*Mr. Hay to Mr. Harris.*

No. 96.]

DEPARTMENT OF STATE,  
Washington, July 19, 1900.

SIR: I have to acknowledge the receipt of your No. 98, of the 27th ultimo, in further reference to the case of the naturalized citizen Gustav Wolf Louis Fischer, whose expulsion from Austro-Hungarian territory upon his return to his native place to take up an apparently indefinite residence had been previously reported by your No. 80, of March 21.

The grounds advanced by Count Lutzow in justification of the course of the Austro-Hungarian authorities in decreeing Mr. Fischer's expulsion coincide nearly with those put forward by the German Government on many occasions where a naturalized German, who by the acquisition of a foreign citizenship procures legal immunity from military service or from the penalties attaching to its nonfulfillment, has returned to his native neighborhood under circumstances asserted to be prejudicial to the interests of the State. The note addressed to you by Count Szecsen on the 5th ultimo takes the same position. The similarity between the Austrian and the German arguments in this regard has already been noted in my instruction No. 79, of April 13, 1900.

The case would offer no essential difficulty were the circumstances of Mr. Fischer's return to Austro-Hungarian jurisdiction such as to suggest that he belongs to the objectionable class of aliens whose expulsion for high political motives is conceded to be the prerogative of a sovereign state. In the exercise of this prerogative it is but reasonable that the expelling government should be prepared to justify its action by showing to the alien's government that his presence in the land of his origin is, in fact, pernicious to the public welfare.

The argument of the Austro-Hungarian Government is that Mr. Fischer, having partly fulfilled his military duty by reporting for examination and having been remanded for a later examination, thereby assumed an obligation which he evaded by unpermitted emigration while still an Austrian subject; and that, having secured immunity by naturalization abroad, his return to his native city and residence among his former countrymen less favorably situated than he is not only provocative of discontent, but acts as a bad example, calculated, if often repeated, to work positive harm to the defensive power of the state.

The weakness of this position is that it does not rest upon any avowal of offensive conduct on Mr. Fischer's part which would justify the individual application in his case of the right of expulsion, but, rather, appears to lay down a general principle whereby the expulsion of every American naturalized Austro-Hungarian, who was under admitted liability to serve at the time of emigration, would be a necessary proceeding under the general policy of the State. Such a sweeping doctrine would to a serious extent neutralize the provisions of our naturalization treaty with Austria-Hungary. That instrument, weighing all the circumstances under which persons of military age might emigrate without fulfillment of their obligations, discriminated between the classes securing immunity by naturalization and those not so securing it. It can not be expected that this Government will acquiesce in a comprehensive enlargement of the nonimmune class by the *ex parte* act of the other contracting party.

In the numerous questions of this nature which have arisen between the United States and Germany, each case has been dealt with upon its individual merits. No attempt, so far as I can recall, has been made to enunciate a general doctrine like that now advanced by the Austro-Hungarian Government. Certainly no such position has been acquiesced in by this Government, tacitly or otherwise.

I observe that in Mr. Fischer's case the exercise of the right of expulsion is claimed to rest in "the extreme conditions under which Fischer, who was still pledged to duties to the State in this country (Austria), accomplished his naturalization in America, and also in his return here to settle in Austria." So far as this deals with the merits of his case, it comprises two distinct propositions—his action prior to naturalization and his action since. The first, as I have suggested, is covered by the stipulation agreed upon by the negotiators of the naturalization treaty, and involves no public turpitude on Mr. Fischer's part since his return. The second, by imputing to him the intention to *settle* in Austria, brings his case within the express terms of Article IV of the treaty, whereby indefinite residence in the country of origin imports no disability and does not constrain the returning emigrant to resume his original allegiance. Such resumption is to be his voluntary act, and failure to resume original citizenship can not be held to

impute to him pernicious conduct, injurious to the welfare of the State, without materially altering and expanding the stipulations of the naturalization treaty in favor of one contractant and not in favor of the other. If the two-years' residence clause (as in Article IV of convention of February 22, 1868, between the United States and the North German Union) were found in the existing convention of 1870 between the United States and Austria-Hungary, the question of Mr. Fischer's alleged settlement in Austria might afford a basis of discussion. But that stipulation of the German convention, the existence of which was doubtless known to the negotiators of the Americo-Austrian convention, was not incorporated therein by them, probably for reasons satisfactorily understood by them.

Article IV of the treaty of 1868 between the United States and the North German Union provides that "if the 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." This article further declares that "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."

Article IV of the treaty of 1870 between the United States and Austria-Hungary provides that the emigrant from one State who has resided in the other uninterruptedly for at least five years, and has become a naturalized citizen thereof, "shall not, on his return to his original country, be constrained to resume his former citizenship; yet if he shall, of his own accord, reacquire it and renounce the citizenship obtained by naturalization, such a renunciation is allowable, and no fixed period of residence shall be required for the recognition of his recovery of citizenship in his original country."

Both treaties contemplate the possible resumption of original allegiance by a returning emigrant. The North German treaty provides that if the 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. It further expressly declares that the intent not to return may be held to exist after a residence of two years.

But neither of these provisions is incorporated in the Austrian treaty. Instead, it is declared that if the returning emigrant shall, of his own accord, reacquire his original citizenship and renounce the citizenship obtained by naturalization, such renunciation is allowable. It is added that no fixed period of residence shall be required for the recognition of the recovery of citizenship in the original country. It was the evident intention of the framers of the latter treaty that the emigrant returning to the country of his origin should not by mere residence there recover his original citizenship. The treaty contemplates the performance on his part of an act of renunciation of his acquired citizenship on the one hand, and of reacquisition of his original citizenship on the other. Whenever this is affirmatively done it may be recognized, but not until then.

On the whole, as Mr. Fischer's case stands, I fail to see that any individual circumstances have been alleged to make his expulsion an exceptional necessity for the protection of the Austro-Hungarian State. The fact that his residence in the Empire until next November has been permitted upon his application would suggest that if he be in



fact a pernicious alien, his perniciousness is not of an alarming or even pronounced character, and strengthens the impression I derive from the correspondence that his expulsion is not exemplary for specific cause, but is in the execution of a general policy which does not chime with the provisions of the existing treaty.

In the various German cases to which I have adverted, the postponement of the expulsion for a reasonable time to allow the person expelled to close up his affairs is generally obtained on the individual's petition and is followed by his voluntary departure from the territory of the sovereign, thus virtually constituting an amicable disposal of the matter by mutual consent. Mr. Fischer, it now appears, has asked that the order of expulsion be postponed until September, and his petition has been granted. This arrangement may be deemed to embrace a voluntary engagement on his part to quit Austro-Hungarian territory by a given date and he will be expected to abide thereby, thus disposing of his particular case. You will so advise him.

Although Mr. Fischer's case may be regarded as withdrawn from active international discussion, the principles upon which this Government rests in contesting the general claim of the Austro-Hungarian Government in the matter of the expulsion of pernicious aliens for cause remains unaltered, being in no wise prejudiced by Mr. Fischer's action in accepting a postponement of his departure. You should make our views upon this point and upon the broader point of expulsion for individual cause clear to the minister of foreign affairs.

In view of the frequent references to the course of Germany in analogous cases, I inclose for your information extracts from a very full and able report which, at my request, has been made to me by the United States ambassador at Berlin, showing the practice prevailing in this regard in the German Empire, and including a comparison thereof with the claim set up by the Austro-Hungarian Government.

I am, sir, etc.,

JOHN HAY.

[Inclosure.]

*Mr. White to Mr. Hay.*

No. 1228.]

EMBASSY OF THE UNITED STATES,  
*Berlin, April 21, 1900.*

SIR: I have the honor to receive your instruction No. 1012 of March 2, inclosing copy of a dispatch from the minister of the United States at Vienna, which reports the banishment of certain naturalized American citizens from Austro-Hungary, and asking, first, my views on the points raised by the minister in said dispatch, and, secondly, for a report as to any laws which may be in force in the States of the German Empire relative to expulsion.

\* \* \* \* \*

It seems well to add something regarding some more general characteristics of a large class of cases which, in outward appearance at least, are not unlike these—cases in which foreign governments, and, in the matter now under consideration, the Austro-Hungarian Government, may suspect a *prostitution of American citizenship*. Whether this feeling of theirs be just in the present instance or not, it can not be denied that American representatives abroad have constantly to be on their guard against this evil, so injurious not only to proper relations between our own Government and others, but to the good name of our country. As to my own experience of it, which now covers many years in various posts, I trust that I may be allowed to say that my sympathies have always been and are now strongly with all bona fide

claims made by American citizens of foreign birth for protection in the country of their origin. Every German-American who, after acquiring rights as an American citizen, has shown by using them that he appreciates their value, and who, having done so, returns to his native country for any legitimate purpose, has my fullest sympathy and commands my most earnest efforts. Much of my time as minister at this post twenty years ago, as minister at St. Petersburg at a more recent date, and during my present stay here as ambassador, has been devoted to such cases, and any efforts I have made in behalf of this class of my fellow-citizens I have regarded not merely as a duty but as a pleasure. It gives me satisfaction to say that I recall no case in which the embassy has been unable to secure the friendly attention of the German Government to cases evidently bona fide, and I would regret to believe that the Austro-Hungarian Government would not yield to proper representations in similar cases.

Of course the cases of young men of military age who, having secured naturalization, return immediately afterwards to visit their family and others present peculiar difficulties, and these difficulties are frequently increased by their indiscretion and even by conduct to which a much worse name might be applied. It is, of course, galling to the military authorities of a nation, in which the military service of all its sons is considered the fundamental condition of national existence, to have young men who have disappeared just at the military age reappear among their old comrades, who are going through their military service, and display proofs of American citizenship, which appear to the authorities to be in the nature of a fraud. Still, even in these cases, difficult as they are, whenever there is evident bona fides, and also a reasonably discreet conduct on the part of the person returning, he has, as a rule, been allowed to remain long enough to visit his relatives.

I, of course, do not defend the practice of ordering such person out of the country; I would much prefer to have them allowed to remain for the time named in the Bancroft treaties, but I state the case as it undoubtedly appears to the German authorities, and I feel bound to say that but for this exercise of what they consider not only a right inherent in German territorial sovereignty, but as an absolutely necessary safeguard to good order and even to the national existence, I do not believe the Bancroft treaties would be allowed to stand. Only recently a minister of the Crown argued to me that, in the interest of Germany, those treaties ought never to have been made, and it is hardly possible that we could ever obtain them again on the terms on which Mr. Bancroft obtained them—at a time when the North German Confederation was especially anxious to secure the good opinion of the United States.

The German Empire in its present development would, in my opinion, take a view much less favorable, and we should very likely have upon us the old condition of things in which there was no acknowledged right of German-Americans to remain in Germany. Under such circumstances no American citizen of German birth could know whether it was best for him to revisit his native land or not, no matter how long he had been a citizen of the United States, and the inevitable result would be not only unfavorable to trade, but exceedingly injurious to anything like good relations between the two countries.

In view of all these considerations, while aiding the applications of all our American citizens of German birth who show good faith, I have done what I could to resist all efforts to prostitute American citizenship.

On this point let me remind the Department again of what it so well knows, that such efforts to use American citizenship for unworthy purposes are of constant occurrence. Hardly a day passes that there do not come to this embassy persons who have made the briefest possible stay in the United States, and demand passports clearly for the purpose of passing their lives here free from all obligations either to the country of their birth or of their adoption. Many of these have not the slightest appreciation of their real rights or duties as Americans, have no feelings in common with those of American citizens, and some are not even able to write or speak the English language. Their conduct makes it perfectly clear that if they found more advantage of any sort arising at any time from their old allegiance than from their new citizenship they would be quite ready to resume the former. The more respectable of these seek merely to promote their own interest or pleasure, not hesitating apparently to take any oath which may be necessary to secure the renewal of a passport. Others come for purposes even less respectable, and some even for criminal purposes, as our records in more than one case will show.

Under these circumstances, while advocating all effective measures for the protection of bona fide American citizens of foreign birth when they return to Europe, I am slow to advocate anything like drastic measures likely to arouse ill feeling between our own Government and any other and sure to render the securing of the rights of bona fide American citizens of foreign birth when abroad more difficult.

It is often said that Great Britain is more prompt and energetic in protecting her subjects than our country is in protecting her citizens. So far as this assertion has to do with the protection of British subjects of foreign birth in the country of their origin I need hardly remind the Department that it is without foundation. Great Britain never protects her foreign-born naturalized subjects in the land of their birth; if they revisit it they do so at their own risk. This is perfectly understood in every European capital and has received an indorsement from no less an authority than the late Chief Justice Alexander Cockburn, who, in his work on Nationality, in treating of those cases where claims on the score of allegiance are made by other governments on such British subjects as are said to be under the obligations of a two-fold nationality (as, e. g., by virtue of naturalization), says:

"In this respect the Government of this country has acted, it must be confessed, in modern times at least, with extreme forbearance and caution, preferring to disappoint what might have been thought the reasonable expectations of its subjects rather than advance pretensions which might clash with the rights of other powers. In the case of conflicting claims to the allegiance of individuals, British statesmen appear to have applied the legal maxim 'Melior est conditio possidentis,' and to have adopted the convenient doctrine that the state in whose dominions the individual happened to be was entitled to claim him."<sup>1</sup> (See Cockburn on Nationality or the Law relating to Subjects and Aliens, p. 107.)

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As to the second subject mentioned in your instruction, namely, "Any laws which may be in force in the States of the German Empire relative to expulsion," regarding which a report is desired, I have the honor to make the following statement:

The "law of expulsion" in the German Empire is exceedingly complex, and may be most conveniently treated under the three main headings given, as follows:

(1) *General principles.*—These are to be found in the various treatises by eminent jurists and publicists on the subjects of "International law," "Private international law," and "Constitutional and public law." Regarding this division of the subject, I assume that no statement is required, unless, indeed, the Department desires some account of the more recent enunciation of these general principles from the German point of view, as given in the very considerable number of recently published works in Germany dealing with the "Conflict of laws," and especially with the "State law" of the various States in their relation to the Empire since 1870, and to other nations.

(2) *Treaty provisions.*—These will of course be found in the collection given under the title "Treaties and conventions between the United States and other powers, 1776-1887;" also any other treaty provisions touching the matter, all of which the Department already possesses.

(3) *Statutes, decrees, and regulations of the German Empire and of the respective States thereof.*—It is with especial reference to this division of the subject that I assume a report is required.

I note that in Mr. Harris's dispatch reference is made to the Austro-Hungarian "expulsion law" (Imperial and Royal Law Bulletin, No. 88), to which in one case is assigned the date of June 27, 1871, and in another that of July 27 of the same year. This law, presumably in force throughout the Dual Monarchy, while resting on the basis of inherent sovereign right, enumerates the cases in which the right of expulsion may be exercised, and prescribes the manner in which it is to be carried out.

No similar law exists in the German Empire, nor am I aware of such a law existing in any State thereof. The whole procedure in this country regarding the expulsion of foreigners seems in a somewhat confused condition and can only be rightly understood by reference to the imperfect federal character of the Empire. Three different kinds of expulsion may be recognized in the precedents afforded by the recent history of Germany.

First. Each of the German States still retains the sovereign right of expulsion, so that a foreigner may, in certain cases, be expelled from one State, but continue to

<sup>1</sup> Note by the Department of State, July 17, 1900:

"The British rule in this regard is prescribed by statute, seventh clause of the act 33 Victoria, chapter 14. All passports issued to naturalized British subjects are subject to the qualification mentioned in the statute and bear an indorsement in the following language:

" 'This passport is granted with the qualification that the bearer shall not, when within the limits of the foreign state of which he was a subject previously to obtaining his certificate of naturalization, be deemed a British subject, unless he has ceased to be a subject of that state in pursuance to the laws thereof, or in pursuance of a treaty to that effect.' "

reside thereafter unmolested in another State of the Empire, his expulsion from the former only having effect in the territory within which the authorities of that State have jurisdiction.

Second. In certain other cases where the reasons for expulsion are such as would make the stay of the foreigner in any one of the States of the Empire objectionable, Imperial laws have been passed whereby an expulsion by the authorities of one State becomes effective not only in that State but within the whole Empire, thus effectually banishing the individual from Germany.

Third. There is another kind of expulsion which, though in form identical with that last preceding, is so different in its real nature as to warrant its treatment as a separate class, namely, the expulsion by the Prussian authorities of persons, either individually or en masse, for certain grave reasons of state, as examples of which may be mentioned the expulsion of Poles from certain German States, of Frenchmen and others from Alsace-Lorraine, and of inhabitants of Schleswig-Holstein. These expulsions have usually been carried out by Prussia or through Prussian initiative, and take the second form above given, but for reasons which concern not only Prussia but the whole of Germany. When it is remembered that Prussia is the leading member of the German Confederation, that the King of Prussia is the German Emperor, that the chief functionaries of the Kingdom are also leading officials of the Empire, and that an expulsion by these Prussian authorities is given effect as an expulsion from the Empire by virtue of Imperial laws passed for reasons of the Imperial welfare, it will be seen that they are in substance indirect expulsions by the Empire, though in form mere State expulsions effective throughout the other States.

Referring to the first class above given, namely, expulsion by a State from its own proper territory only, I take Prussia as an example, and on referring to a leading authority on Prussian State law I find the statement: "Measures of expulsion can be exercised against foreigners, partly for certain punishable acts which have been made the subject of judicial sentence, and partly as purely police measures taken in the interest of safety and order." (Rönne, "Das Staats-Recht der Preussischen Monarchie," 2 Band, 2 Abtheilung, sec. 381, p. 134.)

This is also doubtless a true statement of this principle as contained in the State law of each of the other States of the German Empire.

The distinction to be held in mind is whether the expulsion is to be effective as a banishment—

- a. From the whole German Empire, or only
- b. From the territory of the expelling State.

The power by which the authorities of any particular State are given extended jurisdiction to expel from the Empire is contained in various Imperial laws and decrees. As examples of these may be mentioned—

1. Certain sections of the Reichs-Strafgesetzbuch.
2. The Imperial law regarding the expulsion of the Jesuits.
3. The Imperial law regarding the Social Democrats, etc.

To sum it up, it may be said that, first, as regards the power of expulsion the respective States exercise this right by virtue of their inherent sovereign power and the usages sanctioned by international law; second, that the procedure whereby it is given effect is for the most part contained in "Administrative Bestimmungen" and "Ministerielle Erlasse," which, not being in the form of public statutes and often embodied in secret orders of the State and Imperial authorities, are not available for examination.

Concerning the right of expulsion as well as the manner, the procedure above indicated has been modified in certain cases by special treaties, as, for instance, the convention between the German Empire and Russia of February 10, 1894, for the exchange of undesirable persons, subjects of either of the two countries, to the other, respectively; also a convention with Switzerland bearing date April 27, 1876.

Should the Department desire further and more exact information as to the actual procedure in the matter of expulsion prevailing in the various German States, the cases in which such expulsion is given effect in the whole Empire, etc., a somewhat extended and careful examination of the question would have to be made, and this would necessarily require considerable time. Such an extended report, however, has not appeared to be called for by the Department's instruction, and I therefore beg to submit simply the above considerations.

I am, etc

ANDREW D. WHITE.

## MILITARY SERVICE CASE OF FRANZ RATH.

*Mr. Harris to Mr. Hay.*

No. 86.]

UNITED STATES LEGATION,  
*Vienna, April 9, 1900.*

SIR: I have the honor to submit the following case for instructions: Franz Rath was born in Austria in 1865. He served in the army from April 22, 1882, until December 31, 1886, when he was transferred to the reserve, wherein he was liable to call for six years. The practice is to call the reserves annually for a few weeks' maneuvers.

It would seem from his statement that he responded to these calls as long as he remained in Austria.

During the said six years, that is to say, on September 10, 1887, he was given a "pass" to go to America by the proper authorities (in the usual form) as follows: "Good until the recall of the bearer hereof, as a sergeant in the Imperial and Royal Infantry Regiment No. 4," signed by the "Bezirkshauptmann" at Mistellach, Lower Austria.

Under this permission Mr. Rath emigrated, and was registered with the Austro-Hungarian consul-general in New York City in compliance with a military regulation, under which his officers were informed of his address.

Early in 1889 his officers issued to him in the usual manner a written notice or "call" into service for the annual maneuvers. This notice was forwarded to said consul-general, and by him served on Mr. Rath. He did not comply. He states that the service was made on February 26, to appear at Mistellach (the regimental quarters) on March 1 following.

If the notice is to be regarded by our Government I am inclined to the opinion that this was not a valid excuse, as it would seem his duty was to obey the call as far as possible, and return without delay. He could have come to Austria in less than two weeks, and before the maneuvers were over.

During said month of March he addressed a petition to the military authorities for an extension of his "pass." This was denied in a letter, as follows:

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN CONSULATE AT NEW YORK,  
*August 6, 1889.*

SIR: You are informed herewith that the Imperial and Royal Bezirkshauptmannschaft at Mistellach has not been able to comply with your demand for prolongation of your passport, because you did not appear at the military exercises in March of the current year (1889). You are therefore considered as a deserter, and will be treated as such.

BALITSCHER,  
*Imperial and Royal Consul.*

Since then Mr. Rath has made in his own behalf ineffectual attempts to have the charge of desertion struck from the military rolls. His name is read off as a deserter at every annual meeting of the reserves. The purpose is self-evident.

Mr. Rath was naturalized in the city court of Utica, Oneida County, N. Y., on October 13, 1891, and is a teacher of music in that city. He has asked this legation to intervene in his behalf to have the charge of desertion and also his name stricken from the military rolls in order that he may visit his father and other relatives.

Two questions seem to arise:

First. Should the legation intervene on behalf of naturalized Americans while they are not within Austria-Hungary?

I find it has sometimes been done, and I have in one instance. Yet I am not at all sure that it is proper diplomatic practice. There are many cases similar to this. And it seems well that it be settled whether it is the duty of this legation to intervene at the request and in behalf of every naturalized citizen who may find himself liable to arrest in case of return.

Second. May a member of the reserve or the militia, who emigrates with or without a "pass" before "having received a call into service" for the annual meeting (or muster), be notified in the United States through the Austro-Hungarian consuls in America, or otherwise, to return, and in default declared "deserters" and punishable as such on return after naturalization, and while bearing a passport from the Department or holding one issued by this legation?

By the military laws the young men are put into active service in their 21st year. They serve for three years (with a few exceptions) and then pass for seven years into the reserve, subject to annual call for the yearly muster.

The insistence of this monarchy is, that during this period of seven years it may call an emigrant back, and if he fails to come mark him a "deserter" and punish him as such, although he holds an American certificate of citizenship. I have declined to accept this construction of the treaty.

My view has been and is that under Article I citizens of Austro-Hungary on residing in America five years uninterruptedly may renounce their allegiance to His Majesty, and be adopted as American citizens, whether they bear a "pass" or not, and regardless of any "call" served upon them in the United States. Our courts are not required by the treaty to inquire as to such matters.

I am informed the practice in Europe is often otherwise, and that the inquiry is made whether the applicant, if of military age, has performed his military service in his native country; and if not to refuse naturalization.

My further view is that unless the emigrant at the time of leaving the monarchy comes within one of three specific provisions in Article II, then he can not be punished after naturalization for any act or default under the military laws happening "by or after his emigration."

If in error I beg to be set right. If I am right, it would not, in my judgment, be at all improper to express in clear words the true view to His Excellency Count Goluchowski at no distant day.

I have, etc.,

ADDISON C. HARRIS.

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*Mr. Hay to Mr. Harris.*

No. 86.]

DEPARTMENT OF STATE,  
Washington, May 10, 1900.

SIR: I have to acknowledge the receipt of your dispatch, No. 86, of the 9th ultimo, in which you submit, for the instructions of the Department, the military service case of Franz Rath, who, after performing active service in the Austro-Hungarian army, went to the United

States with a pass, became a naturalized citizen of the United States, and is now declared a deserter because he failed to answer a military call.

You are aware that our courts admit aliens to citizenship upon compliance with the requirements of our naturalization laws without regard to any claims upon them of the country of their origin.

Unless the emigrant, at the time of leaving Austria-Hungary, came within one of the three specific provisions of Article II of the treaty, he is not, upon return to Austria, subject to military service or trial and punishment under the military laws. The treaty expressly declares that he can neither be held to military service nor remain liable to trial and punishment for the nonfulfillment of military duties.

Rath does not come within the description of either of the three provisions of Article II referred to.

The questions raised in this case appear to be pretty thoroughly covered by the case of Ladislao Sedivy, the correspondence concerning which is printed in Foreign Relations for 1896, pages 6 et seq., which was made a test case by your predecessor, Mr. Tripp. The position taken by Mr. Tripp was that a returning American citizen of Austro-Hungarian birth can not be punished for a crime committed by act of emigration *but only for an offense committed before emigration*, and that *in all cases when the member of the reserve corps emigrated before receiving a call into active service he was guilty of no crime against the military laws of Austria-Hungary and was not subject to arrest upon his return nor to punishment as a deserter*. This position was conceded by the Austrian authorities.

You may represent these views of the Department to His Majesty's Government.

I am, etc.,

JOHN HAY.

**OFFER AND ACCEPTANCE OF USE OF HOSPITAL SHIP MAINE FOR  
WOUNDED AUSTRIAN SOLDIERS.**

*Mr. Herdliska to Mr. Hay.*

No. 115.]

UNITED STATES LEGATION,  
Vienna, August 4, 1900.

SIR: I have the honor to inform you that this legation received a letter dated July 21, 1900, from the ladies of the executive committee of the hospital ship *Maine*, stating that the ship had sailed on the 12th of that month for Chinese waters, and requesting the legation to notify the Government of this country that if any of their wounded required aid they would be welcomed on board the *Maine*, and that every possible assistance would be given to them. A copy of this communication was inclosed in a note addressed by me to the Austro-Hungarian foreign office on July 24. On July 27 Count Szecsen, on behalf of the foreign minister, stated that the communication had been immediately brought to the attention of the naval section of the Imperial and Royal ministry of war. He at the same time requested me to express to the ladies of the executive committee the warmest thanks of the Imperial and Royal Government for their kind offer. On the following day,

July 28, the committee in question was informed by letter of the steps taken by this legation, a copy of Count Szecsen's reply (in translation) being at the same time inclosed.

Copies of all the correspondence in this case are respectfully submitted herewith.

I have, etc.,

CHARLES V. HERDLISKA.

[Inclosure 1.]

AMERICAN HOSPITAL SHIP MAINE,  
30 Curzon street, London W., July 21, 1900.

THE AMERICAN AMBASSADOR TO THE COURT OF AUSTRO-HUNGARY.

SIR: The ladies of the executive committee of the American hospital ship *Maine* desire to inform you that this ship sailed on July 12 for Chinese waters. Will you please notify the Government to which you are accredited that if any of their wounded require aid they will be welcome to the *Maine*, and every assistance possible will be given them.

Faithfully, yours,

JENNIE RANDOLPH CHURCHILL, *Chairman*.  
JENNIE G. BLOW, *Honorary Secretary*.

[Inclosure 2.]

*Mr. Herdliska to Count Szecsen.*

UNITED STATES LEGATION,  
Vienna, July 24, 1900.

YOUR EXCELLENCY: I have the honor to inclose to your excellency herein a copy of a letter received by this legation this morning from London from the chairman and honorary secretary of the American hospital ship *Maine*, in which the legation is informed that the *Maine* sailed from Southampton, England, for Chinese waters on the 12th instant, and in which the legation is requested to notify the Imperial and Royal Government that any of His Majesty's wounded in China who may require aid will be welcome to the *Maine*, and that every assistance possible will be given them.

In having the honor and pleasure of bringing this information to the attention of your excellency, I avail myself at the same time, etc.,

CHARLES V. HERDLISKA.

[Enclosure 3.—Translation.]

*Count Szecsen to Mr. Herdliska.*

Referring to the esteemed note of the 24th instant, Foreign Office, No. 82, the contents of which were immediately brought to the attention of the Imperial and Royal ministry of war of Austria-Hungary (marine section), the Imperial and Royal ministry of foreign affairs has the honor to most respectfully request the chargé d'affaires of the United States of America to convey to the ladies of the executive committee of the hospital ship *Maine* the warmest thanks of the Imperial and Royal Government for their kind offer.

The undersigned avails himself at the same time, etc.

Vienna, July 27, 1900.

For the minister:

(Signed)

SZECSEN.

[Enclosure 4.]

UNITED STATES LEGATION,  
Vienna, Austria, July 28, 1900.

LADY JENNIE RANDOLPH CHURCHILL, *Chairman*, and  
MISS JENNIE G. BLOW, *Honorary Secretary*,

*Of the Executive Committee of the American hospital ship Maine, London.*

LADIES: I beg to acknowledge the receipt of your very esteemed communication of the 21st instant, informing this legation that the *Maine* sailed for Chinese waters



on the 12th instant, and requesting this legation to advise the government of Austria-Hungary that "if any of their wounded require aid they will be welcome to the *Maine*, and every assistance possible be given them."

In reply I beg to advise you that, immediately upon the receipt of your very kind note, I communicated the contents thereof to the Count Szecsen, Imperial and Royal acting minister for foreign affairs, and I am now in receipt of a reply from him, a translation of which I have the honor to inclose to you herewith, in which he requests me to convey to the ladies of the executive committee of the hospital ship *Maine* the warmest thanks of the Imperial and Royal Government for their kind offer.

I am, ladies, etc.

CHARLES V. HERDLISKA.

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*Mr. Hill to Mr. Herdliska.*

No. 106.]

DEPARTMENT OF STATE,  
*Washington, September 13, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 115, of the 4th ultimo, reporting your action in bringing to the notice of the Austro-Hungarian Government the statement that if any of their wounded required aid in Chinese waters they would be welcomed aboard the *Maine*, and that every possible assistance would be given them by the ladies of the executive committee of the vessel.

You are instructed, when a suitable occasion shall be offered, to express this Government's high appreciation of the action of the executive committee in the matter.

I am, sir, etc.,

DAVID J. HILL.

F R 1900—3

## BELGIUM.

### REGULATION OF THE IMPORTATION OF SPIRITUOUS LIQUORS INTO CERTAIN REGIONS OF AFRICA. (See also under Liberia.)

*Mr. Townsend to Mr. Hay.*

No. 38.]

LEGATION OF THE UNITED STATES,  
*Brussels, January 27, 1900.*

SIR: I have the honor to transmit herewith a translation of a verbal note from the ministry of foreign affairs relating to the adhesion of the Republic of Liberia to the convention of June 8, 1899, governing the sale of spirituous liquors in certain portions of Africa.

The assistant minister of foreign affairs called to-day at the legation and handed to me a verbal note requesting me to beg the Government of the United States to use its good offices to the end that the much-desired adhesion of the Government of Liberia to the convention of June 8, 1899, might be speedily obtained.

I therefore forward the inclosed to the Department for such action as it may deem expedient.

I have, etc.,

LAWRENCE TOWNSEND.

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[Inclosure.—Translation of note verbale from the ministry of foreign affairs.]

#### ADHESION OF THE REPUBLIC OF LIBERIA TO THE CONVENTION OF JUNE 8, 1899.

At the instance of the delegates of the United States of America to the conference of 1889-90, the Republic of Liberia was invited to adhere to the general act signed on July 2, 1890.

Mr. Terrell, at the meeting of June 16, said:

“The Republic of Liberia is situated in the zone where the restrictive measures concerning spirituous liquors will be applied, or at least where it is contemplated to have them applied.”

His excellency added:

“It is therefore highly desirable that this independent State should be induced to cooperate in an effective way in the realization of the repressive measures contemplated by the conference.”

The Republic of Liberia, having adhered to the general act, was invited to enjoy the same rights as the other signatory or adhering powers, to participate in the conference intrusted with the revision provided for by article 42 of said general act, relating to the traffic of spirituous liquors in Africa.

The invitation addressed to the powers left it to their option, either to participate in the work of the conference, or to adhere to the decisions reached by the assembly. Several Governments preferred the latter alternative, the Republic of Liberia being among them. The Belgium Government having charge of collecting the adhesions of the Governments referred to, has already received most of those expected, notably the adhesion of the United States of America.

Up to the present time, however, the Government of the King has failed to receive the adhesion of the Government of Liberia, notwithstanding the steps it has taken to that end. It has just addressed again a communication to the Secretary for Foreign Affairs in which it expresses its confidence that the Republic of Liberia will not withdraw from the concert of the powers in a question of such paramount

importance to the cause of civilization and the protection of the native population of Africa. This confidence seems to be justified inasmuch as the adhesion does not imply any diminution of the tariff in force in Liberia, the minimum tax fixed by the Convention being much below the tax now imposed upon spirituous liquors on their entry into the territory of the Republic.

The interest always evinced by the United States of America in the humanitarian work accomplished by the conferences of 1890 and 1899 is a sure guaranty that the Cabinet at Washington will be animated by a desire to see the Republic of Liberia adhere to the convention of June 8, 1899. The Government of the King therefore feels itself entitled to expect that the Government of the United States will second the steps taken by the Government of the King at Monrovia, in order to obtain with as little delay as possible, as the limit of time fixed for the exchange of ratifications will shortly expire.

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*Mr. Hay to Mr. Townsend.*

No. 37.]

DEPARTMENT OF STATE,  
*Washington, March 8, 1900.*

SIR: I have to acknowledge the receipt of your No. 38 of January 27, transmitting a translation of a note from the Belgian minister for foreign affairs requesting the United States to use its good offices to the end that the Government of Liberia, having adhered to the general act of July 2, 1890, should signify likewise its adhesion to the convention of June 8, 1899.

I inclose for your information a copy of an instruction<sup>1</sup> which I have this day addressed to the minister of the United States at Monrovia on the subject.

It is noticed that the minister states in his note that "the Belgian Government, having charge of collecting the adhesion of the governments referred to, has already received most of those expected, notably the adhesion of the United States of America."

This is not altogether in accordance with fact. In my note of July 22 last to the Belgian minister at Washington, I said:

The discussion during the conferences of 1889-90, which resulted in the conclusion of the general act of July 2, 1890, developed the earnest sentiment of the Government of the United States in favor of the utmost possible restriction of the deleterious traffic in spirituous liquors with the tribes of Central Africa, and the results then reached, by which an import duty of 15 francs per hectoliter of proof spirits testing 50 per cent of alcohol was imposed, fell short of the just expectations of this Government, because apparently inadequate to check the trade. The present convention, whereby the import duty is raised to 70 francs per hectoliter (about 61½ cents per imperial gallon, or 52 cents per United States gallon), while still believed scarcely adequate to attain the humanitarian object of virtual prohibition for which this Government has contended, is so far in the direction desired as to merit the cordial acquiescence of the United States Government. The convention will be laid before the Senate of the United States at the next session, with the President's recommendations that that high body advise and consent to the adhesion of the United States thereto.

In fulfillment of that promise, the President on December 11, 1899, transmitted the convention to the Senate to receive its advice and consent to the adhesion of the United States thereto. Such advice and consent has not yet been given by the Senate, and until that be accomplished the United States can not become an adhering party. You will set the Belgian Government right in this respect.

I am, etc.,

JOHN HAY.

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<sup>1</sup> Printed under Liberia.

*Mr. Townsend to Mr. Hay.*

No. 47.]

LEGATION OF THE UNITED STATES,  
*Brussels, March 20, 1900.*

SIR: I have the honor to acknowledge the receipt of No. 37, dated March 8, 1900, transmitting copy of Department's dispatch to Owen L. W. Smith, United States minister at Monrovia. In conformity with instructions I have informed the minister for foreign affairs that the President transmitted the convention of June 8, 1899, to the Senate, but that up to 8th instant that high body had not given its advice and consent to the adhesion of the United States thereto, and that without this the United States could not become an adhering party.

I have, etc.,

LAWRENCE TOWNSEND.

*Mr. Hay to Mr. Townsend.*

No. 43.]

DEPARTMENT OF STATE,  
*Washington, May 21, 1900.*

SIR: Referring to your No. 38 of January 27 last and to the Department's No. 37 of March 8 in reply, I inclose herewith for communication to the Belgian Government a copy of a note<sup>1</sup> addressed on April 17, 1900, by the secretary of state of Liberia to the United States chargé d'affaires ad interim at Monrovia announcing the adhesion of Liberia to the convention of June 8, 1899, governing the sale of spirituous liquors in certain portions of Africa.

Mr. Spurgeon has been instructed to inform the Liberian Government that the notification of this adhesion should also be sent directly to the Belgian Government.

I am, etc.,

JOHN HAY.

*Mr. Townsend to Mr. Hay.*

No. 55.]

LEGATION OF THE UNITED STATES,  
*Brussels, June 1, 1900.*

SIR: I have the honor to acknowledge the receipt of dispatch No. 43, dated May 21 last, and to inform the Department that, in conformity with instructions contained therein, I transmitted to the minister of foreign affairs a copy of the letter of the Secretary of State at Monrovia announcing the adhesion of Liberia to the convention of June 8, 1899, governing the sale of spirituous liquors in certain portions of Africa.

The day after I had sent this communication the minister for foreign affairs called at the legation to express his cordial thanks for the action taken by the United States Government in procuring the adhesion of Liberia to said convention. In the course of our interview he referred to my note to the Belgian Government of March 20, in which I communicated the instructions of the Department to the effect that the President had, on December 11, 1899, transmitted the convention to the Senate of the United States in order to receive the advice and con-

sent of that high body to the adhesion of the United States to said convention, but that until such advice and consent be granted the United States could not become an adhering party. He called my attention to the fact that nearly all the signatory powers had notified their adhesion to the above convention, and desired to know if, in my opinion, the adhesion of the United States would be likely to reach Brussels before the 8th instant. As I was unable to give him a definite reply to this question, I forwarded to-day to the Department a cablegram which reads as follows:

Government of Belgium wishes to know if adhesion of the United States to the convention controlling traffic spirituous liquors in Central Africa is likely to reach Brussels before June 8 next.

I have, etc.,

LAWRENCE TOWNSEND.

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*Mr. Townsend to Mr. Hay.*

No. 57.]

LEGATION OF THE UNITED STATES,  
*Brussels, June 4, 1900.*

SIR: Supplementary to my dispatch of 1st instant, No. 55, in which I reported the visit of the minister of foreign affairs, who called at the legation to express his thanks for the valuable assistance rendered by the United States in the matter of the adhesion of Liberia to the convention of June 8, 1899, I have the honor to transmit herewith a copy and translation of a note just received from the minister for foreign affairs expressing the gratitude of His Majesty's Government and requesting me to transmit the same to the Department.

I have, etc.,

LAWRENCE TOWNSEND.

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[Inclosure.—Translation.]

*Mr. Favereau to Mr. Townsend.*

MINISTRY OF FOREIGN AFFAIRS,  
*Brussels, June 2, 1900.*

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's dispatch dated May 31 last, to which was annexed the copy of a communication of the secretary of state of Liberia to the charge d'affaires of the United States at Monrovia, relating to the adhesion of the Republic of Liberia to the convention of the 8th day of June, 1899.

I beg your excellency to have the kindness to transmit to your Government the thanks of the Government of the King for the good offices it has tendered in this connection. Permit me at the same time to express to you my gratitude for your courteous intervention.

I avail, etc.,

P. DE FAVEREAU.

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*Mr. Hay to Mr. Townsend.*

No. 45.]

DEPARTMENT OF STATE,  
*Washington, June 7, 1900.*

SIR: I have received your telegram of the 1st instant, reading as follows:

Government of Belgium wishes to know if adhesion of the United States to the convention controlling traffic spirituous liquors in Central America is likely to reach Brussels before June 8 next.

In reply to a similar inquiry from the Belgian minister at Washington, the Department replied, on June 2, that, as Count de Lichtervelde was duly advised at the time, this convention was transmitted by the President to the Senate on December 13 last, with a view to receive its advice and consent to this Government's adhesion. No action thereon by the Senate having been reported to this Department the Department, on the 2d instant, called the attention of the appropriate committee to it and represented its urgency.

I am, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Townsend.*

No. 46.]

DEPARTMENT OF STATE,  
*Washington, June 15, 1900.*

SIR: In reply to your No. 55, of the 1st instant, you are informed that on the 7th instant the Senate of the United States adjourned sine die, without having taken action on the convention regulating the sale of spirituous liquors in Africa, signed on the 8th of June of last year.

I am, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Townsend.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, December 21, 1900.*

(Mr. Hay states that Senate has just given its consent to adhesion of the United States to Brussels convention of June 8, 1899, and directs Mr. Townsend to ascertain whether it is too late to adhere.)

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*Mr. Townsend to Secretary of State.*

[Telegram—Paraphrase.]

LEGATION OF THE UNITED STATES,  
*Brussels, December 22, 1900.*

(Mr. Townsend reports that he is informed by the minister for foreign affairs that it is not too late for the United States to adhere to the Brussels convention of June 8, 1899.)

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*Mr. Townsend to Mr. Hay.*

No. 75.]

LEGATION OF THE UNITED STATES,  
*Brussels, December 22, 1900.*

SIR: I have the honor to acknowledge the receipt, at 9 p. m. yesterday, of Department cablegram<sup>1</sup> dated December 21.

To which I this day replied.<sup>1</sup>

The minister of foreign affairs, upon whom I called early this morn-

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<sup>1</sup> Printed, ante.

ing, informed me that it was not too late for the United States to adhere to the convention of June 8, 1899, regulating the importation of spirituous liquors into certain regions of Africa; as two of the adhering powers had not yet signified their intentions, it had been decided that the period for collecting the adhesions should be prolonged. He expressed his gratification that our Senate had given its consent to the adhering of the United States to said convention.

I have, etc.,

LAWRENCE TOWNSEND.

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*Mr. Hay to Mr. Townsend.*

No. 62.]

DEPARTMENT OF STATE,  
Washington, December 24, 1900.

SIR: The Senate by its resolution of December 14, 1900 (received at the Department on December 20), gave its advice and consent to the adhesion of the United States to the convention signed at Brussels, June 8, 1899, for the regulation of the importation of spirituous liquors into certain regions of Africa.

Your telegram of June 1 last and one of the same date from the Belgian minister to the United States gave rise to doubt whether the time within which this country could adhere to the convention did not expire on June 8, 1900, by which date the ratifications of the signatory powers were required to be deposited.

To make this point clear I telegraphed you on the 21st instant, as follows:

Ascertain whether too late to adhere to Brussels convention of June 8, 1899. Senate just given consent.

To which you replied on December 22, as follows:

Minister foreign affairs informs me that it is not too late for United States to adhere convention June 8, 1899.

You are instructed to announce to the Belgian Government that the Government of the United States is prepared to adhere to the convention referred to; and in order that the instrument of adhesion and the proclamation copy may be prepared intelligently, you will request a list of the signing countries which have deposited their ratifications, with the dates of deposit, as well as a list of the States which have adhered since the signature of the convention, with the dates of adhesion.

The Department would be pleased to receive these lists as early as is practicable.

I am, etc.,

JOHN HAY.

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*Mr. Townsend to Mr. Hay.*

No. 77.]

LEGATION OF THE UNITED STATES,  
Brussels, January 11, 1901.

SIR: In compliance with Department instruction No. 62, dated December 24, 1900, I have applied to the Belgian Government for a list of the signatory countries which have deposited their ratifications of

the convention of Brussels, June 8, 1899, as well as a list of the States which have adhered since the signature of the convention, with dates of adhesion.

In reply to my communication on the subject I have just received from the minister of foreign affairs a document, a translation of which I have the honor to inclose herewith.

I have, etc.,

LAWRENCE TOWNSEND.

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[Inclosure.]

*Convention of Brussels, June 8, 1899.*

LIST SHOWING THE COUNTRIES WHICH HAVE DEPOSITED WITH THE BELGIAN GOVERNMENT THEIR RATIFICATIONS, AND OF THE COUNTRIES WHICH HAVE ADHERED SINCE THE SIGNATURE OF THE CONVENTION.

Countries having deposited their ratifications: Germany, March 2, 1900; Belgium, October 18, 1899; Spain, October 12, 1899; Independent State of the Kongo, November 21, 1899; France, June 8, 1900; Great Britain, October 10, 1899; Italy, March 26, 1900; the Netherlands, February 13, 1900; Portugal, June 19, 1900; Russia, April 12, 1900; Sweden and Norway, March 20, 1900.

Countries having adhered to the convention: Austria-Hungary, January 29, 1900; Denmark, July 22, 1899; Liberia, April 17, 1900; Persia, August 27, 1899.

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*Mr. Hay to Mr. Townsend.*

No. 68.]

DEPARTMENT OF STATE,  
*Washington, February 5, 1901.*

SIR: I beg to inform you that the formal instrument of adhesion of the United States to the Brussels convention of June 8, 1899, for the regulation of the importation of spirituous liquors into certain regions of Africa, is sent to you to-day through the dispatch agent at London.

Upon its receipt you will deposit the instrument of adhesion with the Belgian Government.

I am, etc.,

JOHN HAY.

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*Mr. Hill to Mr. Townsend.*

No. 70.]

DEPARTMENT OF STATE,  
*Washington, February 16, 1901.*

SIR: I inclose herewith ten printed copies of the President's proclamation concerning the adhesion of the United States to the convention signed at Brussels on June 8, 1899, for the regulation of the importation of spirituous liquors into certain regions of Africa.

I am, etc.,

DAVID J. HILL.



[Inclosure.]

*Adhesion of the United States of America to the convention signed at Brussels June 8, 1899, by the plenipotentiaries of certain powers for the regulation of the importation of spirituous liquors into certain regions of Africa.*

[Convention signed at Brussels, June 8, 1899; adhesion of the United States advised and consented to by the Senate, December 14, 1900; declaration of adhesion by the President, February 1, 1901; proclaimed, February 6, 1901.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a convention for the regulation of the importation of spirituous liquors into certain regions of Africa, was signed on the 8th day of June, 1899, at Brussels, Belgium, by the plenipotentiaries of Germany, Belgium, Spain, the Independent State of the Congo, France, Great Britain, Italy, the Netherlands, Portugal, Russia, Sweden and Norway, and Turkey, which convention in the French language is word for word as follows:

Sa Majesté l'Empereur d'Allemagne, Roi de Prusse, au nom de l'Empire Allemand; Sa Majesté le Roi des Belges; Sa Majesté le Roi d'Espagne et en son nom Sa Majesté la Reine Régente du Royaume; Sa Majesté le Roi-Souverain de l'Etat Indépendant du Congo; le Président de la République Française; Sa Majesté la Reine du Royaume-Uni de la Grande-Bretagne et d'Irlande, Impératrice des Indes; Sa Majesté le Roi d'Italie; Sa Majesté la Reine des Pays-Bas; Sa Majesté le Roi de Portugal et des Algarves, etc., etc.; Sa Majesté l'Empereur de Toutes les Russies; Sa Majesté le Roi de Suède et de Norvège, etc.; et Sa Majesté l'Empereur des Ottomans;

Voulant pourvoir à l'exécution de la clause de l'article XCII de l'Acte général de Bruxelles qui prescrit la révision du régime d'entrée des spiritueux dans certaines régions de l'Afrique;

Ont résolu de réunir à cet effet une Conférence à Bruxelles et ont nommé pour leurs Plénipotentiaires, savoir:

Sa Majesté l'Empereur d'Allemagne, Roi de Prusse, au nom de l'Empire Allemand, le Sieur Frédéric-Jean Comte d'Alvensleben, son Chambellan et Conseiller intime actuel, son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté le Roi des Belges, et le Sieur Guillaume Göhring, son Conseiller intime de Légation;

Sa Majesté le Roi des Belges, le Sieur Auguste Baron Lambermont, son Ministre d'Etat, son Envoyé Extraordinaire et Ministre Plénipotentiaire, et le Sieur Auguste Van Maldeghem, Conseiller à la Cour de Cassation de Belgique;

Sa Majesté le Roi d'Espagne, et en son nom Sa Majesté la Reine Régente du Royaume, le Sieur W. Ramirez de Villa-Urrutia, son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté le Roi des Belges;

Sa Majesté le Roi-Souverain de l'Etat Indépendant du Congo, le Sieur Paul de Smet de Naeyer, son Ministre d'Etat, Membre de la Chambre des Représentants de Belgique, et le Sieur Hubert Droogmans, Secrétaire général du Département des Finances de l'Etat Indépendant du Congo;

Le Président de la République Française, le Sieur A. Gérard, Envoyé Extraordinaire et Ministre Plénipotentiaire de la République Française près Sa Majesté le Roi des Belges;

Sa Majesté la Reine du Royaume-Uni de la Grande-Bretagne et d'Irlande, Impératrice des Indes, Sir Francis Plunkett, son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté le Roi des Belges, et le Sieur H. Farnall, du Foreign Office;

Sa Majesté le Roi d'Italie, le Sieur R. Cantagalli, son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté le Roi des Belges;

Sa Majesté la Reine des Pays-Bas, le Jonkheer Rudulphe de Pestel, son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté le Roi des Belges;

Sa Majesté le Roi de Portugal et des Algarves, le Sieur Antoine-Marie Comte de Tovar, son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté le Roi des Belges;

Sa Majesté l'Empereur de Toutes les Russies, le Sieur N. de Giers, son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté le Roi des Belges;

Sa Majesté le Roi de Suède et de Norvège, le Sieur Auguste-L.-Fersen, Comte Gyldenstolpe, son Ministre Plénipotentiaire près Sa Majesté le Roi des Belges;

Sa Majesté l'Empereur des Ottomans, Étienne Carathéodory Efendi, Haut Dignitaire de Son Empire, son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté le Roi des Belges;

Lesquels, munis de pouvoirs en bonne et due forme, ont adopté les dispositions suivantes:

#### ARTICLE I.

A partir de la mise en vigueur de la présente Convention, le droit d'entrée sur les spiritueux, tel qu'il est réglé par l'Acte général de Bruxelles, sera porté, dans toute l'étendue de la zone où n'existerait pas le régime de la prohibition visé à l'article XCI dudit Acte général, au taux de 70 francs par hectolitre à 50 degrés centésimaux, pendant une période de six ans.

Il pourra exceptionnellement n'être que de 60 francs par hectolitre à 50 degrés centésimaux dans la colonie du Togo et dans celle du Dahomey.

Le droit d'entrée sera augmenté proportionnellement pour chaque degré au-dessus de 50 degrés centésimaux; il pourra être diminué proportionnellement pour chaque degré au-dessous de 50 degrés centésimaux.

À l'expiration de la période de six ans mentionnée ci-dessus, le droit d'entrée sera soumis à revision en prenant pour base les résultats produits par la tarification précédente.

Les Puissances conservent le droit de maintenir et d'élever la taxe au delà du minimum fixé par le présent article dans les régions où elles le possèdent actuellement.

#### ARTICLE II.

Ainsi qu'il résulte de l'article XCIII de l'Acte général de Bruxelles, les boissons distillées qui seraient fabriquées dans les régions visées à l'article XCII dudit Acte général et destinées à être livrées à la consommation, seront grevées d'un droit d'accise.

Ce droit d'accise, dont les Puissances s'engagent à assurer la perception dans la limite du possible, ne sera pas inférieur au minimum du droit d'entrée fixé par l'article 1<sup>er</sup> de la présente Convention.

#### ARTICLE III.

Il est entendu que les Puissances qui ont signé l'Acte général de Bruxelles ou y ont adhéré et qui sont pas représentées dans la Conférence actuelle conservent le droit d'adhérer à la présente Convention.

#### ARTICLE IV.

La présente Convention sera ratifiée dans un délai qui sera le plus court possible et qui, en aucun cas, ne pourra excéder un an.

Chaque Puissance adressera sa ratification au Gouvernement de Sa Majesté le Roi des Belges, qui en donnera avis à toutes les autres Puissances signataires de la présente Convention. Les ratifications de toutes les Puissances resteront déposées dans les archives du Royaume de Belgique.

Aussitôt que toutes les ratifications auront été produites, ou au plus tard un an après la signature de la présente Convention, il sera dressé acte du dépôt dans un Protocole qui sera signé par les Représentants de toutes les puissances qui auront ratifié.

Une copie certifiée de ce Protocole sera adressé à toutes les Puissances intéressées.

#### ARTICLE V.

La présente Convention entrera en vigueur dans toutes les possessions des Puissances contractantes situées dans la zone déterminée par l'article XC de l'Acte général de Bruxelles, le trentième jour à partir de celui où aura été dressé le Protocole de dépôt prévu à l'article précédent.

En foi de quoi, les Plénipotentiaires respectifs ont signé la présente Convention et y ont apposé leur cachet.

Fait à Bruxelles, le huitième jour du mois de juin mil huit cent quatre-vingt-dix-neuf.

ALVENSLEBEN.  
GÖHRING.  
BON LAMBERMONT.  
A. VAN MALDEGHEM.  
W.-R. DE VILLA-URRUTIA.  
P. DE SMET DE NAEYER.  
H. DROGMANS.  
A. GÉRARD.  
F.-R. PLUNKETT.  
H. FARNALL.  
R. CANTAGALLI.  
R. DE PESTAL.  
Cte DE TOVAR.  
N. DE GIERS.  
AUG.-F. GYLDENSTOLPE.  
ET. CARATHEODORY.

Certifié conforme à l'original:

ARTHURS RAIKES.  
CH. SEEGER.  
Cte ANDRE DE ROBIANO.

[Translation.]

His Majesty the German Emperor, King of Prussia, in the name of the German Empire; His Majesty the King of the Belgians; His Majesty the King of Spain, and in his name Her Majesty the Queen-Regent of the Kingdom; His Majesty the King-Sovereign of the Independent State of the Congo; The President of the French Republic; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India; His Majesty the King of Italy; Her Majesty the Queen of the Netherlands; His Majesty the King of Portugal and of the Algarves, &c.; His Majesty the Emperor of All the Russias; his Majesty the King of Sweden and Norway, &c.; and His Majesty the Emperor of the Ottomans;

Wishing to provide for the execution of Article XCII of the General Act of Brussels, which prescribes the revision of the Regulations on the importation of spiritous liquors into certain regions of Africa;

Have resolved to assemble a Conference for the purpose at Brussels, and have named as their Plenipotentiaries, that is to say:

His Majesty the German Emperor, King of Prussia, in the name of the German Empire, M. Frederic-Jean, Count of Alvensleben, his Chamberlain and Privy Councillor, his Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of the Belgians; and M. Guillaume Göhring, his Councillor of Legation;

His Majesty the King of the Belgians, M. Auguste, Baron Lambertmont, his Minister of State, his Envoy Extraordinary and Minister Plenipotentiary; and M. Auguste van Maldeghem, Councillor of the Court of Cassation of Belgium;

His Majesty the King of Spain, and in his name Her Majesty the Queen-Regent of the Kingdom, M. W. Ramirez de Villa-Urrutia, his Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of the Belgians;

His Majesty the King-Sovereign of the Independent State of the Congo, M. Paul de Smet de Naeyer, his Minister of State, Member of the Chamber of Representatives of Belgium; and M. Hubert Droogmans, Secretary-General of the Finance Department of the Independent State of the Congo;

The President of the French Republic, M. A. Gérard, Envoy Extraordinary and Minister Plenipotentiary of the French Republic to His Majesty the King of the Belgians.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, Sir Francis Plunkett, her Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of the Belgians; and Mr. H. Farnall, of the Foreign Office;

His Majesty the King of Italy, M. R. Cantagalli, his Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of the Belgians;

Her Majesty the Queen of the Netherlands, Jonkheer Rudulphe de Pestel, her Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of the Belgians;

His Majesty the King of Portugal and the Algarves, M. Antoine-Marie, Count of Tovar, his Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of the Belgians;

His Majesty the Emperor of All the Russias, M. N. de Giers, his Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of the Belgians;

His Majesty the King of Sweden and Norway, M. Auguste-L.-Fersen, Count Gyldenstolpe, his Minister Plenipotentiary to His Majesty the King of the Belgians;

His Majesty the Emperor of the Ottomans, Etienne Carathéodory Effendi, High Dignitary of his Empire, his Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of the Belgians;

Who, furnished with powers in good and due form, have adopted the following provisions:

#### ARTICLE I.

From the coming into force of the present Convention, the import duty on spirituous liquors, as that duty is regulated by the General Act of Brussels, shall be raised throughout the zone where there does not exist the system of total prohibition provided by Article XCI of the said General Act, to the rate of 70 fr. the hectolitre at 50 degrees centigrade for a period of six years.

It may, exceptionally, be at the rate of 60 fr. only the hectolitre at 50 degrees centigrade in the Colony of Togo and in that of Dahomey.

The import duty shall be augmented proportionally for each degree above 50 degrees centigrade; it may be diminished proportionally for each degree below 50 degrees centigrade.

At the end of the above-mentioned period of six years, the import duty shall be submitted to revision, taking as a basis the results produced by the preceding rate.

The Powers retain the right of maintaining and increasing the duty beyond the minimum fixed by the present Article in the regions where they now possess that right.

#### ARTICLE II.

In accordance with Article XCIII of the General Act of Brussels, distilled drinks made in the regions mentioned in Article XCII of the said General Act, and intended for consumption, shall pay an excise duty.

This excise duty, the collection of which the Powers undertake to insure as far as possible, shall not be lower than the minimum import duty fixed by Article I of the present Convention.

#### ARTICLE III.

It is understood that the powers who signed the General Act of Brussels, or who have adhered to it, and who are not represented at the present Conference, preserve the right of adhering to the present Convention.

#### ARTICLE IV.

The present Convention shall be ratified within the shortest possible period, and such period shall not in any case exceed one year.

Each power shall address its ratification to the Government of His Majesty the King of the Belgians, which shall give notice thereof to all the other powers signatory of the present Convention. The ratifications of all the powers shall be deposited in the archives of the Kingdom of Belgium.

As soon as all the ratifications have been produced, or at latest one year after the signature of the present Convention, their deposit shall be recorded in a Protocol which shall be signed by the Representatives of all the Powers who shall have ratified.

A certified copy of this Protocol shall be addressed to all the Powers interested.

#### ARTICLE V.

The present Convention shall come into force in all the possessions of the Contracting Powers situated in the zone defined by Article XC of the General Act of Brussels on the thirtieth day after the date of the preparation of the Protocol of Deposit mentioned in the preceding Article.

In faith whereof the respective Plenipotentiaries have signed the present Convention, and have affixed their seals thereto.

Done at Brussels, the eighth day of the month of June, eighteen hundred and ninety-nine.

(Signed)

ALVENSLEBEN.  
GÖHRING.  
BARON LAMBERMONT.  
A. VAN MALDEGHEM.  
W. R. DE VILLA-URRUTIA.  
P. DE SMET DE NAEYER.  
H. DROOGMANS.  
A. GÉRARD.  
F. R. PLUNKETT.  
H. FARNALL.  
R. CANTAGALLI.  
R. DE PESTEL.  
Comte DE TOVAR.  
N. DE GIERS.  
AUG. F. GYLDENSTOLPE.  
ÉT. CARATHÉODORY.

And whereas, the several contracting parties, with the exception of Turkey, have, in accordance with Article IV of the said Convention, deposited their ratifications of the said Convention in the archives of the Kingdom of Belgium;

And whereas the several States hereinafter named have adhered to the said Convention, in virtue of its Article III:

Denmark, July 22, 1899;

Persia, August 27, 1899;

Austria-Hungary, January 29, 1900;

Liberia, April 17, 1900;

And whereas the Government of Belgium, in virtue of the said Article III of said Convention, has invited the United States of America to adhere to the said Convention;

And whereas the President of the United States of America, by and with the consent of the Senate thereof, did, on the 1st day of February, 1901, declare that the United States adhere to the said Convention;

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 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 6th 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:

DAVID J. HILL,

*Acting Secretary of State.*

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**EXPULSION OF PAUL EDWARDS ON THE GROUND THAT HE WAS PRACTICING THE ART OF HEALING CONTRARY TO THE LAWS OF BELGIUM.**

*Mr. Hay to Mr. Townsend.*

No. 41.]

DEPARTMENT OF STATE,  
*Washington, April 24, 1900.*

SIR: The Department will be pleased to have you report to it in full the facts in the matter of the inclosed complaint of Paul Edwards that he was arbitrarily and summarily expelled from Belgium.

You will notice that Mr. Edwards states that he reported the fact of his expulsion "to the American embassy of Brussels, but received no assistance in any form."

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Edwards to Mr. Hay.*LONDON, ENGLAND, *March 28, 1900.*

I, Paul Edwards, an American citizen, beg to lay before your Department the following facts:

That on or about the 20th day of March, 1900, I was in the city of Brussels, Belgium, for the purpose of placing my 15-year-old son into a college of that city. That I did so place my son in a college there, and about that time the united press of that city published laudable notices of my arrival in that city; that the press had on former occasions published much about my life and work as a healer in other countries; that this great notoriety given me by the press caused several persons to call at my hotel and seek my presence and aid; that I did aid them as a healer to the best of my ability, but asking no fee or pay for the same.

I was in possession of a passport issued by the Hon. Joseph Choate, of London, during the present month (March, 1900); that soon after my arrival in Brussels I submitted the said passport to the proper authorities, which was duly noted on their books, and was told that there were no other formalities to observe under the Belgian law. Next day I was waited on three times by the police and given various annoyances by different Government officials, all of whom seemed to be hostile and offensive toward me.

I was then sent for by the commissary of police, who told me he was instructed by the minister of justice to make a special report on my presence in Belgium. I again offered all the information possible concerning myself and my business in Brussels.

The next day I received a note at my hotel from the minister of justice commanding me to appear before him at 2 o'clock that day. I then took an interpreter and proceeded to the office of the said minister, and to my surprise found that he had already made out the papers for my expulsion from Belgium within twenty-four hours. The minister then and there accused me of having been in Belgium in the year 1869, and accused me of having two aliases, and gave me the two names he charged me then (in 1869) bearing.

I saw that the minister was so convinced that I was some one else (or at least he pretended to so believe) that I asked him to listen to facts and told him that the present was my first visit to his country (which was true), but he was beyond all possibility of reason and began to show anger, ordering me to sign papers I knew nothing of, or their contents. I exhibited my passport to quiet the passion of the minister, but he at first refused to see it and later, on pretense of wishing it for another purpose, he asked for it and seized it as an act of spite. I begged him to return me my passport as I wished to go immediately to the United States embassy, but he positively declined to return it, saying he did not care what steps I might take, and that he had a right to withhold the document even though it were issued by an American ambassador. During this time the minister for justice was steadily becoming impassioned and was extremely rude, at times shouting nothing but the word "Go!" "Go!" "Go!"

He loudly commanded me to *instantly* name the route I should take out of Belgium, and when I told him that was impossible he actually threatened to arrest me in his office. I then for the first time defied him to arrest me or name an offense against me. I demanded to know if I were considered a criminal or if I had broken any law of Belgium. I told him that if I were a law-breaker my place was before the courts and not before him.

The minister said I was *not* a criminal, but that he *would* not or *need* not give me any reason for my expulsion from Belgium. The said minister then loudly and harshly forbade that any person should see me at my *private rooms in the hotel* and commanded that I should even send away all who may call. In his anger he even told my interpreter to consider herself expelled, but later on, seeing his mistake, recalled the expulsion of that person, who is in fact a *British subject*.

On arriving at a great state of excitement the minister suddenly arose as if to assault me, and loudly commanded me to leave his office *at once*. "Now you get out" were his exact words. And this ended the scene in the office of the minister for justice of Belgium. On my leaving his presence the minister thrust my passport over the desk to me and I took it.

The minister spoke in English, and there was but one other person present beside my interpreter and myself. This other or fourth person was a servant or errand man, and declared that he could neither speak or understand English. This fourth person was the man who brought the minister's summons to me the day before and required an interpreter to make his business known to me, as he could neither speak or understand English.

I went from there to my rooms and saw some friends, but within the next few hours the minister caused no fewer than four policemen to wait upon me, endeavoring to thoroughly overawe me by force.

I could not impress the minister with any reason, for he was not in a state to reason. I know the importance and gravity of this statement. I will add, however, that the person above referred to as the minister for justice was according to his own statement the *first assistant minister for justice*, but declared that he was acting under orders of the *minister in chief* or minister of justice in fact.

All of the above facts were witnessed by M. C. Gainé, who was there for the purpose of interpreting if that were necessary.

I reported the bare fact of my expulsion to the American embassy at Brussels, but received no assistance of any form.

As to my conduct while in Brussels I am pleased to refer to the following persons who were wholly aware of all I did: Mr. George Phillpotts, 28 Rue du Grand Hospice (English); Hon. Charles De Roos, judge of the tribunal of commerce, Liege, Belgium; Mr. A. Ceuleneer, distiller, Brussels; Mr. Edouard Deby, barrister and doctor of philosophy, Brussels; Mr. Gustave Lemaire, editor-in-chief of *Etoile Belge*, Brussels; Mr. Gustave Basquin, chief inspector of railways, Brussels; Madame Martha Chateau de Josaphat, Brussels; Mr. Auguste Vierset, secrétaire de rédaction de *Petit Bleu*, Brussels; the Hon. John D. Ruys, consul of the Dutch Government, Brussels; Mr. Erskine Heucken, editor *Messenger de Brussels* (who saw the ambassador of the United States on my behalf); Baron Chazal, 12 Place Royale, Brussels; Lieutenant Colonel retraite Paul Cuvelier and Madame Cuvelier, Brussels; Mr. Frank Fouson, an editor on *Messenger de Brussels*; Mr. Q. Herbos, Brussels.

All of these people are of the most respectable standing, and, furthermore, while in Brussels I treated many deputies, judges, and members of the nobility, all of whom were most astonishingly benefited thereby. All the persons above mentioned were treated by me by the process of mental healing, using no medicine whatever, thereby not coming in conflict with the medical laws of Belgium.

Since my arrival in London I see it stated in the public press that the minister for justice expelled me at the instance of the medical profession of Belgium, but this seems too narrow for serious consideration. I do not here prejudice my right to lay a monetary claim against the Government of Belgium at some time in the near future.

The various officials told me that they did not care for or respect a passport issued by the United States, among whom were the minister of justice and the chief of police at Brussels.

The honorable Secretary of State is hereby referred to the accompanying press clippings<sup>1</sup> bearing further upon this affair. I believe the entire press of Belgium supports me and denounces the authorities.

I have traveled much in my profession, that of a healer of diseases, in which work I use no medicines, and have never been considered amenable to any law, medical or otherwise; nor did the Belgian authorities claim that I had broken their laws. I have visited France, Mexico, England, Italy, the United States, and other countries, and nowhere has my conduct or work been offensive. I am 47 years of age, sober and law-abiding. I have received almost unlimited attention from the public press all over the world, and can not account for the action of the Belgian Government, except prejudice against English and Americans, toward which persons the officials of Belgium seem very rude at the present time.

I was told by the chief of police of Brussels that he was aware that his Government was making a mistake in my case, yet the order of expulsion would be carried out. I am certain I have the sympathy of the whole Belgian people outside of the officials. No fewer than three barristers tendered me their services gratis, and Mr. Edouard Deby actually presented a petition to His Majesty the King for the annulment of the order of expulsion.

All of which is most respectfully submitted for the consideration of the honorable the Secretary of State for the United States of America.

PAUL EDWARDS,  
*American Citizen.*

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*Mr. Townsend to Mr. Hay.*

No. 53.]

LEGATION OF THE UNITED STATES,  
*Brussels, May 8, 1900.*

SIR: In reply to Department's despatch No. 41, dated April 24, 1900, I have the honor to report the following facts relating to the expulsion

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<sup>1</sup>Not printed.

from Belgium of Paul Edwards, an American citizen, on the ground that he was practising the art of healing contrary to the laws of the country.

On March 27 last two young Belgians, each about 22 years of age, called at legation, stating that they were city reporters on two different newspapers here, and requesting the legation to intervene to prevent the expulsion of Dr. Edwards, an American citizen, who had the day before been ordered by the minister of justice to leave the country within twenty-four hours. One of them presented a letter from Paul Edwards stating his case and requesting the intervention of the legation to the end that he might be permitted to remain three weeks, or even indefinitely. It was observed that Paul Edwards gave his address as No. 3 Chaussée de Haecht, which is a small tavern and lodging house within a few hundred yards of the legation. As it seemed an unusual proceeding that he should send two Belgian reporters to plead his cause, neither of whom could give a satisfactory explanation as to the reasons why Mr. Edwards did not come himself, and who contradicted each other, when questioned separately, on several points connected with the case, they were requested to ask Mr. Edwards to call in person at the legation. A few hours later Mr. Edwards appeared, accompanied by a young woman, whom he introduced as his secretary and interpreter.

He exhibited an American passport issued by the ambassador in London, and stated that he had come to Brussels for the purpose of placing his son in a school here, and incidentally to practice the art of healing without medicines by the laying on of hands, hypnotic suggestion, and personal magnetism. His story was very similar to his written statement, transmitted by the Department in the despatch above referred to, though lacking many details and assertions which the latter contains. Mr. Edwards stated among other things that he had been summarily ordered to leave the country without warning, and that the authorities did not claim that he had broken any law.

The young woman who accompanied him admitted, however, when questioned in French, which language Mr. Edwards said he did not understand, that they had received a warning from the police previous to the receiving of the notice of expulsion, which was to the effect that Mr. Edwards could only remain in the country provided he refrained from practising his art and ceased to receive patients with that end in view, as it was contrary to law for anyone not provided with an approved medical certificate to practice the art of healing in Belgium. Mr. Edwards was informed by the legation that the United States recognized the principle of international law that every State had the right to expel any foreigner whose stay in the country was considered to be inconsistent with public welfare, provided that such expulsion should in no way be due to the nationality of the individual, and that it should be carried out according to the laws of the country after a due investigation of the facts. He was further informed that the law of Belgium was very explicit on this point, no one, either native or foreigner, being allowed to practice the art of healing unless provided with a physician's diploma which had been examined and approved by the authorities. As the Government of Belgium had the right to refuse the hospitality of the country to any foreigner whose presence was considered to be inconsistent with public welfare, there was therefore nothing for him to do but to accept the inevitable and leave the coun-



try. Once beyond the frontier, one hour by train from Brussels, he could collect his evidence and institute his claim against the Government, and at the same time receive his numerous patients, whose progress toward recovery, he affirmed, was being seriously interfered with by his enforced departure. This advice Mr. Edwards refused to accept, saying he desired to remain here. The following day after his departure I received a note from him requesting me, in addition to his claim against the Government on account of his expulsion, to adjust a dispute which he had with his landlord on the eve of his departure, involving an amount of some forty odd dollars for board and lodging. In reference to the latter case, I informed him that it was not within the province of the legation to take up a private matter of this nature; that he had better place the affair in the hands of a local lawyer for settlement.

I naturally immediately investigated the facts relating to his expulsion to the end that if, as he affirmed, his expulsion was due in any way to the fact of his being an American citizen, his case should be taken up and vigorously supported by the legation. That there had been any feeling of animosity shown to him by the authorities on account of his nationality did not appear to me to be probable, as there are a great number of Americans residing here pursuing studies of various kinds, and I have yet to hear of any of them being molested in any way. In fact the feeling toward Americans generally seems to be of the most friendly nature, both on the part of the authorities as well as the people. I had an interview with the minister of justice on this subject and he assured me that there was not the least feeling of animosity toward Mr. Edwards on account of his being an American; that in fact when the case was first brought to his notice, and he decided on the expulsion for reasons of public welfare, he was under the impression that the individual calling himself Edwards, although being advertised as an American, was in reality an Alsatian. It was not until later, when he received a report from the local police district where Mr. Edwards was registered on his arrival, that he was aware that Edwards was in possession of an American passport. He showed me copies of the evidence collected in two similar cases of expulsion from Belgian territory, one of which referred to a French citizen and the other to a subject of the Sultan of Turkey. He informed me that not only was it contrary to Belgian law for any one, either a native or a foreigner, to practice the art of healing without a duly approved physician's certificate, but that authorities on the subject held that the practice of hypnotism, magnetism, and similar mystic arts was a source of danger to the public, especially when performed by one not possessing a medical education. On this account only the Government had decided that the hospitality of the country should be withheld from Mr. Edwards. If the latter had evinced any disposition to refrain from practicing his healing art contrary to the law, he would have been permitted to remain, but he showed a decided determination to defy the law and to continue to receive patients, notwithstanding the warning which had been given him. Under these circumstances, the minister felt obliged to issue the decree of expulsion, which is usually applied to foreigners in such cases, rather than to administer the full penalty of law, as is the case when the culprit is a Belgian subject.

On receipt of the Department dispatch above referred to, transmitting the more complete statement of Mr. Edwards, I called upon the

minister of justice and requested him to furnish me with a written memorandum embracing the principal facts in this case. In conformity with my request he has forwarded to me a letter inclosing a memorandum setting forth the leading facts, copies and translation of which are herewith transmitted. He informed me that the chief of police denied emphatically the statement made by Mr. Edwards to the effect that he told Mr. Edwards that the Government was making a mistake in ordering the expulsion.

The minister again expressed some doubt as to the identity and nationality of Paul Edwards, showing me a description which he had received of one E. Saltzmann, an adventurer of Alsacian origin. He called my attention to the fact that the description of said Saltzmann corresponded so exactly with that of Edwards, even in such an important detail as the loss of a certain finger of one hand, and the peculiar shape of the feet, evidently due to some kind of a deformity, that the authorities were convinced that he had obtained his American passport by fraud, or at least under a false name.

I called the attention of the minister to the fact that the passport in possession of Paul Edwards was a true and genuine American passport, issued to him in good faith by an American ambassador, after approving the evidence of citizenship submitted by the applicant, and as such must be recognized as *prima facie* evidence of Paul Edwards' nationality. Furthermore, that until such indisputable evidence should be produced proving the said Paul Edwards had obtained his American citizenship by fraud, he must be regarded by the Belgian authorities as a *bona fide* American citizen.

The minister admitted this point, but again assured me that the expulsion was based on Belgian law, irrespective of the nationality of the individual in question.

He also informed me that, although Mr. Edwards did not charge a fixed amount for his services, he adopted the almost universal custom of the regular practitioners at bathing resorts on the Continent, who, as is generally known, do not charge a fixed fee, but leave the amount to the generosity of the patients, but unlike the regular physicians Mr. Edwards placed a plate in a conspicuous position on his table, upon which were observed several 20-franc gold pieces and coins of various denominations contributed by his patients. It appears quite evident that he was practicing his art here as a means of livelihood. I read at the ministry a number of clippings from various newspapers, the two most favorable to Mr. Edwards being cut from the two newspapers of Brussels which employ the two young reporters above referred to who came to the legation to plead Mr. Edwards' cause. Other press articles were decidedly opposed to his practices, pointing out the danger to the public arising from the employment of mystic or hypnotic powers by one not versed in the science of medicine and anatomy. The minister informed me that Edwards had obtained various favorable press notices by paying for them.

Awaiting the further instructions of the Department in this affair,  
I have, etc.,

LAWRENCE TOWNSEND.

[Inclosure 1.—Translation.]

*Mr. De Latour to Mr. Townsend.*MINISTRY OF JUSTICE,  
*Brussels, May 7, 1900.*

Mr. MINISTER: Referring to the request your excellency has kindly addressed me to-day, I have the honor to transmit herewith a notice relating to the so-called Dr. Paul Edwards.

The reasons which have prompted your excellency's inquiries have decided me to open an investigation as to the identity of this man, a proceeding which I had not thought necessary to resort to, his identity being of no importance from the point of view of the measure for the public welfare which the Government has thought necessary to issue against him.

I beg your excellency, etc.

By the minister of justice, the secretary-general of the department of justice, director-general of public security and prisons:

DE LATOUR.

[Inclosure 2.—Translation.]

MINISTRY OF JUSTICE,  
GENERAL DIVISION OF PRISONS AND PUBLIC SECURITY.

NOTE.

In its number of March 21, 1900, under the heading "The miracles of St. Paul" a newspaper, *Le Petit Bleu*, of Brussels, announced the arrival in Brussels of the "American thaumaturgus," Dr. Edwards, and published at the same time his portrait.

Edwards had arrived at Brussels three or four days previously and had taken lodgings by the week in a saloon and lodging house, No. 3 *Chaussée de Haecht*. Two other papers of Brussels, viz, *L' Etoile Belge* and *Le Messenger de Bruxelles*, also announced his arrival, speaking of the "miraculous power" with which nature had endowed Dr. Edwards, and at the same time announcing that he cured "for nothing" the sick that regular practitioners had been unable to cure. *The Messenger de Bruxelles* alone indicated his domicile, *Chaussée de Haecht*, No. 3, but *L' Etoile* corrected this undoubted intentional omission by inserting in its number of March 25 the following notice:

"We have received a considerable number of letters the writers of which ask us to make known the address of Dr. Paul Edwards of whom we spoke in *L' Etoile* of March 22. Dr. Edwards resides at *Chaussée de Haecht*, No. 3. He receives from 9 a. m. to noon and from 2 to 6 p. m."

It was by means of these advertisements, the insertion of which Dr. Edwards seems not to have been ignorant of, that the attention of the Brussels public and of the authorities was drawn to him.

Moreover, from an article published on March 26 by the newspaper *Le Soir*, it appears that since the 18th day of said month all the newspapers of the capital had received a circular letter notifying them of the arrival of Dr. Edwards at Brussels, by which he was called "a most remarkable human being, the greatest mystic of our century," and in which allusions were made to his "strange appearance, his miraculous cures, called the cures of St. Paul."

Part of the text of this circular letter is reproduced in the articles published on March 21 and 22 by the newspapers *L' Etoile Belge*, *Le Messenger de Bruxelles*, and *Le Petit Bleu*.

The administration de la surete publique (administration of public security) having verified on March 26 that the articles in the press had drawn to Dr. Edwards a considerable number of sick, ordered him to leave the Belgian territory within twenty-four hours by decree of the minister of justice, who had decided upon this measure.

This measure was enforced in accordance with the power vested in the Government touching the stay of foreigners in the country, who for any reasons of public order can not be allowed to sojourn there.

The department of justice maintains that it is inconsistent with the public welfare for any one to practice the art of healing by whatever means, unless they be duly authorized so to do in the regular form provided for by law; furthermore, that the unauthorized practice of healing is prohibited by the penal code.

At the time that this law was applied to Dr. Edwards, it was equally applied to a woman of French nationality with whom Dr. Edwards was in competition without being aware of the fact. She was likewise obliged to leave Belgian soil.

We believe it necessary to add that very serious doubts exist as to the identity of Dr. Paul Edwards, who stated he was born at Rome in October, 1853, but who, according to certain information received which it has not appeared necessary to verify, as the expulsion was made on account of the unlawful practices of the so-called Edwards, is said to be a certain E. Saltzmann, of Alsacian origin, formerly engaged in the rum business in Switzerland.

BRUSSELS, May 7, 1900.

*Mr. Townsend to Mr. Hay.*

No. 54.]

LEGATION OF THE UNITED STATES,

*Brussels, May 21, 1900.*

SIR: Referring to my dispatch of May 8, No. 53, in regard to Mr. or "Dr." Paul Edwards, an American citizen expelled from Belgium for practicing the art of healing without a diploma and contrary to the law of the country, I have the honor to transmit herewith, for the information of the Department, three clippings from the Paris edition of the New York Herald, which seem to conclusively disprove Mr. Edwards's assertion when in Brussels that he did not claim to be a doctor. The letters from "Dr. Edwards" and his would be, as well as "grateful," patients might prove to be "Dr. Edwards's" very ingenious method of advertising himself.

I have, etc.,

LAWRENCE TOWNSEND.

[Inclosure.]

*Clippings from Paris edition of New York Herald.*

LETTERS TO THE HERALD—INFORMATION AND COMMENTS ON MANY MATTERS OF GENERAL OR PRIVATE INTEREST—VIEWS ON CURRENT EVENTS—COAL SUPPLY OF ENGLAND FOUND TO BE EXTREMELY LIMITED—A DESPERATE QUESTION.

To the EDITOR OF THE HERALD:

Your editorial entitled "Another rise in coal," in to-day's Herald, does not assign the real cause for the rise of 5s. per ton on coal in England.

Lately a prominent geologist and surveyor carefully examined into the coal supply of England and found it extremely limited as compared to the usually supposed quantity. It leaked out among the railway companies last winter that the coal question was a desperate one, and immediately the Great Central suspended its intended dividend. A great authority has just declared that the very industries of England are facing imminent danger in the coal question.

You are right in saying that the war has nothing to do with the matter, but you do not point a remedy. There is one: it lies in chemistry. The incomparable Tesla, of America, has discovered how to manure land by the application of the nitrogen taken from the air. This will make the soil produce from five to forty fold its present quantity or amount; then plant the land with rattan, which is a Malayan cane, and utilize the products for fuel or heating purposes. I am assured that the land will produce, when manured with nitrogen, from 30 to 100 tons per acre, and as the rattan contains considerable saccharine, it will make splendid fuel. The nitrogen is, of course, treated, by some electrical process known to Professor Tesla, before being injected into the soil.

Cane produced thus can be pressed into cubes and used exactly as we now use coal. Having several advantages over the latter, among which are its quick-starting superior heating qualities, it would soon become the popular house fuel, being clean, light, and economical. Kerosene or petroleum will never solve the problem, as it is not produced in any of the British Isles, and is very dangerous when being transported in large quantities.

DR. PAUL EDWARDS.

PARIS, May 9, 1900.

## WANTS DOCTOR'S ADDRESS.

To the EDITOR OF THE HERALD:

I see in to-day's Herald a letter from Dr. Paul Edwards. Can you or any of your readers give the doctor's address in Paris, and mention whether he is seeing patients here?

ONE OF YOUR DAILY READERS.

PARIS, *May 12, 1900.*

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 DR. PAUL EDWARDS' ADDRESS.

To the EDITOR OF THE HERALD:

I read in to-day's Herald a letter from one of your readers inquiring for Dr. Paul Edwards' address in Paris. I have much pleasure in stating that his consulting rooms are situated at 2 Rue de la Bienfaisance, where he sees patients daily.

I take also this opportunity of informing another of your inquirers in your Sunday edition respecting the treatment of "gravel" that I was first attracted to Dr. Edwards' office by a letter from him in the Herald of June 20, 1899, in which he spoke of his being able to cure "gravel" in from one to three days.

ONE OF DR. EDWARDS'S GRATEFUL PATIENTS.

PASSY, *May 14, 1900.*

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*Mr. Hay to Mr. Townsend.*

No. 44.]

DEPARTMENT OF STATE,  
*Washington, June 2, 1900.*

SIR: I have to inform you that your dispatch No. 53, of the 8th ultimo, relative to the expulsion of one Paul Edwards, an American citizen, upon the ground that he was violating the hospitality of the country in which he was domiciled by the unlawful practice of thaumaturgy, has been received.

Whether the Belgian laws against Edwards' mode of practice of the healing art are well or ill advised is not for foreigners to say. The Belgian Government, so far as shown, appears to have been clearly within its rights in the matter of the expulsion.

Your course in regard to the case is fully approved by the Department.

I am, etc.,

JOHN HAY.

## BRAZIL.

### LAW, AND REPEAL OF SAME, PROHIBITING THE IMPORTATION INTO BRAZIL OF MERCHANDISE BEARING PORTUGUESE LABELS.

*Mr. Hay to Mr. Bryan.*

No. 194.]

DEPARTMENT OF STATE,  
*Washington, May 23, 1900.*

SIR: I inclose for your information a copy of a letter from Mr. James A. Van Voast, dated Schenectady, N. Y., the 17th instant, wherein he refers to a recently enacted Brazilian law to the effect that "the importation of articles made abroad and bearing labels partly or wholly in the Portuguese language is not permitted, except when imported from Portugal, or when manufactured for factories," and inquires on behalf of his client, the Fulford-Hanson Company, whether this law, which practically prohibits them from doing further business in Brazil, is not violative of some trade-mark agreement between that country and the United States.

Mr. Van Voast has been given a copy of the trade-mark agreement concluded September 24, 1878, and directed to its provisions. He has been told, too, that the Department had no confirmation of the law to which he refers, but that you would be given copy of the correspondence on the subject and directed to report thereon.

Awaiting such report, together with any suggestions you may have to offer,

I am, etc.,

JOHN HAY.

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[Inclosure 1.]

*Mr. Van Voast to Mr. Hay.*

SCHENECTADY, N. Y., *May 17, 1900.*

SIR: My client, The Fulford-Hanson Company, of this city, is a corporation engaged in the manufacture of medicinal preparations and the exportation of the same to the countries of South America, including Brazil. They have recently been informed that during the past winter a law was enacted in Brazil to the following effect:

The importation of articles made abroad and bearing labels partly or wholly in the Portuguese language, is not permitted except when imported from Portugal, or when manufactured for factories.

Inasmuch as it is necessary for the sale of my client's merchandise in these countries that the direction sheets should be printed partially, at least, in the native language, this enactment practically prohibits them from doing further business in Brazil, and I would like to ascertain whether there is no trade treaty between the United States and Brazil which is violated by this law, and if not, whether there is any influence which may be used to remove this unjust discrimination.

The enactment, if enforced, will affect to a very great extent and very disastrously a large proportion of the trade between this country and Brazil, and any efforts which may be made by the State Department in procuring its nonenforcement or repeal will be fully appreciated.

Yours, very truly,

JAMES A. VAN VOAST.

[Inclosure 2.]

*Mr. Cridler to Mr. Van Voast.*DEPARTMENT OF STATE,  
*Washington, May 23, 1900.*

SIR: I have to acknowledge the receipt of your letter of the 17th instant, wherein you recite a Brazilian law providing that "the importation of articles made abroad and bearing labels partly or wholly in the Portuguese language, is not permitted except when imported from Portugal, or when manufactured for factories," and inquiring in behalf of your client, The Fulford-Hanson Company, since the enactment practically prohibits them from doing further business in Brazil, if it does not violate any trade-mark agreement between the United States and Brazil.

I inclose copy of the trade-mark agreement concluded September 24, 1878, between this country and that of Brazil. It gives, as will be seen, citizens or subjects the same rights as belong to native citizens or subjects in everything relating to property in marks of manufacture and trade. It adds:

"It is understood that any person who desires to obtain the aforesaid protection must fulfill the formalities required by the laws of the respective countries."

The Department has no confirmation of the law to which you refer, but a copy of the correspondence will be sent to the minister of the United States at Rio de Janeiro for a report in regard to the matter.

I am, sir, etc.,

THOS. W. CRIDLER.

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*Mr. Hill to Mr. Bryan.*

No. 195.]

DEPARTMENT OF STATE,  
*Washington, May 25, 1900.*

SIR: In connection with the Department's No. 194 of the 23d instant, in regard to Brazilian law, either enacted or in contemplation, providing that "the importation of articles made abroad and bearing labels partly or wholly in the Portuguese language, is not permitted except when imported from Portugal, or when manufactured for factories," I inclose a copy of the correspondence with the Humphreys Homeopathic Medicine Company in the matter.

I am, etc.,

DAVID J. HILL.

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[Inclosure 1.]*Humphreys' Homeopathic Medicine Company to Mr. Hay.*NEW YORK, *May 21, 1900.*

SIR: We desire to place before your Department a matter in which this company is especially interested and in which many other export houses have a large interest, and that is the threatened law in the United States of Brazil by which it is intended to shut out all goods of foreign manufacture bearing a Portuguese name, wrapper, label, or anything to indicate its use or purpose in the language of their country.

We beg to state that several years ago we registered under treaty stipulations our trade-marks as used in this country, conforming with all their rules and regulations.

We have spent in Brazil upward of half a million dollars for office expenses, traveling expenses, and advertising in making our goods known. This has all been done in good faith on our part.

We would ask that you protest against this unusual commercial treatment. Surely a friendly nation has no right to destroy what has caused so much labor, time, and expense to build up.

Will you kindly give us any information on this subject that is available to the public and oblige,

Yours, truly,

HUMPHREYS' HOMEOPATHIC MEDICINE COMPANY.  
H. B. HARDING, *Actuary.*

[Inclosure 2.]

*Mr. Hill to Mr. Harding.*DEPARTMENT OF STATE,  
*Washington, May 25, 1900.*

SIR: I have to acknowledge the receipt of your letter of the 21st instant having reference to a "threatened law in the United States of Brazil by which it is intended to shut out all goods of foreign manufacture bearing a Portuguese name, wrapper, label, or anything to indicate its use or purpose in the language of their country."

This Department has no confirmation of the action said to be contemplated, but a similar complaint having previously been received from another firm in the United States, the minister of the United States at Rio de Janeiro was instructed to report the matter fully to the Department. A copy of your letter has been sent to the minister in connection with that instruction. Upon the receipt of the minister's report the Department will, if necessary, take the proper steps to protect American rights under the trade-mark agreement between the United States and Brazil.

I am, sir, etc.,

DAVID J. HILL.

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*Mr. Bryan to Mr. Hay.*No. 249.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Petropolis, Brazil, June 1, 1900.*

SIR: I have the honor to inclose herewith a communication<sup>1</sup> \* \* \* requesting my cooperation in protesting against the Brazilian law enacted last November forbidding the importation of manufactures that carry labels, prescriptions, or trade-marks in Portuguese or in part in that language. When last February my attention was called to this enactment on my return from a leave of absence, with the hope of inducing the Government to ask for the repeal of this statute, I requested a delay of the enforcement of the law, which I was informed would cause serious loss to importers of American proprietary medicines. I subsequently learned that the German minister, and the British chargé d'affaires had independently taken like action. The 1st of July having been named as the date for putting the law into effect, I am now seeking further delay in order to give the commercial and other associations, who are protesting against the law, an opportunity to make their influence felt with the Government and through it with Congressmen, among some of whom I have already found a disposition to favor our interests in this regard.

I have, etc.,

CHARLES PAGE BRYAN.

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*Mr. Hill to Mr. Bryan.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, June 1, 1900.*

(Mr. Hill states that the law forbidding the importation into Brazil of foreign manufactured products carrying inscriptions all or partly in Portuguese, except when imported from Portugal, is in violation of trade-mark agreement and destructive of commercial intercourse; and directs remonstrances against the law.)

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<sup>1</sup>Not printed.



*Mr. Bryan to Mr. Hay.*

No. 252.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Petropolis, Brazil, June 1, 1900.*

SIR: I have the honor to confirm your cipher telegram<sup>1</sup> of this date, and to refer to my No. 249 of to-day. I am glad to receive instructions which justify me in further protesting against this obnoxious law prohibiting trade-marks in Portuguese, to which I made objection both yesterday and previously at the foreign office.

I have, etc.,

CHARLES PAGE BRYAN.

*Mr. Hay to Mr. Bryan.*

No. 196.] DEPARTMENT OF STATE,  
*Washington, June 1, 1900.*

SIR: I inclose a copy of a letter from the J. C. Ayer Company asking that you will protest against the enforcement of the law forbidding the importation of foreign manufactured products that carry inscriptions all or in part in the Portuguese language, excepting when imported from Portugal.

The wrappers of this company's preparations have been duly registered in Brazil as trade-marks.

The law in question appears, therefore, to violate the trade-mark agreement between the United States and Brazil, and is in restraint of our lawful trade and intercourse with Brazilians, denying practical communication with the people.

You will energetically protest against the enforcement of the law.

You are referred in this connection to No. 194 of the 23d and No. 195 of the 25th ultimo.

I am, etc.,

JOHN HAY.

[Inclosure.]

*J. C. Ayer Company to Mr. Hay.*

LOWELL, MASS., *May 21, 1900.*

SIR: We beg to call your attention to the law which the Brazilian authorities announce will be put into effect July 1 next forbidding the importation of foreign manufactured products that carry inscriptions all or in part in the Portuguese language, excepting when imported from Portugal. The intention back of this law is, of course, to prevent the sale in Brazil of American or other foreign goods which need to have on the bottles, tins, or other containers reading matter in Portuguese for the use and guidance of consumers.

There is a very large exportation from the United States to Brazil of food products put up in tins or otherwise, medicines, and perfumery which would be almost entirely killed by the enforcement of such a law.

This law originally was intended by the Brazilian authorities to be put into force on January 1, 1900, but by reason of the strong remonstrances made by the foreign representatives there has been postponed until July 1 next.

The wrappers, in Portuguese, of our preparations—and we believe it is the same with most of the American articles affected—have been duly registered in Brazil as

<sup>1</sup> Printed, ante.

trade-marks, and we beg to quote as follows from a letter just received from our resident agents at Rio de Janeiro:

"As trade-marks were the subject of an international treaty some years ago (we believe in 1879 with the United States), we are of the opinion that if foreign representatives take the matter up strongly enough they will convince this Government that rights acquired under treaty can not be lightly canceled by the passing of such a law as that proposed, at all events without formal notice being given the countries interested of the proposed modification to be introduced, and an arrangement come to with regard to the time to be allowed for making any change. We greatly rely on the combined influence of the British and German ministers to get it annulled. We hope the United States minister will take joint action, but in view of the interests involved, would recommend your urging on the authorities at Washington to issue positive instructions to the minister to press the question firmly and energetically."

As the American interests and trade rights threatened by the new law are of considerable importance, we beg you will instruct the United States minister to Brazil to take joint action with the British and German ministers against the same.

We have, etc.,

J. C. AYER Co.,  
ALFRED E. ROSE, *Treasurer.*

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*Mr. Bryan to Mr. Hay.*

No. 254.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Petropolis, Brazil, June 11, 1900.*

SIR: Referring to my Nos. 249 and 252 of June 1, I have the honor to report that, not satisfied with the apparent effect of my protest to the minister for foreign affairs against the law forbidding the importation of goods with labels and trade-marks in the Portuguese language, I called at the treasury to enter a like protest directly at that department, where I was promised a postponement until October 1 of the enforcement of the law. Before that date I think that the petition of the Commercial Association—a copy and translation of which I inclose—and the protests of the American, British, and German diplomatic representatives will induce Congress to repeal the obnoxious law.

At the treasury I was frankly told that the minister did not believe that there was benefit for Brazilian commerce in this prohibition. He likewise confirmed the position I maintain that labels are a part of trade-marks, and that consequently the law is in violation of the convention of 1878 between the United States of America and Brazil. I therefore advise all American importers to conform to the requirements of that agreement by registering their marks.

A copy of the circular of the minister of fazenda with translation is inclosed herewith.

I have, etc.,

CHARLES PAGE BRYAN.

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[Inclosure 1.—Translation.]

*Petition of the Commercial Association.*

"The committee, whose signatures appear below, named by the Commercial Association of Rio de Janeiro to draw up and present to his excellency the minister of the fazenda a memorial with regard to the trade-marks on foreign products, all of which it had the honor to carry out, as appears from the inclosed copy, comes, in the further performance of its duty and in the right of petition guaranteed by the constitution of the Republic, to request of your excellencies in this matter such consideration of the objections raised in the memorial referred to as is within the province of legislation.

"In this way your excellencies will render an important service to commerce and industry by authorizing the Government to regulate, to the satisfaction of those interested and without prejudice to the public interests, the law on trade-marks.

"The committee, trusting in the spirit of justice residing in your excellencies, omits arguments which would be a repetition of its memorial and which the well-known competency of your excellencies appreciates at first glance."

The address, as its contents indicate, was sent to the Brazilian Congress with a long memorial addressed to the minister of the fazenda setting forth the ill results which would follow the enforcement of the law in question.

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[Inclosure 2.]

[From the Jornal do Commercio of June 10.—Translation.]

The circular sent out by the ministry of the fazenda with regard to the importation of merchandise with prohibited labels, which we noticed at the time, is as follows:

"I declare to the chiefs of divisions subordinate to this ministry, for their information and due procedure, that the term fixed in the circular No. 3 of January 17 of the current year for the importation of products the labels of which come under the prohibition of article 57 of the regulation approved by decree No. 3622 of March last, is extended to the 30th of next September."

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*Mr. Hill to Mr. Bryan.*

No. 205.]

DEPARTMENT OF STATE,  
*Washington, June 29, 1900.*

SIR: I have to acknowledge the receipt of your No. 249, of the 1st instant, transmitting copy of a note addressed to you by the German minister to Brazil, requesting your cooperation in an endeavor to prevent the enforcement of the Brazilian law forbidding the use of the Portuguese language in trade-marks on articles of foreign manufacture.

In reply, I have to say that you will follow the instructions sent to you by cable and mail directing you to remonstrate against the law referred to.

You will do this, however, independently of other diplomatic agents. I am, etc.,

DAVID J. HILL.

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*Mr. Bryan to Mr. Hay.*

No. 269.]

LEGATION OF THE UNITED STATES OF AMERICA,  
*Petropolis, Brazil, July 30, 1900.*

SIR: Referring to Department's instructions, No. 194 of May 23, No. 195 of May 25, and others relative to the Brazilian law of November 14, 1899, forbidding foreign imports to carry labels in Portuguese, I have the honor to report that an amendment to the objectionable law is proposed in the form of a bill, of which I send a copy and translation. I shall object to its enactment in its present form as being a violation of our trade-mark convention with Brazil, provided the intent is to require the proposed "stamping or printing" before exportation. I can, however, see no objection to such requirement for new labels not yet registered at home or to exacting of merchants here such "stamping or printing" before exposing the merchandise for sale.

I have no doubt that, with the two members of the ministry who have this matter in charge agreeing with me as to its being a violation of commercial conventions, the law of 1899 will be repealed.

I also send herewith a copy and translation of a note from the German minister. Of course my protest against the label law is entirely independent of any action of my German and English colleagues, who have, however, volunteered to consult with me on the subject and to communicate to me such information as they may have obtained.

I have, etc.,

CHARLES PAGE BRYAN.

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[Inclosure 1.—Translation.]

[No. 72, 1900.]

Rules that all foreign goods which have borne labels or inscriptions in Portuguese must bear, stamped across such inscriptions, the place of and other facts concerning the manufacture.

The tariff commission, having examined the petition of the commercial association of this capital directed to the National Congress, seeking measures looking to a cessation of the inconveniences that it points out due to the prohibition contained in part 2 of article 45 of law No. 641, of November 14, 1899, and to the manner of determining exchange for the day, as prescribed by article 54 sections 1 and 2 of the same law for the collection of a consumption tax on imported products, and, seeking to conciliate the interests of revenue with those of commerce, as is just, proposes the following legal project, which, in its opinion, will conveniently accomplish the ends in view:

“ARTICLE I. All the foreign products which have borne labels or any inscriptions whatever, wholly or partly in Portuguese, must carry, printed across such inscriptions or labels in capital letters and with colored ink, the place of their manufacture.

“SECTION 1. Advertising articles, such as chromos, cartoons, show bills, and placards, shall be considered as ‘printed works’ according to the appropriate tariff classification.”

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[Inclosure 2.—Translation.]

*Mr. Arco to Mr. Bryan.*

IMPERIAL GERMAN LEGATION IN BRAZIL,  
*Petropolis, July 23, 1900.*

MR. MINISTER AND DEAR COLLEAGUE: Referring to previous correspondence, I take the liberty of calling your excellency's attention to the proposition of the tariff commission concerning the trade-marks in Portuguese, which is reported in the *Diario Official* for the 18th of the current month. (*Diario do Congresso*, p. 666.)

The business men of my acquaintance who are interested in this question are especially anxious that commerce should have sufficient time to conform to the new ruling if it should be accepted and put into operation. I am pleased to hope that the business men of your nationality are of the same mind and that, in consequence, I shall have your valuable assistance in my efforts to assure a proper interval between the publication and the enforcement of the ruling in question.

Please accept, Mr. Minister, etc.,

E. ARCO.

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*Mr. Bryan to Mr. Hay.*

No. 278.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Petropolis, Brazil, September 20, 1900.*

SIR: In relation to the amendments offered in Congress which practically repeal the law forbidding articles from abroad to bear labels in

Portuguese, I have the honor to report that I protested to the minister of the fazenda against a legislative proposal requiring foreign labels to have printed on them the name of the manufacturer and that of the country from which the merchandise emanates. The minister agreed that this requirement was undesirable, and promised to recommend that no change in labels be demanded beyond an indication thereon of the country from which the goods were exported. This guard against adulteration exists in England, but as it is objected to by representatives here of American exporters, I intend to ask for all modifications desired by our business interests. Pending the appeal or amendment as desired of the objectionable law, I have persuaded the minister to further extend until December 1 the suspension of its enforcement.

I have, etc.,

CHARLES PAGE BRYAN.

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*Mr. Hay to Mr. Bryan.*

No. 215.]

DEPARTMENT OF STATE,  
Washington, October 17, 1900.

SIR: Referring to your No. 249, of June 1 last, I have to say that the Department would be glad to receive a complete copy of the Brazilian law No. 641, of November 14, 1899, article 45, paragraph 2 of which is understood to prohibit the importation of articles of foreign manufacture bearing labels wholly or partly in Portuguese, unless imported from Portugal.

I am, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Bryan.*

No. 222.]

DEPARTMENT OF STATE,  
Washington, November 23, 1900.

SIR: Referring to your No. 278, of September 20 last, in regard to the Portuguese label law, I inclose copy of a letter from Frederick Stearns & Co., protesting against the law.

I am, etc.,

JOHN HAY.

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[Inclosure.]

*Stearns & Co. to Mr. Hay.*

DETROIT, November 17, 1900.

SIR: We understand from the Commercial Intelligence of London that the Brazilian Government has recently promulgated a law prohibiting the importation of merchandise into Brazil bearing labels printed in the Portuguese language from foreign countries other than Portugal or Portuguese possessions.

As the paper very properly states, this is a most unjust and vexatious measure, and our Government in behalf of our manufacturers, who, like ourselves, at the outlay of thousands of dollars, have opened trade relations with Brazil, should enter a strong protest.

Years ago we sent a representative to Brazil with several thousand dollars' worth of stock. However, as we did not understand the conditions which provided that all medicinal preparations should be approved by a board of health before they were admitted into the country, and as this approval took months to secure, fines were in the meantime imposed, which far exceeded the value of the goods, so that we finally

had to abandon them. We mention this simply to show that our entrance into that field was with a heavy loss to us. Naturally, to become very popular, goods must be dressed in labels and wrappers in the language of the country in which they are to be sold, and so all our goods are dressed in the Portuguese language. Now, therefore, if these have to be abandoned and English labels and wrappers have to be substituted, it is only natural to suppose that the trade, which at a very heavy cost we have worked up, will be practically lost, and, of course, the same applies to all American manufacturers.

We trust our Government will take measures for the repeal of this unjust law.

Very truly, yours,

F. STEARNS & Co.,  
By T. BENNETT, *Secretary*.

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*Mr. Bryan to Mr. Hay.*

No. 290.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Petropolis, Brazil, November 30, 1900.*

SIR: Complying with instructions No. 215 of October 17, requesting a complete copy of the Brazilian law No. 641 of November 14, 1899, I have the honor to inclose herewith such copy with translation, and to report that a further delay until December 31, 1900, in enforcing the provisions of article 45, paragraph 2, regarding labels in Portuguese, has been granted. Meanwhile the repeal or satisfactory amendment of that objectionable section is definitely promised.

I have the honor to be, sir, etc.,

CHARLES PAGE BRYAN.

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[Inclosure.]

*Translation of law No. 641; November 14, 1899.*

\* \* \* \* \*

ARTICLE 45.

The use of trade-marks written wholly or partly in a foreign language is forbidden to national factories, in the terms of law No. 452 of November 3, 1897.

The importation of goods made abroad which carry labels wholly or partly in Portuguese, except when imported from Portugal or when made for factories, is forbidden.

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*Mr. Hay to Mr. Bryan.*

No. 223.] DEPARTMENT OF STATE,  
*Washington, December, 1, 1900.*

SIR: Referring to your No. 269 of July 30 last, I inclose copy of a letter from the Secretary of the Interior, in which he concurs with the Commissioner of Patents in his opinion that if the proposed Portuguese label law be amended as you suggest, no objection could be found against it.

I am, etc.,

JOHN HAY.

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[Inclosure.]

*Mr. Hitchcock to Mr. Hay.*

DEPARTMENT OF THE INTERIOR,  
*Washington, November 26, 1900.*

SIR: Your letters of the 25th and 28th of August, 1900, respectively, have been received, inclosing copies of communications from the United States minister to

Brazil relative to the operation of the Brazilian law, which forbids the importation of foreign manufactured products carrying inscriptions or labels in the Portuguese language, except when imported from Portugal.

It is suggested that an amendment to the law is about to be proposed which will permit the use of the labels in the Portuguese language on importations, provided such labels on goods not coming from Portugal bear across their face in capital letters and colored ink the name of the place of their manufacture.

Our minister to Brazil suggests that he will insist that such requirements shall not apply to merchandise already imported into Brazil, but that he sees no objection to the law with the proposed amendment, provided it applies to new labels not yet registered in this country, and that all that will be required of merchants is that they stamp on goods already imported the place from which imported.

The Commissioner of Patents, to whom the matter was referred, reports under date of October 16, 1900, copy of which is herewith transmitted, that, if the law is amended as proposed, embodying the minister's suggestion, there can be no objection and our merchants will be fully protected, in which conclusion in the premises I concur.

Very respectfully,

E. A. HITCHCOCK.

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[Subinclosure.]

*Mr. Duell to the Secretary of the Interior.*

DEPARTMENT OF THE INTERIOR, UNITED STATES PATENT OFFICE,  
Washington, October 16, 1900.

SIR: I have by the reference of the Assistant Secretary communications from the State Department, dated August 25 and 28, 1900, relating to the trade-mark law of Brazil and an amendment thereto, together with a complaint from Messrs. J. C. Ayer & Co., of Lowell, Mass. In these papers the Brazilian trade-mark law of November 14, 1899, is referred to, but no copy of said law was inclosed, and I have not been able to obtain a copy. I take it, however, from the papers received, that the Brazilian law forbids the importation of foreign manufactured products carrying inscriptions or labels in the Portuguese language, except when imported from Portugal. It is contended that this is a violation of the agreement that this country has with Brazil relative to the protection of trade-marks.

After carefully considering the matter, I am of the impression that this contention can not be sustained, as the agreement concluded between this country and Brazil on September 24, 1878, provides that citizens or subjects of the two contracting parties shall have in the territory of the other the same rights as belong to native citizens or subjects in everything relating to property and marks of manufacture and trade. As I understand the Brazilian law from the correspondence, the requirement that the importation of foreign products shall not carry an inscription in the Portuguese language, unless imported from Portugal, applies to the citizens of Brazil as well as to others. This being so, of course our citizens in this particular would be on the same footing under the treaty as Brazilians.

It is suggested that an amendment to the law is about to be proposed which will permit the use of labels in the Portuguese language on importations, provided that such labels on goods not coming from Portugal bear across their face in capital letters and colored ink the name of the place of their manufacture.

Our minister to Brazil suggests that he will insist that the requirements should not apply to merchandise already imported into Brazil, and states that he sees no objection to the law with the proposed amendment, provided it applies to new labels not yet registered in this country, and that all that will be required of merchants is that they should stamp on goods already imported the place from which they are imported.

After carefully considering the matter, I agree with our minister, and am under the impression that if the law is amended as proposed, embodying his suggestion, there can be no objection, and our merchants will be fully protected.

The papers received by your reference are returned herewith.

Very respectfully, yours,

C. H. DUELL, *Commissioner.*

*Mr. Bryan to Mr. Hay.*

No. 293.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Petropolis, Brazil, December 5, 1900.*

Sir: Regarding legislation modifying article 45 of the Brazilian law No. 641 of November 14, 1899, and referring to my No. 290 of November 30, I have the honor to report that, although the Senate has amended the said article by limiting its requirements to a designation of the country of origin stamped on the label, the committee of the House of Representatives has insisted that, in addition, the name of the manufacturer be printed on the label. I therefore to-day protested to three deputies belonging to different State delegations, requesting support of the Senate proposal and obtaining their promise to protect our interests. I send herewith a copy of my letter to Dr. Elias Fausto, one of these influential representatives.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure.]

*Mr. Bryan to Dr. Jordão.*

LEGATION OF THE UNITED STATES OF AMERICA,  
*Petropolis, Brazil, December 5, 1900.*

DEAR DOCTOR ELIAS FAUSTO: You will notice on page 2744 of to-day's *Diario do Congresso* that the amendment to article 22 of bill No. 70 by the Senate is disapproved by the committee of the *camara*. As I said to you and to several other friends to-day, the change proposed by the Senate to the law of November 14, 1899, to the effect that a designation of the country of origin alone shall be required, will be more acceptable to our exporters than the *camara's* proposal to include the manufacturer's name. The former requirement will, it appears to me, sufficiently protect Brazilian manufacturers.

Thanking you again for your kind attention to our interests, I am, etc.,

CHARLES PAGE BRYAN.

*Mr. Bryan to Mr. Hay.*

No. 301.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Petropolis, Brazil, January 4, 1901.*

SIR: Referring to my No. 293 of December 5, 1900, I have the honor to report the passage of a satisfactory amendment to the law which forbade the use on foreign imports, except those from Portugal, of labels in Portuguese.

I inclose, with translation, a copy of the amendment which limits the requirement for such labels to an indication thereon, by stamping or printing, of the country of origin.

I also send a copy of the circular of the minister of the *fazenda* which postpones until February 28 the execution of the law.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure 1.—Translation.]

*Article 21 of law No. 741 of December 26, 1900.*

ART. 21. For the second part of article 45 of the law No. 641 of November 14, 1899, is substituted the following: "On the labels of articles manufactured abroad, that are written wholly or partly in the Portuguese language, the country of origin shall be indicated."



[Inclosure 2.—Translation.]

*Circular No. 77, ministry of the fazenda, Federal Capital, December 3, 1900.*

Having decided to permit until the 28th of the coming February the importation of foreign products with labels wholly or partly written in the Portuguese language without the declaration of origin demanded by article 21 of law No. 741 of the 26th of the current month, I therefore make it known to the chiefs of departments subordinate to this ministry for their information and the proper dispositions.

JOAQUIN MURTINHO.

## VISIT OF SOUTH ATLANTIC SQUADRON TO BRAZIL.

*Mr. Bryan to Mr. Hay.*

No. 258.] LEGATION OF THE UNITED STATES OF AMERICA,  
*Petropolis, Brazil, June 15, 1900.*

SIR: I have the honor to report that on April 26 Rear-Admiral W. S. Schley, commanding the South Atlantic Squadron, telegraphed me from Bahia inquiring as to the sanitary condition of Rio de Janeiro. The health reports justified me in answering that the city had never been more salubrious, hence I sent the following telegram:

Admiral SCHLEY, *Bahia*:

Rio unusually healthy and improving by heavy rains. Can not you arrive May 1, participating in centennial celebration, docking afterwards safely?

BRYAN.

At that time there was no apprehension regarding the bubonic pest. Although the U. S. S. *Chicago* and *Montgomery* were in dock during their stay, there was not during the three weeks' sojourn of the squadron in port a single serious or unusual case of illness among the 750 men aboard, nor among the officers and men of the *Wilmington*.

I had the pleasure, at an audience arranged through the minister for foreign affairs, of presenting Admiral Schley to the President of Brazil and of taking him, with his staff and the commanding officers of the *Chicago*, *Montgomery*, and *Wilmington*, to call on all the cabinet ministers and the heads of legations of equal or superior official rank to a rear-admiral. As many officers as could be spared from duty attended several large entertainments at the legation, where their accomplishments and bearing did credit to our country.

The visit of President Campos Salles to the flagship *Chicago* manifestly impressed him with the superior discipline and personnel of our Navy and afforded an opportunity for the exchange of sympathetic expressions regarding the good will existing between our peoples. I also, as on a previous occasion, explained the unavoidable reasons for the nonappearance of the squadron at the centennial ceremonies, as requested by me and ordered by our Government.

In view of the increasing alarm in this community regarding the bubonic pest, it was well for the officers of our ships to postpone the festivities which they had planned to give on board in acknowledgment of attentions shown the visitors by Brazilian officials and society, as well as by members of the diplomatic corps.

Immediately after the President's visit the *Chicago* and *Wilmington* sailed for Montevideo, followed two days later by the *Montgomery*, all hands aboard being well.

I have, etc.,

CHARLES PAGE BRYAN.

## CHILE.

### CLAIM OF PATRICK SHIELDS.<sup>1</sup>

#### *Memorandum.*

LEGACION DE CHILE, *May 12, 1897.*

At a conference which took place on the 20th of April, 1896, the Secretary of State, Hon. Richard Olney, called the attention of the minister of Chile to two existing claims against the Chilean Government, one of Patrick Shields and the other of Andrew McKinstry. The two claimants were British subjects and served as firemen on board the American merchant steamer *Keweenaw*. They claimed to have been maltreated while on shore by the police of Valparaiso, Chile, in 1891, when that steamer was lying at that port. The honorable Secretary of State expressed at that time the wish to submit these cases to the claims commission, which it was anticipated would be renewed, or to find a solution through a direct settlement.

These claims had already been presented before the Chilean-American commission, which was in session from October, 1893, to April, 1894, with a view to settling all claims from citizens of each country against the Government of the other. The commission, by a unanimous vote, dismissed these two claims on the ground that the claimants were British subjects, and because its jurisdiction was limited exclusively to claims of American and Chilean citizens.

The Government of Chile having been informed of the desire of the honorable Secretary of State, authorized at that time the minister of Chile to examine the merits of said claims and to agree on an equitable indemnity if the circumstances of the cases justified such a measure.

The honorable Secretary of State, after having examined those claims on his side, agreed with the minister of Chile that the alleged claim of Andrew McKinstry was unfounded.

As regards the case of Patrick Shields, it was agreed that it was one of those which could be arranged through the payment of any equitable amount. In order to fix that amount, the minister of Chile suggested to the Hon. Richard Olney that they take as a basis the payments made by the United States on similar occasions to foreign subjects. The question being placed on this ground, and resolved according to this principle of mutual equality, the sum, whatever it might happen to be, would not, in the opinion of the Chilean minister, be objected to by the Government of the Congress of his country. This basis having been accepted by the honorable Secretary of State, it was agreed that the antecedents of the question should be looked up, and that the sum which in equity would be paid to Shields should be fixed in conformity with these precedents.

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<sup>1</sup> See Foreign Relations, 1891, p. 217, etc.

It is necessary to mention a circumstance which will explain the proceedings of this case. Shields died in the year 1895, and with him disappeared the right to the personal protection which the Government of the United States could accord to him for having been in the service of an American ship when the cause of his complaint occurred. Shields was never naturalized in the United States; he remained an English subject, and his heirs are English.

The honorable Secretary of State intimated to the minister of Chile, that, under the circumstances of this case, the Government of the United States had no direct interest in the matter, and that it only wished, at an instance from the Government of Her British Majesty, to cooperate in finding a satisfactory solution for both the interested parties.

The honorable Secretary of State having consulted with Her British Majesty's ambassador and the minister of Chile, it was finally agreed by all of them that an indemnity of \$3,500 would be an equitable and satisfactory one.

This agreement was reached in the first days of last March, but there was not time to formalize it, as the Hon. Richard Olney left the Secretaryship.

These antecedents having been explained, the minister of Chile submits, with the acceptance of his excellency the ambassador of Her British Majesty, a draft of a protocol herewith inclosed in which appears a solution, mutually accepted, of said claim of Patrick Shields.

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*Señor Gana to Mr. Sherman.*

[Translation.]

LEGATION OF CHILE,  
Washington, May 18, 1897.

SIR: On Wednesday, the 12th instant, I placed in Mr. Rockhill's hands a memorandum in which was stated the result of the conferences which I had the honor to have with the Hon. Richard Olney, when he was at the head of the Department of State, relative to the claims of Patrick Shields and Andrew McKinstry.

As appears from the aforesaid memorandum, the Hon. Richard Olney agreed with me that McKinstry's claim should be rejected as having no foundation. As to that of Patrick Shields, we agreed to settle it by a pecuniary compensation in the form which appears in the draft of a protocol that accompanies the aforesaid memorandum.

As I have been informed, your excellency concurs in these views, and I therefore take the liberty to inform you that I shall be pleased to sign the protocol in question as soon as your excellency may see fit to appoint a day and hour for the purpose.

I avail myself, etc.,

DOMINGO GANA.

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*Mr. Sherman to Señor Gana.*

No. 23.]

DEPARTMENT OF STATE,  
Washington, May 22, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 18th instant, and take pleasure in herewith inclosing, for comparison

of the English and Spanish texts, the protocol which I have caused to be prepared for our signatures and which stipulates for the payment of the sum to \$3,500 in settlement of the claim of Patrick Shields for injuries done to him at Valparaiso in 1891.

I shall be prepared to sign with you this protocol, which has been engrossed in duplicate, on Monday next, the 24th instant, at 2.30 o'clock p. m., if you will have the kindness to call at that hour.

Accept, etc.,

JOHN SHERMAN.

*Protocol of an agreement between the United States of America and the Republic of Chile.*

[Signed at Washington, May 24, 1897.]

PROTOCOL IN REGARD TO THE CLAIM OF  
PATRICK SHIELDS AGAINST THE GOV-  
ERNMENT OF CHILE.

The Honorable John Sherman, Secretary of State of the United States of America, and the Honorable Domingo Gana, envoy extraordinary and minister plenipotentiary of Chile, being desirous to give a friendly and equitable solution to the claim of Patrick Shields, have agreed on the following:

The Government of Chile by equitable considerations will allow to the heirs of Patrick Shields a compensation of three thousand five hundred dollars, and this amount shall be delivered for that purpose to the honorable Secretary of State of the United States within a period of four months from this date.

This agreement is subject to the acceptance of the Congress of Chile, from which the necessary amount is to be requested.

The allowance of the said amount of three thousand five hundred dollars in the manner before mentioned, will imply the final and complete settlement of the claim of Patrick Shields, and the said claim may not be presented at any other time, or in any other form.

In witness whereof the honorable Secretary of State and the honorable minister of Chile sign the present agreement, in duplicate, in the English and Spanish languages, in Washington, the 24th day of May one thousand eight hundred and ninety-seven.

JOHN SHERMAN  
DOMINGO GANA

PROTOCOLO RELATIVO Á LA RECLAMACIÓN DE  
PATRICK SHIELDS CONTRA EL GOBIERNO  
DE CHILE.

El Honorable John Sherman, Secretario de Estado de los Estados Unidos de América, y el Honorable Domingo Gana, enviado extraordinario y ministro plenipotenciario de Chile, deseosos de dar una amistosa y equitativa solución al reclamo de Patrick Shields, han convenido en lo siguiente:

El Gobierno de Chile concederá por razones de equidad á los herederos de Patrick Shields una compensación de tres mil quinientos dollars y esta suma será entregada con ese objeto al honorable Secretario de Estado de los Estados Unidos dentro del plazo de cuatro meses contados desde esta fecha.

Este arreglo queda subordinado á la aceptación del Congreso de Chile, del cual se recavarán los fondos necesarios al efecto.

La entrega de la expresada suma de tres mil quinientos dollars en la forma antes indicada importará el arreglo final y completo de la reclamación de Patrick Shields, de manera que ningún tiempo y bajo ningún aspecto podrá ésta volver á presentarse.

En fé de lo cual el honorable Secretario de Estado y el honorable ministro de Chile firman el presente arreglo, en doble ejemplar, y en las idiomas español é inglés, en Washington, el día veinte y cuatro de Mayo de mil ochocientos noventa y siete.

JOHN SHERMAN  
DOMINGO GANA

*Mr. Hay to Señor Morla Vicuña.*

No. 8.]

DEPARTMENT OF STATE,  
*Washington, January 25, 1899.*

SIR: I have the honor to call your attention to the protocol, signed at this city on May 24, 1897, between the Secretary of State of the

United States and the minister of Chile at this capital, providing that the Government of Chile should, four months from the date thereof, pay to this Department the sum of \$3,500 as compensation to the heirs of Patrick Shields, deceased.

I have the honor to express the hope that this agreement will be fulfilled at an early date by your Government.

Copy of the protocol is inclosed.<sup>1</sup>

Accept, etc.,

JOHN HAY.

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*Señor Morla Vicuña to Mr. Hay.*

LEGACION DE CHILE.

*Washington, January 27, 1899.*

MR. SECRETARY: I have the honor of acknowledging receipt of your excellency's note dated the 25th instant, and in answer to it I beg leave to state that I have, a fortnight ago, addressed a communication to my Government requesting them to inform me whether the protocol regarding the compensation to be paid to the heirs of Patrick Shields (deceased) has already obtained the National Congress' sanction, and in the affirmative, to authorize me, by cablegram, to pay to the State Department of your excellency's Government the sum of \$3,500 as agreed.

As soon as I receive my Government's reply I will not fail communicating it to your excellency.

With the sentiments of the highest consideration, I have, etc.,  
C. MORLA VICUÑA.

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*Mr. Hay to Señor Infante.*

No. 16.]

DEPARTMENT OF STATE,

*Washington, June 5, 1899.*

SIR: Referring to Mr. Vicuña's note of January 27 last, I have the honor to state that the attorney for the heirs of Patrick Shields is pressing the Department to ascertain when payment will be made of their claim.

I have, therefore, the honor to ask that the arrangement reached may be promptly carried out by your Government.

Accept, etc.,

JOHN HAY.

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*Señor Infante to Mr. Hay.*

LEGACION DE CHILE,

*Washington, June 8, 1899.*

SIR: Your favor of the 5th instant is at hand, in which I am informed of your excellency's desire to receive the amount which has been agreed upon for the heirs of Patrick Shields.

I have the honor to inform your excellency in reply that the proper law to make this payment was not issued in the last period of sessions

of the Chilean congress, and that the minister of foreign affairs in a communication which I have recently received informs me that he will ask for the early issue of said law in the first regular meetings of the congress. These meetings began on the first of the present month, and, therefore, I hope that I shall soon receive authority by cable to make the payment in question.

Accept, etc.,

E. INFANTE.

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*Mr. Hay to Señor Infante.*

No. 24.]

DEPARTMENT OF STATE,  
Washington, November 1, 1899.

SIR: Referring to the Department's note of June 5 last and your reply of the 8th of the same month, I have the honor to ask whether you have received any information relative to the action of the Chilean congress in the matter of the payment of the claim of the heirs of Patrick Shields.

The Department hopes that the payment may be made at an early date.

Accept, etc.,

JOHN HAY.

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*Señor Infante to Mr. Hay.*

[Translation.]

CHILEAN LEGATION,  
Washington, November 11, 1899.

MR. SECRETARY: I have had the honor to receive your excellency's note relative to the payment of the claims of the heirs of Patrick Shields.

With regard to this matter I should inform your excellency that my Government, in a note to me of September last, states "that it has sincerely regretted the delay in the dispatch of the Shields claim, in the final settlement of which the Government has no immediate concern." The above-mentioned note states, moreover, that in spite of the efforts which the Government made in the period of the regular sessions of the congress to have this matter brought to a conclusion, as well also as that of the convention reviving the tribunal of Washington, nothing could be done to that end because of the many questions of importance that engrossed the attention of the legislative corps.

The Government assures me in the same communication that it will make especial recommendation for the dispatch of both these matters during the extra sessions, which commences in the month of October. That recommendation has been presented, together with the approval of the convention reviving the tribunal of claims, and I am confident that very soon there will be communicated to me by cable the authorization to deliver the sum agreed upon to the heirs of Patrick Shields.

Sincerely regretting on my part the unintentional delay to which I have referred, I am pleased to avail myself of this opportunity to renew to your excellency the assurances of my highest consideration.

E. INFANTE.

*Señor Infante to Mr. Hay.*

[Translation.]

CHILEAN LEGATION,  
*Washington, January 22, 1900.*

SIR: In compliance with instructions of my Government, I have the honor of remitting to your excellency a check on the Riggs National Bank for the sum of \$3,500 for the purpose of paying the indemnity which was granted under the protocol of May 24, 1897, to the heirs of Patrick Shields.

Accept, etc.,

E. INFANTE.

*Mr. Hay to Señor Infante.*

No. 28.]

DEPARTMENT OF STATE,  
*Washington, January 23, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 22d instant, in which you inclose a check on the Riggs National Bank for \$3,500 in payment by the Government of Chile of the indemnity to the heirs of Patrick Shields, stipulated by the agreement of May 24, 1897.

In reply I beg to congratulate you on the termination of the case in a manner satisfactory to both Governments.

Accept, etc.,

JOHN HAY.

**CHILEAN CLAIMS CONVENTION.**

*Mr. Hay to Señor Morla Vicuña.*

No. 11.

DEPARTMENT OF STATE,  
*Washington, March 4, 1899.*

SIR: I have the honor to inform you that the Senate has given its advice and consent to the ratification of the convention signed at Washington May 24, 1897, between the United States and Chile, to revive the convention of August 7, 1892, relating to the settlement of claims, with the following amendment:

At the end of Article II, strike out "within six months from the date thereof."

This leaves it to the two Governments to effect the exchange as soon as possible.

I beg that you will advise your Government of this amendment and secure its consent to the exchange of ratifications.

Accept, etc.,

JOHN HAY.

*Señor Morla Vicuña to Mr. Hay.*

CHILEAN LEGATION,  
*Washington, March 13, 1899.*

SIR: I have the honor to inform your excellency, with reference to your excellency's communication of the 4th instant, that, although

empowered by my Government to effect the exchange of ratifications of the convention between the United States and Chile to revive that of 1892 relating to the settlement of claims, as the convention about to be ratified has been amended I consider it my duty to again refer the matter to my Government, asking for new power to effect the exchange of the ratifications of the convention as amended.

I have no doubt that my Government will accede to my request, and that by the 15th of next October I will be in a position to effect the exchange of the aforesaid ratifications.

I have, etc.,

C. MORLA VICUÑA.

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*Mr. Hay to Señor Morla Vicuña.*

No. 12.]

DEPARTMENT OF STATE,  
*Washington, March 17, 1899.*

SIR: I have the honor to acknowledge the receipt of your note of the 13th instant in regard to the exchange of ratifications of the claims convention signed at Washington on May 24, 1897, between the United States and Chile, and to confirm in writing the verbal understanding agreed upon by you and Dr. Hill. The exchange should be postponed until October 15 next.

Accept, etc.,

JOHN HAY.

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*Mr. Wilson to Mr. Hay.*

[Telegram—Paraphrase.]

LEGATION OF THE UNITED STATES,  
*Santiago, November 10, 1899.*

(Mr. Wilson reports that the claims convention with the Government of the United States has been approved by the Congress of Chile, with two amendments by the House.)

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*Señor Infante to Mr. Hay.*

[Translation—Extract.]

CHILEAN LEGATION,  
*Washington, November 11, 1899.*

SIR: \* \* \* The above-mentioned note states, moreover, that in spite of the efforts which the Government made in the period of the regular sessions of Congress to have this matter brought to a conclusion, as well also as that of the convention reviving the tribunal of Washington, nothing could be done to that end because of the many questions of importance that engrossed the attention of the legislative corps.

The Government assures me in the same communication that it will make especial recommendation for the dispatch of both these matters during the extra session which commences in the month of October. That recommendation has been presented, together with the approval of the convention reviving the tribunal of claims. \* \* \*

I am pleased, etc.,

E. INFANTE.



*Mr. Hay to Señor Infante.*

No. 26.]

DEPARTMENT OF STATE,  
*Washington, November 17, 1899.*

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant, advising the Department that your Government would endeavor to have the appropriation to pay the claim of the heirs of Patrick Shields, as well as the claims convention, passed upon by the Chilean Congress at its present extra session.

In reply I have the honor to inform you that the Department received, on the 15th instant, a cablegram from the United States minister at Santiago, stating that the Chilean Congress had ratified the claims convention, with two amendments.

Accept, etc.,

JOHN HAY.

*Mr. Hay to Señor Vicuña.*

No. 31.]

DEPARTMENT OF STATE,  
*Washington, March 8, 1900.*

SIR: I should be pleased if you would call at the Department Monday morning, the 12th instant, at 10 o'clock, for the purpose of the exchange of ratifications of the claims convention between the Governments of the United States and Chile, and also to make definite arrangement for the appointment of the third arbitrator mentioned in the convention.

Accept, etc.,

JOHN HAY.

*Convention between the United States of America and the Republic of Chile, to revive the convention of August 7, 1892, to adjust amicably the claims of citizens of either country against the other.*

[Signed at Washington, May 24, 1897; ratification with amendment advised by the Senate, February 28, 1899; ratified by the President, March 1, 1899; ratified by the President of Chile; ratifications exchanged, March 12, 1900; proclaimed, March 12, 1900.]

WILLIAM MCKINLEY,

PRESIDENT OF THE UNITED STATES OF AMERICA.

*To all to Whom these Presents shall Come, Greeting:*

Know Ye, that whereas a Convention between the United States of America, and the Republic of Chile to revive the Convention of August 7, 1892, between the two countries, to adjust amicably the claims of citizens of either country against the Government of the other, was concluded at Washington, on the twenty-fourth day of May, one thousand eight hundred and ninety-seven, the original of which Convention, being in the English and Spanish languages, is, as amended by the Senate of the United States, word for word as follows:

The Convention between the United States of America and the Republic of Chile, signed August 7, 1892, having expired, and the Commission thereunder established to adjust amicably the claims made by the citizens of either country against the Government of the other having failed, through limitation, to conclude its task, leaving certain claims duly presented to the said commission unadjudi-

Habiendo espirado la Convencion suscrita entre los Estados Unidos de América i la República de Chile el 7 de agosto de 1892, sin que la Comision establecida por ella para resolver amistosamente los reclamos de ciudadanos de uno i otro país contra el Gobierno del otro hubiera alcanzado, por limitacion de tiempo, á concluir su tarea, i habiendo quedado sin fallar ciertas reclamaciones que fueron

cated, the Government of the United States of America and the Government of the Republic of Chile, desiring to remove every cause of difference in the friendly relations that happily exist between the two Nations, have agreed to revive the said convention of August 7, 1892, and for that purpose have named as their Plenipotentiaries, to wit:

The President of the United States of America, the Honorable John Sherman, Secretary of State of the United States; and

The President of the Republic of Chile, Señor Don Domingo Gana, Envoy Extraordinary and Minister Plenipotentiary of Chile in the United States of America:

Who have agreed upon the articles following:

#### ARTICLE I.

The High Contracting Parties agree to revive the Convention of August 7, 1892, between the United States of America and the Republic of Chile, and that the commission thereunder created shall be allowed for the transaction of its business a period of four months, to be reckoned from the day of its first meeting for business, and conforming, in other respects, with the provisions of the second paragraph of Article VIII of the said Convention. Nevertheless, if the period of four months before stipulated shall prove insufficient for the settlement of the claims, the Commissioners are authorized to extend, at their discretion, such period to one or two months more.

It is expressly stipulated that this article shall in no wise extend or change the period designated by the first paragraph of Article VIII of the said Convention for the presentation of the claims; so that the new Commission shall be limited to considering the claims duly presented to the former Commission in conformity with the terms of the Convention and with the Rules that governed its labors, excepting claim No. 7, of the North and South American Construction Company, which was subsequently withdrawn, a direct and final settlement thereof having been arrived at by the interested parties.

#### ARTICLE II.

The present convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the President of the Republic of Chile, with the approbation of the National Congress thereof, and the ratifications shall be exchanged at Washington, at as early a day as possible.

debidamente presentadas ante dicha Comision, los Gobiernos de los Estados Unidos de América i la República de Chile, deseando remover toda causa de dificultad en las amistosas relaciones que felizmente existen entre ambas Naciones, han convenido en hacer revivir la referida Convencion de 7 de agosto de 1892, i al efecto han designado por sus Plenipotenciarios, á saber:

El Presidente de los Estados Unidos de América, al Honorable John Sherman, Secretario de Estado de los Estados Unidos, i

El Presidente de la República de Chile al señor don Domingo Gana, Enviado Extraordinario i Ministro Plenipotenciario de Chile en los Estados Unidos de América;

Quienes han convenido en lo siguiente :

#### ARTÍCULO I.

Las Altas Partes Contratantes convienen en hacer revivir la Convencion de 7 agosto de 1892 suscrita entre los Estados Unidos de América i la República de Chile, i en que la Comision que ella establece tenga para el desempeño de sus funciones un plazo de cuatro meses contados desde el día de su primera reunion de trabajo, i de acuerdo, en lo demás, con lo dispuesto en el inciso segundo del Artículo 8 de dicha Convencion. No obstante, si el plazo de cuatro meses, ántes estipulado, fuese insuficiente para la decision de las reclamaciones, los Comisionados están autorizados para prorrogar, á su discreción, por uno ó dos meses más, el indicado plazo.

Queda claramente estipulado que el presente artículo no altera ó estiene en manera alguna el plazo que señaló el inciso primero del Artículo VIII de dicha Convencion para la presentacion de los reclamos; de manera que la nueva Comision habrá de limitarse á resolver sólo las reclamaciones que fueron debidamente presentadas ante la Comision anterior en conformidad con los términos de la Convencion i del Reglamento que gobernaron sus trabajos, exceptuando el reclamo No. 7 de la North and South American Construction Company que ha sido más tarde retirado por haberse arribado á un arreglo directo i final entre las partes interesadas.

#### ARTÍCULO II.

La presente Convencion será ratificada por el Presidente de los Estados Unidos de América, con el consejo i acuerdo del Senado, i por el Presidente de la República de Chile, con la aprobacion del Congreso Nacional, i las ratificaciones serán canjeadas en Washington en el plazo más breve.

In testimony whereof we have signed the present convention in the English and Spanish languages, in duplicate, affixing thereto our respective seals, the Plenipotentiary of Chile declaring that he signs the same "ad referendum".

Done at the city of Washington, the 24th day of May in the year of Our Lord eighteen hundred and ninety-seven.

JOHN SHERMAN [L. s.]  
DOMINGO GANA [L. s.]

En testimonio de lo cual, i con la declaracion del Plenipotenciario de Chile de que suscribe "ad referendum", la presente Convencion, la firmamos i sellamos con nuestros respectivos sellos, en doble ejemplar, i en los idiomas ingles y español.

Hecha en la ciudad de Washington, á 24 dias de mayo del año de Nuestro Señor mil ochocientos noventa i siete.

[L. s.] JOHN SHERMAN  
[L. s.] DOMINGO GANA

And whereas the said Convention has been duly ratified, as amended, on both parts and the ratifications of the two Governments were exchanged in the city of Washington on the twelfth day of March, one thousand nine hundred:

Now, therefore, be it known that I, William McKinley, President of the United States of America, have caused the said Convention, as amended, 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 twelfth day of March in the year of Our Lord one thousand nine hundred, and of the Independence of the United States  
[SEAL.] the one hundred and twenty-fourth.

WILLIAM MCKINLEY

By the President:

JOHN HAY  
*Secretary of State.*

## VISIT OF THE U. S. S. HARTFORD TO VALPARAISO.

*Mr. Wilson to Mr. Hay.*

No. 139.]

LEGATION OF THE UNITED STATES,  
*Santiago, March 24, 1900.*

SIR: I have the honor to inform the Department that the U. S. S. *Hartford*, Captain Hawley commanding, arrived in Valparaiso Harbor March 6 and remained in port until the 17th. The officers and seamen were made the recipients of many courtesies on part of the Chilean naval officials and hospitable treatment was universally accorded to them. Forty of the sailors came to Santiago upon leave of absence and while here conducted themselves in a perfectly creditable manner. The officers of the *Hartford* were invited to many public receptions, and upon the invitation of the intendente of Valparaiso the ship's band furnished music upon the plaza during one evening, being substituted for the Chilean military band. I am of the opinion that the visits of our naval vessels to Chile contribute to an improvement of the relations between the two countries and recommend that such visits be made at frequent intervals.

I have, etc.,

HENRY L. WILSON.

**CONDOLENCES ON DISASTER AT GALVESTON.**

*The President of Chile to the President of the United States.*

[Telegram.—Translation.]

SANTIAGO, CHILE, *September 16, 1900.*

The President of Chile, deeply moved by the catastrophe of Galveston, shares, with all his heart, the sorrow of your country.

FEDERICO ERRAZURIZ.

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*The President of the United States to the President of Chile.*

[Telegram.]

EXECUTIVE MANSION,  
*Washington, September 16, 1900.*

On behalf of the sufferers at Galveston, and in the name of the sorrowing people of this country, I gratefully acknowledge your excellency's message of condolence.

WILLIAM MCKINLEY.

## CHINA.

### UPRISING AGAINST FOREIGNERS.

*Mr. Conger to Mr. Hay.*

No 289.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, December 7, 1899.*

SIR: I regret to report a very critical state of affairs among the missionaries and their converts in certain parts of Shantung.

The season has been a poor one—crops have failed on account of the drought; great poverty and want prevail. An unusual amount of looting is a result, and naturally the foreigners or their followers come in for the larger share of grief.

Early in October last a secret society called "Boxers," in the neighborhood of Ch'ih Ping, assembled with the avowed purpose of driving out foreigners and of extirpating Christians, but, upon aid being requested by the missionaries, soldiers were sent and, on October 18, a conflict ensued which resulted in the killing of some fifty or more of the Boxers and in dispersing them.

The trouble then seemed to be over, but unfortunately a number of citizens of the village where the affair occurred were killed or wounded, in consequence of which the governor arrested the officer commanding the troops and memorialized the Throne for his impeachment, because, the governor says, of the mistake in killing others than the Boxers.

This action of the governor encouraged the Boxers, and they have since rallied again and are doing much damage to the Christian converts, extorting money from them, threatening the missions, and giving ample cause for serious alarm.

I have, by repeated notes and visits to the Tsungli Yamen, made strenuous demands for the suppressing of the rioters and the protection of these people. They reply that they have given peremptory orders to the governor, and that he is doing all he can to disperse the brigands and protect the people. Copies of telegrams and correspondence inclosed will show what has been done.

The German Catholic missionaries had serious trouble in the province during last summer, but the German minister informs me that he has no late complaints.

The French minister is in receipt of most alarming news from the Italian missionaries in Shantung, who are under his charge, reporting robberies, burning of dwellings, and even death of converts.

It is generally understood that the governor, Yu-Hsien, is strongly antiforeign, and believed that he is by no means doing what he could and should do.

As you will see from my note to the Tsungli Yamen, I have, without demanding it, suggested the necessity and propriety of his removal,

and I am glad to report that yesterday General Yuan Shih-kai, of the imperial guard, was appointed acting governor. He is an able, brave, courageous man, has mingled much with foreigners, and it is believed that, if the right kind of orders are given him from the Throne, the rioting will be stopped and order restored.

We hope so.

I have the honor to be, etc.,

E. H. CONGER.

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[Inclosure 1.]

*Mr. Squiers to the Tsungli Yamen.*

NOTE VERBALE.

PEKIN, *November 11, 1899.*

The legation of the United States of America has the honor to bring to the attention of the Tsungli Yamen a telegram which has just been received from the American board mission at Douchou, in the province of Shantung, through the United States consul at Tientsin, to the effect that a Catholic chapel has been destroyed 30 miles southeast of there, that the Boxers are determined to advance to Douchou, and that the governor ignores the situation, taking no steps whatever to check the movement.

The legation has, therefore, to request that the Tsungli Yamen will immediately cause such telegraphic instructions to be given to the governor of this province as will secure to American citizens living in the threatened districts the protection, in both lives and property, to which they are, under the treaties, entitled.

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[Inclosure 2.]

*Mr. Squiers to the Tsungli Yamen.*

NOTE VERBALE.

PEKIN, *November 16, 1899.*

The legation of the United States has the honor to inform the Tsungli Yamen that it has just received a telegram from the United States consul at Chefoo, by which it is advised that Rev. W. B. Hamilton, an American missionary residing at Chinanfu, has telegraphed from that place that the Big Knife Society is engaged in burning chapels, looting, and killing Christian converts; that the governor has withdrawn his soldiers, and that the situation is regarded as critical.

In view of the above report, the legation has to request that the Tsungli Yamen will immediately cause such telegraphic instructions to be given to the governor of Shantung as will insure American citizens living there that full protection in both lives and property to which they are, under the treaties, guaranteed; and, further, that those persons who have been engaged in this disorderly affair be promptly arrested and brought to trial and punished.

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[Inclosure 3.]

*Mr. Conger to the Tsungli Yamen.*

LEGATION OF THE UNITED STATES,  
*Pekin, China, November 25, 1899.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to report that I have just received a telegram from Rev. F. M. Chapin, of Linching, Shantung, as follows:

LIN-CHING, *November 25, 1899.*

CONGER, *United States Minister, Peking.*

Boxers raiding or threatening all Christians in four adjacent counties; officials refuse them protection; Boxers threaten mission premises here; aid promptly.

CHAPIN.

This shows an alarming situation, and unless promptly and vigorously dealt with will soon assume such proportions as will be difficult to control.

Some weeks ago, as you already know, a society of so-called "Boxers" assembled and started on a raid, which was promptly met by the local militia and dispersed, several of them being killed. This would probably have ended the trouble, but the governor, instead of complimenting the officer for his promptness and efficiency in preserving peace and protecting life and property, is reported to have arrested and threatened him with severe punishment.

This attitude of the governor has encouraged the brigands, and is evidently responsible for their present movements.

I trust your highness and your excellencies will fully appreciate the gravity of the situation and send such imperative orders by telegraph to the governor and other officials as will compel them to instantly use such forcible means as will forthwith disperse these threatening rioters and protect the lives and property of these people.

If it is not done, and done at once, life and property are sure to be destroyed and great trouble and annoying complications result.

In behalf of the American missionaries and their native converts, it is my duty to give your highness and your excellencies this note of warning and demand their protection, so that life and property may be preserved, or, in case of failure, the responsibility can be properly placed.

I avail myself, etc.

E. H. CONGER.

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[Inclosure 4.]

*Mr. Ragsdale to Mr. Conger.*

[Telegram.]

TIENTSIN, *November 25, 1899.*

Viceroy telegraphed immediately governor Shantung contents my dispatch requesting immediate action. Smith just telegraphed Kaotang members pillaged, lives threatened unless ransomed. Officials inert. Troops useless. Implore minister get governor instructed sharp.

RAGSDALE.

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[Inclosure 5.]

*Mr. Conger to the Tsungli Yamen.*

LEGATION OF THE UNITED STATES,

*Pekin, China, November 26, 1899.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to report the receipt of another telegram from the missionaries at Ling Ching, saying that native Christians at Kaotang have been pillaged and their lives threatened unless ransomed; that the officers are inert and troops useless.

From this and other reliable information received, taken in connection with the recent happenings in that vicinity, there can be no question but that the missionaries and native Christians there are in imminent peril, and it is all because the provincial and local officials are not doing their duty.

The United States consul at Tientsin reports that the viceroy, at his request, has sent several telegrams to the governor, but he either does not recognize his authority or fails to obey.

It seems that something more than the stereotyped telegram to take action is necessary to move this official.

I must therefore again demand that your highness and your excellencies will send at once such peremptory and unmistakable orders as will compel this governor to act, or yourselves take such other means as will stop these persecutions and protect the lives and property of these people.

Respectfully requesting that I may be early informed of the action taken, I renew to your highness and your excellencies the assurance of my highest consideration.

E. H. CONGER.

[Inclosure 6.]

*Mr. Fowler to Mr. Conger.*

[Telegram.]

CHEFOO, November 27, 1899.

Two long telegrams to-day from Chinanfu. Situation extremely critical; governor sent thousand soldiers; useless; no restraint; Kaotang official refuses foreigners letters; rioters pillaging, arresting, intimidating, threaten death Protestant converts; they ask legation force governor act or superseded; Ping Yuen ringleaders unarrested.

FOWLER.

[Inclosure 7.]

*Mr. Conger to the Tsungli Yamen.*

LEGATION OF THE UNITED STATES,  
Pekin, China, November 27, 1899.

YOUR EXCELLENCIES: I am obliged to inform your highness and your excellencies that, notwithstanding the three notes already sent you from this legation regarding the extremely critical situation of the missionaries and native Christians in the vicinity of Pang Chuang and Ling Ching, province of Shantung, I am to-day in receipt of telegraphic information that rioting, pillaging, seizing, intimidating, and threatening death to Protestant converts still continue without restraint, and that the Kaotang official refuses to receive letters from the missionaries, and that no arrests have been made.

I have no doubt that your highness and your excellencies are giving due consideration to the alarming situation, but, in my judgment, every moment's delay is fraught with great peril, the responsibility for which can not be escaped.

I again ask your highness and your excellencies to kindly give me *immediate* information as to what measures have been taken to protect these people, in order that I may telegraph them a word of encouragement or otherwise advise them, as the situation is critical.

I avail myself of the occasion to assure your highness and your excellencies of my highest consideration.

E. H. CONGER.

[Inclosure 8.]

*The Tsungli Yamen to Mr. Conger.*

PEKIN, November 30, 1899.

YOUR EXCELLENCY: We have the honor to receive your excellency's note wherein you state that the missionaries at Ling Ching have telegraphed you saying that native Christians at Kaotang have been pillaged and their lives threatened unless ransomed, and that the officers are inert; that the United States consul at Tientsin reports that the viceroy, at his request, has sent several telegrams to the governor, but he fails to obey. Your excellency requested that peremptory orders be at once sent as will compel this governor to act and protect the lives and property of these people.

In reply we beg to inform your excellency that the yamen at once telegraphed the governor of Shantung ordering him to at once cause a thorough investigation made into the affair, and to dispatch soldiers, to use every means to suppress the rioters, that the matter must be not regarded as trifling and careless action taken, and that the local officers must not gloss over or make an external show of work that misleads, thus causing a failure in attending to the affair.

On receipt of the governor's telegraphic reply we will again address your excellency. Cards of ministers with compliments.



[Inclosure 9.]

*Mr. Conger to the Tsungli Yamen.*LEGATION OF THE UNITED STATES,  
*Pekin, China, December 2, 1899.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to report to your highness and your excellencies the receipt last evening of the following telegram from Rev. Arthur Smith, an American missionary, which I at once placed in the hands of one of your secretaries at the Tsungli Yamen through Mr. Interpreter Cheshire. The telegram reads:

“Boxer rebellion, twenty counties Shantung, Chihli; rapidly spreading; pillage, arson, murders increasing; avowed object kill Christians, exterminate foreigners; Pang Chuang, Lin-Ching, Chinanfu Americans consider situation almost hopeless; reply awaited.

“SMITH.”

This telegram was translated by Mr. Cheshire at the yamen last evening. He made a mistake, however, in translating the Chinese name of Mr. Smith.

This telegram shows that notwithstanding the orders of your highness and your excellencies to the governor the situation is rapidly growing worse and that the danger is increasing all the time. Something effective must be done or this matter will get beyond your control, and I again demand that another telegram at once be sent to Shantung and that measures requisite to the protection of these people be immediately taken as provided for by the treaties.

I avail myself of the occasion to renew to your highness and your excellencies the assurance of my highest consideration.

E. H. CONGER.

[Inclosure 10.]

*The Tsungli Yamen to Mr. Conger.*

No. 126.]

PEKIN, December 1, 1899.

YOUR EXCELLENCY: We have had the honor to receive the several notes from your excellency embodying telegrams received from the American missionaries at Lin Ching, etc.

The yamen sent a telegram to the governor of Shantung ordering him to at once cause a thorough investigation into the affair and to use every means to suppress the rioters. The action thus taken was duly communicated to your excellency.

We have now received a telegraphic reply from the governor of Shantung, as follows:

“The said rioters commenced stirring up trouble at Ping Yuen. Soldiers were deputed to suppress the rioting. The rioters did not disperse and the soldiers opened fire and killed over thirty of their number. Some of the people of Ping Yuen were wounded by mistake. I memorialized the Throne, impeaching the officer for the mistake committed. The rioters then went to Ch’ih Ping and a battalion of soldiers from the brigade general’s and Taotai’s forces were dispatched to suppress them. This was done. The Boxers then passed through Pang Chuang (village) and were met by the Christians, who first opened fire on them and chased and tried to capture them. The Boxers returned the attack and burned a missionary chapel. Later, on account of this affair, the Boxers again assembled together. I devised a plan to buy a clew toward the discovery of the rioters, and to accomplish this end I was not sparing in spending money. Two of the leading rioters, Chen Hung-teng and a priest of the Teng Chia Ssu (temple) were arrested. At Po Ping and Kao-tang there are soldiers patrolling with stringent orders to arrest rioters. The missionary cases brought to my notice are numerous, and immediate action is always taken. Whether by day or night every effort has been put forth.

“In the yamen’s telegram of the 27th November the United States minister, Mr. Conger, remarks that the missionaries telegraph that the governor of Shantung ‘fails to obey’ and is not protecting the people, and that he is reported to have arrested and threatened (the officer in charge of the troops who dispersed the rioters) with severe punishment. Who made these statements? The missionaries have believed rumors without foundation of fact. I beg the yamen will tell his excellency Mr.

Conger not to listen to the one-sided statements of missionaries, but to instruct them to restrain and keep the native Christians in order, which is important."

We send the above telegram for the information of your excellency, and would ask you in turn to instruct the said missionaries to restrain and keep their converts in order and that they must not again cause trouble.

Cards of ministers, with compliments.

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[Inclosure 11.]

*The Tsungli Yamen to Mr. Conger.*

PEKIN, December 3, 1899.

YOUR EXCELLENCY: We beg to inform your excellency that on the 30th of November the yamen received a telegraphic message from the governor of Shantung, as follows:

"The Boxers and the Christians do not get on together. I have again and again admonished them to make peace with each other, and the Boxers have gradually returned to their homes. I learn that while some of the Boxers were returning to their homes they passed through the Han-chuang (village), in the district of Yu Cheng. The Christians had set an ambush there and attacked the Boxers with rapid-firing guns, resulting in ten and more persons being killed. The Christians stole their ponies. In order to ascertain whether this report was true or not, I was just on the point of investigating the affair when I received from the magistrate of Yu Cheng, Mr. Hsiang, a petition setting forth in the general similar representations to what I had heard. A feeling of ill will has been contracted among these people which is becoming more intense every day, and from this time on the Boxers may again congregate together, and (that) in the future they will seek their revenge is a matter that can not be avoided."

In sending this note to your excellency for your information, we ask that you will instruct the Christians of said place that they must not make trouble out of nothing, in order that cordial good feeling may prevail among the people and themselves.

Cards of ministers, with compliments.

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[Inclosure 12.]

*Mr. Fowler to Mr. Conger.*

[Telegram.]

CHEFOO, December 4, 1899.

Hamilton wires looting continues, violence increasing, burning converts' houses. Forty-five families looted to date. Governor refuses to hear his subordinates or Americans.

FOWLER.

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[Inclosure 13.]

*Mr. Fowler to Mr. Conger.*

[Telegram.]

CHEFOO, December 4, 1899.

Hamilton telegraphs governor inactive. Audacity rioters increasing. Saturday, 20 miles from Chinan, fourteen families looted; troops 2 miles away without aid.

FOWLER.

[Inclosure 14.]

*Mr. H. P. Perkins to Mr. Conger.*LIN CH'ING CHOU, SHANTUNG, *November 25, 1899.*

DEAR SIR: We are sending you to-day a telegram, which we follow with this letter, giving you a fuller view of our situation.

Hitherto, though living in much anxiety, we have refrained from adding to yours; but now that all four adjacent districts are involved in the same storm, and we ourselves are threatened, we are obliged to report and appeal to you for all the help you can give our converts and ourselves.

In the district of Po Ping, in the village of of Tau Lu Chuang, live two of our members—heads of families. They were raided on the morning of the 22d, and report that they lost practically everything. To redeem their houses from being fired they were, at last accounts, offering 300 taels.

In the same village the property of two women was taken, but was followed up by the owners, who asserted that they were neither Roman Catholic nor Protestant members, and all their goods were sent back.

A blind man in a near village, whom we do not claim as a member, but who gave us his name several years ago as wishing to join us, was caught, beaten, and finally released from further damage by paying 47 taels.

At Ch'ing Ping, in the Liuchia Hai Tse, six families, known as our members, have been attacked. Two hundred taels is demanded, and probably, though they are very poor, the larger part will be extorted.

Probably by this time all our members and probationers in these two districts have been attacked, or if not, for the simple reason that they have hidden their furniture, torn out their doors and windows, and have attempted to hide themselves from the Boxers.

To the north are the districts of Ch'ing Ho, in Chili, and Hsia Chin, in Shantung (northeast). This same society, known as the I Ho Ch'uan or Tao Hui (United Boxers or Big Sword Society), are reported as holding nightly meetings and preparing to attack all foreign converts. Only some ten days since the Hsia Chin official sent a good proclamation to the town where they have an out station, but the Boxers there are increasing in numbers and bad language. The dangerous feature of the situation is that this society and the public generally have discovered that the district officials are paralyzed. The governor sends out soldiers with strict orders not to fight, and the end of this evil policy is far beyond our vision.

The leader of the village militia, in the place where the blind man lives, called upon the district official and asked for instructions. The reply was: "Our own people we will protect; the foreigners' converts we will not protect." The Ch'ing Ping official sent this message to the Boxers: "Save my face and don't come into the city. No foreign converts live within the walls."

In conclusion, it is our deliberate judgment that to waken these officials from this deadly stupor most strict orders from Pekin must be sent both to Chinan and to the district officials of all this region, and the notification that they will be held responsible for all loss and harm coming to all who are raided, irrespective of their religious connections. Once more the officials, we believe, must arrest the leaders and keep them in confinement before this rebellion can be suppressed.

There are now living in this place four families and the Wykoff sisters, from Pang Chuang. Besides the two families of the American Board Mission (F. M. Chapin, H. P. Perkins) there are of the independent mission of Mr. Houlding, his family, and that of Mr. McCann and Miss Jones; in all, nineteen persons.

We all live outside the walled city. The independent mission is located opposite the military colonel's yamen, and we hope will prove a safer place than our own compound in case of attack.

We shall be exceedingly loath to leave this place, which, indeed, is practically impossible. We hope that very firm and persistent pressure by all the powers concerned in Pekin will speedily result in extirpating this very formidable rebellion.

We do not feel sure that the spirit of this uprising is distinctly antforeign, but we are sure that these society people believe that they can pillage all members of the Roman Catholic and Protestant connections, as well as their foreign teachers, with impunity.

For the American citizens residing in Lin Ch'ing.

H. P. PERKINS.

[Inclosure 15.]

*Mr. Conger to the Tsungli Yamen.*LEGATION OF THE UNITED STATES,  
*Pekin, China, December 5, 1899.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: Notwithstanding the repeated telegrams from the governor of Shantung that he was dispatching soldiers, preserving order, and protecting the lives and property of the missionaries and their native converts, and notwithstanding the assurance given me by your highness and your excellencies last night that everything possible was being done to put down the rioters, yet I have this moment received telegraphic information from Chinanfu that violence is increasing, that converts' houses are being burned, that 43 families have been looted up to date, and that the governor refuses to hear either his own subordinates or the Americans.

There must be some way found to put a stop to this or else the Government of China must acknowledge its utter helplessness. I repeat what I said in our conference last evening—that if this governor will not or can not control the rioters and protect these people he should be removed at once and some one put in his place who can and will, and if he has not military force sufficient to do it, aid should be sent him from the well-drilled troops at Tientsin.

If these troubles were in some far-off province, there might be some excuse for a failure to put them down, but in an adjoining province, almost under the shadow of the imperial palace, and with camps of well-drilled and well-armed imperial troops within easy reach there can be none.

Unless the Imperial Chinese Government take some immediate effective measures to suppress these brigands the outside world will be justified in the belief that China is purposely trifling with a momentous question, which may lead to the needless murder of foreigners whom she has agreed to protect and to the most serious trouble for herself.

I hasten to send to your highness and your excellencies this latest information, to give you another warning, and to repeat once more my emphatic demand that some measures be taken at once which will put a stop to these persecutions and avert threatened danger.

I avail myself of the occasion to renew to your highness and your excellencies the assurance of my highest consideration.

E. H. CONGER.

[Inclosure 16.—Telegram.]

*Mr. Conger to Mr. Smith.*

PEKIN, December 7, 1899.

Yuan-shih-kai appointed governor Shantung.

CONGER.

*Mr. Conger to Mr. Hay.*

No. 304.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, January 2, 1900.*

SIR: I have the honor to transmit herewith translation of an imperial circular and decree which have recently been sent to all the vice-roys, Tartar generals, and governors, but which has only just come to light.

It would be a hopeful indication for the future of the Empire if China either could or would carry it out, which is neither probable nor possible.

It, however, may give some encouragement to local officials, inspire them with some measure of confidence in the Central Government, and by so much strengthen the hands of the present unpopular dynasty.

I have the honor to be, etc.,

E. H. CONGER.

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[Inclosure 1.]

*Circular dispatch from the Tsungli Yamen sent to the Viceroy and Governors of the maritime and Yangtze provinces.*

As the Italians have not had their ambitions gratified in respect to the cession of Sanmen Bay to them, it is apprehended that they may try to seek opportunity for seizing other portions of the coast. Moreover, the arbitrary and aggressive actions of the French at Kuang-chouwan, where they are stirring up disturbances in order to obtain further pretexts for demanding concessions from the Imperial Government, may lead to actual hostilities between China and France. It behooves us, therefore, to exercise the utmost vigilance and watchfulness to guard against sudden aggression and to be always prepared to resist an enemy. Your excellency is therefore urged to enjoin all this upon the generals and commanders of troops garrisoning important points within your jurisdiction, and not only this, but to be prepared also to give aid to your brother viceroys and governors, whose territories adjoin your own. It has been an evil practice among the high provincial authorities to consider that the duty of any one of them lies only in guarding safely the region lying within his own jurisdiction, ignoring the crisis that may be taking place in the next adjoining provinces, forgetting that his neighbors being overcome his turn for overthrow becomes a near possibility. This lack of union is lamentable, but it must not be continued from this date. This yamen has received the special commands of Her Imperial Majesty the Empress Dowager and His Imperial Majesty the Emperor to grant you full power and liberty to resist by force of arms all aggressions upon your several jurisdictions, proclaiming a state of war, if necessary, without first asking for instructions from Peking, for this loss of time may be fatal to your security and enable the enemy to make good his footing against your forces. Finally, your excellency will be held responsible for any repetition of indecision or too great trustfulness in the declarations of an encroaching enemy, such as happened, for instance, to General Chang Kao-yuan in Shantung.

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[Inclosure 2.]

*Secret edict of the Empress Dowager issued to the Viceroy, Governors, Tartar generals, and provincial commanders on November 21, 1899.*

Our Empire is now laboring under great difficulties, which are becoming daily more serious. The various powers cast upon us looks of tiger-like voracity, hustling each other in their endeavors to be the first to seize upon our innermost territories. They think that China, having neither money nor troops, would never venture to go to war with them. They fail to understand, however, that there are certain things which this Empire can never consent to, and that, if hardly pressed upon, we have no alternative but to rely upon the justice of our cause, the knowledge of which in our breasts strengthens our resolves and steels us to present a united front against our aggressors. No one can guarantee under such circumstances who will be the victor and who the conquered in the end. But there is an evil habit which has become almost a custom among our viceroys and governors which, however, must be eradicated at all costs. For instance, whenever these high officials have had on their hands cases of international dispute all their actions seem to be guided by the belief in their breasts that such cases would eventually be "amicably arranged." These words seem never to be out of their thoughts; hence when matters do come to a crisis, they of course find themselves utterly unprepared to resist any hostile aggressions on the part of the foreigner. We, indeed, consider this the most serious failure in the duty which the high provincial authorities owe to the Throne, and we now find it incumbent upon ourselves to censure such conduct in the most severe terms.

It is our special command, therefore, that should any high official find himself so hard pressed by circumstances that nothing short of war would settle matters he is expected to set himself resolutely to work out his duty to this end. Or perhaps it would be that war has already actually been declared; under such circumstances there is no possible chance of the Imperial Government consenting to an immediate conference for the restoration of peace. It behooves, therefore, that our viceroys, governors, and commanders in chief throughout the whole Empire unite forces and act together without the distinction of particularizing of jurisdictions so as to present a combined front to the enemy, exhorting and encouraging their officers and soldiers in person to fight for the preservation of their homes and native soil from the encroaching footstep of the foreign aggressor. Never should the word "peace" fall from the mouths of our high officials, nor should they even allow it to rest for a moment within their breasts. With such a country as ours, with her vast areas stretching out several tens of thousands of li, her immense natural resources, and her hundreds of millions of inhabitants, if only each and all of you would prove his loyalty to his Emperor and love of country, what, indeed, is there to fear from any invader? Let no one think of making peace, but let each strive to preserve from destruction and spoliation his ancestral home and graves from the ruthless hands of the invader. Let these our words be made known to each and all within our domains.

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[Telegram.]

*Mr. Conger to Mr. Hay.*

PEKIN, *January 5, 1900.*

An English missionary murdered in Shantung. Imperial edict issued expresses regret; orders punishment of murderers and derelict officials.

CONGER.

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*Mr. Conger to Mr. Hay.*

No. 307.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, January 6, 1900.*

SIR: I have the honor to confirm on the overleaf my telegram of yesterday concerning the murder of the English missionary, Rev. S. M. Brooke.<sup>1</sup>

He had been to spend Christmas with some friends, and while returning to his station, Tainanfu, he fell in with the Boxers, who took him prisoner on December 31 and on January 1 beheaded him and threw his naked body in a ditch.

The tsungli yamen reports that as soon as Governor Yuan Shih-kai learned of his capture he dispatched soldiers from Chinanfu to secure his release, but they were too late. As soon as news reached the Throne an imperial decree, translation of which I inclose, was issued expressing regret for the murder and ordering the arrest and punishment of the criminals, and also the punishment of the delinquent officials, which decree was immediately telegraphed to the governor of Shantung.

I received telegraphic information of the murder on the 4th, and immediately sent a strong note to the tsungli yamen.

The British minister, upon learning of the capture of Mr. Brooke, sent immediately to the Tsungli Yamen and learned there of the murder.

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<sup>1</sup>Printed ante.

He is at present awaiting further particulars, and the result of the efforts to arrest and punish the criminals and officials.

This affair, I think, has at length aroused the authorities here to the extreme gravity of the situation, and I believe now that the uprising will be put down.

About the time of the arrival of the new governor at the capital three of the Boxers were decapitated, which it is believed only enraged the rest and caused them to rally in greater force, but Governor Yuan Shih-kai is said to have decided that punishment by death is the only way to restore order, and it is expected that he will now proceed with sufficient severity to accomplish this result.

Since my dispatch No. 289, of December 7 last, I have several telegrams and letters from the missionaries reporting further persecutions and robberies of the native Christians, which have been laid before the Tsungli Yamen in personal interviews, they each time promising to send telegraphic instructions ordering troops to the localities; but they either did not fully appreciate the critical situation or else the delay in installing the new governor permitted the uprising to spread and gain its present strength.

I have several times urged that they were moving too slow, and that there was great danger of the trouble getting beyond their control and of foreign lives being taken, and I informed them that I should hold them to a full responsibility for the results.

It is to be hoped that the crisis has now been reached, but of that no one can be certain. I have, however, advised the missionaries not to travel about until quiet is restored.

I inclose translation of a note received from the Tsungli Yamen on December 11 last.

I have the honor to be, etc.,

E. H. CONGER.

P. S.—Since writing the above I have been informed that the Chinese Government has ordered 8,000 soldiers from Tientsin to the province of Shantung.

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[Inclosure No. 1.]

*Imperial decree published in the Peking Gazette, January 4, 1900.*

Yuan Shih-kai has memorialized us by telegraph that in the districts of Pingyin and Pacheng the banditti have assembled in large numbers and created trouble. These outlaws forcibly took a missionary to a place called Mao Chiapu. The acting governor adopted various means to secure the release of the missionary, and dispatched a contingent of cavalry to seize the outlaws, but he failed to accomplish his purpose, as the missionary had already been murdered. The death of this missionary is greatly to be lamented.

The treaties provide for the propagation of the Christian religion by foreign missionaries, and repeated decrees have been issued by Us calling upon the viceroys and governors to instruct the local authorities, as occasion and circumstances make it necessary, to zealously and energetically afford all proper protection to these persons.

Our injunctions and orders have been repeatedly issued. But a missionary has now been murdered in Shantung. The civil and military officers before the murder happened were relax in taking precautionary measures, and they can not evade responsibility for what has happened.

If the persons concerned in this murder case are not quickly arrested, then affairs will still be going all wrong.

Let Yuan Shih-kai present to Us, without delay, the names of all the delinquent

military officials, so that they may be impeached and punished. At the same time a limited time will be given to arrest the murderers, so that they may be severely dealt with, to the end that tranquillity may prevail and thus give force to our friendly feeling toward a neighboring state.

[Inclosure No. 2.]

*The Tsungli Yamen to Mr. Conger.*

No. 131.]

PEKIN, December 11, 1899.

YOUR EXCELLENCY: We have the honor to acknowledge the receipt of your excellency's note of the 5th instant in regard to the troubles in Shantung.

In reply we have the honor to state that before your excellency's note was received by the yamen, a decree was issued appointing the Vice-President Yuan as acting governor of Shantung.

This officer is in command of the new army corps styled Wu I, and he will certainly be able to distribute the troops to various places to suppress the rioters, give due protection, and restore order, so that the Christians may feel easy in their minds.

Cards of ministers with compliments.

*Mr. Conger to Mr. Hay.*

No. 312.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, January 15, 1900.*

SIR: I have the honor to inclose herewith a translation of an imperial decree published on the 11th instant, which has special reference to the missionary troubles in the province of Shantung.

It is believed by some to be a considerable step backward from the decree of the 4th instant, of which I transmitted a copy in my dispatch No. 307, of the 6th instant, and that the Throne believing the first decree was a little too severe or sweeping, this has been issued as a sort of tranquilizing measure, that the so-called "Boxers" and other secret organizations, reading between the lines, will find a degree of encouragement and will continue their persecutions and depredations, and so the decree will do more harm than good.

This is particularly the view of the German minister, and he has, in consequence, made a verbal protest to the Tsungli Yamen.

I confess that I myself have some anxiety as to the effect of its strange wording; but since we have been so strongly assured that the rebellion would be at once put down, and that General Yuan Shih-kai, the newly appointed governor, was just the man to do it, I have thought best to presume that they mean what they say and to let them have a reasonable chance to accomplish it before pressing them further.

The English minister shares my view of the matter, and for the present we shall neither of us take any formal action concerning this last decree.

I have the honor to be, etc.,

E. H. CONGER.

[Inclosure 1.]

*A decree published in the Peking Gazette January 11, 1900.*

Recently the practice of robbery and pillage has increased very much in all the provinces. Repeated missionary cases have occurred, and these have in most instances been attributed to the acts of leagues or societies of bad characters, rebels, etc. We



have been requested to cause that these outlaws be rigorously arrested and severely dealt with.

It must be borne in mind, however, that a discrimination should be made in the nature and object of leagues or societies. There are reckless and worthless fellows who associate themselves together and become joined in sworn brotherhood and, relying on their numbers, create trouble and make disturbances. Persons who league together for such purposes the law certainly can not pardon.

If law-abiding and loyal people, attending to their proper duties of life, should combine together to study and practice the skill of experts in any art of science (of militia) for the purpose of serving their own protection, or where villages band together for the mutual protection and guarding their villages and hamlets, this is moreover nothing more or less than carrying out the duty of keeping watch and rendering mutual help.

Should the local officers, when cases occur, not exercise extra care in making a due discrimination between them, and carelessly listen to rumors, and regard all societies as being composed of evil doers, and punish men recklessly with death, this would result in there being no discrimination made between the good and the bad. The people's minds would therefore be in fear and doubt, as the good and the bad would be treated alike. Not only would the temper of the people be disquieted, but the action of the officials would be bad and improper.

Our dynasty has manifested great kindness and love toward our people for over two hundred years. The people have been eating the produce and living on the soil, and they have all been imbued with natural goodness. How is it, then, that they willingly become banditti and create trouble and thus seek punishment? The whole matter rests on the viceroy and governors of the provinces, who should be cautious in the selection of virtuous officers, and reform and put in order the administration of the local places, so that the people may be at rest and live in tranquillity.

When cases of litigation arise between Christians and non-Christians, they should be dealt with in a just and equitable manner and not the least partiality shown. The officials should try to give full satisfaction to the general wishes of the people, and then when cases arise they will naturally be able to fully conciliate the popular feeling. Whenever the Christians and non-Christians have cases which they consider of great importance, these may be reduced or changed into cases of minor importance, and in the same way there may be cases among the Christians and non-Christians that after all turn out to amount to nothing at all. A strong foundation of administration of government and good relations between foreign powers rest on this (i. e., peace and quiet prevailing).

All the viceroys and governors have been the recipients of our greatest favor, and they should act in concert with us and consider the difficult questions of the present time. They should be in sympathy with the Court and exercise kindness toward the masses in like manner as ourselves. They should vigorously interest the local officers to deal with this class of cases (missionary cases). They should ascertain if they (the parties to the case in hand) are banditti or not, and whether they have caused trouble or not—it makes no difference as to what band, league, or society they belong to, or whether they are Christians or not.

The people should protect and guard their own native places and their households. They should not listen to idle rumors which lead to calamities and the movement of troops. They must not presume or act on their own authority and insult their village neighbors. Thus quiet and peace will prevail, and our mind, which is exercised both night and day, be relieved. This is our earnest desire.

Let this decree be promulgated for general information.

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*Mr. Hay to Mr. Conger.*

No. 223.]

DEPARTMENT OF STATE,  
Washington, January 18, 1900.

SIR: I inclose herewith a copy of a letter from Rev. Judson Smith, foreign secretary of the American Board of Commissioners for Foreign Missions, requesting the Department to take such steps as will secure for the American missionaries in the province of Shantung, China, protection against the dangers threatening their persons and property, as set forth in the inclosure to Mr. Smith's letter.

You will do what you can for the protection of these American citizens.

The statement of Rev. Arthur H. Smith discloses incompetence or worse on the part of the Manchu governor, and suggests that no amelioration of the situation is likely or even possible, until he be replaced by an energetic man in sympathy with the Peking authorities.

You will report if any of your diplomatic colleagues are making or propose to make similar representations.

I am, etc.,

JOHN HAY.

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[Inclosure.]

*Mr. Smith to Mr. Hay.*

AMERICAN BOARD OF COMMISSIONERS FOR FOREIGN MISSIONS,  
CONGREGATIONAL HOUSE, No. 14 BEACON STREET,  
*Boston, January 11, 1900.*

SIR: Permit me to inclose herewith a private communication just received from one of our American missionaries resident at P'ang Chuang, in the province of Shantung, China. The situation which is described in Dr. Smith's letter is one of great hazard to himself and wife and his associates at P'ang Chuang, to another group of missionaries at Lin Ching, 55 miles distant, and to another group of American missionaries at Chinan-fu, the provincial capital of the province of Shantung.

Dr. Smith's letter states the situation so fully that any extended comment is needless. The root of the present difficulty and the danger in the present situation are found alike in the governor, who has control of the military force in this region, and who at present seems to be acting in collusion with the rioters, the so-called "Boxers." Dr. Smith and his associates have been in constant communication with the United States consul, Mr. Ragsdale, at Tientsin, and through him with the United States minister at Peking, Mr. Conger.

This communication is sent to you in the hope that our Government may see fit to communicate with Mr. Conger at Peking, and to give to him any additional instructions that may seem to be necessary to make every exertion within his power for the protection of the lives of our American missionaries in Shantung which are imperiled, and to call upon the representatives of other governments at Peking to unite with him in such demand. If the offending governor were removed by the Chinese Government at Peking upon the representations of the foreign embassies, and his place taken by one who would make due exertion for the protection of the lives of foreigners, it would seem to meet the case precisely.

I ought to add that four American missionaries are resident at P'ang Chuang, and have property valued at from \$30,000 to \$40,000. At Lin Ching there are ten American missionaries, with a property valued at about \$25,000. At Chinan-fu I can not state the number, but it is not less than five or six American missionaries with valuable property.

Without dwelling at greater length upon the situation, and fully assured of the readiness and power of our Government to devise suitable remedy in the case proposed,

I am, with great respect, etc.,

JUDSON SMITH,

*Foreign Secretary American Board Commissioners Foreign Missions.*

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[Sub-inclosure.]

P'ANG CHUANG, SHANTUNG, CHINA, *November 27, 1899.*

DEAR MR. SMITH: You have heard in some detail from Dr. Porter of the strange state of things in our once peaceful parish, now full of rude alarms and of the most appalling rumors on every tongue. We are glad that the Misses Wykoff could go to Lin Ching for the winter, where there seemed to be work to be done, whereas there is nothing here outside of our compound, to which not many come, except on Sundays. It is no longer prudent to go to villages, even for us, as it is certain to disturb the peace of those to whom we might go, more than we could do them good. This

particular county is more quiet by far (externally) than a month ago, and the magistrate has been very friendly. But on the 18th he sent over a man to advise us to leave the place and go to a house in Te Chou, which he offered to rent for us. We declined, as Dr. Porter had done when the previous offer was made, on the ground that we could no more desert our post than the magistrate can his. The particular alarm was a large body of "Boxers" gathered in Ch'ih P'ing, just the other side of Kao T'ang, the next county south of this. Since then we have had the most alarming rumors from Kao T'ang of the danger to our people there. Three families were looted last week in a village 25 li southeast of the city, and two days later a messenger came hurrying in to say that two more villages were held up for immediate and impossible ransom, and if this was not paid the families would be looted and their dwellings burned and the helper (Mr. Ma) killed. It is reported that a Roman Catholic preacher was lately beheaded on refusing to recant, and his head carried about on a pole.

Since the foregoing was written, Mr. Ma, the Kao T'ang helper, has reached here a refugee, who dare not be seen near home, as his life is wanted, and perhaps that of two colporteurs also. The members who can do so have all removed from their homes and hidden their effects, but this is difficult, as no one will take them in, as they fear pillage for harboring them.

In the P'ing Yuan district, where Li Lu Chuang was raided six weeks ago, our people in other villages are in great terror. One of them came last week to say that a ransom was demanded from his (heathen) father, else they would all be raided. A teacher went to see the official, who said he could do nothing about it. This is the invariable attitude of all the district officials, who are really very helpless in presence of this growing rebellion. It is all due to the evident sympathy felt for the Boxers by the Manchu governor, who was indignant that so many were killed in the fight near October 18, and degraded the prefect who was here, and gave strict orders that hereafter the troops should on no account shoot, which is to make them worse than useless. The ta'o t'ai (the highest executive next to the governor) commanding this third of the province is with the troops at Ch'ih P'ing, and, like the lesser officials, does nothing. If things come to an extremity, the local magistrates send word to the Boxers not to enter the city (so as to save the "face" of the magistrate), and in cases of extremity buy them off, leaving all outside the city to its fate.

Sincerely, yours,

ARTHUR H. SMITH.

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*Mr. Conger to Mr. Hay.*

[Telegram.]

PEKIN, *January 24, 1900.*

Unusual imperial decree published yesterday, summoning all high officials to an audience at the imperial palace to-day. Purpose unknown, but imperial trouble feared.

CONGER.

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*Mr. Conger to Mr. Hay.*

[Telegram.]

PEKIN, *January 25, 1900.*

Imperial decree appoints P'u Ch'un, aged 14, heir apparent.

CONGER.

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*Mr. Conger to Mr. Hay.*

No. 315.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, January 29, 1900.*

SIR: I have the honor to confirm on the overleaf my telegrams of the 24th and 25th instant<sup>1</sup> and to inclose translations of two imperial decrees upon which they were founded.

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<sup>1</sup> Printed ante.

P'u Ch'un, who, by the decree of January 24, has been selected as the Heir Apparent, is the grandson of Prince Tun, a brother of the present Emperor's father and also of the late Prince Kung, who was so long at the head of the tsungli yamen.

When the present Emperor Kuang Su was selected, there was much disaffection and criticism in official circles because he was of the same generation as the Emperor he succeeded and because he was not in the direct line of succession. By naming the present selection the adopted son of the late Emperor Tung Chi the theory is that the direct line of descent will again be established and preserved.

It will be noted that the decree is apparently the voluntary act of the Emperor, yet it is well understood that this, as well as all of his public utterances, are simply expressions of the will of the Empress Dowager, and it is almost universally believed that this is another step toward the early abdication of the Emperor.

The general report on the street is that the abdication will occur on or near the Chinese New Year, which will be the 31st instant.

A brief decree by the Empress Dowager, published yesterday, and a translation of which I inclose, concerning the celebration of the Emperor's next birthday, rather indicates that the abdication is not soon to happen. Yet I shall be prepared to discover that the last decree is only another clever move in some way not yet understood to bring about the retirement of the Emperor.

The event so far has created little excitement among the Chinese, although there are rumors of opposition in the south and in some other parts of the Empire.

I shall keep you advised by telegraph.  
I have the honor to be, etc.,

E. H. CONGER.

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[Inclosure 1.]

*A decree published in the Peking Gazette January 23, 1900.*

Let Prince Kung (P'uwei) and the princes of the third order, Tsai Lien, Tsai Ying, and Tsai Jun, the grand secretaries, the ministers of the presence or grand chamberlains, the ministers of the grand council, the comptroller of the imperial household, the ministers of the Imperial College of Inscriptions and of the office of imperial instruction, the Chinese and Manchu presidents of the six boards, and colonial office prepare for audience to-morrow (January 24).

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[Inclosure 2.]

*An imperial decree published in the Peking Gazette January 24, 1900.*

In our youth, when we were selected to the succession of the Empire, the Empress Dowager carried on the administration of the Government behind the curtain, and she was extremely diligent in the instruction she gave us on important and unimportant questions; in fact, nothing was left undone. After we assumed reins of the Government a different state of affairs presented themselves. We have been most anxious that every energy and effort should be put forth by us for the proper administration of the Government in order to reverently show our gratitude for the kindness we have received from the Empress Dowager and to respectfully aid in performing the important duties intrusted to us by the Emperor Tungchih.

But since last year the condition of our health has been bad, so that the many perplexing questions of government that have arisen has given us occasion for anxiety. But we reflected also on the importance of worship at the Ancestral Temples and

altars to the spirits of the land, and earnestly entreated the Empress Dowager to instruct us in the administration of government. A year and more have elapsed, but we have not regained robust health.

We have not been able to go in person to offer the great sacrifices at the temples of Heaven, Earth, Sun, and Moon, or to perform worship at the Ancestral Halls and at the altars. Since the country has been confronted with so many perplexing questions we have observed that the Empress Dowager, both night and day, has been worrying and shown anxiety, and she has had no time free from care.

We have tried to comfort my body and save myself trouble, but to no avail, and even when eating and sleeping I have found it difficult to get repose. We reverently reflect on the difficulties attending our ancestors in creating and perpetuating the Government, and we are very much afraid that we are not able to bear the responsibility of our office. To recall the time when we were selected to succeed to the Throne, we remember that the Empress Dowager issued a decree that on our having a son born to us he would be appointed the adopted son of the Emperor Tungchih. This is well known to both our ministers and people of the Empire. But we were afflicted with a chronic disease and it would, in consequence, be difficult to have a son born to us, and the Emperor Tung would therefore have no descendant. This concerns the succession of the Dynasty, and is a matter of the greatest importance. We have anxiously thought about this matter and find that we have not a leg to stand upon. With all my ailments how can we hope for a complete cure? We thereby implored My Sacred Mother to cautiously select from the imperial clansmen a near relation of good character to be the adopted son of the Emperor Tungchih, so that in future he may succeed to the Throne. We implored and implored Her Majesty, and finally she gave ear to our prayer and assented to P'u Ch'un, son of Prince Tuan (Tsai-I) being adopted as son and Heir Apparent of the Emperor Tungchih.

Having received the Empress Dowager's rescript giving her assent, we must say that our gratitude is inexpressible, and we carefully obey Our Mother's instructions and appoint P'u Ch'un, son of Tsai-I, as son of the Emperor Tungchih, thus continuing the succession of our Dynasty.

Let this decree be universally promulgated for general information.

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[Inclosure 3.]

*A decree issued by the Empress Dowager and published in the Manuscript Peking Gazette on the 28th of January, 1900.*

Next year (July 22, 1900) the Emperor will have reached the thirtieth anniversary of his birthday, and it is right and befitting that the occasion should be celebrated by the observance of proper ceremonial.

Let all the proper yamens examine the precedents and fixed usages as to the ceremonial that should be observed on such occasions and memorialize us on the subject.

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*Mr. Conger to Mr. Hay.*

No. 316.]

LEGATION OF THE UNITED STATES,  
*Peking, China, January 29, 1900.*

SIR: Continuing the subject of my dispatches Nos. 307 and 312, of 6th and 15th instant, I have the honor to report that the latest information from Shantung and southern Chihli confirms the general opinion that the Imperial decree of January 11, copy of which was transmitted in my No. 312, was considered by the Boxers and Big Sword societies as in their favor and did give them much encouragement, and that instead of the Imperial decree and orders scattering and suppressing them, their numbers are daily increasing and more serious trouble is threatened.

On the 16th instant it was reported in the Chinese papers that the character of "Fu" (happiness) had been conferred by the Emperor

upon Yu Hsien, the governor of Shantung, for which he had returned his thanks in Imperial audience.

This is the man who, because of his failure to protect the Christians and their property, had, upon our demands, been called to Peking.

I immediately sent Mr. Cheshire to the Tsungli Yamen to inquire if it could be true that this negligent official was being thus honored instead of being punished, as he richly deserved. The yamen replied that it was true that the character had been conferred upon him, but that it was according to Chinese law, and it was a common practice to confer this character, as well as that of "Shou" (longevity), upon high officials, etc.

I was not satisfied with this, and becoming convinced that the Imperial authorities were trifling with this question, which was so imminently threatening our missionaries, their converts, and the property of both, I took occasion, in referring to the still unpunished criminals in the I Choufu case, in a note sent to the Tsungli Yamen on the 18th instant, to emphatically express my views of the Government's action, calling especial attention to the Imperial decree of the 11th instant and the bestowal of the complimentary character upon the derelict governor, etc.

I inclose copy of the note and translation of the yamen's reply.

Soon after this the French, English, and German ministers received additional details of more serious and increasing attacks upon the native converts of their missions in the provinces mentioned, and a conference of the three ministers and myself was held, at which it was unanimously agreed that the situation was becoming intolerable, and that the Chinese Government was simply trifling with a question of the greatest importance to all of us, and that the only possible hope of suppressing the riots and stopping the persecutions was in the absolute dispersion and abolition of these two societies.

It was therefore decided to cooperate in bringing this about, and we concluded to send to the Tsungli Yamen identical notes, urging such action on the part of the Imperial Government as would certainly accomplish the result.

Such notes from the British, French, German, and American ministers were delivered to the Tsungli Yamen on the 27th instant, and it is proposed to vigorously press the matter. (Copy of note inclosed.)

It may become advisable to have an opportune and contemporaneous appearance of British, French, German, and United States war ships along the Chinese coast in order to emphasize our demands and to frighten the Chinese into a compliance with them.

If it is I shall telegraph you, and I hope arrangements can and will be made with the Navy Department to order them forthwith from Manila.

The Chinese Government really care little for anything but power, and an earnest exhibition of it always promptly moves them.

I have the honor to be, etc.,

E. H. CONGER.

[Inclosure 1.]

*Mr. Conger to the Tsungli Yamen.*

LEGATION OF THE UNITED STATES,  
*Pekin, China, January 18, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to again remind your highness and your excellencies that your promise made me in June last, concerning

the punishment of the ringleaders in the persecution cases at Chi Chou, Jih Chao, and I Swei, have not been carried out by the local officials.

Not only have no further arrests been made since my last note, but even the two criminals then in prison have been released without punishment and are now at large again threatening the Christians, and it is reported that the local officials consider the cases closed.

So far as this legation is concerned the cases are not closed and will not be closed until the ringleaders mentioned are severely and adequately punished as agreed upon.

I must, therefore, demand that Ho Wenchi and Ho Tingmin be immediately arrested, and that Ho Chen Hsi and Ho Laimin be rearrested, and all be forthwith rigorously and adequately punished.

It is perfectly clear that such official neglect as is evidenced in this case may be attributed to the deplorable, lawless, and dangerous condition of affairs throughout the province of Shantung, which has already resulted in the destruction of thousands and thousands of dollars' worth of property, the loss of many Chinese lives, and the murder of Mr. Brooke.

Your highness and your excellencies will remember that I warned you several months ago, both verbally and by note, that just such terrible happenings were certain to occur unless Governor Yu Hsien was compelled to take immediate and effective action.

I was repeatedly assured by your highness and your excellencies that such orders had been sent him; and yet he sat idle, flagrantly disregarding these instructions, and calmly witnessed his province become aflame with rioting, robbery, persecution, and murder, while at the same time he was vehemently protesting that all was quiet, and that missionaries and ministers were only listening to idle rumors.

For this conduct the governor richly deserved the severest punishment and degradation. But, greatly to the surprise and disappointment of all foreigners, he has received instead flattering and complimentary reward from the Imperial Throne.

Surely rioting can not be suppressed and persecution stopped in this way.

This can have no other effect than to encourage the Boxer and other lawless organizations in Shantung in their publicly declared and banner-displayed determination to drive out all foreigners and to extirpate Christianity.

It is currently circulated in Shantung and elsewhere that these secret societies, such as the Boxers and Big Knife, actually believe that they have the secret sympathy and indorsement of the Throne; and, unhappily, many sinologues insist that the Imperial decree of the 11th instant in large measure justifies this belief; certainly the Imperial commendation of Governor Yu Hsien furnishes grounds for such opinions.

However, the best proof in the world that this is not the case, and that China desires and is determined to faithfully fulfill all her treaty obligations, will be the speedy suppression of these rioters, the restoration of order, the punishment of the criminals and the derelict officials, and prompt compensation for the property destroyed, thus increasing the good relations between friendly powers.

The treaty powers have a right to demand that this be done, and I, in behalf of my Government, its citizen subjects and their peaceful work in China, do demand it.

Specific demands for the punishment of particular officials, and of leading rioters and persecutors, as well as for compensation for chapels and other property destroyed, will be made in a later note, especially if it shall be found that Governor Yuan Shi Kai does not thoroughly punish and compensate.

In the meantime, and as made infinitely more important by the recent events in Shantung, I repeat my particular demands as to the Chi Chou, Jih Chao, and I Swei cases mentioned above.

I avail myself of the occasion to renew to your highness and your excellencies the assurance of my highest consideration.

E. H. CONGER.

[Inclosure 2.]

*The Tsungli Yamen to Mr. Conger.*

PEKIN, January 21, 1900.

YOUR EXCELLENCY: We had the honor to receive your excellency's note (of January 18) wherein you request the immediate arrest of the criminals in the Chi Chou, Jih Chao, and I Swei cases, namely, Ho Wenchi and Ho Tingmin, who had fled, and the rearrest of Ho Laimin and Ho Chen Hsi, and that they all be forthwith rigorously punished, etc.

In reply we would beg to observe that on the 11th of December we wrote to your

excellency stating that the yamen had communicated with the governor of Shantung, calling upon him to rigorously instruct the officials concerned to arrest without fail the criminals. This is a matter of record. On receipt of a report from the governor of Shantung we will again address your excellency.

As to the reference made in your excellency's note of the character "fu" (happiness) having been bestowed upon Governor Yu by the Throne on his arrival in Peking, we may state that this matter was fully explained personally to Mr. Interpreter Cheshire by Minister Hsu Chingcheng at the yamen on the 16th instant, and it is believed he has already informed your excellency.

Cards of ministers, with compliments.

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[Inclosure 3.]

*Mr. Conger to the Tsungli Yamen.*

LEGATION OF THE UNITED STATES,  
*Pekin, China, January 27, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: Within the last few weeks I have had occasion to address your highness and your excellencies, both by letter and personally, with regard to the deplorable state of affairs which exists in northern Shantung and in the center and south of Chili.

This state of affairs, which is a disgrace to any civilized country, has been brought about by the riotous and lawless behavior of certain ruffians who have banded themselves together into two societies termed the "Fist of Righteous Harmony" and the "Big Sword Society," and by the apathy and, in some instance, actual connivance and encouragement of these societies by the local officials.

The members of these societies go about pillaging the houses of Christian converts, breaking down their chapels, robbing and illtreating inoffensive women and children, and it is a fact, to which I would draw the especial attention of your highness and your excellencies, that on the banners which are carried by these riotous and lawless people are inscribed the words "Exterminate the foreigners."

On the 11th of January an imperial decree was issued drawing a distinction between good and bad societies. The wording of this decree has unfortunately given rise to a widespread impression that such associations as the Fist of Righteous Harmony and the Big Sword Society are regarded with favor by the Chinese Government, and their members have openly expressed their gratification and have been encouraged by the decree to carry on their outrages against the Christian converts.

I can not for a moment suppose that such was the intention of this decree. These societies are, as I have shown, of the most pernicious and rebellious character.

I earnestly beg to draw the serious attention of the Throne to the circumstances above described. The disorders have not yet reached such a stage that they can not be stamped out by prompt and energetic action, but if such action be not immediately taken, the rioters will be encouraged to think that they have the support of the Government and proceed to graver crimes, thereby seriously endangering international relations.

As a preliminary measure, and one to which I attach the greatest importance, I have to beg that an imperial decree be published and promulgated, ordering by name the complete suppression and abolition of the Fist of Righteous Harmony and the Big Sword societies, and I request that it may be distinctly stated in the decree that to belong to either of these societies, or to harbor any of its members, is a criminal offense against the law of China.

I avail myself of the occasion to renew to your highness and your excellencies the assurance of my highest consideration.

E. H. CONGER.

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*Mr. Hay to Mr. Conger.*

No. 228.]

DEPARTMENT OF STATE,  
*Washington, February 1, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 289, of December 7 last, reporting the state of affairs among the missionaries and their converts in the province of Shantung, due to attacks made



upon them by the members of the Chinese faction known as the "Boxers."

While American citizens may be exposed to some danger, they do not seem so far to have suffered either in their persons or property.

The appointment of General Yuan Shih-Kai as governor of Shantung may inaugurate a new era in that province. He is understood to be a man of energy and ability to deal with any questions of this kind that may come before him.

You will insist with the Tsungli Yamen that copies of the orders given to the governor of Shantung in the premises be communicated to you.

I am, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Conger.*

No. 234.]

DEPARTMENT OF STATE,  
Washington, February 20, 1900.

SIR: In connection with previous correspondence in relation to the dangers threatening American missionaries and their converts in the province of Shantung through the lawlessness of the society of Boxers, I inclose herewith, for your information, a copy of a letter from the Rev. Judson Smith, corresponding secretary of the American Board of Commissioners for Foreign Missions, with an inclosure containing further information on the subject.

I am, etc.,

JOHN HAY.

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[Inclosure.]

*Mr. Smith to Mr. Hay.*

AMERICAN BOARD OF COMMISSIONERS FOR FOREIGN MISSIONS,  
CONGREGATIONAL HOUSE, NO. 14 BEACON STREET,  
Boston, February 7, 1900.

SIR: Recalling the recent brief interview which I had with you in Washington, and the request which you made at that time that if additional news of importance should be received from our missionaries in China I should at once advise you of the same, I inclose herewith a copy of a letter just received from Dr. Arthur H. Smith, the same missionary a letter from whom I inclosed in my previous communication. It is clear from this letter that Dr. Smith and his associates at Pang Chuang, Lin Ching, and Chinanfu, all within the province of Shantung, have been in great peril, if, indeed, they are not so at the present time. I am delighted with the warm testimony which Dr. Smith gives to the promptness of Mr. Conger, our minister at Peking, in replying to dispatches and in looking after the personal safety of the missionaries.

Whether something more energetic than has yet been attempted is needed, and in what way such additional effort on the part of our Government should be made if it be deemed requisite, we gladly leave to the discretion of our State Department and of Mr. Conger. It would seem that the presence of United States war ships in Chinese waters might be an added guaranty of safety to American citizens residing in that Empire, under existing conditions.

You will understand that in writing thus to the State Department I speak not for myself alone, but for the officers and members of the American Board, a constituency that includes many hundred thousands of the intelligent and law-abiding citizens of the United States.

Grateful for the protection which has been afforded, and assured that with even greater perils than have appeared the prompt offices of our Government will be employed and will be effectual,

I am, with great respect, etc.,

JUDSON SMITH.

[Sub-inclosure.]

PANG CHUANG, SHANTUNG, CHINA, *December 13, 1899.*

DEAR DR. SMITH: I wrote you a letter soon after our return from the north, giving a little account of the state of things at that time. Ever since we have been living in the midst of the most exciting rumors, varied by urgent telegrams to the minister, and not infrequent replies from him as to what the tsungli yamen had ordered to have done in the most prompt and peremptory way. All this was at the moment a great gratification to us, but as the governor of the province has not paid the least attention to any of the "peremptory" orders which have been issued to him, the result is largely negative, except for the matter of prime importance, that Yuan Shih-Kai has been appointed governor in the place of the incompetent and criminally negligent Manchu who has held it since last spring. It is impossible to say what his motives may be, unless they are hatred of Germans and Roman Catholics. All of the districts about us are in some parts and at times in a condition of lawlessness unprecedented for nearly half a century. I think I wrote you of the pillaging of some of our members in the Kao T'ang district; if not, it was just as I wrote. Since then there has been an incessant stream of complaints of the most bitter sort, such as spoiling of houses and all movable property that could not be carried off or sold at auction to the highest bidder, utterly destroyed, and the families fined a sum of money gauged by what they could possibly pay, as a fee for not having their houses burned down over their heads.

To-day we have heard from the Kao T'ang district of fresh outrages upon one of the well-to-do members, who has been robbed, his son badly beaten, and one of our helpers who tried to interfere was beaten also, how severely we do not certainly know. All this in a county the next south of our own, where there has been a decisive defeat of the Boxers in a small battle. But in each case of this sort the magistrate of the district where the fighting is removed and the military commander reprimanded. About two weeks ago there was a battle between the inhabitants of a Roman Catholic village which had fortified itself against attack and a large company of Boxers, in which 2 of the defenders were killed and nearly or quite 20 of the assailants. Yet at the time the provincial troops were near by, and also the county magistrate, who did not do anything whatever to hinder the assailants, and the troops did not fire a shot.

From the house of Pastor Chia we have word of a like state of things, and he was justly in fear that the chapel there would be destroyed. It was assailed one night by a band of from thirty to forty men armed with swords, who tried to force the gate to "level the chapel," but they were finally persuaded to go away by the assurance of a local Boxer that this was not a bad place, since foreigners do not live there and very seldom come. On this ground it was spared, for the time, though the same party returned on their way back from going to kill a church member, whose life was also spared on account of the petition of some of his friends. It was he who brought us the letter. Mr. Chia is very anxious about getting his family to some place of safety, either "by the sea" or even "beyond the sea." All over that part of the county there is a general impression that there is to be a general rebellion "next year" and the first installments seem to be payable at random. Without teasing you with details of the harassments of the month and more since we returned (not to speak of the two months preceding, when Dr. Porter had the burden alone), I will merely quote the telegrams which we have sent to the consul and the minister, with a few comments.

On the 25th of November we telegraphed to the consul at Tientsin: "Kao T'ang members pillaged; lives threatened unless ransomed; officials inert, troops useless. Implore minister get governor instructed sharp." After this there was no improvement of any kind, and no signs that anything was being done. We had word from Chi Nan Fu of the chaotic state of things in their district, and there was great peril in Lin Ching.

On the last of December we sent the following direct to the minister: "Conger, Peking: Boxer rebellion twenty counties Shantung Chihli rapidly spreading. Pillage, arsons, murders increasing. Avowed object kill Christians, exterminate foreigners. Unless four legations combine pressure P'ang Chuang, Ling Ching, Chi Nan Fu Americans consider situation almost hopeless. Reply awaited." The next day came the following from the minister: "Tsungli yamen has peremptorily ordered governor dispatch soldiers, use every means suppress rioters, afford protection. Conger." A few days before this we had a telegram from Mrs. Wilder saying that 1,500 troops had left Tientsin the day before. This gave the assurance that the Government now recognized that there is something going on in this province requiring imperial handling. The soldiers began to reach Te Chou on the 5th. We supposed

that they were to be at once dispersed to the unquiet districts, and that the immediate effect would be to overawe the innumerable Boxers, now convinced by several actual experiments of their extreme vulnerability, despite the claim of supernatural protection by "immortals."

On the 7th of December we had a dispatch from the minister: "Yuan Shihk'ai appointed governor Shantung. Conger." This contained the "promise and potency" of the settlement of the whole matter—in time; but in the interim, the only effect seemed to be to stir up several devils where there had previously been but one or two. The rumors of impending pillage of our place became so serious, and the aspect so threatening, that our very friendly magistrate sent us almost the whole of the small force of cavalry at his disposal, and 8 foot soldiers.

Hearing of Pastor Chia's troubles, on the 10th of December we telegraphed to Mr. Conger, and in a short time received a reply that the yamen had ordered protection in Shen Chou and Chi Chou (the station of the London Mission, who had telegraphed to their consul and minister).

The evidences that the minister has done all that lay in his power are numerous and encouraging, yet, as already remarked, nothing has any effect on the situation as long as the present governor has not been displaced. There is no evidence that any orders have been received from him at any of the various yamens, and there is accumulating proof that he is still just as obstructive of any real repression of the rebellion as he was three months ago. For a period of three months all the misery and ruin in this part of this populous province are to be laid at the door of this single bigoted and incompetent Manchu. What will be done with him we do not know, but it is not at all impossible that he may be merely reprimanded and put again in office, perhaps in this very province.

The sufferings of many of those who have been pillaged are very great. One of our men came to us yesterday, who was attacked without warning, and his house completely emptied in a short time, even the bricks in the yard being carried off. The doors were taken out of his house, and the windows even pulled loose and sold to whoever would give the largest cash price. At present the five members of his family are in four different places, all of them living as thieves and murderers do, not daring to show themselves by day. The same has been true of the family of Helper Ho, in Ho Chia T'un, who have had to move their goods into dwellings of whoever would suffer them to do so.

A peculiar feature of this business has been the steady requirement of money ransom from everybody who could possibly pay, the land being often mortgaged to raise the sum required. In three villages in Kao T'ang the aggregate thus extorted has amounted to more than 700 strings of cash, equaling in value the combined income of many families for a year. We have heard indirectly that one of our members, who is the treasurer of the county of Wu I, 150 li northwest of here, in Chihli, has been taxed 600 taels. In some instances there are "peace-talkers" from the outside who help arrange the terms, and all these have to be entertained at a "feast," which is given by the person despoiled to his friendly pillagers and their allies, the middle men. This is probably a feature of social life in the Orient to which you may have hitherto been a stranger.

*December 15.*—I mentioned above that we had received urgent letters from Pastor Chia about the barely averted attack on the chapel, schoolhouse, and families there. On the 10th we sent the following to the minister: "Shen Chou Chang Ssu Ma imminent peril unless troops dispatched." The next day, as mentioned above, we had a reply that the yamen had ordered protection of all missionaries in Shen Chou and Chi Chou (London Mission). This word we also dispatched to Mr. Chia by his return messenger. He traveled all night and reached there on the morning of the 13th to find a large force of 150 or more men arrived to demolish the premises, which they proceeded to do in terrible earnest. Chapel and schoolhouse were completely wrecked, not a single object escaping, and parts of the dwelling houses of the Chia family as well were pulled out, everything movable looted, and the rest either sold or destroyed. The rioters threaten to return and despoil all the rest of the church members. The lives of Pastor Chia and his whole family are in great danger and the Boxers threaten to cut them into strips if found. At present they are hiding in several different villages, wherever they can find a place. As he has two grown daughters, one with unbound feet, we are especially solicitous about them all.

We have just sent the following telegram to the minister: "Conger, Peking. Our Chang Ssu Ma chapel demolished 13th. Four families looted completely. Lives pastor family imminent peril. Catholic chapels destroyed daily. Magistrate helpless. No troops. Insurgents innumerable. Headquarters Ch'uan T'ou. Hsien Hsien cathedral threatened 15th." The families looted were Chia's brothers, and

his own. It is threatened that the rioters will return and remove every single brick and tile of the property.

On receipt of this distressing news it is needless to say our "hearts are filled with ashes." The situation in Chihli is now distinctly worse than in this province, as there is no evidence that anything is being done toward the suppression of what is likely to grow into a most formidable movement if not checked. We have written letters repeatedly to the local magistrates, and some of them are outwardly polite, others courteously insulting, but no one of them is able to do anything effective. Yesterday we had a letter of the latter class from the P'ing Yuan magistrate, to the east of us, who affects not to know of the things which have happened in his own county, but will "rigorously investigate" (and then deny the existence of the facts, as per schedule plan). Last week one of our men, living 12 miles west of us, came to us black and blue in consequence of a beating which he had received from the hands of the Boxers who wished to force him to lead the way here so they might kill the "two foreign devils." He refused and in the night made his escape here, and we sent him to the magistrate, where he told his story. It was from this and other alarming indications that the magistrate sent his few cavalymen to guard us as well as the 8 foot "braves." During the past week it was bruited abroad that a great force of the Boxers was to collect east of us to-day, with a view to drill, and presumptively attacking our premises, which have long been a discontent to many counties, as all the relief from their assaults has been due to telegrams from here. We sent word of this to the P'ing Yuan magistrate who summoned the leader of the Boxers for that county, and gave him our letter to read. This happened to coincide with the arrival of the troops at Te Chou, and the numerous rumors that something is at last to be done from Peking. On this account (the Lord having caused them to "hear a rumor") the leaders of the Boxers in the three counties of En Hsien, P'ing Yuan, and Kao T'ang had a hasty meeting day before yesterday, and one of them sent a message to our Pastor Wu, with whom he is acquainted, to come to his village, which Wu did. They then confided to him what the P'ing Yuan magistrate had said, and denied the issuing of the threatening cards which we have had served on our members in the name of these leaders, alleging them to be forgeries, and not sent with their knowledge. What they wanted was some written word from us to the P'ing Yuan magistrate exculpating the leader in that district, perceiving that our telegrams take a very rapid effect. To this we have returned a diplomatic reply, which means very little, but the incident showed us that in this region the crisis seems to have been passed.

The new governor will be some days still on the way, and finding it impossible to get a letter to the general in command at Te Chou (he returned the three letters unopened, though one was sent through the Te Chou magistrate), we yesterday telegraphed to the minister, "Kao T'ang virtual rebellion. No troops. General Chiang Te Chou, pending governor's arrival, declines action. Please get yamen order troops Kao T'ang, En Hsien, P'ing Yuan promptly." This was sent about middle of the forenoon. At 5.30 p. m. the following reply was received at Te Chou, getting here late in the evening: "Telegram received. Yamen sent instructions send troops. Conger." From this you will see that the inexcusable delays in the administration of these great provinces are not due to American citizens or the American minister, who has been a model of efficient promptness. Unfortunately every other link in the long chain is not of this temper, and the result is what I have reported.

*December 18.*—Although the telegram ordering the troops to be distributed was dated five days ago nothing seems to be coming of it, and we are repeating the request. This is on account of a demonstration made two days ago on a village only 2 or 3 miles from here, where we have several members. We tried to prevent the organization of a Boxer "camp" there, but failed. Then having organized they thought it a loss of prestige not to pillage somebody, and set last Saturday for a great assembly there. Over one hundred came, stayed all day, ate and drank and frisked about their big swords. One of the secretaries of our district yamen was in our yard to look after the protection of this place, and he got on a horse and went to the city. In the evening he turned up at that village with a small force of cavalry just in time to nip in the bud the proceedings and to prevent the looting. But after they had succeeded in getting things quieted down there was a revival of the demand for an indemnity, and it is now fixed for 50 strings of cash, to be paid in three days, and we are making a legal case of it. We have some hope that extortions of this kind will have to be repaid by some one, but no one can say.

Very sincerely yours,

ARTHUR H. SMITH.

*Mr. Conger to Mr. Hay.*

No. 332.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, February 26, 1900.*

SIR: I have the honor to transmit herewith a copy of a protest of the American Presbyterian Mission at Chefoo against the movements of the Germans in Shantung.

The Germans have undertaken the building of certain railroad lines and the development of certain mining districts in the interior of the province.

The people don't like it, and some serious conflicts have arisen and others will probably arise in consequence, and it is probable that the general antiforeign sentiment may be thereby increased and, as an indirect result, missionaries and other foreigners suffer. But for this reason we can hardly demand that the Germans retire from the province.

I have the honor to be, sir,

E. H. CONGER.

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[Inclosure 1.]

*Mr. Corbett and others to Mr. Fowler.*

CHEFOO, CHINA, *February 14, 1900.*

DEAR SIR: We, the members of the Chefoo station of the American Presbyterian Mission, feel that through the activity of the Germans in this province of Shantung, in the way of prospecting for minerals and in the laying of railroads, the lives and property of American missionaries and their families are being endangered because of the fact that the natives are bitterly opposed to all movements of this kind, and they make no distinction between foreign nationalities whatever.

To mention a few incidents by way of proof; early last year, because of an attack made on a small party of Germans while on their way from the seacoast to Ichoufu, an expedition of German soldiers were landed to punish the rioters. This occurred within 25 miles of Ichoufu and endangered the missionary families there not a little. We understand that no adequate protection was afforded them, though instructions were supposed to have been given for that purpose. We understand that when our people entered into communication with the commander of said expedition and inquired about protection they were informed that they would have to come to him if protection was necessary. Such protection was worse than useless. Again, last spring, while the senior member of our mission here, Dr. Hunter Corbett, was itinerating in Chimoa, in the territory under German jurisdiction, a party of German soldiers came in conflict with a Chinese mob, in which they killed three of them. As a consequence the relatives and friends of the killed went up and down through the country seeking some foreigner on whom they could wreak revenge, and Dr. Corbett encountered great danger. Last autumn a German prospector and his two German followers came in conflict with some Chinese wheelbarrow men near the city of Taianfu. The natives claimed that one of their number had been killed by them and followed them to Taianfu, where they stirred up the city, and thus endangered the lives of American missionaries who live there, and with some of whom this German party stopped overnight. Since then an English missionary, the Rev. S. M. Brooke, was brutally murdered in that region. Just recently some German mining engineers were attacked by a band of rioters about 15 miles from Weihsien, and after killing three of the rioters and wounding many others they fled to the American Mission compound at Weihsien, being pursued to within 7 miles of the place.

While we think that our friends in the interior did perfectly right in thus obeying the dictates of humanity in receiving these men and doing all they could for them in their circumstances, we feel, on the other hand, that it should be remembered on the part of the Germans that by such actions they are exposing American citizens and their families to danger, who, on account of their ladies and children, could not so easily escape for their lives as in case of themselves, armed and unencumbered as they are.

In view of these circumstances, we, as American citizens, do respectfully request that our Government bring this state of affairs to the attention of the German Government and ask them to instruct their representative in this province not to needlessly expose American citizens to risk, and that in case they are thus endangered by them, whether directly or indirectly, they see that adequate protection is afforded them. We feel that this is no more than just, especially in view of the fact that for forty years American missionaries have been carrying on missionary work in this province in accordance with treaty rights and that with comparatively little molestation, but now, since the entrance of the Germans into this province, our lives, property, and work have been more or less endangered, and that therefore the German Government should see that we are adequately protected, whether by the native authorities or by themselves.

We trust that our respected Government may see the justice of our claims and act in accordance therewith.

Will you therefore, dear sir, bring this our petition to the attention of the proper authorities at Washington, and oblige

Your obedient servants,

HUNTER CORBETT.  
GEO. CORNWELL.  
W. C. ELTERICH.  
WM. JOHN L. NEVINS.

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*Mr. Conger to Mr. Hay.*

[Telegram.]

PEKIN, *March 9, 1900.*

Referring to your instruction 223 and my dispatch No. 316, missionary troubles still spreading. The situation very critical. The ministers of England, France, Germany, Italy, and the United States to-day sent foreign office second identical note demanding publication of strong imperial decree without delay. If Chinese Government absolutely refuse and the situation does not materially improve, I advise naval demonstration by war vessels of each Government should be made in North China waters. My colleagues have telegraphed their Government similarly.

CONGER.

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*Mr. Conger to Mr. Hay.*

No. 338.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, March 10, 1900.*

SIR: Confirming on the overleaf my telegram of the 9th instant,<sup>1</sup> and continuing the subject-matter of my dispatch No. 316 of January 29 last, in which I reported that after a conference of the English, German, French, and American ministers the situation caused by the Boxer and Big Sword societies was considered so serious that on January 27 identical notes were sent by the ministers to the Tsungli Yamen requesting that an imperial decree be issued and published naming these two societies and ordering their immediate suppression, etc., copy of which was transmitted in said dispatch, I have the honor to report that not receiving reply I wrote again on February 6 and 21, copies inclosed.

On February 25 the four ministers received reply, translation of which I inclose, informing them that a decree had been issued directing

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<sup>1</sup> Printed ante.

the viceroy of Chihli and the governor of Shantung to issue proclamations prohibiting the societies, etc.

This did not comply with our request, and so another conference of the ministers, in which the Italian minister joined, was held, and it was decided to each send another identical note repeating our former request and adding that the decree should be published in the Peking Gazette, the decree of January 11 having been thus published. This note was prepared February 27 and a personal joint conference with the Tsungli Yamen arranged for March 2, at which these notes were to be delivered; but on March 1 a note was received inclosing a copy of a proclamation embodying a "secret decree" which had been issued by the viceroy of Chihli, translation inclosed.

This decree was an excellent one, but it did not mention the Big Sword society, nor had it been given the publicity of the Peking Gazette, as had the mischievous one of January 11.

The five ministers, therefore, called in a body on the Tsungli Yamen on March 2, and each reiterated his demand that the decree should be published in the Peking Gazette and that it should name both societies. The prince and ministers replied that the Big Sword Society was not named because it had in fact become merged into the Boxers, and that sending out a decree as they had this was more effective than if published in the Peking Gazette. We insisted that it should still have publication, because in no other way would it become generally authoritatively known and so counteract the ill effect of the decree of January 11. They replied that it was not in accordance with Chinese law to publish a decree in the Gazette after it had already been otherwise promulgated. We left our notes, and they promised to consider the matter and reply to us in writing.

On the 7th instant an identical note was received by each minister, repeating the excuses made to us verbally and declining to comply with our request, translation of which I inclose.

In the meantime the Boxers have been continually organizing, drilling, and spreading. They are insolent, abusive, and threatening to both missionaries and native Christians, but making no recent actual attacks. Yet the missionaries are still confined to their homes and their work practically abandoned.

Another conference of the five ministers was held yesterday, and it was unanimously agreed that the only effective way to deal with the trouble was the publishing of a decree such as we had requested, and, believing the excuses of the Tsungli Yamen were only frivolous and that there could be no assurance of safety for native Christians or any foreigners until it was done, we decided to send another identical note informing them that their reply was wholly inadequate and unsatisfactory and insisting that our demand should be complied with without delay, and if it was not, we should advise our Governments to take such other measures as would insure the protection of their respective nationals. I inclose a copy of the note.

I ought to add that it is believed their reason for not mentioning the Big Sword Society in the decree is because the late Governor Yu, of Shantung, whom we had had removed, was either directly connected or in collusion with this society. But a special reason for their unwillingness to publish the decree in the Gazette is because since our meeting with the Tsungli Yamen it has been publicly known that the ministers have demanded it and a compliance therewith will, it is

thought, cause the Tsungli Yamen to "lose face" with their people. It is my firm conviction that a compliance with our request is all-important.

The Chinese Government have, either purposely or through fear of a general uprising, flagrantly trifled with this matter from the beginning and have grossly violated their treaty obligations. The oldest missionaries say they have never experienced a situation so generally critical.

The Chinese Government should, therefore, be made to definitely understand that we intend not only to insist upon but to compel such treatment and protection of missionaries and their converts as the treaties provide.

It is believed by all the ministers that if the Tsungli Yamen does not respond to our request that a naval demonstration, made by two or three ships of each Government in the bay of Chili, would make them comply quickly. But in case this should fail, if as a last resort a marine guard was landed by each power, to be brought to Peking on the plea of protecting the foreign legations, there would be little doubt of ready compliance, because nothing could chagrin or grieve them more than for the word to go forth that they could not preserve order or protection at their imperial capital, and they would do almost anything rather than have this happen again.

The five ministers all agree with this, and are so advising their respective Governments by telegraph and by dispatch.

I trust these suggestions will meet with the Department's approval, and that, upon receipt of my telegram of yesterday, and from what is already known of the situation, arrangements are being made with the Navy Department preparatory to a movement by two or more vessels if it should be necessary, of which I will give the Department of State due notice by cable.

I have the honor to be, etc.,

E. H. CONGER.

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[Inclosure 1.]

*Mr. Conger to the Tsungli Yamen.*

LEGATION OF THE UNITED STATES,  
*Peking, China, February 6, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to report to your highness and your excellencies that I have just received telegraphic information from the American missionaries at P'ang Chuang that the boxers in Hsiachin and Enhsien are still aggressive, insolent, and unarrested; that the proclamations are disregarded, and the situation continues dangerous.

In view of the decree of January 4 ultimo from the Throne, the promises and proclamations of Governor Yuan, and the repeated assurances of your highness and your excellencies upon this subject, this state of affairs is certainly most remarkable, and if it continues much longer will justify the conclusion that China is either unwilling to carry out her treaty obligations or that she is unable to. Neither of these presumptions can she afford to have entertained by interested and friendly powers. Why, then, does she not promptly suppress the trouble and punish the criminals?

Awaiting a favorable reply to my note of January 27 on this same subject, I avail myself of the occasion to assure your highness and your excellencies of my highest consideration.

E. H. CONGER.



[Inclosure 2.]

*Mr. Conger to the Tsungli Yamen.*LEGATION OF THE UNITED STATES,  
*Pekin, China, February 21, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: On the 27th ultimo I had the honor to address to your highness and your excellencies a note upon the deplorable situation in Shantung, brought about by the rioting, robbing, and persecutions committed by the Boxer and Big Knife societies, in which I pointed out the necessity and requested the publishing of an imperial decree which should accomplish the complete suppression and abolition of these two lawless and destructive organizations.

I am surprised that it has remained so long unanswered. The importance of the subject and the gravity of the situation merited an early reply. I therefore beg that your highness and your excellencies, giving the matter the careful and considerate attention it requires, will immediately reply thereto.

I avail myself of the occasion to renew to your highness and your excellencies the assurance of my highest consideration.

E. H. CONGER.

[Inclosure 3.]

*The Tsungli Yamen to Mr. Conger.*PEKIN, *February 25, 1900.*

YOUR EXCELLENCY: On the 21st instant the prince and ministers had the honor to receive a communication from the minister of the United States in regard to the troubles in Shantung, caused by the organization of outlaws, in which it was pointed out that in his former communication (January 27) the request was made that an Imperial decree be issued ordering that these organizations be stringently prohibited, but up to the present time no reply had been received, and the minister of the United States asked that the matter be submitted to the Throne, as originally requested, and a reply sent to him, etc.

In regard to this matter the prince and ministers have the honor to state that on the 19th instant the yamen presented a memorial to the Throne, and a decree was issued at the time ordering the viceroy of Chihli and governor of Shantung to issue proclamations for the information of the people stringently prohibiting (these societies).

[Inclosure 4.]

*The Tsungli Yamen to Mr. Conger.*PEKIN, *March 1, 1900.*

YOUR EXCELLENCY: In the matter of stringently prohibiting the society called the "Boxers" that have been causing trouble in the provinces of Chihli and Shantung, sometime ago the yamen memorialized the Throne, and, in obedience to an imperial decree, sent instructions to the viceroy of Chihli and governor of Shantung to issue proclamations stringently prohibiting it. On the 25th of February the prince and ministers had the honor of addressing the minister of the United States on the subject.

The viceroy of Chihli has now reported that he has issued circular instructions to the officers of the various districts to put out proclamations for the information of the people. The viceroy also submits a draft of the proclamation. On receipt of a reply from the governor of Shantung the yamen will communicate same to the minister of the United States, and, as in duty bound, they send a copy of the draft of the proclamation of the viceroy of Chihli for his information.

[Inclosure 5.]

*Proclamation by the viceroy of Chihli in the matter of the issuance of stringent prohibitions.*

On the 21st of February, 1900, the viceroy received the following decree: "The Tsungli Yamen have memorialized us requesting that our commands be issued stringently prohibiting the society called the 'Boxers.' Last year the governor of Shantung telegraphed that in the various districts the society called the 'Fist of Righteous Harmony,' an enemy to Christianity, had been committing trouble everywhere. They had also extended their depredations to the southern part of the province of Chihli. We repeatedly issued our instructions to the viceroy of Chihli and governor of Shantung to dispatch soldiers to prevent these acts of violence and preserve order. This class of society is secretly formed, and the members collect in numbers and create trouble. If stringent measures are not taken to prevent this the ignorant people will become excited with suspicion, which feeling will daily spread and increase and result in serious consequences. It will then be necessary to use armed forces to suppress the evil, and this may lead to serious loss of life. We can not bear the idea of causing lives to be taken without first admonishing the people.

"Let the viceroy of Chihli and governor of Shantung issue proclamations that this society must be stringently prohibited, so that the people may know that the secret formation of such an organization is in violation of law and that the evil practices of it must positively be gotten rid of and efforts put forth to make the people good. Should those who have been misguided not awake to the sense of their position, and still follow their old ways, they are to be at once severely dealt with, and no leniency whatever will be shown. Both non-Christians and converts are, alike, our subjects, and when cases of litigation arise between them the local authorities must decide then in accordance with justice; they should merely distinguish between the right and the wrong, and not as to whether a person is a Christian or non-Christian—and not the least partiality is to be shown—thus showing our desire to treat all alike with the same kindness. Let this be known to the viceroy of Chihli and governor of Shantung."

The statutes rigorously prohibits loafers, who have no particular occupation and who style themselves teachers in the practice of the art of boxing and quarterstaff, from teaching these things, or pupils to employ these men and study this art. It is also a violation of law for persons to brandish arms and do acrobatic feats, or to roam about the streets and market places deceiving the people for the purpose of gain. Teachers violating the law in the above respect, after arrest, will be punished with a hundred blows and banished 3,000 li; those who study and practice the art receive one hundred blows and banishment for three years, and on expiration of their terms of banishment they are to be escorted to their homes, and there kept under the strictest restraint. If these persons are harbored in houses, inns, or temples, and their whereabouts not reported, the *ti pao*, or head wardman, who fails to arrest them will receive eighty blows.

The teaching of boxing and quarterstaff, and for persons to deceive the people for the purpose of gain, are therefore violations of law. Moreover, of late simple and ignorant persons have been deceived and influenced by brigands and outlaws from afar to believe in sorcery, and that the spirits from on high will descend and aid and protect their bodies, so that they can withstand the fire of guns or cannon, and they have therefore secretly formed the society called the "Fist of Righteous Harmony," the members of which have practiced boxing and quarterstaff, which has spread to all quarters, as an enemy of Christianity. This society has created trouble and disturbances, and, on soldiers being dispatched to arrest the evil doers, they have been fierce and aggressive, and even dared to rely on their numbers and resist the soldiers. Such acts show that they have no respect for the law, and, although they have been repeatedly admonished by the civil and military officers, still a great number outwardly agree to abide by the injunctions issued while inwardly they set defiance to the law, obstinately fixed in their decision.

Just reflect for a moment. The converts and non-Christians are alike the subjects of our sovereign, and when differences exist between them these should be laid before the officials for adjustment. But for persons to suddenly congregate in numbers, use weapons, burn and destroy houses, pillage and steal, commit murder, and resist the authority of the officials, such acts are nothing more or less than those that robbers or highwaymen commit.

You people must bear in mind that you all have families living. Why should you allow yourselves to be influenced by banditti and outlaws who excite suspicion in your minds, and you then remain obstinately fixed in a delusion and trample on the laws that will lead to your punishment? Now, besides having sent circular instructions to all the local officers to stringently forbid these lawless acts, and those found guilty to punish them, the viceroy issues this proclamation, so that gentry and people of all classes in the various districts may know that they must not induce people to

secretly form societies and practice boxing and quarterstaff, which are acts prohibited by law. For persons to collect together in numbers, and, relying on their strength, to rob and plunder, are acts that the law certainly can not forgive. The local authorities are hereby instructed to arrest and punish those who set up boxing establishments, as well as the leading criminals who excite suspicion in the minds of the common people and thereby create trouble. They must not on any account be allowed to escape the arm of the law. The ignorant and common people who have been induced to join the society and practice boxing should all reform and mend their ways and stop this evil practice. They should make an effort to become good, loyal subjects, attending to their proper duties of life. Those who reform and mend their ways will receive lenient treatment, and their past deeds forgotten, but those who persist in their refusal to repent of their former misdeeds and continue to follow their old course and set up boxing establishments, and for the purpose of gain mislead the minds of the people, these will be arrested by the civil and military authorities and strenuously punished. Not the least leniency will be shown them.

The non-Christians and converts are both subjects of our sovereign, who treats them all alike with the same kindly feeling without any distinction being made. If cases of litigation arise, these should be decided by the proper authorities. The non-Christians should not act with effrontery and show a feeling of hatred toward the Christians which will lead to trouble. The Christians, on the other hand, should not create trouble by insulting the people and heap up accusations and arrest the attention of the missionaries so as to urge their protection to secure victory in their disputes. The officials must reverently abide by and observe the treaties, and justly and equitably decide the cases that come up, according to their merits, irrespective of Christian or non-Christian alike; must attend to their own affairs and observe the law. They should do away with all ill feeling and be sincere-friends. This is the earnest wish of the viceroy.

Let all tremblingly obey and none disobey this special proclamation.

[Inclosure 6.]

*Mr. Conger to the Tsungli Yamen.*

LEGATION OF THE UNITED STATES,  
*Pekin, China, March 2, 1900.*

YOUR HIGHNESS and YOUR EXCELLENCIES: I have the honor to acknowledge the receipt of your highness and your excellencies' note of the 25th of February in answer to my notes of the 27th of January and 21st of February on the subject of the anti-Christian disturbances in Shantung and Chihli.

As the yamen have not acceded to my request to obtain the issue of an imperial decree specified in my note of January 27, I beg to repeat a portion of that dispatch with the addition of the words "in the Pekin Gazette."

I request that an imperial decree may be issued and published in the Pekin Gazette ordering, by name, the complete suppression and abolition of the Fist of Righteous Harmony and Big Sword societies, and I request that it may be distinctly stated in the decree that to belong to either of these societies, or to harbor any of its members, is a criminal offense against Chinese law.

Nothing less than this will, I am convinced, put an end to the outrages against Christians, which have lately been so prevalent in Chihli and Shantung.

Should the Chinese Government refuse this reasonable request, I shall be compelled to report to my Government their failure to take what would be only an ordinary precaution against a most pernicious and antforeign organization. The consequence of further disorder in the districts concerned can not fail to be most extremely serious to the Chinese Government.

I avail myself of this occasion to renew to your highness and your excellencies the assurances of my highest consideration.

E. H. CONGER.

[Inclosure 7.]

*The Tsungli Yamen to Mr. Conger.*

PEKIN, March 7, 1900.

YOUR EXCELLENCY: On the 2d of March the prince and ministers had the honor to receive a communication from the minister of the United States acknowledging the yamen's communication (of 25th February) on the subject of the anti-Christian

disturbances in Shantung and Chihli. As the yamen had not acceded to the request made (of January 27), minister of the United States begged to repeat a portion of that dispatch, with the addition of the words "in the Pekin Gazette." It was pointed out that nothing less than this would put an end to the outrages against Christians which have lately been so prevalent in Chihli and Shantung, and should the Chinese Government refuse this reasonable request the consequences of further disorder in the districts concerned can not fail to be most extremely serious, etc.

In reply the prince and ministers would beg to observe that on the 1st of March they received a copy of the draft of a proclamation from the viceroy of Chihli, issued in accordance with an imperial decree, stringently prohibiting the society called the "Boxers." A copy of this proclamation was at once sent to the minister of the United States. The yamen had, therefore, carried out the request made to stringently prohibit this pernicious anti-Christian organization by memorializing the Throne on the subject, and the imperial assent was received. The decree that was issued at the time was sent by the grand council direct to the viceroy of Chihli and governor of Shantung, to be duly observed by them. The decree is known as a confidential letter sent direct from the palace to the highest provincial officers with instructions for their guidance in important matters, and whenever one is issued on matters of business it is at once transmitted to the province concerned, and on its receipt the high officers at once carry out the instructions issued. This is a more thorough way than the mere publication of a decree (in the Pekin Gazette). Under the law special confidential decrees are sent to the grand secretariat to be made public. In the case in question, as a memorial has already been presented to the Throne and a confidential decree issued and sent from the palace to the high provincial authorities of Chihli and Shantung, it is not suitable or fitting to repeat the request to have the publication of the decree appear (in the Pekin Gazette). This is the law governing the transaction of public business in China, and it is a difficult matter to change the system. The viceroy of Chihli and governor of Shantung have received the decree to issue proclamations stringently prohibiting the society, and the outlaws against the Christians will not fail to fear and stand in dread of the awe-inspiring authority of the Sovereign and cease from creating trouble.

Again, it appears to the prince and ministers that the reason why the minister of the United States wishes the decree published in the Pekin Gazette is merely to have it widely known among the people. He surely can not know that while the Pekin Gazette is extensively read in Pekin, still in the provinces it is only read by the official classes. The common people do not read it.

The viceroy of Chihli and governor of Shantung have, in obedience to the imperial decree, issued proclamations, and the injunctions issued will be more widely known among the people than by the publication of the decree in the Pekin Gazette. The prince and ministers beg to ask the minister of the United States to again carefully look into this matter, and he will see that the statement they have made is perfectly true.

The minister of the United States residing in China can not fail to thoroughly know the conditions of the public administration of China, and the prince and ministers express the hope that he will be good enough to report the matter to the honorable Secretary of State.

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*Mr. Conger to Mr. Hay.*

No. 339.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, March 10, 1900.*

SIR: Referring to Department's instruction No. 223, of January 18, and my dispatch No. 289, of December 7, which must have crossed en route, concerning the outrageous conduct of the late Governor Yu-Hsien of Shantung, I have the honor to report that, acting upon a communication received from the missionaries at Chinanfu, I filed with the Tsungli Yamen on the 6th instant a formal protest against his future appointment to any place where he will have under his control either missionaries or their work. Copy of note inclosed.

The missionaries suggested that he ought to, in some way, be severely punished, but he is so strongly entrenched in imperial favor

that it would be useless to demand this, unless prepared to enforce it by force of arms, and since he has been withdrawn from the government, I have thought best to content myself with this protest.

I have the honor to be, etc.,

E. H. CONGER.

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[Inclosure 1.]

*Mr. Conger to the Tsungli Yamen.*

LEGATION OF THE UNITED STATES,  
*Pekin, China, March 6, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: Without repeating in detail what has already been so fully and forcibly brought to the knowledge of your highness and your excellencies concerning the action of the late Governor Yu Hsien of Shantung, I must insist that the rapid increase and spread of the Boxers during the last three months of his rule, the continued looting, robbery, despoiling, and persecuting native Christians, culminating in the most horrible murder, while he did practically nothing to suppress them, but repeatedly and falsely reported to Peking that all was quiet and peace being restored, together with much more convincing evidence, proves conclusively that this man was acting in sympathy and collusion with the Boxers and is consequently an officer totally unfit to govern territory where foreigners, missionaries, or their followers are located or interested.

His conduct is in most flagrant disregard of treaty stipulations and can not be either tolerated or overlooked.

Therefore, because of all this, and in the interest of safety for the American missionaries and their followers, I herewith file a formal and most emphatic protest against his future appointment to any place where he will have under his control either missionaries or their work.

I avail myself of the occasion to renew to your highness and your excellencies the assurance of my highest consideration.

E. H. CONGER.

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*Mr. Conger to Mr. Hay.*

No. 342.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, March 13, 1900.*

SIR: I have the honor to inclose a translation of an imperial decree published on the 9th instant.

This is tangible evidence of the very strong antiforeign sentiments of the Empress Dowager and her closest advisers, and it is certainly very unfortunate for China.

Such persecution is a warning to officials everywhere against helping foreigners or learning anything from them. This result is now very apparent in Peking, and is made worse by the evident protection being extended to the so-called Boxers, who have been so violently persecuting Christians, and whose members are esteemed by the Government as patriots whose avowed object is to deliver China from all foreigners.

The five Hanlins condemned in the decree, it is understood, were all members of the reform party, but it is known that the chief offense of at least two of the principal ones was being associated with foreigners in their authorized schemes for the development of China.

Wu Shih-chao was the Chinese director of the Peking syndicate—English. The British minister protested against his removal, but without avail.

Kuei To was opening mines in Manchuria in some foreign fashion.

It is reported that many other arrests are to be made. It is possible that these men are known or believed by the Throne to be connected

or in sympathy with Kang Yu-wei, but the effect is, nevertheless, to make Chinese officials and capitalists afraid to undertake new work or new developments, and is doing China great harm, but it seems impossible to make her realize it.

I have the honor to be, etc.,

E. H. CONGER.

[Inclosure.]

*A decree published in the manuscript Peking Gazette of March 9, 1900.*

We have received a memorial from the high officers of the Hanlin College (Imperial College of Literature) in regard to the question of discerning the conduct of individual officers of the college, and, based upon adduced facts, they have denounced certain officers.

Kuei To, a Hanlin compiler of the second class, had undertaken the management of commercial affairs, but under his management he failed to attain any good results. Money has been used to no proper purpose, and he has been guilty of pilfering. Let him be handed over to the board for the determination of a penalty.

Chou Hsi-ngen, a Hanlin compiler of the second class, who is at present at his native place, has a particular way of doing business, which is by bragging and boasting. He is frivolous and fickle minded, brazen faced, and careless of public opinion. Let him be suspended from his official duties and handed over to the local officers concerned to be kept under the strictest discipline.

Chen Ting, a Hanlin of the second class, is a man of a perverse, malignant, and crafty disposition whose principles are not upright. He has been expounding the meaning of a work called "Chiao Pin Lu Kang I," which for the most part contains seditious views and arguments. Wu Shih-chao, a Hanlin graduate of the third degree, has been sitting quietly taking his leisure and collecting and hoarding up a pile of money. He has a heart that can not be fathomed. Shen Ping, a Hanlin compiler of the second class, is wild and mad with the loss of right feeling disease, and is perverse, contumacious, and false at heart.

These three officials are certainly unworthy of their official dress (official position). It was recommended by the memorialists that these officers should have their official rank taken away and handed over to the local officers to be kept under the strictest discipline, but this would be treating them in a very lenient manner.

Both Chen Ting and Wu Shih-chao have already been deprived of their official rank. The officers of the college of literature are hereby commanded to send these men to the board of punishments, to be by that board transmitted to their native places, and the viceroy or governor concerned is to see that they are to be imprisoned for life in the capital of the province in which they reside. Shen Peng, some time ago, applied for home leave and left Peking. Lu Chuan-lin, the acting viceroy of Nankin, has memorialized us by telegraph that he has been arrested and brought before the court. Let this degraded officer be incarcerated for life in the provincial capital prison.

The Imperial College of Literature is the important precinct where the treasury of literary talent and learning is, and from it selections are made for official posts. The members of the college are all respectable persons and of good conduct, and they delight in proper behavior. How is it that these unworthy persons should have attained a Hanlin position? Let the chancellors of the college from time to time hold an investigation as to the class of men connected with the college, and those who set the rules and regulations at defiance and commit a breach of etiquette, are to be rigorously denounced to us for punishment, and on no account must any leniency be shown toward such.

*Mr. Hay to Mr. Conger.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, March 15, 1900.

Navy Department will detail ship for independent protection American citizens and interests in China. Commander will communicate with you, probably from Taku.

HAY.

*Mr. Hay to Mr. Conger.*

No. 246.]

DEPARTMENT OF STATE,  
*Washington, March 22, 1900.*

SIR: I have to acknowledge the receipt of your 312 and 316, of January 15 and 29 last, respectively, in reference to the missionary troubles in the province of Shantung. Their subject-matter has had the careful consideration of the Department.

It is a matter of regret that the representations made by you to the Tsungli Yamen in June of last year concerning the punishment of the ringleaders in the antforeign cases at Chichou and other localities should not have received the attention their importance deserves.

The demands made in your note of January 18 to the Tsungli Yamen (inclosure 1, dispatch 316) are approved in general terms, and it is hoped that you will follow them up by other and stronger considerations and oral representations until complete satisfaction is obtained.

In connection with the identic note agreed upon with your colleagues of France, Germany, and Great Britain, and sent by you to the yamen on January 21 (inclosure 3, dispatch No. 316), while the Department finds no objection to the general terms of this paper, it would have preferred if you had made separate representation on the question instead of the mode adopted, as the position of the United States in relation to China makes it expedient that, while circumstances may sometimes require that it act on lines similar to those other treaty powers follow, it should do so singly and without the cooperation of other powers.

In previous dispatches you referred to the possibility of the so-called "Boxer Association" having been, at least in one case, attacked by the native Christians. In your more recent dispatches no further reference is made to the subject. But the Department feels a certain apprehension lest the cases as reported by the American missionaries have not been sufficiently inquired into to establish beyond all doubt the rights and wrongs in these cases, and it is therefore unable, with only your dispatches to guide it, to give you definite instructions as to their further prosecution.

However, as these lawless associations in the province of Shantung have distinctly declared their purpose to be the extermination of foreigners and interference with the free exercise of Christian religion, you are instructed to represent in the strongest possible terms to the Chinese Government the necessity of its taking immediate and radical measures for the suppression of these societies and for the protection of Americans residing in the disturbed district, and to insure to the native converts the free and peaceable exercise of their religion, assured to them under treaty and by numerous imperial decrees.

In submitting this to the yamen you will avail yourself of every opportunity to impress upon it that this Government, by the recent assurances which it has obtained from the various great powers holding leased territory or areas of influence in China, concerning freedom of trade in said regions and the maintenance therein of China's rights of sovereignty, has obtained thereby a renewed assurance of the policy of the treaty powers not to interfere with the integrity of the Chinese Empire. \* \* \*

Your predecessor has on numerous occasions, especially within the last five years, called the serious attention of the Peking Government

to the concern with which the United States views the dilatoriness that Government has so frequently shown in suppressing antforeign movements in China and punishing all those directly or remotely involved in them, and more especially the high provincial authorities who are always directly responsible to the Throne for their occurrence. The views of this Government on this subject were more particularly submitted to the Tsungli Yamen by Mr. Denby in his note of September 21, 1896.<sup>1</sup>

You should not fail to impress these views on the yamen, and to inform it that this Government is more determined than ever to see them carried out, not only in the interest of our citizens and their rights, but for the unquestionable benefit of China itself.

I am, etc.,

JOHN HAY.

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*Mr. Conger to Mr. Hay.*

No. 345.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, March 23, 1900.*

SIR: With reference to my dispatch No. 339, of the 10th instant, inclosing copy of protest which I made to the Tsungli Yamen against the possible appointment of the late Governor Yu Hsien to any place where he would have missionaries or their work under his control, I have now the honor to report that, on the 14th instant, he was by Imperial decree transferred from the governorship of Shantung to that of Shansi, and General Yuan Shih-kai made governor of Shantung; the latter had so far been only acting governor.

Under the circumstances it is, to say the least, not very respectful or friendly treatment of the foreign powers to appoint this very anti-foreign official to the governorship of a province in which there are large foreign interests and a considerable number of missionaries. This man's conduct in Shantung has been heretofore most forcibly denounced to the tsungli yamen by the German and British ministers, and they tell me to-day that they shall strongly protest against his present appointment.

I shall add nothing to my protest except it may be, in personal conference, to warn them that trouble will come of his appointment, and leave the record to be called upon if events justify it.

I have the honor to be, etc.,

E. H. CONGER.

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*Mr. Hay to Mr. Conger.*

No. 249.]

DEPARTMENT OF STATE,  
*Washington, April 9, 1900.*

SIR: I inclose herewith, for your information, and the files of the legation, a copy of correspondence in regard to the state of things in the province of Shantung, in China, and the serious condition in which our missionaries find themselves in consequence of the disturbances there.

I am, etc.,

JOHN HAY.

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<sup>1</sup> See Foreign Relations, 1896, p. 60.



[Inclosure 1.]

*Mr. Smith to Mr. Hay.*

AMERICAN BOARD OF COMMISSIONERS FOR FOREIGN MISSIONS,  
 CONGREGATIONAL HOUSE, NO. 14 BEACON STREET,  
 Boston, March 24, 1900.

SIR: Our latest communications from our missionaries, the Rev. Arthur H. Smith, D. D., and the Rev. Henry D. Porter, D. D., located at Pang Chuang, in the province of Shantung, in China, indicate the continuance of the reign of terror which has so long surrounded them and other American missionaries in the same province and lead to no little anxiety as to their immediate future. The telegraphic news from China indicates no radical change in the situation. I am moved, therefore, to ask if our Government has advices from China more reassuring than those to which I have made reference. I wish also to inquire what additional measures for the effective protection of the life and property of American citizens in China have been taken by our Government. The impression prevails among my correspondents in China that unless the foreign embassies at Peking take a decided stand and insist that the Chinese Government shall effectively restrain these forces that are making life and property insecure—not by promises to our minister and not by proclamation simply, but by the actual dispatch of troops that are instructed to put down the rioters and protect the foreigners—the present danger will speedily become acute and the necessity may arise for more active interference.

Has our Government considered the possibility that some demonstration of power may be necessary to stir the sluggish Government at Peking to suppress this insurrection and to fulfill its treaty pledges in behalf of these Americans in China who are at present in such serious danger?

I write in behalf not only of myself and associates here in Boston, but also in behalf of that great constituency of the board, numbering so many hundreds of thousands of citizens from the Atlantic to the Pacific, who are deeply interested in the missionaries and their work in China.

Confident that our Government is ready and willing to do its utmost to protect its citizens in China and elsewhere in the world, and desiring some reassuring word for the comfort of the many friends of the missionaries in whose behalf I am writing,

With great respect, I am, sir, etc.,

JUDSON SMITH.

[Inclosure 2.]

*Mr. Hay to Mr. Smith.*

MARCH 27, 1900.

DEAR SIR: I have received your letter of the 24th of March in regard to the state of things in the province of Shantung, in China, and the serious condition in which our missionaries find themselves by virtue of the disturbances there.

Our minister in Peking some time ago informed the Department of the unsatisfactory state of affairs in that province and asked that a naval vessel be sent to Taku to strengthen his hands in the representations he was making to the Chinese Government. By request of this Department the Navy Department has sent the desired orders to the commander of our fleet in the Philippines. We have, of course, no military force in Shantung, but the German Government have offered whatever military assistance may be necessary in that province for the protection of American missionaries. Our minister in Peking is aware of all these arrangements, and I think we may safely rely upon his intelligence and energy to do everything possible under the circumstances. You may depend upon it that this Government is ready and willing to do its utmost to protect its citizens in China and everywhere else.

I am, sir, with great respect, etc.,

JOHN HAY.

*Mr. Conger to Mr. Hay.*

No. 356.]

LEGATION OF THE UNITED STATES,  
 Peking, China, April 12, 1900.

SIR: I have the honor to confirm, on the overleaf, your telegram of the 15th ultimo,<sup>1</sup> and continuing the subject matter of my dispatch

<sup>1</sup>Printed ante.

No. 338, of March 10, copy of which was inclosed in said dispatch, the five ministers mentioned, after a conference, sent their interpreters separately to the yamen, and requested a reply within forty-eight hours. A reply was received the next day, translation of which I inclose.

It was not just such an one as we desired, nor did they comply with our request and publish the decree in the Peking Gazette. But a most excellent proclamation had, in the meantime, been published by the governor of Shantung, in which both the "Big Sword" and "Boxer" societies were mentioned—translation of which, with note transmitting same, inclosed.

The proclamations had been generally posted, a number of magistrates removed, and the general situation considerably improved; the murderers of the English missionary, Mr. Brooke, had been punished, adequate indemnity paid, and the case satisfactorily closed. \* \* \* It was thought best to send to the Tsungli Yamen an identical reply, copy of which is inclosed, and consider the incident closed so far as the question of publishing the decree or any further cooperative action was concerned.

I shall, however, continue to vigorously insist upon the execution of all treaty obligations toward American missionaries and their converts.

For the purpose of keeping the Department fully informed upon the question, I inclose copies of correspondence with the Tsungli Yamen, since March 10th, the date of my despatch No. 338.

In connection with this incident, two British men of war, one French, two Italian, and one American (the *Wheeling*) have arrived off the Taku Bar, and two German war ships are lying at Kiaochow, and it is believed their presence has had a most wholesome effect upon the general situation. It would, in my judgment, be of great value to the United States, and all interests of her citizens in China, for one or more of our seagoing war vessels to be kept continually along the Chinese coast. I have advised the retention of the *Wheeling* in North China waters until the "Boxers" are suppressed, and peace and quiet again prevails.

I have the honor to be, etc.,

E. H. CONGER.

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[Inclosure 1.]

*The Tsungli Yamen to Mr. Conger.*

No. 163.]

PEKIN, March 15, 1900.

YOUR EXCELLENCY: On the 11th instant the yamen received a communication from the acting governor of Shantung to the effect that on the 22d of February last he received a decree ordering that the society called the "Fist of Righteous Harmony" be stringently prohibited. The governor adds that in January last, after he had taken over charge of his office, he issued a proclamation stringently prohibiting the above-named society, which was posted throughout the various districts; but now, having received the decree referred to, it is right, in obedience to its injunctions, to issue another proclamation for the information of the people. He has specially compiled a proclamation in verses of five characters, to be posted in every village in regular succession. Further, he has instructed the local officers to act with the country gentlemen and village elders to have the proclamation thoroughly explained whenever a fair or market is held.

The yamen would observe that in the verses compiled by the acting governor reference is made to the "Big Sword" society by name. Further, the instructions

to the local officers to act with the gentry and have the proclamation explained when the people gather together (at the market places) shows that the governor is really taking action in good earnest.

As in duty bound, the prince and ministers transmit a copy of the draft of the proclamation with the verses for the information of the minister of the United States.

NOTE.—Proclamation and verses not printed.

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[Inclosure 2.]

*Mr. Conger to the Tsungli Yamen.*

F. O. No. 183.]

LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, March 16, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: I am to-day informed by parties arriving from the neighborhood that at Pa Chow, Hsin Cheng, Hsiung-hsien, Paoting, and several other villages between here and Paoting-fu and south thereof as yet none of the proclamations of the viceroy against the Boxers have been posted in that locality and that Boxers in considerable numbers are still daily drilling and threatening the native Christians.

The missionaries report such a state of affairs as renders it unsafe for them to make their regular expected visits to these villages and do their accustomed work.

Of what use are proclamations unless the people are advised of them and their requirements enforced? None whatever.

Therefore I request that your highness and your excellencies will cause such additional orders to be sent to the proper officials as will insure the immediate enforcement of this decree and effectually prevent further disturbance from these evil and unlawful organizations, and so make it safe for the missionaries to freely visit these localities and peaceably prosecute their work as guaranteed by treaty.

As these places are so near the Imperial capital, almost within sight of the throne itself, there can be no possible excuse for not carrying out the decree, and should not be the slightest danger to anyone lawfully visiting them. But your highness and your excellencies must know of a certainty whether or not missionaries would experience any danger or trouble going there, and I will thank you to inform me, so that I may at the earliest possible moment advise the missionaries accordingly.

I avail, etc.,

E. H. CONGER.

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[Inclosure 3.]

*Mr. Conger to the Tsungli Yamen.*

F. O. No. 184.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, March 23, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have reliable information from Chinan-fu that the provincial judge there is obstructing the proper punishment of the arrested ringleaders of the "Big Sword" and "Boxer" societies, and thus greatly hampering the efforts of the governor to suppress these societies.

I therefore request that your highness and your excellencies will send telegraphic instructions directly to the provincial judge to act promptly and rigorously in the matter, thus emphasizing the assurance which you gave me in our personal conference yesterday that the Imperial Government was determined to put a speedy end to the present annoying and dangerous situation.

I avail myself, etc.,

E. H. CONGER.

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[Inclosure 4.]

*The Tsungli Yamen to Mr. Conger.*

No. 164.]

PEKIN, March 25, 1900.

YOUR EXCELLENCY: On the 23d instant your excellency handed the ministers of the yamen a memorandum regarding the troubles caused by the "Boxers" in the Ping Yuan and other districts; also of the seizure of Christians and troubles in the

En and Hsia Chin districts. Your excellency requested the yamen to at once telegraph the governor of Shantung to take action in good earnest to preserve order, arrest and punish the outlaws, etc.

In reply we beg to inform your excellency that the yamen at once telegraphed the Shantung governor, informing him of your request, and have now received a reply by wire from him, stating that after the 10th instant the outlaws created trouble. They were pursued and several arrests were made. After the 15th instant peace and quiet prevailed in all the districts, and no further cases have occurred. It is the above cases, in which arrests were made to which his excellency Mr. Conger evidently refers.

The yamen have now sent another communication, giving full details, to the Shantung governor for his action in the premises, and, as in duty bound, we send this note in reply for your excellency's information.

Cards of ministers with compliments.

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[Inclosure 5.]

*The Tsungli Yamen to Mr. Conger.*

No. 165.]

PEKIN, April 2, 1900.

YOUR EXCELLENCY: We have had the honor to receive your excellency's note of the 10th of March, in which you state that in the neighborhood of Pa Chou, Hsin Cheng, Hsiung Hsien, and several other villages between here and Pao Ting Fu, and south thereof, none of the proclamations of the viceroy against the "Boxers" have been posted; that the "Boxers" at all these places are still daily drilling and threatening the native Christians. Your excellency requested that orders be sent to the viceroy, etc.

In reply, we beg to state that the yamen at once sent a note to the minister superintendent of northern trade, requesting him to cause the proclamations to be widely posted and made known. That officer has just reported to the yamen that he had issued instructions to the officers of the various jurisdictions to ascertain whether the proclamations had been posted in the various departments and districts and to submit a report of the places where it had been posted.

We were just about writing your excellency when we received your note of the 30th of March, in which you stated that the Rev. W. S. Ament, who had just returned from Pa Chou and other places, had informed you that in a circuit of several hundred li he only saw two posted proclamations, and that in the villages of Hei Pai mu Ch'iao, in Pao Ting, Hsien, and Nan Meng, in Pa Chou, the local officer had received the proclamations several days before, but would not post them. He also reports that in the villages of Ku An, in Ku Cheng; Nan Meng, Sha Cheng, and Chin Chia Cheng, north suburb of Pa Chou; Chang Ch'ing Kou, Hsiao Wei Ho, and Tung Yang Lin Tan, in the district of Pao Ting, and Chao Tsin, in the district of Wen An, he found men organizing, initiating, and instructing "Boxers," who were armed and drilling, and that the native Christians are being continually harassed and persecuted. Your excellency requested that measures be taken to forthwith suppress the "Boxers" and restore order.

We have the honor to inform your excellency that the yamen have again addressed the minister superintendent of northern trade, requesting him to cause a thorough investigation to be made and strenuous action taken to suppress the "Boxers."

Cards of ministers with compliments.

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[Inclosure 6.]

*The Tsungli Yamen to Mr. Conger.*

No. 167.]

PEKIN, April 7, 1900.

YOUR EXCELLENCY: The Prince and ministers have had the honor to receive a communication from the minister of the United States, in which he states that the yamen's reply of March 7 is in no way either an adequate or satisfactory reply to his notes or verbal requests concerning the suppression of the two societies known as the "Big Sword" and "Fist of Righteous Harmony," that he is obliged to repeat the request that an absolute prohibitive decree for all China, mentioning these two societies by name, be forthwith issued and published in the Pekin Gazette, and

should he not receive a favorable answer without delay he will report the matter to his Government and urge strongly the advisability of the adoption of other measures for the protection of the lives and property of American citizens in China.

In reply the Prince and ministers would observe that in February last the yamen memorialized the Throne, requesting the suppression of the societies called the "Big Sword" and "Fist of Righteous Harmony," and a decree was issued and sent to the viceroy of Chihli and governor of Shantung to issue proclamations. These were issued, embodying the decree verbatim.

In the proclamation of the governor of Shantung the "Big Sword" society is mentioned. The yamen duly addressed two communications to the minister of the United States in regard to the action taken as above. It is clearly manifest that the essential points presented by the minister of the United States have all been truly and sincerely acted upon by the yamen in accordance with the request made.

On the day it was issued the decree was sent direct from the palace to the high provincial authorities of Chihli and Shantung, and as a matter of course it would not furthermore be sent to the grand secretariat to be made public by insertion in the Peking Gazette. This fact was fully presented to the minister of the United States in a previous communication. It may be pointed out in regard to this matter, the yamen is restricted in its action and must conform to existing rules; and the difficulty in the way, it is believed, is thoroughly appreciated by the minister of the United States. But the yamen will await an opportunity presenting itself when the Prince and ministers will again deliberate upon and consider the views expressed in the communication under acknowledgment.

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[Inclosure 7.]

*Mr. Conger to the Tsungli Yamen.*

No. 191.]

LEGATION OF THE UNITED STATES OF AMERICA,  
*Pekin, China, April 12, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to acknowledge receipt of your highness and your excellencies' note of April 7, it being a rather long-delayed answer upon the request contained in my note of March 10.

In requesting the publication of an Imperial edict in the Peking Gazette I was merely actuated by the desire to provide for the security of my missionaries and of my countrymen in general, and I am still of opinion that this would be the only adequate measure to be adopted under the circumstances.

Taking, however, into consideration the difficulties which, according to the statement of the note under acknowledgment, the Imperial Government is said to encounter, for the present I do not insist upon this point. I beg, however, to state that I will hold the Chinese Government entirely responsible for any further disturbances.

I avail, etc.,

E. H. CONGER.

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*Mr. Conger to Mr. Hay.*

No. 360.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, April 16, 1900.*

SIR: Continuing the subject-matter of my dispatch No. 356, of the 12th instant, I have the honor to report that on yesterday there appeared in the Peking Gazette a memorial from the viceroy of Chihli acknowledging receipt of and embodying the Imperial decree of the 19th of February last concerning the "Boxers."

At the end of the memorial appears the following rescript or Imperial order:

The memorial is noted, and the viceroy is hereby commanded that in the future, and in due course, he must take action in good earnest to suppress this society, and must not be lax or remiss in the discharge of his duty.

Thus finally the Chinese Government have in their own way and time done what the five ministers in their identical notes requested.

It remains, however, yet to be seen what will be the final result of their efforts towards suppressing the "Boxers."

I have the honor to be, etc.,

E. H. CONGER.

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*Mr. Hay to Mr. Conger.*

No. 252.]

DEPARTMENT OF STATE,  
*Washington, April 16, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 332, of February 26 last, inclosing a copy of a protest by the American Presbyterian Mission at Chefoo, wherein it is stated that through the activity of the Germans in the province of Shantung in prospecting for minerals, and in the construction of railroads, the lives and property of American missionaries and their families are being endangered, because of the fact that the natives are bitterly opposed to all such enterprises, and in their hostility to foreigners, as a consequence, make no distinction whatever between foreign nationalities.

The protestants request that this Government bring this state of affairs to the attention of the German Government and ask it to instruct its representative in the province of Shantung not to expose American citizens needlessly to risk, and that in case they are thus endangered by it, whether directly or indirectly, that it see that adequate protection is afforded them.

The Department thinks that the American missionaries, who for forty years have conducted their peaceful and beneficial enterprises in the province of Shantung, under the guaranty of treaties and the protection of the Chinese Government, have a reasonable and just claim to as great a degree of efficient recognition and, in case of need, protection, within the zone of effective German operations, as the missionaries of Germany enjoy. Your German colleague has already assured you of this much, as you will recall, at the time the question of consular representation in the German leased territory and the adjoining sphere of influence was under discussion.

You will therefore take an early occasion to say to your German colleague that the Government of the United States feels that under the circumstances of the case it can expect that the German authorities in Shantung will see to it that American citizens, and particularly American missionaries in that quarter, shall receive equal treatment with Germans in the matter of necessary protection of life and property.

The chronic situation in Shantung appears now to be scarcely less disquieting than in April a year ago, when the German expedition was about to go to the interior, and the assurances then given as to the equal protection of Americans have no less pertinency now than then. In this connection you may consult my instruction No. 156, of April 4, 1899.<sup>1</sup>

This friendly reliance on German protection within the effective zone of German occupation or action does not of course prejudice the

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<sup>1</sup> Not printed.

course of this Government with respect to the due protection of our citizens in the remoter interior beyond the limits of German control.

I am, etc.,

JOHN HAY.

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*Mr. Conger to Mr. Hay.*

No. 362.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, April 19, 1900.*

SIR: I have the honor to inclose herewith translation of an Imperial decree published on the 17th instant concerning train bands and local volunteers.

These organizations have existed from time immemorial, and this decree is evidently intended to give them to understand that in the sweeping decrees against the "Boxers" they are not included, yet ordering them not to make trouble, etc.

This whole matter of the "Boxers" seems to be a very difficult one for the Government. Evidently, recognizing its weakness, it is trying to effect their suppression without alienating or angering more of its subjects than is absolutely necessary.

I have the honor to be, etc.,

E. H. CONGER.

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[Inclosure.]

*Translation of a decree published in the Manuscript Peking Gazette, April 17, 1900.*

The villagers in all the provinces, form train bands or local volunteers for their own protection and of their families. This system originates with the ancients, who kept watch and rendered mutual aid and assistance to each other.

If the people really attend to their own duties in life and keep the law, they can do as they like in the matter of the train bands. But it is to be feared that among these train bands the good and the bad are scattered together, and that some of them avail themselves of a pretext to annoy and cause trouble to the Chinese Christians. These persons can not know that we treat all alike with the same kindly feeling without discrimination. The people should, therefore, respectfully consider our wishes and not secretly cherish a desire to be hateful, which will lead to trouble and render them liable to punishment.

Let all the viceroys and governors of the various provinces issue stringent instructions to the local officers to forthwith make it known to all the people that they must attend to and follow their original calling or profession, so that good feeling may perpetually prevail among all, and thus avoid disregarding our earnest and solemn injunctions.

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*Mr. Conger to Mr. Hay.*

No. 367.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, May 3, 1900.*

SIR: Referring to Department's instructions, dated March 17th [sent 15th] last, I have the honor to report that the U. S. S. *Wheeling* arrived on the bar off Taku April 7, and that on the 30th I received

the following telegram from her commanding officer, William T. Burwell:

*Wheeling* leaves (for) Shanghai immediately. Cable reads: Inform minister, Department so directs, and if serious need arises for relief vessel, communicate with Kempff, Newark, Yokohama.

I have the honor to be, etc.,

E. H. CONGER.

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*Mr. Conger to Mr. Hay.*

No. 368.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, May 8, 1900.*

SIR: I have the honor to acknowledge receipt of Department's instruction No. 246 of March 22 last, and have carefully noted its several suggestions concerning the missionary troubles in Shantung and Chihli.

As to the failure of the Chinese Government to adequately punish the ringleaders in the Chichou antiforeign cases of last year as was promised by the Tsungli Yamen, the legation had no notice that they had not been punished until, on the return from my consular tour last year, I wired to the missionaries to ascertain what had been done.

I immediately recalled the matter to the attention of the Tsungli Yamen and insisted that the promised punishment should be inflicted, and am still insisting upon it.

With reference to the contemporaneous action by identic notes, with the other ministers I must acknowledge that under all the circumstances, it was neither the wisest nor strongest method of procedure. But just at that time the danger seemed to be imminent, and the missionaries were all demanding joint action as the only possible safety, and the other ministers, in view of the general danger, were urging it, so I did not care to take for myself or my Government the entire responsibility which would be charged for an absolute refusal should serious trouble happen. Hence I consented to the contemporaneous action.

As it turns out I believe that the separate action of any one of us would have been more potent, and I shall not fail to profit by the experience.

Concerning the report of an attack upon the "Boxers" by Christians of which you inquire, the fact, as near as can be ascertained, is that as a party of "Boxers" were passing through a village near Ling Ching, Shantung, the Roman Catholic Christians did attack and kill several as a punishment for previously committed outrages.

It is always extremely difficult to ascertain and establish the real facts in any of these cases at so great a distance in the interior.

The reports of the missionaries are necessarily based upon information which they receive from their excited, frightened, and ignorant converts, who generally believe that they can of right call upon the missionaries in every case of trouble of whatever sort, and are continuously expecting and clamoring for foreign protection. On the other hand, the Tsungli Yamen always has its side of the case made up by officials trying to exculpate themselves, and who are not always



careful about the truth. In no case as yet have the "Boxers" attacked any American mission or disturbed any property in the towns or villages where they are stationed,

I have therefore, in forming conclusions, taken into consideration every fact within my reach, and made such vigorous and persistent presentations to the Chinese Government as the cases seem to warrant or that I believed the situation of my Government could sustain.

I shall be glad to be informed if under all the circumstances, the Department would have made stronger or more insistent demands.

I have not, therefore, been able to use as an argument the assurances, recently obtained by the United States Government from the great treaty powers, not to interfere with the integrity of the Chinese Empire, because, until the receipt of Department's instructions No. 246 I have had no information as to the success of the negotiations.

Such details concerning the assurances as the Department may deem proper to communicate should be of great value to the legation.

However, in the meantime, I shall as directed, opportunely use the assurances and declarations of the great powers set forth in the above-named instruction as evidencing their firm determination to preserve a uniform line of policy in regard to affairs in China; and I shall continue, as I have been doing, to impress upon the Chinese Government that the Government of the United States is firmly determined that the treaty stipulations as to the rights of all American citizens, and their work, shall be faithfully carried out, not only for their benefit but for that of China as well.

I have very carefully read the correspondence of my predecessor to which you refer, and have taken the view of the Department of State therein set forth substantially as my guide, except in the matter of punishment of high provincial officials.

You will observe from the correspondence that the Tsungli Yamen flatly refused to comply with Minister Denby's suggestions in this regard, and when he reiterated them his note was never answered. Nothing short of an exhibition, and I believe the actual employment of force will ever constrain the Imperial Government to punish such officials.

It seems to me, therefore, unwise to insistently make particular demands which we know will not be complied with.

The situation in Shantung is much improved, but the "Boxers" seem to be spreading northward through this province (Chihli). In many places small bands, mostly composed of boys from fifteen to twenty, are drilling and practicing what they term quarterstaff. A number of teachers go through the country, gather together the idle young men at the various villages and organize them into companies and pretend if they will, under their direction, go through certain gymnastic movements and repeat certain incantations, that they will become impervious to all weapons and nothing can harm them. The instructors charge them, always, an initiation fee, so it is not certain whether the organization is the prime object of these teachers, or whether it is to secure money.

Recently, in some villages near Paoting-fu, some 75 miles southwest of Peking, there occurred two conflicts with the Catholics, who are well armed, and with the help of the soldiers about 70 "Boxers" were killed. A few like experiences will show the falsity of their teacher's

professions and prove to them that they are as easily killed as anyone.

Their antipathy is not directed entirely against Christians, but against foreigners generally, and there is no doubt that it receives its first impetus from the especial advisers of the Empress Dowager. The two grand secretaries, Kang-I and Hsu Tung, who probably have more real influence over her than any others, are known to be malignantly hostile to all foreigners or foreign ideas.

However, there seems to be no known or recognized general leaders of the movement, and at present they are practically unorganized.

The present conditions in this province are most favorable to such a movement. The people are very poor; until yesterday practically no rain has fallen for nearly a year, plowing has not been and can not be done, crops have not been planted, the ground is too dry and hard to work in any way, and consequently the whole country is swarming with hungry, discontented, hopeless idlers, and they \* \* \* are ready to join any organization offered. There are always clever scoundrels to take advantage of such a situation. Therefore false reports accrediting all sorts of evil practices to the foreigners and native Christians are industriously circulated, such as poisoning wells, preventing rainfall, and causing poverty, disease, and death. Frequent anonymous placards are posted (of course many times by irresponsible people) setting forth these practices and urging the people to rise and exterminate all foreigners.

If the rain, now commenced, continues copiously, I apprehend we will hear little more of the "Boxers." But unless we do have an immediate and generous rainfall, or the Government adopts some stronger effective repressive measures, serious trouble may result, not only to foreign interests, but to the Imperial Government itself.

The Government either strongly sympathizes with the "Boxers" or it is afraid of them. It is reported and believed that there are many "Boxers" and sympathizers with them in the army, and they all, both in and out of the army, claim to be patriotically in favor of the present dynasty. If, therefore, the Government should treat them too harshly, or punish too severely, a revolution might be the result and the Government find itself without the ability of successful defense. This dynasty is not popular anywhere south of this province, and, with the existing palace troubles, finds considerable cause for anxiety.

They claim they are doing all they can to suppress these societies, but say on every occasion that it is very difficult, because of the good and bad mixed together.

It has been the custom for centuries, but especially since the Tai Ping rebellion, for villages to organize local companies or trained bands for their protection and safety. The "Boxers" have taken advantage of this, and, in many places, the organizations have merged. Hence the difficulty, which the yamen mentions, of discriminating between the good and the bad.

I have, both by note and orally, insisted that China has by treaty agreed that missionaries and their converts should be permitted to peaceably teach and practice the principles of Christianity wherever they pleased in China, and that it was her duty to see to it that such law and order prevail throughout the Empire that this could safely

be done, and that my Government would continue to demand the faithful execution of these treaty obligations.

Recently I have secured copies of some antiforeign booklets which are being sold on the Peking streets, and by my request many copies, together with the blocks on which they were printed, have been seized and destroyed. I inclose translation of tsungli yamen's note upon the subject.

On the 6th instant a stone was thrown into the compound of the Presbyterian mission in this city and several anonymous threatening placards, translations of which are inclosed, have been posted in that vicinity and elsewhere.

Yesterday I sent Mr. Cheshire to the Tsungli Yamen with a memorandum, copy herewith, and to-day I am transmitting a note on the same subject of which I also inclose herein a copy.

I have the honor to be, etc.,

E. H. CONGER.

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[Inclosure 1.]

*The Secretaries of the Tsungli Yamen to Mr. Cheshire.*

PEKIN, April 30, 1900.

SIR: A few days ago when you called at the yamen, you handed us a memorandum and two small books, and stated that Mr. Conger had instructed you to say that as the books contained slanderous language against foreigners, he desired that their publication and sale be prohibited.

The yamen at the time addressed the gendarmerie, requesting that instructions be issued at once to investigate the matter and not allow persons to publish such books, which are calculated to create and arouse suspicion in the minds of the people.

The gendarmerie has now reported that Sublieutenant Yen Chi-pin, on duty at the east Chu Shih Ko'u, had presented a petition stating that in a bookshop on the Ta Mo Chang, 132 volumes of the book called *The Eighteen Loyal and Patriotic Societies*, and the other book called *An Admirable Plan to Destroy Foreign Buildings*, together with the blocks (four of them) from which the books were printed, had been seized and burned in the presence of officials.

Further, Lieutenant Yu Te-lu, on duty at the Hsi Ho Yen, had petitioned that in a bookshop on the Nan Liu Hsiang these books were also being sold. Ninety volumes were seized, together with four blocks, which were also burned in the presence of the officials.

The yamen considers that the officers above named have acted in good earnest in seizing the books and blocks mentioned, and it is believed that such publications will not again be issued and offered for sale.

We beg that you will be good enough to inform His Excellency Mr. Conger of the contents of this note.

Cards of Shu Wen and Ku Chao-hsin, secretaries of the tsungli yamen, with compliments.

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[Inclosure 2.]

*Translation of a placard issued by Li, god of wealth and of increasing happiness.*

The Roman Catholic and Protestant religion have ruined and destroyed Buddhism. Their adherents have insulted the gods and holy ones, and do not observe the law of Buddha. They have irritated heaven, and in consequence no rain has fallen. Eight millions of spiritual soldiers will be sent down from heaven to sweep away the foreigners. There has only been a fine rain. It will not be long before

the soldiers will be aroused to action, and there will be a calamity among the military and people. The Buddhist religion and the society of "Righteous Harmony" can protect the Empire and give peace and tranquillity to the people. Whoever sees this placard and distributes six copies of it will thereby prevent a calamity to one household. The circulation of ten copies of it will prevent a calamity to a village. Those who see this placard and do not circulate it will commit a crime punishable by decapitation. If foreigners are not swept away no rain will fall. If there are any who have taken the foreigners' poisonous medicine they should eat seven black plums, and take five mace of Tu Chung (a climbing plant with black-spotted stalks and leaves) and seven mace of Mao Tsao (a medicinal herb). This spiritual prescription should be steamed in water and then taken.

NOTE.—The above placard was sent to Mr. Conger in Chinese text by Dr. J. L. Whiting, of the American Presbyterian Mission.

*Translation of a proclamation issued by Li, god of wealth and of increasing happiness.*

Let it be known to all the soldiers and people that the Roman Catholic and Protestants have treated the gods contemptuously, exterminated the sacred doctrine, and not observed Buddhism. They have established chapels everywhere and have taken opportunity to get vagabonds from all places to propagate their doctrine and spread teachings that are in defiance of reason. They have acted of their own free will and accord at cross purposes (?) and by their acts aroused the anger of the Great Heaven, and in consequence no rain has fallen. Eight million of spiritual soldiers will descend from Heaven and expel and subdue these foul hordes of malignant, aggressive, and unscrupulous persons. Should there be any remaining obstinately fixed in delusion (?) it will not be long before the soldiers will be aroused to action and there will be a calamity among the military and people. If you will immediately join the "Society of Righteous Harmony," then the Empire will be protected and peace and tranquillity prevail among the people. The old and the young who see this proclamation and spread its contents abroad will thereby prevent a calamity to one household. Those who do not circulate it will suffer punishment by losing their heads.

NOTE.—The above proclamation was sent to Mr. Conger in Chinese text by Dr. George Lowry, of the Methodist Mission.

[Inclosure 3.]

*Memorandum of an interview between Mr. Cheshire and Wang Ching-mu, secretary of the Tsungli Yamen, on May 7, 1900.*

(There were no ministers at the yamen.)

Mr. Cheshire stated that he had been instructed by Mr. Conger to present to the yamen certain matters involving the "Boxers." Yesterday morning, during church service at the missionary chapel of the Presbyterian Mission in the Ya-erh street, a missile of considerable size was hurled over the wall into the mission compound by a Boxer, barely missing the head of a servant inside. Further, during the last few days a number of placards threatening foreigners have been posted on the walls near the mission premises, containing very bad expressions against foreigners in general. One of these placards was thrown into the mission compound. Groups of "Boxers" are also practicing at several places in the neighborhood of the mission, and one of these groups has openly avowed in the presence of a Chinese Christian that their purpose is to destroy the foreigners at the two Presbyterian Mission stations, in the Ya-erh and Erh-tiao streets. This same sentiment is constantly expressed on the streets and in the tea shops near the mission; and the "Boxers" so far from regarding the proclamation of the commandant of the gendarmerie of April 30 have had the effrontery to paste their placards on the top of it, boldly and openly claiming that the late Imperial edicts give them full protection.

Mr. Cheshire was instructed by Mr. Conger to say that he was surprised to find that these unlawful acts could happen, and such a condition of affairs exist, in Peking, the capital of China, and conclusively shows beyond doubt that the local officers are not acting energetically in taking steps to arrest the outlaws who commit such

unlawful acts. Mr. Cheshire requested the secretary to bring the matter to the attention of the ministers of the yamen as soon as possible, and requested, on behalf of his minister, that proper steps be immediately taken to cause the arrest and punishment of the persons who put out these placards and committed the lawless act complained of. Further that officers be dispatched to preserve order and that proclamations be posted warning the "Boxers" against creating trouble. This is nothing more or less than a duty incumbent on the local officers of the place, and they should not treat the matter with indifference. If vigorous action is not taken at once to prevent the "Boxers" from drilling and putting out inflammatory placards, we shall have a repetition of the serious troubles that occurred in Shantung.

Mr. Cheshire handed the secretary a copy of two placards, who promised to bring the matter to the attention of the ministers of the yamen as soon as they arrived.

Mr. Cheshire pointed out that one of the placards was handed to Mr. Conger by Dr. Lowry, of the Methodist Mission.

F. D. CHESHIRE.

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[Inclosure 4.]

*Mr. Conger to the Tsungli Yamen.*

LEGATION OF THE UNITED STATES,  
*Pekin, China, May 9, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: In addition to the memorandum which, by my direction, Mr. Cheshire left for your highness and your excellencies at the tsungli yamen yesterday, concerning the throwing a stone into and posting offensive placards in the vicinity of the Presbyterian Mission, the repeated threats uttered against the missionaries, and the continued public drilling of "Boxers" in the city, it is my duty to add that such a state of things, right in the presence of the tsungli yamen and under the shadow of the Imperial palace, shows a lack of appreciation of the impending danger by the Imperial Government, a neglect of duty on the part of minor officials, and a careless treatment of serious treaty obligations by the Chinese Government that is disappointing in the extreme, gives just cause of alarm to all concerned, and is bringing merited disgrace upon the good name of the Empire.

From the beginning of these troubles last year in Shantung, notwithstanding the repeated representations from this legation and the resulting Imperial decrees and consequent assurances from your highness and your excellencies, the "Boxers" have been continually spreading and steadily advancing toward Peking, until now they have finally, boldly, and unhindered, marched directly into this capital.

My Government has been kept fully advised of the situation and has given the subject the most careful consideration.

It views with lively concern the apparent dilatoriness which the Chinese Government exhibits in suppressing these antifeign movements, and in punishing all those directly or remotely involved therein, and instructs me to again represent to your highness and your excellencies the pressing necessity of taking immediate and radical measures for the extermination of these lawless brigands, and for the protection of Americans residing in the disturbed districts, and to insure to the native converts the free and peaceable exercise of their religion assured to them under treaty and by numerous Imperial decrees.

The Government of the United States has always been the constant and considerate friend of China, and its friendly interest has just been renewedly evidenced by the fact that in the recent assurances which it has secured from the great powers holding leased territory of areas of influence in China, concerning freedom of trade in said regions and the maintenance therein of Chinese rights of sovereignty, it has obtained thereby a renewed assurance of the policy of the treaty powers not to interfere with the integrity of the Chinese Empire. \* \* \*

The views of my Government as to the rights of American citizens in China, and the treaty obligations of the Chinese Government to protect them, have repeatedly been represented to your highness and your excellencies by this legation, and must be fully understood; but in the light of the present conditions I am constrained to inform your highness and your excellencies that my Government is more determined than ever to see them carried out, not only in the interest of its citizens and their rights, but for the unquestionable benefit of China itself.

I avail myself of the occasion to renew to your highness and your excellencies the assurance of my highest consideration.

E. H. CONGER.

*Mr. Conger to Mr. Hay.*

No. 369.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, May 14, 1900.*

SIR: I have the honor to report that on the 6th and 8th instants, while the British and Chinese commissioners were demarcating the boundary of the British leased territory of Wei-hai Wei, they were attacked by the natives, who did not understand the proceeding, but who had been made to believe that the foreigners had come to take possession of their territory, oppress them with increased taxes, etc.

Major Penrose, a British engineer, and four of his men were wounded, thirty Chinese killed and many wounded, and the Chinese commissioners were taken prisoners and held until relieved by the British and Chinese troops, but quiet has been restored, and the British minister informs me that the work will proceed, it is believed, without further trouble.

It has been currently rumored that the so-called "Boxers" were the cause of the trouble, but the British minister tells me that he has information from British officers on the ground that the "Boxers" had nothing whatever to do with it. In quelling the disturbance the British regiment of Chinese soldiers behaved finely, and notwithstanding their families, many of whom live in the vicinity, were threatened with murder by the natives, they loyally obeyed every command. \* \* \*

I have the honor to be, etc.,

E. H. CONGER.

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*Mr. Hay to Mr. Conger.*

No. 262.]

DEPARTMENT OF STATE,  
*Washington, May 15, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 345, of March 23 last, reporting that Yu Hsien, governor of Shantung, has been transferred to the governorship of Shansi.

The Department approves your determination to inform in personal conference the Tsungli Yamen that trouble will possibly come from the appointment, in view of Yu Hsien's strong antiforeign feeling, and of the hostility that he has heretofore shown in his official capacity to foreigners and their interests.

I am, etc.,

JOHN HAY.

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*Mr. Conger to Mr. Hay.*

No. 372.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, May 18, 1900.*

SIR: Referring to my dispatch No. 367a of the 3d instant, in which I reported the departure of the U. S. S. *Wheeling* for Shanghai, I have the honor to inclose copy of my correspondence with Admiral Kempff, second in command of United States naval force on Asiatic Station, confirming my telegram requesting that a warship be sent to Taku as soon as possible.

I have the honor to be, etc.,

E. H. CONGER.

[Inclosure 1—Telegram.]

*Mr. Conger to Admiral Kempff at Yokohama.*PEKIN, *May 17, 1900.*

Situation becoming serious. Request warship Taku soon as possible.

CONGER.

[Inclosure 2.]

*Mr. Conger to Rear Admiral Kempff.*

LEGATION OF THE UNITED STATES,

*Pekin, China, May 18, 1900.*

SIR: I have the honor to confirm, on the overleaf, my cipher telegram of the 17th, and to report that the the antforeign societies called "Boxers" are rapidly spreading throughout this province.

On the 12th instant they attacked a Catholic village about 50 miles from here, burned it, and killed 61 Christians; and at another place destroyed a chapel of the London mission, killed a Chinese preacher and 1 convert. At a place 45 miles southwest from Pekin they have driven the Protestant converts from their chapel and are threatening others.

I do not consider the danger is imminent at this moment, but it may become so at any time.

Unless the Chinese Government can be aroused to take more energetic action than they so far seem inclined to do, the situation is likely to be very serious, not only for the missionaries, but for the Chinese Government itself.

The presence of one or more war ships in the vicinity of Taku will have a good influence on the Chinese Government and may be sadly needed.

Admiral Remy, on withdrawing the *Wheeling*, informed me that you were to be called upon if another vessel was needed.

I have the honor to be, sir, your obedient servant,

E. H. CONGER.

*Mr. Conger to Mr. Hay.*

[Telegram.]

PEKIN, *May 21, 1900.*

Boxers greatly increased in this province in and around Pekin. Village 40 miles Pekin burned. Sixty native Catholics killed. No foreigners attacked. Chinese Government aroused and promises immediate suppression. Diplomatic corps demanded immediate effective measures. *Newark* en route Taku. I hope and believe the worst has passed.

CONGER.

*Mr. Conger to Mr. Hay.*

No. 376.]

LEGATION OF THE UNITED STATES,

*Pekin, China, May 21, 1900. (Received July 3.)*

SIR: I have the honor to confirm on the overleaf my cipher telegram of to-day.<sup>1</sup>

In response to the request of the French minister the dean called a

<sup>1</sup> Printed ante.

meeting of the diplomatic corps yesterday, and upon information furnished in a letter from the Catholic bishop in Peking, and verbal reports by the other ministers, the situation was considered so grave that the corps unanimously instructed the dean to present it to the Tsungli Yamen and demand immediate and effective measures, which he did to-day by the note, copy of which is inclosed.

I also inclose copies of the bishop's letter and one from Reverend Mr. Killie, an American missionary who lives in Peking but travels a circuit to the north and east.

On the 18th instant during an extended personal interview with the Tsungli Yamen I called their attention to the fact that notwithstanding constant warnings from this and other legations the "Boxers" had continually increased and spread until now they are boldly organizing inside the wall of Peking, the existence of thousands is known in the villages around Peking, Christian converts are being persecuted and threatened everywhere, many forced to recant their religious professions, and some have been compelled to abandon their chapels and come to Peking for safety.

I said:

At a London mission near Chou Chow, 40 miles west of Peking, 2 native Christians have been killed and their chapel destroyed. Near Paotingfu a Catholic village has been destroyed and 61 Christians murdered, some of them being burned alive.

The foreign Governments can not longer sit idly by and witness this persecution and murder. I can only speak for my own Government, but it is becoming very impatient over China's continued treaty violation. It always has been, and still is, the good friend of China, and only wishes it prosperity, but it is now more than ever determined to sustain the treaty rights of all American citizens and of the Christian converts, and it will hold the Chinese Government to the strictest responsibility for every treaty infraction in this regard. It will do this, not only for the benefit of its own citizens, but in the interest of China herself, whose Government is now sadly threatened by these lawless organizations. At present, it is true, they seem to have no capable leader, but should one arise, and the populace become really inflamed, the overthrow of the present dynasty is most likely to follow, and possibly the destruction of the Empire, etc.

They replied that I did not understand the many difficulties under which they labored, but they had succeeded in suppressing the "Boxers" in the province of Shantung, and would do so here.

I told them that I saw no effective measures whatever being put forth. They replied that the movement had not heretofore been looked upon as serious; but that now the Throne was fully aware of the gravity of the situation and that a recent confidential decree had been sent to the Viceroy, the Peking and neighboring officials, which would surely prove effective, suppress the "Boxers," and restore order.

I told them that the most alarming telegrams were being sent to the newspapers of Europe and America of the existing state of anarchy here, and that the people of the world would be forced to believe that the Government of China was either abetting these murderous brigands, or that it was too weak to suppress or control them, and its good name and credit must suffer irretrievably in consequence. After reading me the decree, which was much like those heretofore published, they asked me if I would not wire my Government that they could and were suppressing the "Boxers."

I replied that at present I would not; that I had been for six months telegraphing the issuance of ineffective decrees, but if they would show me the fact by actual and immediate repression, which they could



if they would, in three days, I would gladly and quickly wire it to my Government.

They assured me that sufficient troops had been sent to the disturbed districts to restore order and afford protection.

I again told them that restored order would be the only possible proof. I also said that unless the situation was relieved and the threatening danger from mobs averted, I should be compelled to ask for a sufficient guard of American marines to insure the safety of the legation.

They said: "Oh, don't do that; it is unnecessary." And again promising energetic action the interview closed.

Unless some energetic action is taken the situation will become fraught with great danger to all foreigners, not from any intelligent or organized attacks, but from ignorant, inflamed mob violence. I, however, believe, as I said in my telegram, that the Government is aroused, itself alarmed at the situation, and will take more energetic action; but no one can be certain of this until it is done.

Since the U. S. S. *Wheeling* had already left Taku, I deemed it prudent to ask the admiral for the presence of another war vessel, and, responding to the request, Admiral Kempff, with the *Newark*, sailed hither from Yokohama on the 19th instant and should arrive soon.

I have the honor to be, etc.,

E. H. CONGER.

[Inclosure 1.]

*The Diplomatic Body to the Tsungli Yamen.*

PEKIN, May 21, 1900.

*The Prince and Ministers:*

I have the honor to communicate to your highness and your excellencies the text of a resolution prepared yesterday by the representatives of the foreign powers accredited to Peking.

"The diplomatic body, relying upon the imperial decrees already published, which have ordered the dissolution of the 'Boxers,' demand:

"First. The arrest of all persons practicing the drills of that association, provoking disturbances upon the public highway; posting, printing, or distributing placards which may contain threats against foreigners.

"Second. The arrest of owners or guardians of temples or other places where the 'Boxers' assemble, and the treatment of these accomplices and criminal abettors as 'Boxers' themselves.

"Third. The chastisement of the public officials who may render themselves culpable by neglecting to suppress any disorder with which they are charged, or who may connive with the rioters.

"Fourth. The execution of the authors of outrages (murders, incendiarism, etc.) against persons or property.

"Fifth. The execution of persons who are supporting and directing the 'Boxers' in the present disturbances.

"Sixth. The publication in Peking, in Chihli, and the other northern provinces of proclamations bringing these measures to the knowledge of the people."

I am, besides, charged by the diplomatic corps to inform your highness and your excellencies that it expects a satisfactory reply to this demand without unnecessary delay.

I improve the occasion to reiterate to your highness and your excellencies the assurance of my highest consideration.

B. COLOGAN,  
*Dean of the Diplomatic Corps.*

[Inclosure 2.—Translation.]

*Bishop Favier to Mr. Pichon, French minister.*

APOSTOLIC VICARATE OF PEKIN AND NORTH CHINA,  
*Pekin, May 19, 1900.*

MR. MINISTER: From day to day the situation becomes more serious and threatening. In the prefecture of Paotingfu more than seventy Christians have been massacred; near Icheou, only three days ago, three neophytes have been cut in pieces. Many villages have been pillaged and burned, a great many others have been completely abandoned.

More than 2,000 Christians are fleeing, without bread, without clothing, without shelter. At Peking alone, about 400 refugees—men, women, and children—are already lodged at our house and that of the Sisters; before eight days we will probably have many thousands.

We will have to dismiss the schools, and the colleges also; use all the hospitals to make room for these unfortunate people.

Upon the east of us pillage and incendiarism are imminent; we are hourly receiving the most alarming news. Peking is surrounded on all sides; the "Boxers" are daily coming nearer the capital, delayed only by the destruction which they are making of the Christians.

Believe me, I pray you, Mr. Minister, that I am well informed and say nothing lightly.

Religious persecution is only one object. The real purpose is the extermination of Europeans, a purpose which is clearly set forth and written upon the banners of the "Boxers." Their associates await them at Peking, where they will begin by attacking the churches and finish with the legations.

For us here at Peking, the day is practically ended. All the city knows it; everybody is speaking of it, and a popular outbreak is manifest.

Yesterday evening forty-three poor women and their children, flying from the massacre, arrived at the house of the Sisters. More than five hundred persons accompanied them, saying to them, that if they escaped this once they would soon die with others.

Mr. Minister, I do not speak to you of placards without number which are posted in the city against Europeans in general. Each day new ones appear more explicit than the others. Those who, thirty years ago, were present at the Tientsin massacre are struck with the resemblance of the situation then to that of to-day; the same placards, the same threats, the same warnings, and the same blindness. Then also, as to-day, the missionaries wrote and supplicated, foreseeing the horrible awakening.

Under these circumstances Mr. Minister, I believe it my duty to ask you to kindly send at least forty or fifty marines to protect our persons and our property. This has been already done under circumstances much less critical, and I hope you will take into consideration our humble prayer.

Please accept Mr. Minister, the assurances of the respect and the profound gratitude with which I have the honor to be

Your excellency's very humble and obedient servants,

ALF. FAVIER,  
*Bishop Apostolic Vicar at Peking.*  
S. JARLIN,  
*Bishop Coadjutor.*  
G. GUILLOUX,  
*Vicar-General.*

[Inclosure 3.]

*Mr. Killie to Mr. Conger.*

LING SHAN, SAN HO COUNTY (35 miles east of Peking),  
*May 16, 1900.*

DEAR SIR: I have delayed giving you the list of villages in this district where the "I Ho C'huan" (or T'uan) is in active operation, until I could verify, beyond question, the statements heretofore made concerning the same. I am now prepared with proof to show that the members of that organization practice ("lien") practically daily in each of the following thirteen places, viz: (1) San Ho City, the county seat.

(2) Ling Shan, a village 35 li northwest of San Ho City, where the Presbyterian mission owns twenty "chien" of improved native buildings, and where two American missionaries spend the most of their time. Here the "Boxers" come to our very doors to practice, and I have personally seen them at it twice. (3) Chang Ko Chuang. (4) C'heng Kuan Ying. (5) Shi Kuan Ying. (6) T'ao Chung Tsi. (7) C'hu T'ou. (8) Tsung Chia Tien. (9) Siao Sung Ko Chuang. (10) Siao T'sui Ko Chuang. (11) Chia Kuan Ying. (12) Siao Koo Hsien Chuang, where the American Presbyterian has a boarding school for girls and where there is also located one foreign lady missionary evangelist.

(These places are all in the neighborhood of Ling Shan, our headquarters.) (13) Pao Ti Hsien, the county seat, one hundred li to the southeast of this place, where we have had a native evangelist at work for over a year. At this place great numbers of men (said to be as many as two or three hundred) practice openly every day.

It is only recently that open threats of violence have been made against the foreign missionaries here and against the native Christians, but they are now almost of daily occurrence. For example, at the sixth village mentioned above, T'sao Chuang Tsi, 8 li from this place, where every evening the people from several villages meet to practice the I Ho C'huan maneuvers, on the 12th instant, Mr. Wang T'ing Hsiang, one of the owners of the ground where the practising is done, forbade one of our evangelists, who is a native of that place, to come where they were practicing, saying to him, among other threatening things, that they were preparing to destroy the foreigners at Ling Shang, and their followers, the native Christians.

Furthermore, yesterday, May 14, when two of our native preachers went to the San Ho yamen with a letter from me to the official, they were recognized as Christian evangelists and followed by people to the yamen, and repeatedly threatened with death. There were many calls for knives to kill them with. The official was absent from the city, so they did not see him. They actually suffered no physical violence, but that was doubtless only because of their own patience and forbearance.

All about us men are actively stirring up feeling against us by saying that we are poisoning the wells, and many villages have already purchased native medicine to put into the wells to counteract the effect of the supposed poison.

The recent rains which you have had in Peking have not reached this part of the country, and hence, as no farming can be done, the people are idle and distressed at having no crops, and consequently easily misled by the designing men who are so actively propagating this society.

The I Ho C'huan is spreading like wildfire all over this district. Where two months ago it was practically unknown, today there are scores of active societies, which are rapidly becoming aggressive ones, and unless your excellency can secure the immediate and vigorous action of the Chinese Government in suppressing it and in punishing a few ringleaders, it is certain (humanly speaking) that it is only a question of a very short time until there will be a violent uprising in all this district. I believe that it is not yet too late to suppress it if taken hold of in earnest by the Chinese officials; but in my judgment (and I have passed through several such experiences in my ten or more years in China) there is not a day to spare.

Praying your excellency's kindly offices on our behalf,

I am, your obedient servant,

CHARLES A. KILLIE.

P. S.—Any message sent to me in care of Rev. John Wherry, D. D., will be promptly forwarded to me.

C. A. K.

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*Mr. Conger to Mr. Hay.*

[Telegram.]

PEKIN, May 26, 1900.

Situation unchanged. If it is necessary, and the other powers bring them to Peking, can I arrange with the admiral for legation guards?

CONGER.

*Mr. Hill to Mr. Conger.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, May 26, 1900.

If required for safety of legation, confer with admiral about sending guards for your protection.

HILL, *Acting.*

*Mr. Conger to Mr. Hay.*

[Telegram.]

PEKIN, May 28, 1900.

Boxers increasing. Nine Methodist converts brutally murdered at Pachow. The movement has developed into open rebellion. Chinese Government is trying but apparently is unable to suppress it. Many soldiers disloyal. Several railroad bridges and stations near Pekin burned. Legations have ordered guards.

CONGER.

*Mr. Conger to Mr. Hay.*

[Telegram.]

PEKIN, June 1, 1900.

Three hundred fifty English, Russian, French, Japanese, Italian, and American guards arrived last night, materially quieting the situation in Pekin. Boxers are still active in the country.

CONGER.

*Mr. Conger to Mr. Hay.*

No. 383.]

LEGATION OF THE UNITED STATES,  
Pekin, China, June 2, 1900.  
(Received October 24, 1900.)

SIR: I have the honor to confirm on the overleaf my telegrams of May 26, 28, and June 1, and Department's telegram of May 26<sup>1</sup>, and to say that Captain McCalla, of the U. S. S. *Newark*, arrived here last night at 8 o'clock with 50 marines and an automatic gun.

There came also, on the same train, a Russian guard of 75 men, English, 75; French, 75; Italian, 40, and Japanese, 25. German and Austrian contingents are expected tomorrow.

Since my despatch No. 376, of May 21 last, and in reply to the demand of the diplomatic corps, copy of which was inclosed therein, the Tsungli Yamen, on the 27th ultimo, complied with our request and reported the required decree published and the necessary measures taken which it was believed would suppress the Boxers. But, to the consternation of all, on Monday, the 28th, word came that the railroad was attacked, two bridges and two stations burned on the Paoting-fu

<sup>1</sup>Printed ante.

line, and that all the foreigners connected with the line had fled to Tientsin, or were besieged in their homes. Later in the day it was learned that Fengtai, the second station on the Tientsin line, only 10 miles from Peking, and where are located the railroad machine shops, was being burned, no trains were running between Tientsin and Peking, and the Boxers were reported marching on Peking.

At 5 p. m. a hurried meeting of the diplomatic corps was called, and it was decided to bring legion guards to the city without delay. The Tsungli Yamen was notified of our determination, and requested to see to it that proper transportation facilities were at hand.

The Tsungli Yamen begged that guards be not brought, at least for a few days, and in the meantime it would demonstrate that they were not needed, and it ordered the viceroy not to permit their departure from Tientsin. We insisted on our determination, and learning that the guards would be ready at Tientsin yesterday, we demanded on the evening of the 30th that orders to grant permission should be sent to the viceroy at once. At 2 o'clock a. m. the 31st ultimo we were informed that such orders had been sent, and at 8 o'clock the guards arrived, as stated above.

The arrival of the guards has already given much confidence to missionaries and native converts in Peking, exerted a most quieting effect on the Chinese generally, and inspired the Chinese Government to apparently more vigorous efforts for the general security.

Admiral Kempff has acted most promptly and willingly, and it is a matter of pride and congratulation for all of us that, headed by Captain McCalla, the United States guards were the first to arrive at Tientsin and the first here.

I beg you to give this information to the Secretary of the Navy, with an expression of my sincere appreciation and gratitude to all concerned.

On the 26th Dr. Davis, of the Methodist mission, reported that on the 25th instant, at Pachow, 60 miles to the southwest of Peking, the Boxers attacked and destroyed the houses of several of their converts and murdered nine Christian women and children.

I immediately sent Mr. Cheshire to the Tsungli Yamen with the details, and by appointment called myself the next day, and requested that an immediate and thorough investigation be made, the perpetrators of the horrible crime swiftly and adequately punished, and ample protection be given to the surviving Christians, so that they may return to their homes and remain there safe from further harm or persecution.

They promised that an immediate investigation should be had and needful action taken. I left with them the note a copy of which I inclose. I inclose copies of correspondence with the Tsungli Yamen concerning the whole matter, memorandum of personal interview of the English, Russian, French, and American ministers on behalf of the diplomatic corps; also translations of three imperial decrees on the general subject. The copy of summary of measures adopted, referred to in Tsungli Yamen's note of May 27 (inclosure No. 1), being very long and in great detail, is not inclosed.

During to-day rumors of Boxer raids, persecution of Christians, destruction of their homes, and threats against all foreigners have been coming in from various localities, of which I will speak in a subsequent dispatch if they are verified.

I have the honor to be, etc.,

E. H. CONGER.

[Inclosure 1.]

*A decree issued on the 17th of May, 1900.*

The society called the "Fist of Righteous Harmony" having spread to Peking, we some time ago issued our instructions direct from the palace to the office of the gendarmerie to take action in good earnest to prohibit its operation.

We have now learned that wicked and malicious persons, under the name of the Society of Boxers, have posted placards containing false statements everywhere in the inner and outer cities of Peking, the object being to create suspicion and disturb the minds of the people, which it is greatly to be feared will result in stirring up trouble.

Let the office of the commandant of the gendarmerie, the governor of Peking, and the police censors of the Wu Cheng (or five divisions of the city and suburbs of Peking) confer together as to the best manner of taking protective measures to search out and prohibit this society and to decide upon some satisfactory rules to be put into operation at once. The result of their deliberations, however, must be first submitted to us in a memorial.

Let Yu Lu (viceroy of Chihli) in like manner take action to stringently prohibit this society.

NOTE.—The above decree, in Chinese text, was sent to Mr. Cheshire, privately, by secretaries Tung Te-chang, and Jui Liang, of the Tsungli Yamen, May 21, 1900.

[Inclosure 2.]

*A decree published in the manuscript Peking Gazette, May 29, 1900.*

Lately, in the vicinity and neighborhood of our court, the villagers and rustics have been practicing boxing and their physical strength. There are the good and the evil-minded scattered together, and as we entertained great fear that trouble would happen, we issued our commands repeatedly to the various yamens, both inside and outside of Peking, to strictly prohibit them from practicing.

We have now learned that the Boxers are very numerous, and that there are traces of disbanded soldiers and rebels being among them; that they have recklessly created disturbances and brought about disorder; and they have even extended their outrageous acts to killing a military officer, burning and destroying the telegraph poles and railway. We are grieved that they do not fear the law. And what is the difference between them and the rebels?

Let the high military officers whom we have already deputed, together with the local civil and military officials, act immediately, and rigorously arrest the leaders and chiefs, and to disperse the followers of the Boxers; and if any dare to oppose or resist the soldiers, they should be destroyed (dealt with as a rebellion), in order to manifest the rigor of the law. At present the feelings of the people are moved and unsettled, and in the event of anything happening they make mischief.

Wherever there are missionary chapels and native Christians, these should all be energetically protected, so as to secure complete peace and quiet, and to stop further calamities.

[Inclosure 3.]

*Translation of a decree published in the manuscript Peking Gazette, on the 30th of May, 1900.*

On account of the Boxer outlaws having created disturbances recently we issued our decrees instructing various officials to take action in the premises. There are the good and the bad scattered among the ignorant and stupid country people, and there is no way of dealing with the matter other than to stringently arrest the leaders or chiefs of the Boxers and disperse those who follow them. Everywhere in the province of Chihli and in the neighborhood and vicinity of Peking the feelings of the people are aroused and unsettled, and if measures are not taken at once how is this evil of heretical and magical teachings to be suppressed and the root of it exterminated?

Let the yamen of the gendarmerie, the governor of Peking, and the police censors of the five divisions of the city and suburbs of Peking, and the viceroy of Chihli issue

strenuous instructions to all the local officers under their respective jurisdictions and to the military commandants, that if among the Boxer banditti there are those who really stir up and create trouble and voluntarily commit acts of rebellion they should immediately, with united efforts, arrest and severely punish them. They must not act in collusion and shirk their responsibility. If there is any further procrastination or shilly-shallying in the discharge of their duties we will hold Chung Li and the other officers responsible, and on no account will leniency be shown. Those who court the favor of the outlaws and follow them, making a noise, but do not take an active part in rioting, should have it clearly made known to them that they must at once disperse, and not again of their own free will and accord take part in originating a feud or committing acts of violence.

[Inclosure 4.]

*The Tsungli Yamen to the Dean of the Diplomatic Corps.*

On the 26th instant we received the following note from your excellency:

"I have the honor to address your highness and your excellencies the text of a resolution taken by the foreign representatives to-day. The diplomatic corps maintain that the dispatch of the Tsungli Yamen of the 24th instant does not reply to the question which the foreign representatives presented in their note of the 21st. The tsungli yamen declare that the measures adopted by the Imperial Government for the suppression of the Boxers agree substantially with the ideas expressed by the ministers accredited to Peking. It does not say whether or not it accepts these measures. The Tsungli Yamen adds that it has requested a new decree ordering the viceroy of Chili, as well as the various yamens charged with the administration of the capital, to proceed immediately with measures which shall be efficacious, and not expend themselves in mere words. This is not yet published nor has it been communicated to the foreign ministers. The diplomatic corps therefore demands that the measures which have been taken according to the dispatch of the 21st instant shall be immediately communicated as well as the edict aforesaid."

Prior to this we had received the following imperial decree dated May 17, on the subject of the Boxers:

"We have just learned that in and about Peking evil-disposed persons who call themselves Boxers have disturbed the peace of the people by posting placards everywhere and circulating rumors. We deeply fear that disorder will gradually follow. As to the measures which it is necessary to take to reestablish order and for the suppression of the Boxers, we direct the tsungli yamen, the military governor at Peking, the police censors of the five divisions of the city and suburbs of Peking to consult together and adopt the necessary measures, and also to immediately put them in force. We also order the above-named officials to memorialize us on the action taken by them. We also order Yu Lu to act and vigorously suppress these disorders. Respect this."

On the 21st May, on the receipt of the note of your excellency communicating the resolution of the diplomatic corps, the tsungli yamen again memorialized the Throne. On the 24th the following imperial decree was published:

"Heretofore, owing to the placards and rumors published by the Boxers disturbing the peace of the people, we have several times given orders to the yamen having jurisdiction to adopt and immediately put in force repressive measures. To-day a memorial of the tsungli yamen informed us that the Boxers were spreading rumors everywhere, endeavoring to stir up disorder and excite the people. The heart of man is irresolute and uncertain. It is ready to stir up trouble. It is of the greatest necessity that effective repressive measures be found. We order the tsungli yamen, the military governor of Peking, the police censors of the five divisions, etc., and the viceroy of Chili to deliberate together on the foregoing, and memorialize us in reply. Respect this."

On the 25th the viceroy of Chihli memorialized the Throne in regard to the Boxers, and an imperial decree was issued as follows:

"The search for and arrest of the principal ringleaders, the dispersion of the bands, are salutary proceedings. It is necessary that the viceroy issue vigorous orders to officers, civil and military, who, according to circumstances, will use severe or less severe measures. Beware of the least negligence. Respect this."

It is indeed time that the Chinese Government realizes the extreme gravity of the question. It already approves of salutary measures regulating it. The yamen now incloses for your excellency's information the measures adopted in compliance with

the imperial decrees by the yamen, the military governor, and the police censors of the five divisions, etc.

We beg you to submit this summary to the foreign ministers accredited to Peking, in order that they may know that the formal demands made by them in their note of the 21st are all included in the measures adopted, and there has been a strict compliance with the wishes of the representatives of the powers at Peking.

We beg them to rest easy, and if in the future there is something which is not entirely satisfactory, they should inform us of the circumstances.

MAY 27, 1900.

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[Inclosure 5.]

*The Tsungli Yamen to the Dean of the Diplomatic Corps.*

PEKIN, May 24, 1900.

YOUR EXCELLENCY: On the 21st of May we received the dispatch in which your excellency communicated to us the detailed text of a resolution taken on the 20th of May, on the subject of the Boxers, in a meeting of the foreign representatives accredited to Peking.

You add that the diplomatic corps expect a satisfactory reply with as little delay as possible.

Our yamen has taken cognizance of the communication in all its details and is convinced of the importance attached to that question by the ministers stationed at Peking.

It appears that in this affair, before the arrival of your dispatch, it had, on the 17th of May, received a decree ordering the yamen of the military governor, the prefect of Peking, and the censors of the five cities to prepare some better regulations to insure a strict suppression.

The system now adopted agrees substantially, in its main features, with the ideas expressed in the dispatch which we have received from your excellency.

Our yamen is asking again that a decree be issued ordering the viceroy of Chihli, as well as the various yamens charged with the administration of the capital, to immediately take some measures which will prove more efficacious than mere empty words.

We think that the Society of Boxers will find itself dissolved without delay and that it will not be the cause of further trouble.

It is proper that we address this official response for your excellency's information, and by you to communicate it to the foreign representatives accredited to Peking.

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[Inclosure 6.]

*Dean of the Diplomatic Corps to the Tsungli Yamen.*

PEKIN, May 26, 1900.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to address your highness and your excellencies the text of a resolution taken by the foreign representatives to-day.

The diplomatic corps maintain that the dispatch of the Tsungli Yamen of the 24th instant does not reply to the question which the foreign representatives presented in their note of the 21st.

The Tsungli Yamen declare that the measures adopted by the Imperial Government for the suppression of the Boxers agree substantially with the ideas expressed by the ministers accredited to Peking.

It does not say whether or not it accepts these measures.

The Tsungli Yamen adds that it has requested a new decree ordering the viceroy of Chihli, as well as the various yamens charged with the administration of the capital, to proceed immediately with measures which shall be efficacious and not expend themselves in mere words.

This is not yet published, nor has it been communicated to the foreign ministers.

The diplomatic corps therefore demands that the measures which have been taken, according to the dispatch of the 21st instant, shall be immediately communicated, as well as the edict aforesaid.

COLOGAN, Doyen.



[Inclosure 7.]

*Mr. Conger to the Tsungli Yamen.*LEGATION OF THE UNITED STATES,  
*Pekin, China, May 30, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: On the 25th instant a most revolting and brutal murder of nine Christian women and children was committed by Boxers at the village of Shan-lai-ying, near Pa Chow, and their homes pillaged and destroyed.

These women and children were all converts of the American Methodist Mission, and it was for this alone that they were murdered.

This crime is the more outrageous and the responsibility therefor the more direct because the Chinese Government has been repeatedly informed of the presence and operation of the Boxers in that vicinity. I have myself given earnest and timely warning to your highness and your excellencies, and have insistently demanded protection for these poor people against just exactly what has happened.

The Chinese Government has not promptly sent soldiers, and many times when they have tardily gone they have fraternized with the Boxers instead of arresting them, thus evidencing on the part of the Government a flagrant neglect of its treaty obligations which can not be overlooked.

The Chinese Government will not, therefore, be permitted to escape the fullest responsibility in this horrible affair.

Therefore, basing my demands upon the provisions of sacred treaties and imperial edicts, I request that the fullest investigation be immediately made, that the murderers be promptly arrested and swiftly and adequately punished, and such unquestioned protection be given to the surviving Christians as will enable them to return and remain peaceably and safely at their homes without further persecution.

These murders were so openly committed that there can be no difficulty in finding the real criminals, and hence no excuse for delay or miscarriage of justice.

The details of these inhuman and savage atrocities are fully set forth in the memorandum left by Mr. Cheshire at your yamen yesterday.

Requesting your highness and your excellencies to give me immediate information of the action taken, I improve the opportunity to again assure you of my highest consideration.

E. H. CONGER.

[Inclosure 8.]

*The Dean of the Diplomatic Corps to the Tsungli Yamen.*PEKIN, *May 28, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to inform your highness and your excellencies that the representatives of Germany, England, Austria-Hungary, United States, France, Italy, Japan, and Russia have decided at a meeting of the diplomatic corps to bring immediately some detachments of troops to Peking.

I am instructed to request of you, in the name of my colleagues, to give the necessary instructions, that the detachments, whose arrival is expected at once, may find at Tangku the trains to bring them to this capital.

It goes without saying that this decision of the ministers does not authorize the Chinese Government to avoid taking the measures, which the ministers have demanded for so long a time, necessary to put an end to the rebellion for which it is responsible and the continuance of which can only aggravate the present situation in China.

Accept, etc.,

COLOGAN, *Doyen.*

[Inclosure 9.]

*The Tsungli Yamen to the Dean of the Diplomatic Corps.*PEKIN, *May 29, 1900.*

On the 28th of May, 1900, we received from your excellency *M. Doyen*, the following dispatch:

"I have the honor to inform your highness and your excellencies that the representatives of Germany, England, Austria-Hungary, United States, France, Italy, Japan, and Russia have decided, at a meeting of the diplomatic corps, to bring immediately some detachments of troops to Peking.

"I am instructed to request of you, in the name of my colleagues, to give the necessary instructions, that the detachments, whose arrival is expected at once, may find at Tangu the trains to bring them to this capital.

"It goes without saying that this decision of the ministers does not authorize the Chinese Government to avoid taking the measures, which the ministers have for a long time demanded, necessary to put an end to the rebellion for which it is responsible and the continuation of which can only aggravate the present situation in China."

We declare that, with reference to the disturbances made by the bandit Boxers in the region of the prefecture of Peking and the province of Chihli, the high commissioner of the northern ports had already sent troops to investigate and take the necessary action. However, at the moment when the troops dispatched arrived at Lei Chou hsien to resist the Boxers and fight them, the bandits suddenly threw themselves upon Lu Kou Chiao and Feng tai with such force that it was impossible to stop them. It is this which has given the foreign ministers great unrest and caused us, the prince of ministers, profound alarm.

At present several detachments of troops from Hou Chen Ying (camp commanded by Prince Tuan), and from Wu Wei Kun (army of Jung Lu), have been hurried to the region of Feng tai and Lu Kou Chiao, to reestablish order in an effective manner and to forthwith make arrests. There have, besides, been troops sent from Chen Ki Ying (camp commanded by Prince Ching), to be stationed at Machia pu and to be posted in the vicinity of the different legations, to patrol there day and night to insure efficient protection.

We have, moreover, received an imperial decree which will be made public, ordering the local authorities to immediately restore order and insure protection.

These bandits have their origin only among vagabonds and have no firearms, and it will evidently not be difficult to disperse them without delay.

We therefore beg you, Mr. Cologan, to request the representatives of the several powers to delay the arrival of their detachments. If then, in three or four days, the measures taken by the Chinese are crowned with success, they would be spared the necessity of their resolution.

In truth this would be on the part of the different countries a new and valuable testimony of their pleasant and friendly relations with China.

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[Inclosure 10.]

*The Tsungli Yamen to the Foreign Ministers (Messrs. Sir C. MacDonald, Pichon, de Giers and Conger.)*

PEKIN, June 1, 1900.

YOUR EXCELLENCIES: With reference to the announcement just verbally made by your excellencies with regard to bringing up troops to Peking for self-defense, the prince and ministers beg to state that the Chinese Government is already doing its duty energetically in the matter of protection, and there is really no necessity to bring up troops; but if the foreign representatives insist on this step the yamen will on their part interpose no obstacles. But as there is excitement in the city, if the number of foreign soldiers is excessive there is reason to fear that only fresh troubles will be created. The yamen must therefore request that, as on last occasion, each legation should have twenty to thirty men on an average, and no more. They must also request that the guards be kept under proper control and charged only with the task of protecting the legations, without interfering in other matters, and that after a few weeks' time, when the brigands are quieted, they shall be at once withdrawn, so that friendly relations may be maintained in their integrity.

The prince and ministers beg your excellency to give instructions to the above effect. They avail themselves, etc.

(Cards of prince and ministers.)

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[Inclosure 11.]

*Memorandum of an interview between the ministers of Great Britain, Russia, France, and the United States and Messrs. Hsu Yung-i, Hsu Ching-cheng, Yuan Chang, Liao Shou-heng, and Lien Yuan, ministers of the Tsungli Yamen, on the 30th of May, 1900.*

Sir Claude MacDonald, British minister, opened the meeting by saying that he had come to the yamen with his colleagues to request that permission be granted and

facilities be offered to transport guards to Peking for the purpose of protecting the legations. It was a friendly request, and he spoke in behalf of all the foreign ministers present. Some eighteen months ago a similar request was made, which was granted. Should the Chinese Government refuse to grant this reasonable request, then the guards would come up without permission and, no doubt, in larger numbers than at present intended. It is useless, Sir Claude contended, to rely on Chinese troops for protection. He only need mention that two Britishers, on their way from Feng tai, on Tuesday, had stones thrown at them by the soldiers on duty inside of the Yung Ting gate. One of the soldiers drew a sword at them, and they galloped for their lives. Another instance of lawlessness on the part of the soldiers sent to protect foreigners is, that as soon as the French engineers, with their families, left Chang Hsin Tien, they (the soldiers) burned their houses. When the foreign soldiers (guards) were here eighteen months ago they did their duty quietly and nothing happened to cause alarm among the Chinese. Their presence here had a salutary effect.

Hsu Yung-i stated that the matter would have to be laid before Prince Ching, who at present was at the I Ho Yuan (summer palace); that an answer would be given in the morning.

Sir Claude stated that it was a matter that must be decided without delay. Every moment's delay was a matter of serious concern, and as guards were at Tientsin ready to come here he wanted railway facilities offered them at once. The Chinese ministers reiterated that no decision could be arrived at until Prince Ching had been consulted. The Russian, French, and United States ministers spoke in terms similar to the views expressed by Sir Claude, and stated that they strongly supported him. Mr. Conger referred in forcible terms to the uselessness of Chinese soldiers; their recent acts had proven conclusively that they were as bad as brigands and could not be relied upon in case of emergency.

The Chinese ministers promised to bring the matter to the notice of Prince Ching that afternoon. The foreign ministers, on taking leave of the Chinese ministers, said that they would adhere to their decision to have troops come here, permission or no permission.

The interview terminated at about 4 o'clock p. m.

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*Mr. Conger to Mr. Hay.*

[Telegram.]

PEKIN, June 3, 1900.

Outside of Peking murders and persecutions by Boxers increasing. Paotingfu railway temporarily abandoned. Work on Peking-Hankow line stopped. All foreigners fled. Chinese Government can not or will not suppress. Troops do not attack Boxers. Relations between the factions of imperial advisers very much strained. General situation very critical.

CONGER.

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*Mr. Conger to Mr. Hay.*

No. 386.]

LEGATION OF THE UNITED STATES,  
Peking, China, June 4, 1900. (Received October 24.)

SIR: Confirming on the overleaf my telegram of the 3d instant,<sup>1</sup> I have the honor to report that, contrary to all our expectations, the general situation is daily growing more serious.

The so-called "Boxers" are increasing, spreading, and instead of contenting themselves with persecuting and murdering native Christians are now threatening the missionaries and attacking other foreigners, particularly those employed on the railways. A well-authenticated

<sup>1</sup> Printed ante.

report has at this moment come in that an English missionary, Mr. Robinson, has been murdered at Yung Ching, only 40 miles southwest from Peking, and his colleague, Mr. Norman, held a prisoner.

The Tsungli Yamen insists that everything possible is being done, and promises an early restoration of order, but for the last two months scarcely a Boxer has been arrested or punished. In one case only have they been seriously attacked by the soldiers, in which a few Boxers were killed, but immediately the Boxers ambushed and killed the colonel in command, and his soldiers all fled. In most cases where the soldiers are sent out they fraternize with the Boxers instead of attacking them.

There is good ground for the belief that notwithstanding the imperial decrees issued against the Boxers, they are secretly called patriots and the soldiers ordered not to fire upon them. It is further believed by many that in case of a general contest a large part of the soldiers will join the Boxers, in which case the Imperial Government would be powerless to protect either itself or the foreigners.

The situation is largely due to a serious division in the Imperial cabinet, which, I have from good authority, at present verges close upon a crisis.

On one side are arrayed four of the most malignantly antiforeign officials in China: Kang I, grand secretary; Hsu Tung, general supervisor of the management and education of the heir apparent (both members of the grand council, and having the ear of the Empress Dowager every day); Chang I, tutor of the heir apparent; Prince Tuan, father of the heir apparent and general commanding a division in the army, and in whose command it is known several organizations of Boxers exist.

On the other side is Prince Ching, president of the Tsungli Yamen, and nearly all of the ministers of the Tsungli Yamen, but, except Prince Ching, these men are not often in conference with the Empress Dowager; Jung Lu, the commander in chief of the Imperial army, and a nephew of the Empress Dowager, but now in poor health, although strongly antiforeign and unfriendly toward Prince Ching, is not actively taking sides with either party, but is ready to stand with the Empress Dowager under any circumstances.

It is known by all that the Empress Dowager is naturally antiforeign, as are her most influential advisers, but there is no doubt that if a preponderance of her confidential advice came from the other side she would be proportionately influenced in that direction. The situation, then, is this:

A strong antiforeign sentiment pervades the country generally. The Boxers, constantly increasing, and now organizing, have the sympathy and support of many officers and men in the army.

The Government is unwilling or unable (probably both) to cope with them. The probability is that if the Government attempted in earnest and by severe measures to suppress or exterminate them it would be met by a formidable rebellion, and as soon as this situation became known in the south other revolutions would spring up and anarchy would prevail. If the Government was strong enough, of course the foreign powers could compel them by various means to restore order and protect. It may be that the only way this fact can be demonstrated is for the several governments to take such combined action as will compel them to either employ the necessary strength or acknowledge their lack of it.

The incidents of the last forty-eight hours indicate quite strongly the approaching necessity of such action.

Every minister here has repeatedly, verbally and by note, insisted upon a restoration of order and the protection of his nationals, and strongly presented the peril to and the responsibility of the Chinese Government in case of failure.

I have the honor to be, etc.,

E. H. CONGER.

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*Mr. Conger to Secretary of State.*

[Telegram.]

PEKIN, June 4, 1900.

Situation worse. It is possible we may be besieged in Peking, with railways and telegraphs cut. In that case I ask, as my colleagues are doing, that necessary instructions be given Admiral concert with other chiefs of squadron at Taku to take measures warranted by the situation to eventually deliver Peking.

CONGER.

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*Mr. Conger to Mr. Hay.*

No. 387.]

LEGATION OF THE UNITED STATES,

*Peking, China, June 4, 1900.* (Received September 24, 1900.)

SIR: I have the honor to confirm, on the overleaf, my telegram of today,<sup>1</sup> and to add some additional incidents which render the situation very grave.

A few days ago a party of 30 foreigners, the last of the fleeing railway employees, started to go in boats down the Ming River from Paotingfu to Tientsin. They were attacked by Boxers, several of them wounded, and it is believed some of them killed. Twenty-three have arrived at Tientsin, but 7 are still missing. On Saturday 25 Cossacks started from Tientsin for their relief, but returned last night, having had a fight with the Boxers about 17 miles out, in which 16 Boxers are said to have been killed, and a Russian officer and 1 soldier wounded, but no trace of the missing was found. They are two Swiss, two French, two Italians, and one Greek.

We have a number of American missionaries at Paoting-fu who reported themselves safe yesterday, but said prospects were very threatening. Both the Tsungli Yamen and the viceroy have been informed of the situation, and protection has been promised them. However, they are much safer there for the present than they would be en route trying to get away.

This morning a station on the railroad to Tientsin was burned, and the road and telegraph line cut. We still, however, have the Government telegraph line, which does not follow the railroad, intact. But if they are determined to continue their depredations they will not fail to cut that line. It was in this situation that the representatives of the powers having war ships at Taku concluded at a meeting this

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<sup>1</sup> Printed ante.

morning to send to their respective governments substantially such telegrams as the one confirmed herewith. It certainly is to be hoped that such a situation will not arrive, but prudence suggests the wisdom of some preparation for it.

I have the honor to be, etc.,

E. H. CONGER.

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*Mr. Conger to Mr. Hay.*

[Telegram.]

PEKIN, June 5, 1900.

More ships are badly needed at Taku.

CONGER.

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*Mr. Hay to Mr. Conger.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, June 6, 1900.

In concert with naval authorities you are authorized to take all measures which may be practicable and discreet for protection of legation and American interests generally.

HAY.

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*Mr. Hill to Mr. Conger.*

[Telegram.]

WASHINGTON, June 6, 1900.

Friends of American missionaries at Paotingfu are solicitous on account of press reports. Are they adequately protected?

HILL, *Acting.*

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*Mr. Conger to Secretary of State.*

[Telegram.]

PEKIN, June 7, 1900.

Situation nowhere improved. Tientsin seriously threatened, and railway again cut. Chinese Government still temporizing. If diplomatic corps decides it is necessary to demand special audience with Emperor, shall I join?

CONGER.

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*Mr. Conger to Secretary of State.*

[Telegram.]

PEKIN, June 8, 1900. (Received June 11.)

Paotingfu missionaries safe up to the present. Chinese Government has sent troops and promises ample protection, but this does not insure permanent safety. Impossible to send foreign relief from forces now here.

CONGER.

*Mr. Hay to Mr. Conger.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, June 8, 1900.*

Act independently in protection of American interests where practicable, and concurrently with representatives of other powers if necessity arise.

HAY.

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*Mr. Conger to Secretary of State.*

[Telegram.]

PEKIN, *June 8, 1900.*

More railway destroyed. Protecting troops withdrawn. Chinese Government becoming more helpless every day. Foreign troops will have to protect railways. Russian, English, and Japanese are ready to do so. Twenty-four foreign war vessels are at Taku. The United States has only one.

CONGER.

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*Mr. Conger to Secretary of State.*

[Telegram.]

PEKIN, *June 8, 1900.*

Most of my colleagues propose demanding an audience with Emperor, the demand to be insisted upon, and to state to the Throne that unless Boxer war is immediately suppressed and order restored foreign powers will be compelled themselves to take measures to that end. Shall I join? Answer quick.

CONGER.

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*Mr. Hay to Mr. Conger.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, June 9, 1900.*

Yes.

HAY.

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*Mr. Hay to Mr. Conger.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, June 10, 1900.*

We have no policy in China except to protect with energy American interests, and especially American citizens and the legation. There must be nothing done which would commit us to future action inconsistent with your standing instructions. There must be no alliances.

HAY.

*Mr. Conger to Mr. Hay.*

No. 391.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, June 11, 1900.*

(Received at the Department of State September 25, 1900.)

SIR: I have the honor to confirm herewith the telegraphic correspondence with the Department since June 5, and to say that the situation here has been daily growing worse.<sup>1</sup>

The Chinese Government has done nothing toward suppressing the Boxers except to send their friends out to parley with them.

They have ever since the 6th instant had absolute possession and control of the whole country surrounding the city. The railroad has been open but one day. They have killed many native Christians, at least 40 belonging to the American missions, and burning numerous chapels. On yesterday they burned the college of the American Board Mission at Tung-chow together with all their homes, from which on the 7th instant all had been compelled to flee to this city, leaving practically everything behind them. This was done by the Chinese soldiers themselves, or else in their presence and without their opposition. They have burned the summer residences of the British legation and all the houses of the American Board, Methodist and Presbyterian missions, at the Western Hills. On the 9th were burned all the buildings of the foreign race course just outside the city walls.

We have four American missions and one international under the control of an American, widely scattered in this large city. They each wanted a guard, which was impossible, but I told them they ought to remain at their missions as long as possible (for desertions here always invite trouble), and when it became necessary to abandon them, if they would all assemble in one compound I would furnish them a guard.

On the 7th it was thought best by all to gather in the Methodist compound, which is the largest, the easiest to defend, and the nearest to the legation.

There are now 70 Americans there, 51 of whom are women and children. They have a guard of 20 marines, and the missionaries have some 20 guns and revolvers besides. If it becomes necessary they can all get inside of a large church and defend themselves against quite a formidable siege.

We have assembled in the legation compound 32 Americans, 25 of whom are women and children, with a guard of 35 marines and a rapid-fire gun.

On the 8th the conditions were so ominous that some of us asked the Tsungli Yamen for permission to bring additional guards, which was refused.

On the 9th the Emperor and the Empress Dowager returned to the city from the summer palace. The Tsungli Yamen was so excited, declared the Government so helpless, and the Chinese soldiers were so insulting and threatening that I wired Admiral Kempff that railroad communication ought to be opened and a movement in force made on Pekin, if possible. The British minister wired the English admiral in the same tenor.

<sup>1</sup> Printed ante.



The consuls at Tientsin immediately got together and demanded a train from the viceroy, which was furnished, and at 10:30 a. m. the 10th a train was started hither with 300 British, 100 Americans, 60 Austrians, and 30 Italians on board. Another was to follow later with Russian and French. Immediately thereafter the wires were interrupted, and we have heard nothing from them since. A reconnoitering train, the day before, was said to have run over the road and found it in order to a point about 30 miles from Peking. From thence much of the road is known to be seriously damaged. To-day I have tried to send a telegram to the Department via Russia, but that line is also cut.

On yesterday four new members of the Tsungli Yamen were appointed: Prince Tuan (Tsai I), Chi Hsiu, Pu Hsing, and Na Tung, all said to be bitterly antiforeign. Prince Tuan is the father of the heir apparent, and has been made president of the Tsungli Yamen, and by virtue of these two new relations will have practical control of affairs. His appointment will undoubtedly insure harmony between the Throne and the Tsungli Yamen, but it seems to me an extremely unfortunate appointment. (He is known to be malignantly antiforeign, a patron of the Boxers, and has many of them in his division of the army. His policy toward them can not, therefore, be expected to be a repressive one, but must mean continual persecution and attacks upon missionaries and their followers, destruction of their property, hindrance of trade, and constant menace and danger to all foreigners and foreign interests.)

If he takes his place on the Tsungli Yamen, he will meet foreigners for the first time, and personal contact with them may somewhat change his estimate of them. Prince Ching, however, has not as yet been relieved, and it is creditably reported that Prince Tuan was appointed at his request. If so, this means some sort of compromise between the cabinet factions. Prince Ching is of higher rank than Tuan, and it is very common here to have two presidents for one board, and the Tsungli Yamen has heretofore had two presidents at the same time with the same designation.

My present judgment is that under all the circumstances Prince Tuan's appointment ought not to be recognized or permitted. But the question of the moment is that of saving the lives of our people from their present peril.

We are just now very anxious about the additional troops "en route" and about ourselves as well. We could, with our present guards, probably defend ourselves against the Boxers, but hardly against combined attack of Boxers and soldiers. No reliance whatever can be placed upon the Chinese soldiers. They are under no control and yield no obedience. They are themselves continually looting and murdering. To-day the chancellor of the Japanese legation was attacked by soldiers at one of the gates, pulled out of his cart, and brutally murdered.

The probability, of which I telegraphed on the 4th, is now a fact. We are besieged in Peking, entirely cut off from outside communications, and our deliverance depends on the concerted action of the naval squadrons at Taku in coming to our relief. The entrance into the city of these additional guards may be opposed by the Chinese army. If so, it may become necessary to wait until considerable reinforcements shall arrive, but they can arrive very soon. The Russians are sending 2,000 infantry and cavalry to-day from Port Arthur to Taku, the

Japanese will soon have a large contingent there, and, with those already at Taku, an amply sufficient force can speedily move in this direction.

In a civilized country of course there would be no question as to our safety, but here, with practically no government, and the army only a mutinous horde of savage ruffians, there can be no predicting what they may attempt.

We regret exceedingly the presence of so many women and children, but are doing the best we can for safety of all. \* \* \*

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

*Translation of an imperial decree published in the manuscript Pekin Gazette, June 6, 1900.*

The propagation of Christianity has been carried on in China for years, the missionaries teaching men to do good, and the converts have not presumed on their being Christians and caused trouble. Hence the people and converts have all shown a good feeling toward each other, and each have carried out the principles of the religion they believed in.

Recently the missionary chapels have become numerous in the various provinces, and the converts are in large numbers. There are, however, reckless and worthless fellows among them; but it is difficult for the missionaries to examine into the character and ascertain complete knowledge of all the good and bad. These outlaws avail themselves of the name of Christian and insult and oppress the people and do the part of the "best man" in the country round. We believe that the missionaries do not approve of such conduct.

As to the society of the Fist of Righteous Harmony in the reign of Chia Ching it was prohibited by law. Up to recent times they had been practicing to be skillful in the art of protecting themselves and guarding their villages, but they did not create trouble. We issued, however, repeated decrees ordering the local authorities to repress and keep the society from committing acts of violence. It matters not whether it is the society or not the society. We can only consider the question of banditti or no banditti, and when trouble arises it is urgently necessary that the guilty should be rigorously arrested and punished. The native converts and the Boxers are all the people of our country, and the court regards them all with equal kindness, irrespective of their being Christians or Boxers. We have issued our commands that when cases of litigation arise between the people and the Christians the local officials should deal with them justly, but of late the officials of the prefectures, subprefectures, departments, and districts have followed the long-standing practice of acting in a careless and perfunctory way in dealing with such cases. They can not have had relations or intercourse with the missionaries; further, they have been unable to show any consideration for the feelings of the people; and whenever cases have come up between the non-Christians and Christians they can not with their entire minds have investigated them and rendered proper decisions. This has caused a feeling of intense anger and resulted in the people and converts being on bad terms with each other. The Boxers—in name an enemy of Christianity—therefore established their train-band society. There are outlaws and rebels who have joined the society and have caused trouble. They have destroyed the railway and burned chapels. The railway was built by the Government, and the Christian chapels are the places where the missionaries and their converts live. How is it that the Boxers have of their own free will and accord burned and destroyed these? The acts committed by them have placed the Government in a difficult position, and they are certainly unreasonable.

Yesterday we deputed the privy councilor, Chiao Shu-chiao, to go and make known our decree to the Boxers and others, and admonish them that they should at once, in obedience to our mandate, all disperse and each person pursue quietly his respective occupation. Should there still be any traitorous persons or banditti among them who stir up and arouse suspicion in the minds of the people, with the avowed purpose of doing injury to any place or locality, the Boxer society must at once deliver up the principal leaders and they will be punished according to law. If any still remain obstinately fixed in a delusion, they will be regarded as rebels, and when they are killed by the soldiers they will then be separated from their parents, wives,

and children and their homes ruined—the result of death. They would further have to bear the name of being disloyal and not patriotic, but it will then be too late for repentance. The court feels the deepest pity for you people.

After the promulgation of this decree, if the outlaws still do not reform, the grand secretary, Jung Lu, is to forthwith issue instructions to Tung Fu-hsiang, Sung Ching, and Ma Yu-kun to move the troops under their respective commands, and to energetically attack and destroy them. A discrimination, however, must be made between the leaders and followers (if caught), but it is important that the followers should all be dispersed. The rank and file are specially appointed to guard and protect the people; but we hear that among the forces dispatched by the province of Chihli there are soldiers who not only have not offered protection to the people and taken steps to repress (the outlaws), but they have actually taken part in creating disturbances.

Let the viceroy of Chihli, Yu Lu, hold a stringent investigation and deal with the matter. Further, let Jung Lu appoint officers to investigate and inquire into it, and if there are any worthless officers who are unable to maintain strict discipline among their soldiers they are to be at once punished by martial law, and no leniency be shown. Let this decree be forthwith proclaimed by putting out yellow notices of it everywhere for the information of the soldiers and people.

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[Inclosure 2.]

*Translation of an Imperial decree published in the manuscript Peking Gazette, June 8, 1900.*

On account of the Boxers having created trouble in the neighborhood of the capital, and the minds of the people having become excited, and a feeling of unrest prevailing, we repeatedly issued our commands that stringent measures be taken to investigate and deal with the matter. But of late there are vagabonds and rowdies armed with swords and weapons who roam about the streets and market places in gangs of from three to five persons. They assemble together and disperse at uncertain times, and if they are not at once stringently prohibited a state of disorder will certainly prevail. The gendarmerie, the governor of Peking, and the police censors of the five cities are charged with and responsible for the arrest of outlaws and patrolling and guarding the place. How is it that this class of persons are allowed to band together at the very gates of our court and cause excitement in the minds of the people?

Now, besides having issued our commands to the princes and high officers in command of the Peking field force and the Hu Sheng force stationed in Peking to depute their entire garrisons, together with certain cavalry forces, to keep patrol both day and night, and to arrest at once any outlaws who create trouble, we now command the general commanding the gendarmerie, the governor of Peking and the police censors of the five divisions of the city and suburbs of Peking, to dispatch soldiers and police under their jurisdiction to keep strict watch and patrol in every district, and where there are any traces of suspicion of bad characters or armed bands circulating false reports for the purpose of causing trouble, the persons suspected are to be forthwith arrested and severely punished. There must not be the least carelessness shown by the officials in the discharge of their duties, so as to prevent a general outbreak or rebellion, and that peace and quiet may prevail.

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[Inclosure 3.]

*A decree published in the manuscript Peking Gazette, June 10, 1900.*

Let Prince Tuan (Tsai I) be appointed president of the Tsungli Yamen. Let Chi Hsiu, president of the board of rites, Pu Hsing, junior vice-president of the board of works, and Na Tung, subchancellor of the grand secretariat and holding the brevet rank of vice-president of the board of rites, be appointed ministers to the Tsungli Yamen.

At the present time we are confronted with difficulties and troublesome questions, and it is absolutely necessary that the said prince and ministers should sincerely apply their minds to the performance of the duties of their post so as to aid us. They will not be permitted to decline appointment.

[Inclosure 4.]

*Mr. Conger to the Tsungli Yamen.*LEGATION OF THE UNITED STATES,  
*Pekin, China, May 31, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: I hasten to inform Your highness and your excellencies that I have just received word from the American missionaries at Tung Chou that the situation there is very alarming, and there is trouble ahead. Some days ago a body of Boxers left there for the purpose of destroying the railway, and they have now returned with leaders of Boxers from elsewhere, who threaten an attack upon the city, the American missionaries and their college.

It is important that effective measures be taken at once to prevent trouble, and I request that a guard of soldiers be sent to Tung Chou without delay to preserve order and that the soldiers be warned that in the event of their failing to properly discharge their duty they will be held responsible and punished.

I also request that a telegram be sent to the taotai at once, instructing him to take extra precautionary measures to avoid a calamity to the missionaries, of whom there are nine gentlemen and twenty-five ladies and children. They can not leave Tung Chou in the present condition of affairs, and I must warn you that the Chinese Government will be held responsible for any attack made upon them and their property.

I avail myself, etc.,

E. H. CONGER.

[Inclosure 5.]

*Mr. Conger to the Tsungli Yamen.*LEGATION OF THE UNITED STATES,  
*Pekin, China, June 2, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to bring to the notice of your highness and your excellencies further cases of persecution of Christians by the Boxers, which have been reported to me by the American missionaries, and to request that proper and efficient measures be taken to prevent such unlawful acts, and give due protection to those innocent people in the future.

On Sunday, May 27, at dusk, men came by the chapel of the American Board Mission, in Liang Hsien, armed with bricks. The helper stepped outside to expostulate with them. They threw bricks at the chapel, smashing window frames badly, and then pounded him with the bricks, giving him bruises from which it will take some time to recover. Some of the men he knew to be from the Hsien's yamen. The helper (Chang Ting-kuei) went to the yamen to seek redress, and called for Kao An, who came out, but would do nothing. The underlings struck and kicked Mr. Chang. Then the Hsien official himself went to the chapel, but he would not take up the affair and do anything about it. The missionaries then sent a cart and had the helper come up to Peking.

Yesterday several church members came from the mission's outstation at Nan Meng, in Pa Chou district. There the Boxers have taken the chapel for a drilling ground. They give the church members a choice of three things—either recant, or flee and leave their property to be looted, or stay and be killed. In the village of Hsueh Ko Chuang there are some Christians belonging to the Methodist mission who have been killed. Catholics have been murdered, and Christians seized and compelled to pay ransom. On May 29 a Christian, named Chien Wutai, who lives at Ta Shang, was seized at Nan Meng, in the Feng Hsing Chang shop, by Chu Hung and Kuo Ya-tou, compelled to recant, and fined 600 strings of cash. The two men above alluded to are leaders of the Boxers. There are many, many other cases of persecution in the jurisdiction of the governor of Peking which are daily occurrences.

May I ask what the governor of Peking is doing? Can it be said that he is carrying out the injunctions of the imperial decree of May 30? Your highness and your excellencies have assured me that action is being taken in good earnest to suppress these unlawful outrages. I ask, Can this be the case when they are occurring every day?

I avail myself, etc.,

E. H. CONGER.

[Inclosure 6.]

*Mr. Conger to the Tsungli Yamen.*LEGATION OF THE UNITED STATES,  
*Pekin, China, June 4, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to bring to the attention of your highness and your excellencies the fact that the situation at Paoting Fu is very threatening, and as there are many American missionaries there I request that telegraphic instructions be sent to the high authorities there to take stringent measures to protect them and prevent any trouble. It is important that prompt and efficient action be taken at once.

I avail myself, etc.,

E. H. CONGER.

[Inclosure 7.]

*The Tsungli Yamen to Mr. Conger.*

PEKIN, June 5, 1900.

YOUR EXCELLENCY: We have the honor to receive your excellency's note of June 4, in which you state that the situation at Paoting Fu is threatening, and as there are many American missionaries there you request that telegraphic instructions be sent at once to the high authorities there to take stringent measures to protect them and prevent any trouble.

In reply we beg to inform your excellency that the yamen telegraphed the viceroy of Chihli to take prompt and efficient action to protect the missionaries at Paoting Fu, and have now received a reply from him stating that the missionaries there are not in extreme danger and that he has again instructed the provisional treasurer and judge to report to him the actual condition of affairs at Paoting Fu and at the same time take proper measures to protect the missionaries living there.

Cards of ministers with compliments.

[Inclosure 8.]

*The Tsungli Yamen to Mr. Conger.*

PEKIN, June 6, 1900.

YOUR EXCELLENCY: In the matter of the troubles committed by the outlaws of the society of the Fist of Righteous Harmony, the prince and ministers have the honor to inform the minister of the United States that an imperial decree was to-day issued as follows: "After the promulgation of this decree, if they (the outlaws) still do not reform, the grand secretary, Jung Lu, is to forthwith issue instructions to Tung Fu-hsiang, Sung Ching, and Ma Yu-kun to move the troops under their respective commands, and to energetically attack and destroy them."

The promulgation of this decree inside and outside of Peking where trouble has occurred will, it is believed, within a certain time cause peace and quiet to be restored.

As in duty bound, the prince and ministers send this communication to the minister of the United States, and would say that there is no need for him to be too anxious about the matter.

[Inclosure 9.]

*Mr. Conger to the Tsungli Yamen.*LEGATION OF THE UNITED STATES,  
*Pekin, China, June 7, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to inform your highness and your excellencies that yesterday morning before daylight the chapel of the Methodist mission at Huang Tsun was destroyed by fire by the Boxers and 11 church members killed, also 2 Catholics belonging to the village. The houses of those killed, as well as those who escaped, have been destroyed.

I may also mention that reports are coming in from other places continually of murders of Christians and destruction of property by these outlaws. These unlawful acts will continue unless the Government of China punishes those who commit them by death. There can be no difficulty in finding out the real culprits if the officials act in good earnest.

I inclose a list in Chinese of the prominent places of meeting of the Boxers in the western section of the Southern City and the names of the prominent leaders at each place. I ask that these men be arrested and severely dealt with.

I avail myself, etc.,

E. H. CONGER.

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[Inclosure 10.]

*Mr. Conger to the Tsungli Yamen.*

LEGATION OF THE UNITED STATES,  
*Pekin, China, June 8, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: In accordance with suggestions made during my visit at your yamen yesterday evening, and to which your highness and your excellencies assented, I have the honor to report that all the Americans left Tung Chou this morning and came to Peking for safety.

In doing so they have been obliged to leave to the protection of the Chinese Government all their school buildings, chapels, and homes, together with all books, scientific apparatus, furniture, clothing, and other property of great value therein. I therefore request that such orders shall be immediately wired to the proper local officials as will insure adequate and complete protection until order is restored and it will be safe for them to return and again take possession themselves.

I avail myself, etc.,

E. H. CONGER.

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[Inclosure 11.]

*Mr. Conger to the Tsungli Yamen.*

LEGATION OF THE UNITED STATES,  
*Pekin, China, June 10, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: In view of the danger to which foreign lives in Peking are exposed by the serious developments of the Boxer movements, I have the honor to inform your highness and your excellencies that I must reserve the right to take whatever further measures may be necessary to protect the lives of American citizens.

I avail myself, etc.,

E. H. CONGER.

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[Inclosure 12.]

*The Tsungli Yamen to Mr. Conger.*

PEKIN, June 10, 1900.

YOUR EXCELLENCY: The prince and ministers have the honor to state that to-day they received a communication from the minister of the United States, in which he states that in view of the danger to which foreign lives are exposed by the development of the Boxer movements, he must reserve the right to take whatever further measures may be necessary to protect the lives of American citizens.

In reply, the prince and ministers would observe that with regard to the society of the "Fist of Righteous Harmony," on the 6th and 8th of June, imperial decrees were issued, and it is believed peace and quiet will be gradually restored. The minister of the United States should not by any means lightly listen to the reports in circulation, but should cease feeling uneasy in his mind.

As to the remark in the communication that "he must reserve the right to take whatever further measures may be necessary to protect the lives of American citizens," it may be stated that it is evident that this would really prove of great injury to the existing friendly relations (between the two Governments), and the Chinese Government would find it certainly difficult to allow it to be done.

As in duty bound, the prince and ministers send this communication in reply for the information of the minister of the United States.

[Inclosure 13.]

*Mr. Conger to the Tsungli Yamen.*LEGATION OF THE UNITED STATES,  
*Pekin, China, June 12, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCIES: Referring to my note of the 8th instant, wherein I informed your highness and your excellencies that American missionaries at Tung Chou had come to Peking for safety and requested that immediate orders be issued to the proper authorities at Tung Chou by telegraph to render adequate and complete protection to all their school buildings, chapels, and homes, together with all books, scientific apparatus, furniture, clothing, and other property of great value, which they left there, I now have the honor to inform your highness and your excellencies that all the property of the mission and the missionaries have been completely burned, destroyed, and looted.

I avail myself, etc.,

E. H. CONGER.

*Mr. Conger to Mr. Hay.*

No. 393.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, June 18, 1900.* (Received September 25, 1900.)

SIR: We are still prisoners anxiously waiting relief. We have had no news from Captain McCalla since my last dispatch was written.

We have sent out several messengers, who have returned frightened and without news.

The one reliable messenger we have found (and ours is the only legation that has so far found any) was due last night, but has not yet put in an appearance. I fear something serious has happened to him.

It is now eight days since the relief party under Admiral Seymour and Captain McCalla left Tientsin. We know they have been within 30 miles of Peking, and we can not understand why, if they find it impossible to readily repair the railway, they do not, with the larger part of their command, march directly here.

On the 16th fires were started in the very heart of the Southern City, which burned all day and all night, destroying a very great area of the principal business portion, where were located the large banks, theaters, silk, jewelry, porcelain, lantern, and curio shops, restaurants, etc. Over three thousand houses were destroyed, and many people perished in the flames.

The wind blew directly toward this city, but fortunately the great wall between the two cities saved us. While the fire was raging about 3 p. m. another was lighted in this city on Legation street, just outside of our pickets, but by the heroic efforts of all it was extinguished, with only the loss of three buildings burned and several torn down. Had the wind been blowing as in the morning, the whole street to the west of the canal would have been swept, and the Dutch, Russian, and American legations burned.

On yesterday morning at 2 o'clock our outposts on three different streets were stealthily fired upon by Chinese soldiers. In front of the American guards a new Mauser rifle and cartridge box, together with a piece of a Chinese soldier's uniform was picked up, the owner evidently having been wounded and crawled away. During yesterday a conflict occurred between a small German guard and some Chinese soldiers, in which five of the latter were killed.

These exhibitions of skill and courage on the part of the foreign troops are good object lessons, but they also irritate the Chinese soldiers and arouse such opposition among the Chinese people as to make the situation, with our present small guard, still more critical.

The officers in command of the several detachments have arranged a general plan for the temporary defense of all the legations, but ours is the most exposed and defenseless of all, as it lies right under the city wall, which is 30 to 40 feet high, and from the top of which we would be at the mercy of even a small number of guns.

If the battle becomes very hot the women and children will be taken across the street to the Russian and ultimately to the English legation and the place held to the last.

Last night Messrs. Hsu Yung-i, Lien Yuan, and Li Shan, the first two being ministers of the Tsungli Yamen and the last president of the board of revenue and a member of the Imperial household, sent a messenger to the legation to say that they desired a conference with me and requested to be conducted safely through our guards. This was done at 9 p. m., and an interview lasting over an hour was held. I inclose a memorandum of same made by Mr. Cheshire.

Several decrees have been published during the past few days. But decrees seem to have lost all potency over the people and are apparently not worth the paper on which they are written. However, I inclose translations of some of the most important.

I have, etc.,

E. H. CONGER.

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[Inclosure 1.]

*Memorandum of an interview had at the United States legation, on the 17th of June, 1900, between Hsu Yung-i, and Lien Yuan, ministers of the Tsungli Yamen, Li Shan, president of the board of revenue, and Mr. Conger, United States minister.*

The Chinese ministers reached the United States legation at 9 o'clock p. m. Mr. Hsu, who spoke first, stated that they had come under express orders from the Empress Dowager and Emperor to state that in view of the deplorable condition of affairs in Pekin—the result of the depredations committed by the Boxers—every means would be devised to give full and adequate protection to the legations and all foreigners and their property in Pekin. He inquired as to when the additional guards sent to protect the legations, etc., would reach here, and whether Mr. Conger knew of their whereabouts at present. Mr. Conger replied by saying that he could not answer the question, not knowing anything of their movements as telegraph communication was cut off. Mr. Hsu then stated that the presence of foreign guards in Pekin had excited the populace and he hoped no more would be sent. Mr. Conger said that in view of the uselessness of the Chinese troops, and the utter failure of the Chinese Government to prevent the outrages of the Boxers, as many guards as were necessary would be sent to secure the safety of foreigners in Pekin and to put down the Boxers. It was useless to talk of Chinese soldiers, as they were not to be relied on and were, in many instances, as bad as the Boxers themselves. Mr. Conger cited the firing of some buildings west of here, on Legation street, by a Chinese soldier who was caught in the act and shot dead. Another instance of the untrustworthiness of Chinese soldiers was their firing on the foreign guards on Saturday night. Instead of doing their duty as protectors of the peace, they attacked our soldiers without any cause or reason whatever. One of the Chinese soldiers who attacked our men ran away, leaving his gun, cartridge box, and a piece of his uniform on the ground, which were picked up and are in the custody of the legation. Further, the plan of the Boxers now was to burn houses hoping that the flames would spread to the legation compounds and destroy the buildings within them, knowing that they could not meet the foreign guards with any success. Reference was made to the extensive fires that had occurred in Pekin at all missionary establishments except two; and the large fires in the Chinese city, where millions of dollars worth of property and thousands of houses were destroyed, and not the least thing done by the Chinese Government to prevent such unlawful deeds. The ministers said that the Boxers first commenced their illegal acts against the Christians only, but now the condition of things were different; their plan was to destroy Government buildings, and it was feared that the Six Boards might be fired. Mr. Conger said that the Chinese Government was entirely responsible for the unwarranted acts of the Boxers;



that they had been drilling in the grounds of some of the princes. Mr. Hsu said that the drilling of the Boxers was first looked upon as a sort of amusement, but it was not looked upon now in that light. The minister said that the dispatch of the Wu Wei forces (Imperial Army Corps) by the Empress Dowager they thought would have a good effect. Mr. Conger asked why the Chinese troops did not fire upon the Boxers instead of trifling with them; nothing but killing them could ever bring about order. The ministers admitted that the native troops were practically useless. Mr. Conger stated that American soldiers were now on their way from Manila, and as many as it was thought necessary to protect life and property of Americans would be sent here.

The ministers asked Mr. Conger what were the views of the other foreign ministers as to the present situation. Mr. Conger answered that he could only speak for himself, and if they wanted to know the views of the other foreign ministers they must call on them and ascertain them directly. Mr. Conger asked why the Chinese Government did not suppress the Boxers? The ministers replied that they were in such large numbers that the native troops could not hold their own against them. Mr. Conger then said that if he had 1,000 American soldiers he could kill every Boxer in Peking. The ministers inquired as to the number of troops that were coming to Peking, to which Mr. Conger replied that he did not know. The first detachment here numbered about 400; the second—on their way—about 900; but as the telegraph line is cut, and as the foreign admirals knew the situation here, and having plenty of troops at command, thousands may be on their way. Mr. Conger further said that if any member of his family, or member of the United States legation, was injured, the American troops would destroy Peking, and it would be very serious indeed for the Chinese Government if any of the foreign troops, on their way to Peking, were attacked by Chinese soldiers. He said that they were coming here to perform a duty which the Chinese soldiers had failed to do, namely, the protection of foreign lives and property.

Just before the interview terminated, the American pickets were heard firing, which frightened the ministers. Mr. Conger told them that there were so many bad characters about, bent on mischief, that the guards had to be constantly on the watch.

The ministers left at 10.30 o'clock, with a guard to escort them through the lines of defense. They promised to report the interview to the Emperor and Empress Dowager.

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[Inclosure 2.]

*Translation of a decree published in the Manuscript Peking Gazette, June 13, 1900.*

On the 11th of June, outside of the Yung Ting gate, Akira Sugiyama, chancellor of the Japanese legation, was murdered by banditti. On hearing of the death of this officer we were exceedingly grieved.

It is right that persons of neighboring States residing in Peking should receive due protection, but as banditti are now arising in swarms, it is still more necessary, with especial care, to see that stringent measures are taken to provide against calamities.

We have repeatedly issued our decrees, ordering all the various officers to act in good earnest, to keep a strict patrol, and arrest (bad characters), and render the closest protection (to foreigners). How is it, in spite of our repeated orders and injunctions, and within the domain of our court, the Japanese chancellor is murdered? The civil and military authorities have been careless in not taking precautionary measures to guard against such acts, and further, they did not immediately arrest the persons concerned in the murder. They certainly have not properly performed their duty.

Let all the yamens concerned speedily take action in this matter, and they are hereby compelled, by this decree, to search for and stringently arrest the murderers, without fail, so that they shall suffer the extreme penalty of the law for the crime committed. Should they fail to arrest the guilty within the prescribed period, they will certainly be very severely punished.

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[Inclosure 3.]

*Translation of an imperial decree published in the Manuscript Peking Gazette, June 14, 1900.*

Chung Li and others have memorialized us detailing circumstances of the burning of the Christian chapels in the districts under the senior and junior police provost of Peking, and request that punishment may be inflicted upon them.

Let Chung Li, Ying Nien, and Tsai Lan be handed over to the board for the determination of a strict form of penalty. Let the deputy provosts and other officers of the two divisions of the gendarmerie be deprived of their rank, but allowed to remain in office. Let their buttons be taken away, and they are hereby commanded to rigorously arrest the important ringleaders of the outlaws. They must be arrested without fail, and strenuously punished.

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*Mr. Conger to the Secretary of State.*

[Telegram.]

PEKIN, June 11, 1900.

Prince Tuan, father Heir-Apparent, has been appointed president of the Tsungli Yamen, with three other new ministers, all greatly opposed to foreigners. Situation not improved. Seven hundred additional guards repairing railway en route. Their arrival will assure safety foreigners here.

CONGER.

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*Mr. Conger to Mr. Hay.*

No. 392.]

LEGATION OF THE UNITED STATES,

*Pekin, China, June 15, 1900.* (Received September 25, 1900.)

SIR: Confirming, on the overleaf, my telegram of the 11th instant, and continuing the subject of my dispatch No. 391 of the 11th instant,<sup>1</sup> I regret to say that since that date we have been completely besieged within our compounds with the entire city in the possession of a rioting, murdering mob, with no visible effort being made by the Government in any way to restrain it.

We have cleared and barricaded the streets in the vicinity of the legation, but they are so scattered, and our number of guards so limited, that the gravest possible danger is imminent. We are, however, all hopeful, and expect to be able to hold out until relief arrives. Word from Captain McCalla reached us last night that they had repaired the railway to within 30 miles of Peking, where at 5 a. m. of yesterday they were toiling slowly forward, but with much destroyed track to repair. He also notified us that a Russian contingent of 1,600 men were en route from Tientsin, and would march right on from the end of the repaired road. We shall certainly expect their arrival some time to-morrow.

On the 12th instant, four members of the Tsungli Yamen called here, as well as at most of the other legations, and gave me to understand that the Government would not further oppose an increase of our guards. It is not, however, certain that the Chinese soldiers, regardless of this assurance, may not on their own account oppose the entry of our troops through the gates, for it is an everyday occurrence to see the Boxers being entertained in the tents of the army officers.

Since my last dispatch, every American mission in the city, except the Methodist, with all their well-equipped homes, has been burned; also all the Catholic and English, except one, and many hundreds of native Christians barbarously tortured and murdered.

Several residences occupied by foreign customs officials and students

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<sup>1</sup>Printed ante.

have been destroyed, and an attack made upon the Chinese Imperial Bank, which, however, was frustrated by the Austrian guards near which legation it is located.

A large residence in this city belonging to Mr. Chang Yin-mao was burned yesterday, and it is reported that his ancestral home near Tungchow has been burned. Mr. Chang is the superintendent of mines and the assistant general director of railways, is known to be largely connected with foreign business enterprises and the most prosperous Chinese in north China. This attack upon him, taken with many other well-known facts, indicates very clearly that the whole movement is directed against foreigners and not against the Government. Enough is known now to make it reasonably certain that the Boxers have from the start been continually encouraged by the Imperial Government, if not in fact instigated by it.

We are simply trying to quietly defend ourselves until reinforcements arrive, but nearly 100 Boxers have already been killed by the various legation guards. If we had been feeling at all safe with our present guards, many hundreds would, by this time, have been thus punished.

On the 13th Mr. Cheshire was able to get to the Tsungli Yamen, encountering several Boxers on the way, but found no ministers there. Since then it has not been possible to get to the yamen, and since the 12th we have had no tangible knowledge of its existence.

The fact is at this moment, as far as the foreign representatives are concerned, there is no Tsungli Yamen, and in no intelligent sense can there be said to be in existence any Chinese Government whatever.

I have, etc.,

E. H. CONGER.

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*Mr. Hay to Mr. Conger.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, June 15, 1900.

Do you need more force? Communicate with Admiral and report.

HAY.

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**THE SIEGE AND RELIEF OF THE LEGATIONISTS AT PEKIN.**

**MASSACRE OF FOREIGNERS AND NATIVE CHRISTIANS.**

[Correspondence with the consul-general at Shanghai during the siege of the legationists at Peking, printed pp. 248 to 273.]

*Mr. Hay to Mr. Conger.*

[Telegram.—Sent in cipher through the Chinese minister, who thought he might be able to get it to Mr. Conger through Sheng Tajen.]

DEPARTMENT OF STATE,  
Washington, July 11, 1900.

CONGER, *American Minister, Peking:*

Communicate tidings bearer.

HAY.

*Mr. Conger to Mr. Hay.*

[Telegram.—Received in cipher through Chinese Minister in answer to above. Sent July 16, but bearing no date when received, July 20.]<sup>1</sup>

UNITED STATES LEGATION TO CHINA,  
*Pekin, July 16, 1900.*

For one month we have been besieged in British legation under continued shot and shell from Chinese troops. Quick relief only can prevent general massacre.

CONGER.

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*Mr. Hay to Mr. Rockhill.*

No. 1.]

DEPARTMENT OF STATE,  
*Washington, July 19, 1900.*

SIR: I inclose herewith the commission of the President,<sup>2</sup> dated to-day, appointing you Commissioner of the United States of America to China.

You will proceed to that country and act in compliance with the instructions which have been given to you orally.

I am, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Conger.*

[Telegram.—Cipher. Sent through Chinese minister.]

DEPARTMENT OF STATE,  
*Washington, July 21, 1900.*

Dispatch received. Authenticity doubted. Answer this, giving your sister's name. Report attitude and position of Chinese Government.

HAY.

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*Mr. Conger to Mr. Hay.*

[Telegram.—Received through the consul-general at Shanghai, August 5, 1900.]

PEKIN, *July 21, 1900.*

All well. No fighting since 16th by agreement. Enough provisions; little ammunition. Hope for speedy relief.

CONGER.

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<sup>1</sup> See note of July 20, 1900, from Mr. Wu, p. 280.

<sup>2</sup> Not printed.

*Mr. Hay to Mr. Rockhill.*

No. 2.]

DEPARTMENT OF STATE,  
Washington, July 27, 1900.

SIR: Though it is not possible at the present moment to lay down the precise lines on which you are to discharge the duties assigned to you as commissioner of the United States to China, as supplementing the general oral instructions previously given you at the Department, it seems pertinent to inform you that your special duty will be to promptly and fully inform the Department on all subjects coming to your knowledge bearing on the present general condition of affairs in China, and particularly on all points in any way affecting the interests of the United States.

As regards the policy of the United States in China, you will be guided by my instruction of July 3, and, as supplementary thereto, by my note to the Chinese minister in Washington under date of July 19, and the President's letter, dated July 23, to the Emperor of China.

Copies of these document are herewith sent you.<sup>1</sup>

I am, etc.,

JOHN HAY.

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*Mr. Conger to the Secretary of State.*

[Telegram.—Paraphrase. Received through Tsung-li yamen August 7, 1900. Date lost in transmission.]

PEKIN, August 3, 1900.

(Mr. Conger reports that situation is more precarious. Still besieged. The Chinese Government insist upon their leaving Peking, which would be certain death. They are daily subjected to rifle fire by Imperial troops. Have abundant courage, but little provisions or ammunition. Two progressive yamen ministers have been beheaded. Everyone connected with the United States legation is well at the present moment. Requests Department to advise Porter, Paris; Woodward, Chicago, and Conger, Des Moines.)

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*Mr. Conger to General Chaffee.*

[Telegram.—Received by General Chaffee, Toitsun, August 8, 1900.]

PEKIN, August 4, 1900.

Situation more critical, but we will hold on until your arrival; hope it will be soon. Send such information as you can.

CONGER.

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*Mr. Conger to the Secretary of State.*

[Telegram.—Paraphrase. Received August 10, through Chinese minister. Date of sending lost in transmission.]

PEKIN, August 5, 1900.

(Mr. Conger reports that the diplomatic corps is informed by the yamen that the foreign governments have frequently requested, through Chinese minister, their immediate departure from Peking,

under proper escort. The yamen asks them to make necessary arrangements and fix a date of departure. The diplomatic corps reply that they will ask instructions of their governments, in the absence of which they can not leave their posts. In order that they may go safely, Mr. Conger states that only foreign troops can escort them and must be in sufficient force to safeguard 800 foreigners, including 50 wounded and 200 women and children, besides 3,000 native Christians, who can not be abandoned to certain massacre. They can not accept a Chinese escort under any circumstances. All of his colleagues are sending the above to their governments. Seven United States marines have been killed and sixteen wounded, among the latter Captain Myers and Dr. Lippett; doing well.

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*Mr. Adee to Mr. Conger via Consul-General Goodnow.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, August 8, 1900.

(Mr. Adee directs Mr. Goodnow to present the following for immediate transmission to Minister Conger, under Imperial edict August 5, guaranteeing free communication of this Government with its minister in cipher:

WASHINGTON, August 8.

CONGER, *American Minister, Peking:*

Your telegram of August 3 received afternoon of the 7th. Chinese minister advises Department to-day of edict dated August 5, allowing free communication in cipher between foreign ministers in Peking and their Governments.

You are directed by the President to report immediately fully in cipher, dating dispatch—

1. Present prospects and condition; American casualties.
2. All evidence of participation by Imperial troops in attacks on legation.
3. The substance of all communications during the siege between you and the Imperial Government.
4. All acts toward you by Imperial Government or its officers during the siege, and especially regarding protection, assistance in defense, prevention of attacks, supplies of food, communications with this Government, giving dates of specific acts.
5. Relief expedition, Major-General Chaffee commanding American division toward Peking, has reached and captured Peitsang. Consult other ministers and give opinion as to probable resistance at Peking, and suggestions regarding course to be followed and conduct of operations.)

*Mr. Conger to Secretary of State.*

[Telegram—Paraphrase.]

[Received August 14, 1900, through Chinese legation. Date of sending lost in transmission.]

PEKIN, August 9, 1900.

(Mr. Conger reports that they are being fired upon daily by Imperial troops. Their losses are 60 killed and 120 wounded. Have reached half portion of horse flesh, and have food for only a fortnight. Six children have died and many others are sick.)

*Mr. Adee to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,

Washington, August 10, 1900.

(Mr. Adee directs Mr. Goodnow to immediately forward to Minister Conger the following cipher message:

August 10, morning. Receipt of Mr. Conger's cipher telegram, identical with telegrams of French and other ministers, is acknowledged; his determination not to accept Chinese escort is approved. This determination has been communicated to Chinese Government and their cooperation with relief expedition which captured Yangtsu on August 6 has been urged.

(Dispatches in cipher should be dated.)

*Mr. Conger to Secretary of State.*

[Telegram.—Paraphrase.]

[Received through Chinese minister August 16, 1900, date of sending lost in transmission.]

PEKIN, August 11, 1900.

(Mr. Conger reports that since June 20 they have been imprisoned and completely besieged by the Imperial army, Jung Lu having command. Continued artillery and rifle firing until July 17; only rifle firing since, but daily; with frequent desperate attacks, one last night. Losses have already been reported. Possesses conclusive evidence of determined purpose to exterminate all foreigners and native Christians. Thousands of the latter have been massacred. French, Italian, Belgian, Austrian, and Dutch legations, as well as all other foreign property in Pekin, destroyed. All pretense of aid or protection wholly false. Several attempts have been made to lead them into ambush. Dr. Inglis's child is dead. Marines Fisher, Fanning, King, Kenney, Thomas, Turner, and Tutchter killed. All other Americans alive.

Requests that Alta and Secretary Ryan be informed.

Hope is given them by the nearing of the allied forces.)

[The foregoing telegram is in reply to the Department's instruction of July 21, sent through Chinese minister.]

*Mr. Adee to Mr. Conger, through Consul-General at Shanghai.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, August 14, 1900.

(Mr. Adee states that armistice has been asked by Chinese Government, through Li Hung Chang, to which reply has been made that Mr. Conger must first be delivered to relief column at Peking. The relief column captured Ho-si-wu on August 8, and is supposed now to be near Tung-Chow. Courage.)

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*Consul-general at Shanghai to Secretary of State.*

[Telegram.]

SHANGHAI, August 15, 1900.

Conger wires reaching Tsinan-fu to-day. Still imprisoned and violently attacked by Chinese army. Dr. Inglis's baby and 7 marines dead. All other Americans alive. Considerable sickness. Allies within 40 miles; gives us strong hope. Woodward, Chicago, well.

GOODNOW.

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*Mr. Conger to the Secretary of State.*

[Telegram.—Paraphrase.—Received, via Chefoo, August 20, 1900; date lost in transmission.]

PEKIN, August 14, 1900.

(Mr. Conger reports the legations saved by the arrival this date of relief column, which entered the city with little trouble. Whereabouts of Imperial family not yet known. All Americans are alive and well, except deaths already reported. A desperate effort to exterminate them was made on the night of the 13th of August. Mitchell, an American sailor, a Japanese, and a Russian wounded; a German killed.

Asks if Department has any instructions for him.)

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*Mr. Conger to Mr. Hay.*

No. 394.]

LEGATION OF THE UNITED STATES,  
Peking, China, August 16, 1900.

SIR: I have the honor to confirm on the overleaf my telegram of the 14th instant, and to say that 2,000 Americans, 2,000 British, 8,000 Japanese, 3,000 Russian, and 200 French troops are now in the city, and we are safe.<sup>1</sup>

At the gates through which the United States and British troops entered there was not serious resistance, but the Russian and Japanese

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<sup>1</sup> Printed ante.



had considerable fighting. The entire city is not yet in our possession. The "Forbidden City" and the northeast sections are still held by the Chinese. Yesterday, in order to drive the enemy out of shooting distance from the legation, General Chaffee fought his way some distance into the "Forbidden City," but after a conference with the other generals he withdrew his men. He had lost Captain Riley and 6 men killed and several wounded. I am informed this was done because the Russian and Japanese generals thought a sacred place like an imperial palace ought not to be forcibly taken without first making a formal demand for surrender. \* \* \*

As I have heretofore wired, we have lost 7 marines killed and 17 wounded, 4 still in hospital; and 1 child died. The rest of the Americans are alive, but many children are ill. Shall start most of them homeward soon.

I have the honor to be, etc.,

E. H. CONGER.

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*Mr. Conger to the Secretary of State.*

[Telegram.—Paraphrase.—Received, via Chefoo, August 22, 1900; date lost in transmission.]

PEKIN, August 17, 1900.

(Mr. Conger reports that, excepting the Imperial palace, the entire city is occupied by 2,000 Americans, 2,000 British, 3,000 Russians, 8,000 Japanese, and 200 French, and is being apportioned for police supervision. The Chinese army has fled. The Imperial family and court have gone westward, probably, to Si-an fu Shensi. There are no representatives of the Chinese Government in sight. The palace will be taken at once. Many missionaries will start for home on the 20th; others will remain to care for 1,000 Christian refugees.

(Conditions chaotic.)

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*Mr. Conger to Mr. Hay.*

No. 395.]

LEGATION OF THE UNITED STATES,

*Pekin, China, August 17, 1900.*

SIR: Continuing my dispatch of the 16th instant, I have the honor to confirm on the overleaf my cipher telegram of to-day, your telegram, undated, sent through Mr. Wu Ting-fang and delivered to me under a flag of truce by a messenger from the Tsungli Yamen, my reply thereto of July 16th, and also my telegrams of August 3, 5, 9, and 11.<sup>1</sup>

Your telegram was the first communication received by anyone from outside since the siege began, and mine the first sent out. On the next day some of the other ministers sent telegrams to the Tsungli Yamen, asking that they be forwarded as mine had been. They were, however, returned with the reply that mine had been transmitted under a previous arrangement, which it was not possible to repeat. A few days later the British minister received through the Tsungli Yamen an inquiry from his Government much the same sort as your first telegram

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<sup>1</sup> All printed ante.

to me. They said he could answer and that the rest of us also might send messages; hence mine of August 5. They had heretofore requested us to send "en clair" telegrams to our Governments, who must be very anxious about us, simply saying "all are well," which we refused to do. \* \* \*

My telegram of August 11 was sent because of the receipt by the dean of the diplomatic corps of certain notes from the Tsungli Yamen, translations of which are inclosed, concerning our quitting Peking, and was chiefly for the purpose of gaining time for the relief column to arrive. The Chinese Government had, since June 19, been continually insisting upon our leaving Peking under Chinese escort, to which we were determined never to consent, because it was undoubtedly a plan to ambush us. This may be more easily believed, since the identical officers and soldiers who were, by imperial orders, daily shooting us down had been selected as our escort. So by one excuse and another we put off a final decision or definite refusal, as may be seen by the copies of correspondence inclosed.

Returning to the situation at the time of my dispatch of June 18 (No. 393), on the 19th, at 4 p. m., each minister received an identic note, whether or not their Governments had sent troops into China, ordering us to leave Peking within twenty-four hours, promising adequate protection, etc. Resolving among ourselves that we would never go under a Chinese escort, but deeming it wise not to refuse point-blank, and thus give them ground for attack, we replied courteously, declaring it impossible to leave within the time, and requesting an interview at 9 o'clock the next morning with the prince and ministers at the yamen, opening the way for further discussion. The reply accomplished its purpose. The time was postponed temporarily, as will be seen by copy of correspondence inclosed.

The morning of the 20th, at 8.30, the ministers met at the French legation ready to proceed in a body to the Tsungli Yamen as soon as notified that the prince would be there. Not receiving any word by 9 o'clock, the German minister, Baron von Ketteler, who had personally notified the yamen that he was coming there on business, started with his interpreter, commissioned to tell the prince and ministers that the corps was patiently waiting to hear from them.

Upon arriving almost to the yamen he was brutally murdered, shot through the head by a man (so says his interpreter, whose chair immediately followed) wearing the insignia of a Chinese official. The interpreter, Mr. Cordes, was at the same time seriously wounded, but succeeded in escaping to the American Methodist Mission compound, which was guarded by American marines. Two mafoos accompanied the baron, one of whom immediately ran to the Tsungli Yamen and returned with some of the secretaries to the place, to find the official chairs demolished, but the minister's body already taken away. The other returned quickly to the legation, and an officer and 20 men started for the spot, but before they reached it were met by a strong cordon of Chinese soldiers, through which they were not strong enough to pass. The body was found yesterday, buried in a rough coffin near where he fell, and to-day was decently interred in the German legation. This was the last attempt of any of the ministers to visit the Tsungli Yamen.

The Chinese army had turned out against us; the whole quarter of the city in which the legations are situated was surrounded by its

soldiers, firing began on all sides and the battle against the representatives of all foreign governments in China was begun.

The Methodist compound where all our missionaries had gathered was abandoned; all coming to the legation at 12 noon. By 4 o'clock the situation had become so acute that all foreigners, except the guards and a few men in each legation, repaired to the British legation, and the refugee native Christians, about 2,000, were placed in the grounds of Prince Su, near by.

Our lines of defense were quickly shortened and strengthened, trenches and barricades built, and the siege was on.

Four hundred foreigners, 200 of them women and children, with over 100 soldiers, were crowded into the British legation. In the house given to our legation 30 people were for two months crowded into six small rooms; but all were thankful that there existed so convenient and safe a place to go.

The first attempts of the enemy were to burn us out by firing buildings adjoining us, but by means of heroically fighting those inflamed by the enemy, burning and tearing down others ourselves, we soon had the British legation pretty safe from this danger. However, from this date until July 17 there was scarcely an hour during which there was not firing upon some part of our lines and into some of the legations, varying from a single shot to a general and continuous attack along the whole line.

Artillery was planted on all sides of us, two large guns mounted on the walls surrounding the palace, and thousands of 3-inch shells and solid shot hurled at us. There is scarcely a building in any of the legations that was not struck, and some of them practically destroyed. Four shells struck our gatehouse, tearing away our flagstaff; four exploded in the servants' quarters; three struck my residence, two of them exploding inside; two struck the office building, and two the house of Mr. Cheshire, while the roofs of nearly all the buildings in the compound were sadly damaged by innumerable bullets. To show in what storms they came, five quarts of them were picked up to be remolded into new ammunition in one hour in our small compound.

Our lines were at first made as short as possible and inclosed all the legations except the Belgian, and were still further shortened after the burning of the Austrian, Italian, and Dutch legations and the imperial customs. Trenches were dug, streets barricaded along these lines as fast as possible, but nearly all the work on these had to be done under cover of darkness.

A veritable fortress was made of the British legation, walls were strengthened and raised, openings filled, bombproof cellars constructed, counter tunnels to prevent mining made, and everything possible with our poor tools and materials was effectively done. In our first barricades carts and furniture were employed and thousands upon thousands of sand bags made in which every obtainable material was used—satin portières, silk curtains, carpets, oriental rugs, table linen, towels, bedding, embroideries, cloths, silks, etc.

Fortunately for us we had the missionaries and their converts with us. The former, being familiar with the Chinese language and character, ably organized, superintended, and directed the Chinese, who were invaluable help in constructing fortifications, and without which it could not have been done.

All were industrious and helpful, but everyone will agree that no

one is done any injustice if Rev. F. D. Gamewell, of the American Methodist Mission, is mentioned as the man to whose practical intelligence, quick perception, executive ability, untiring energy, and sleepless activity more than any other is due our successful and safe resistance. We were obliged to combine all our force and efforts for defense, so that neither time, strength, provisions, nor ammunition should be wasted.

Sir Claude MacDonald, the British minister, was chosen for the general command, and gave every satisfaction. He selected Mr. H. G. Squiers, first secretary of this legation, as his chief of staff, whose military training and experience had not been forgotten, but which, thrown with energy and determination into the work, were invaluable to the end.

Necessary committees were created, and the camp was thoroughly organized. Stores of wheat, rice, and coal found within our lines were quickly gathered into a general commissariat, which, with such canned goods as we had in store, together with all our riding horses and cart mules, have furnished us a substantial if not a very palatable subsistence since.

The Chinese seem to have an innumerable soldiery and an inexhaustible supply of ammunition. We began with only 400 marines, sailors, and soldiers altogether, and some 50 miscellaneous armed civilians. For the most part, therefore, we simply sat and watched, firing only when necessary; but occasionally a severe attack had to be resisted or a sortie made, which invariably, on our side, was successful. But these frequently cost lives of brave men. Altogether we have lost—killed, 65; wounded, 135; died of disease, all children, 7. Of the United States, marines, Sergeant Fanning and Privates King, Kennedy, Turner, Tatcher, Fisher, and Thomas were killed; Captain Myers, Dr. Lippett, and 14 others wounded. The loss of the Chinese is known to be ten times as great as ours.

To our marines fell the most difficult and dangerous portion of the defense, by reason of our proximity to the great city wall and the main city gates, over which large guns were planted.

Our legation, with the position which we held on the wall, was the key to the whole situation. This given up, all, including many Chinese Christians, would at once be drawn into the British legation and the congestion there increased by several hundred. The United States marines acquitted themselves nobly. Twice were they driven from the wall and once forced to abandon the legation, but each time, reinforced, immediately retook it, and with only a handful of men, aided by 10 Russian sailors and for a few days a few British marines, held it to the last against several hundred Chinese with at least three pieces of artillery.

The bravest and most successful event of the whole siege was an attack led by Captain Myers, of our marines, and 55 men—Americans, British, and Russians—which resulted in the capture of a formidable barricade on the wall defended by several hundred Chinese soldiers, over 50 of whom were killed. Two United States marines were killed and Captain Myers and 1 British marine wounded. This made our position on the wall secure, and it was held to the last with the loss of only one other man.

This position gave us command of a water gate under the wall, through which the entrance of the relief column was made into this, the Tartar city. The English arrived first, and General Chaffee, with

the Fourteenth Infantry and Captain Riley's battery, a few moments thereafter.

I inclose a small rough plan showing the line of our defense on June 21 and on July 16 and thereafter.

During the siege the Belgian, Austrian, Italian, Dutch, and most of the French legations were burned, and the post-office, three foreign banks, residences and offices of all the customs officials, and all the missionary compounds, except the Peitang, have been totally destroyed. The Peitang is an immense Catholic cathedral connected with a very large school, in which were refugeed 1,500 native Christians. These, with Bishop Favier and a small corps of priests and sisters, were defended by 30 French and 10 Italian sailors and a number of Chinese Christians with arms. They were besieged during all the time we were, and no communication with them was at any time possible. This place was relieved on the 14th, and it was found that the besieged there had received even worse treatment than those at the legations—a French officer and 10 men killed and 8 wounded. One building was blown up by a mine, which killed 120 Chinese Christians.

No communication whatever was had with the Tsungli Yamen or any one outside our legations until July 14, except communication by shot and shell.

It was a reasonable supposition that the Chinese Government had fled, abandoning the city to the fury of the fiendish soldiers. But we have since found proof abundant and absolute that the Empress Dowager and council remained in the city until just before the arrival of the relief and that the attacks were organized and directed by them, the whole force being under the immediate control and direction of the Grand Secretary Jung Lu, the commander in chief of the Imperial army.

The Tsungli Yamen, all along, has charged all the trouble on the mob, bad Boxers, and brigands; at least, they did so up to the beginning of the siege. Since then they designated them by the name "people and militia," but the very first attacks, except the burning of buildings, were made upon us by men wearing the uniform of Chinese soldiers, and who, it was soon learned, belonged to the regular armies of General Tung Fu-hsiang or Jung Lu. Their barricades were everywhere mounted with flags bearing the name and designations of regular officers and their commands, and whenever men or guns fell into our hands they were those of the Chinese army.

It is very likely that Boxers joined them in the attacks, but if so, they donned the army uniform and carried the imperial arm.

From the decree of June 24, inclosed, you will see that the Boxers were organized by the appointment to their command of Prince Chuang and Kang I; that provisions were given them by an Imperial order, and the members of the imperial family urged not to fall behind them in acts of patriotism, etc. Decree of July 6 mentions the "Prince and ministers in command of the Boxers." Decree of July 8 gives the total number of troops, including the Boxers. Report of Viceroy Yu Lu of July 8 says he ordered provisions and firearms distributed among Boxers. By decree of June 25 the Empress Dowager gave 100,000 taels to the Boxers.

Another convincing proof that it was soldiers who were besieging us is the fact that whenever the Chinese Government wanted to communicate with us, they could stop the firing and come through their lines whenever they pleased.

The Chinese Government was pretending to us and proclaiming to the world that they were "protecting" us, when in fact if a thousandth part of the shots fired at us by their soldiers had taken effect we would all have been killed long ago. It is understood, also, that they represented abroad that they were "provisioning" us. They did send us on two occasions a few small watermelons, cucumbers, and egg plant, and on another three sacks of flour, but nothing more. We tried to establish a market where under a flag of truce, we might purchase a few eggs and some fruit or fresh meat. They consented, but the firing of their soldiers prevented it.

On July 14 a note signed "Prince Ching and others" came to us by a messenger again inviting us to ambush, this time at the Tsungli Yamen, but we didn't go. However, a correspondence was started, which for a time caused a cessation of artillery firing and lessened greatly the rifle firing, showing that the Government could control it if desired.

All the correspondence is interesting, and I inclose translations of it for what it is worth. Two days before the arrival of our troops "Prince Ching and others" asked to come and see us for the purpose of arranging a temporary suspension of hostilities, requesting us to name an hour, which was done for 11 a. m., the 13th of August. They did not come, saying they were too busy, but that strict orders had been given to their troops not to fire upon us and if anybody did they would be court-martialed, etc. But during all that night the most fierce and desperate attack of the whole siege was made along the entire line, in which one German soldier was killed and a Russian, Japanese, and American sailor were wounded. \* \* \* On the 14th, as I have already written, we were relieved. I inclose various extracts from the official gazettes, decrees, etc., which prove conclusively the connection of the Imperial Government with and its responsibility for the Boxer movement, and furnish very strong evidence that it was planned, encouraged, and supported by the imperial family. Prince Tuan, the father of the heir apparent, has been their chief friend and protector. They have drilled and rationed in his temple, his son was selected as heir apparent about the inception of the movement, the prince was appointed to the Tsungli Yamen at its height, and it seems certain that his advice and that of the grand secretary Hsu Tung, Kang I, and other influential but ignorant antiforeign officials, influenced the Empress Dowager to actually believe that with the combined force of Boxers and soldiers the expulsion or extermination of all foreigners from China was possible.

So the movement began, first upon the native Christians, thousands of whom have been most brutally butchered, then against the missionaries, many of whom have been murdered and their property destroyed. The most harrowing details are coming in of horrible atrocities perpetrated in the country districts while we have been besieged; then against the foreign merchants and all foreign business interests, and finally against all the official representatives of foreign powers in Peking. \* \* \*

The Government has fled, and up to the present no one to speak for it has put in an appearance. It is, however, known that several members of the Tsungli Yamen are in the city, and it is creditably reported that Prince Ching is not far away; so the probability is that some of them will soon be heard from. Further developments will be reported in my next dispatch.

I can not close this dispatch without gratefully mentioning the splendid service performed by the United States marines who arrived here on May 31 under the command of Captain Myers. With slight exceptions their conduct won the admiration and gratitude of all, and I beg you to kindly communicate the fact to the Navy Department.

I inclose copy of resolutions passed by the American missionaries expressing their high appreciation of the loyalty, fidelity, and heroic courage of these men.

The loss to the American missions in China is something tremendous, for there is probably not one of their houses, schools, or chapels in this or the province immediately west of here undestroyed, and many in the north part of Shantung have also been demolished. It is reasonably certain that the missionaries who did not leave the interior before the middle of June have all been murdered. We can not as yet get accurate information of them here.

The damage to the general missionary cause is immeasurable and irretrievable. Adequate indemnities may possibly be secured for all material losses, but time only, with the most substantial guaranties for the future, can even partially restore the desolated field. Just how this can be accomplished does not at present clearly appear, but in the reformation or reestablishment of government here, it should somehow be brought about.

As showing the uniform cordiality existing between the missionaries and this legation, I take pleasure in transmitting herewith copy of a letter signed by all the male missionaries here.

I ought to add in regard to the note from Tsungli Yamen of July 19, in which was transmitted to me a copy of the telegraphic Imperial letter to the President of the United States, that almost identic letters were at the same time sent to the Queen of England, the Emperor of Germany, the Czar of Russia, and the President of France, saying in each case that in her present difficulties China could rely only upon that special power for aid.

I have the honor to be, etc.,

E. H. CONGER.

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[Inclosure 1.]

*Imperial decree, published in the Pekin Gazette June 13, 1900.*

On the 11th of June the Japanese chancellor was murdered by desperadoes outside the Yung Ting Men. On hearing this intelligence we were exceedingly grieved. Officials of neighboring nations, stationed at Pekin, ought to be protected in every possible way, and now, especially, extra diligence should be displayed to prevent such occurrences when desperadoes are as numerous as bees. We have repeatedly commanded the various local officials to insure the most efficient protection in their districts, and yet in spite of our frequent orders we have this case of murder of the Japanese chancellor occurring in the very capital of the Empire. The civil and military officials have assuredly been remiss in not clearing their districts of bad characters or immediately arresting such persons, and we hereby order every yamen concerned to enforce a date for the arrest of the criminals that they may suffer the extreme penalty. Should the time expire without an arrest being affected the severest punishment will be assuredly inflicted upon those responsible.

SECOND EDICT.

The Boxer desperadoes have recently been causing trouble of the capital until Pekin itself has been involved. We have repeatedly issued edicts stating our commands in explicit terms to be made known to all, and we also ordered the various

military commanders stationed at or near the capital to severely put an end to these disturbances. Yet now we have cases of arson and murder, and bad characters of the lowest type are perpetually inventing rumors on the pretense of revenging themselves on the converts. The result has been that good subjects of ours have become involved and regard our commands as something that can lightly be set aside. In spite of the fact that these men are known to have leagued together to commit acts of murder and arson they suffer themselves to be misled by them. Good citizens, most of all, desire to stimulate patriotism, and one would like to know when in the history of a nation the condoning of anarchy among the people has made that nation strong. We have now learned by investigation that among the ranks of the Boxers are many braves and desperadoes, who have vied with one another in disgraceful acts of robbery and looting. We have already ordered Kang I and others to proceed to various country districts and acquaint each and all with our virtuous intentions, so that there may be tranquillity. Let the Boxers who have already entered into league disband themselves and be content. It is obvious that various cases of murder and arson which have occurred are the work of traitors, and only the fact of a man having himself caused disturbance can make us regard him as a bad citizen. These bad characters must be rooted out and no mercy can again be shown. We order Sung Ch'ing to command Ma Yu-k'un to come with all speed to the capital and let strenuous efforts be made to arrest all desperadoes in the region round Peking. It is important that the ringleaders be seized, but the subordinates may be allowed to disband themselves. It is strictly forbidden to the military to use these occurrences as a pretext for causing trouble, and our hope is that the country may thus be cleared of traitors and good citizens may be at peace.

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[Inclosure 2.]

*Imperial decree, published in the Peking Gazette June 17, 1900.*

Lately the people and the Christians have sought means to stir up enmity, and bad language has arisen on every side. Vagabonds have taken occasion repeatedly to burn and rob. All foreign ministers ought to be really protected. Jung Lu is ordered to detail his soldiers at once and energetically use his authority and go immediately to East Legation Street and vicinity and with all his power protect those ministers. He must not be in the least careless. If the ministers and their families wish to go for a time to Tientsin, they must be protected by the way; but the railroad is not now in working order. If they go by the cart road, it will be difficult, and there is fear that perfect protection can not be afforded. They would better, therefore, abide in peace as hitherto, and wait till the railroad is repaired and then act as circumstances render expedient.

Sanctioned. Respect this.

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[Inclosure 3.]

*Imperial decree published in the Peking Gazette June 21, 1900.*

Ever since the founding of the dynasty foreigners coming to China have been kindly treated. In the reigns of Tao Kwang and Hsien Feng they were allowed to trade, and they also asked leave to propagate their religion, a request which the Throne reluctantly granted. At first they were amenable to Chinese control, but for the past thirty years they have taken advantage of Chinese forbearance to encroach on Chinese territory and trample on the Chinese people and to demand China's wealth. Every concession made by China increased their reliance on violence. They oppressed peaceful citizens and insulted the gods and holy men, exciting the most burning indignation among the people; hence the burning of chapels and the slaughter of converts by the patriotic braves. The Throne was anxious to avoid war, and issued edicts enjoining protection of the legations and pity to the converts. The decrees declaring Boxers and converts to be equally the children of the State were issued in the hope of removing the old feud between people and converts, and extreme kindness was shown to the men from afar. But these people knew no gratitude, and increased their pressure. A dispatch was yesterday sent by Du Maylard, calling on us to deliver up the Taku forts into their keeping, otherwise they would be taken by force. These threats showed their aggressions. In all matters relating



to international intercourse we have never been wanting in courtesies to them, but they, while styling themselves civilized States, have acted without regard for right, relying solely on their military force. We have now reigned nearly thirty years, and have treated the people as our children, the people honoring us as their deity, and in the midst of our reign we have been the recipients of the gracious favor of the Empress Dowager; furthermore, our ancestors have come to our aid, the gods have answered our call, and never has there been so universal a manifestation of loyalty and patriotism.

With tears we have announced the war in the ancestral shrines. Better to do our utmost and enter on the struggle rather than seek some means of self-preservation involving eternal disgrace. All our officers, high and low, are of one mind, and these have assembled, without warning, several thousand patriotic soldiers (Yi p'ing Boxers), even children carrying spears in the service of the country. Thus others rely on crafty schemes; our trust is in Heaven's justice. They depend on violence; we on humanity. Not to speak of the righteousness of our cause, our provinces number more than twenty, our people over 400,000,000, and it will not be difficult to vindicate the dignity of our country.

[The decree concludes by promising heavy rewards to those who distinguish themselves in battle or subscribe funds and threatening punishment to those who show cowardice or act traitorously.

Another decree in the same gazette expresses the satisfaction with which the Throne has received Yu Lu's report of successful engagements at Tientsin on the 17th, 18th, and 19th of June, and gives great praise to the Boxers, who have done great service without any assistance, either of men or money, from the State. Great favor will be shown them later on, and they must continue to show their devotion.]

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[Inclosure 4.]

*Abstract of the Peking Gazette, June 24, 1900.*

Yesterday shops and houses in the neighborhood of the Tung Ssu Pai Lou and the Chang Anchieh were looted by braves with arms. This is a serious matter, and we ordered Jung Lu to depute officers to arrest the offenders. Eleven in all, belonging to various divisions, besides 23 desperadoes from another body of braves were arrested and executed on the spot, the public being duly apprised of the occurrence. We now command the various general officers to give strict orders to their subordinates that the braves are to be strenuously kept in order. Should these occurrences be repeated martial law will be put into operation. If the various officers commanding patrols screen offenders instead of rigorously enforcing the laws, we order that they be severely punished after due investigation. We command the military commandant's yamen and those responsible for the civil administration of Peking and district to arrest all desperadoes who may be creating disturbance and to execute them there and then. Let no mercy be shown.

SECOND DECREE OF SAME DATE.

The board of revenue is commanded to give Kang I 200 bags of rice as provisions for the Boxers for general distribution among them.

THIRD DECREE OF SAME DATE.

Numbers of our people comprised in the I Ho T'uan (Boxers) are scattered in all parts of the region round the metropolis and Tientsin, and it is right and proper that they should have superintendents placed over them. We appoint Prince Chuang (Tsai Hsun) and the assistant grand secretary, Kang I, to be in general command, and also order Ying Nien, brigade-general of the left wing, and Tsai Lan, temporarily acting as brigade-general of the right wing, to act in cooperation with Chen. We command Wen Jui, adjutant-general of the Manchu army, to be brigadier-general. All the members of the I Ho T'uan are exerting their utmost energies, and the Imperial family must not fall behind in harboring revenge against our enemies. It is our confident hope that the desires of each and all will be successfully consummated, and it is of the utmost importance that no lack of energy be shown.

[Inclosure 5.]

*Decree of the Empress Dowager, June 25, 1900.*

A sum of 100,000 taels is granted in reward to each of the following army corps: Sheng Tzu Ying, Fu Shang Ying, and the corps of the Boxers. Also a sum of 60,000 taels each is granted to the troops of Kan Su (Tung Fu Hsiang's) and the Wu Wei Chun in addition to the sums of 40,000 taels, which has already been granted to them. The officials and soldiers of the troops are to get in one spirit in order to accomplish the great deed and be deserving the bounties received.

[Inclosure 6.]

*Abstract of the Peking Gazette, June 27, 1900.*

An edict appeared yesterday directing, as a stimulus to exertion, discriminating rewards to be given to the various army corps that have distinguished themselves in the metropolitan district. Now that the left wing of the army, under command of Sung Ch'ing, has in sectional divisions marched to the capital, let 100,000 taels be equally divided to the men, and let orders be given to rank and file to maintain the public with unanimity and zeal.

## SECOND EDICT.

Since the beginning of hostilities between China and the foreign powers, I, the Empress, have frequently given pecuniary rewards out of the household funds both to the military officials and the Boxers—a bounty abundant and continuous. At present affairs are in a dangerous condition. You officers, therefore, should be zealous to repay the imperial favor and embrace the opportunity to achieve high merit. All who with courage and energy succeed in attacking and destroying the enemy will certainly receive extraordinary rewards. If there be any who desert the field of battle, or through cowardice fail to advance to meet the foe, they will be punished by death in the presence of the army, and their officers will be liable to severe punishment. At present the foreign troops have possession of the Taku forts. We direct Yu Lu to order Lo Jung-kuang and his adjutants to devise means to retake them without delay. In war martial law takes precedence. If there be any plundering or other exactions from the people on the part of officers and troops, besides the execution of the offenders on the spot the immediate officers (captains and lieutenants) will be court-martialed. If officers can not restrain their men they will be severely punished. Let no one plead ignorance as an excuse.

## THIRD EDICT.

The various army corps and the Boxers in the metropolitan district and at Tientsin have already received pecuniary rewards according to their merit. Let there be equally divided to the various corps of Manchu, Mongol, and Chinese banner men the sum of 100,000 taels as a stimulus to exertion. Let also an equal sum be given through the high officials to the two wings and the advance division of the banner men guards, to be distributed in the same manner.

## FOURTH EDICT.

The military forces at Tientsin are of great importance. To the troops now there and the Boxers assisting them let there be given to those who have distinguished themselves 100,000 taels as a stimulus to exertion. Let this money be paid by Yu Lu and let Yu Lu command the various army corps, and the Boxers to arrange their forces to intercept the foreign troops and prevent their creeping northward. Let them also recover the forts at Taku.

[Inclosure 7.]

*Imperial decree published in the Peking Gazette July 1, 1900.*

General preparations are now being made for war, and owing to the telegraphic communication being interrupted all official dispatches are forwarded by couriers. Speedy transmission is a matter of urgent necessity, but the courier arrangements

have fallen for a long time past into decay, the number of the men and horses at the post stations not having been duly kept up. The high officials are therefore directed to take steps to reestablish a regular system of couriers.

The decree goes on to declare that now that there is fighting on the coast of Chihli information as to the enemy's circumstances and movements must be obtained, and Yu Lu is directed to order all loyal officials to send our numerous spies to obtain correct information.

Another decree states that the members of the I Ho Ch'uan (Boxers) began by taking loyalty and courage as their motto, and it was expected that they would do good service in repelling aggression. But of late there have been in the neighborhood of Peking many cases of wanton robbery and murder by characters feigning to belong to the Boxers. If no strict distinction is drawn, internal dissension will be added to foreign trouble and the state of the country will be indescribable. Tsai Hsun is ordered to keep those members of the I Ho Ch'uan who have made submission under strict control and expel all persons pretending to belong to it as an excuse for raising trouble. All cases of gangs collecting to commit murder from motives of vengeance are to be dealt with under the laws against brigandage. There will be no mercy shown to leaders of future disorders.

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[Inclosure 8.]

*Imperial decree published in the Peking Gazette July 2, 1900.*

Ever since foreign nations commenced propagation of their religion there have been many instances throughout the country of ill feeling between the people and the converts. All this is due to the faulty administration on the part of the local authorities, giving rise to the feuds. The truth is that the converts are also the children of the State, and among them there are not wanting good and worthy people. But they have been led astray by false doctrines and have relied on the missionaries for support, with the result that they have committed many misdeeds. They hold to their errors and will not turn from them, and irreconcilable enmity has thus grown up between the converts and the people. The Throne is now exhorting every member of the I Ho Ch'uan (Boxers) to render loyal and patriotic services and to take his part against the enemies of his country, so that the whole population may be of one mind. Knowing that the converts are also subjects owing fealty to the Throne, we ask how they can bring themselves to form a class apart and invite their own destruction. If they can change their hearts there is no reason why they should not be allowed to escape from the net. The viceroys are commanded to issue the following notification: All those among the converts who repent of their former errors and give themselves up accordingly to the authorities shall be ignored. The people shall also be notified that in all places where converts reside they shall be allowed to report to the local authorities concerned, and each case shall be settled according to the general regulations, which will be drawn up later.

As hostilities have now broken out between China and foreign countries, the missionaries of every nationality must all be driven away at once to their own countries, so that they may not linger here and make trouble. But it is important that measures shall be taken to secure their protection on their journey.

The high provincial authorities shall make close investigation into the circumstances in all places without their jurisdiction and speedily take the necessary steps. Let there be no carelessness. The above decree shall be circulated for general information.

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[Inclosure 9.]

*Imperial decrees published in the Peking Gazette July 6, 1900.*

1. A cashiered lieutenant-colonel, Shou Chang, permitted to return to service.
2. Chen Shou appointed lieutenant-general of Sheng Ching, to assist military operations.
3. A censor, Wen Piao, complains of brigandage in the capital. We order that the princes and ministers in command of the Boxers shall instruct their subordinates to arrest the guilty and execute them on the spot.
4. Relief for the hungry poor who suffer from the high price of rice.

[Inclosure 10.]

*Imperial decree published in the Peking Gazette July 8, 1900.*

The posts about Tientsin are of extreme importance. Troops are to be massed for their defense. The 72 fire companies, numbering over 10,000 men, all animated by a spirit of patriotism, united with the Boxers, would swell the strength of the defense and turn the edge of the enemy.

[Inclosure 11.]

*Imperial decree published in the Peking Gazette July 9, 1900.*

We appoint Li Hung Chang viceroy of the province of Chihli and superintendent of northern trade. As the guarding of Tientsin is at present of the most importance, we direct that until the arrival of Li Hung Chang, Yu Lu, in concert with Sung Cheng, deliberate as to the best measures to be taken. Pending the change of officers there must be no slackening of responsibility.

[Inclosure 12.—Translation of the Peking Gazette, July 11, 1900 (sixth moon, 10th day)].

*Report of the governor-general of Chihli, Yu Lu, concerning military engagements.*

I have reported already to Your Majesty on the 29th day of the fifth moon (June 24), concerning our engagements with the foreign troops on the 29th, in the morning.

Several hundred foreign troops with many native Christians moved from the railway station to Nien I Wei bridge in order to aid the foreign troops surrounding the arsenal. Our regular troops, together with the Boxers, forced them to retire. On the same day at noon, from the wall surrounding the arsenal at Hei Ku, several hundred foreign troops with cannon again attacked our fortifications opposite the arsenal, in a place called Pai Niao. Our troops opened fire and the engagement lasted more than two hours, and only after that the foreigners retreated. As the foreign troops situated at Hsi Ku had for several days been attacked by our troops and had no means to move, and also no reinforcements were coming to them, the same night they set fire to the arsenal on three sides and, profiting by it, fled. Our troops, seeing that the fire had risen, sent a detachment to pursue the foreigners, and on the other side, together with the Boxers, put out the fire. The foreigners retreated in disorder to the Lao Lung T'ou Railway station. After having subdued the fire an inspection was made of the different storerooms of the arsenal, and it was found that nine of these had burned down, but the others had escaped altogether.

On the same day at noon the foreigners bombarded from the settlement the workshops situated close to the temple Hsi Kuang Ssu (the "treaty temple"). One of the shells fell into the kitchen of this temple. A fire broke out and the buildings of the temple and also the woodwork of the workshops and several buildings of the temple burned down. There remain, however, more than fifty chien, and the machinery in them, although somewhat damaged, can be repaired. The arsenal at Hsi Ku has not yet been taken by the foreign troops. Likewise the workshops to the south of the city have not been entered by the foreigners. At present orders have been issued to guard them strictly. Outside the east gate of the city of Tientsin, at a distance of some 20 li, the arsenal was several times attacked by foreigners. From the 27th day to the 30th of the fifth moon the foreign troops which had just arrived were several times repulsed. On the 1st day of the sixth moon the foreign troops again arrived from the eastern side of the arsenal. They were repulsed by the commanding officer, Pan Chin-shan, but they repeated their attacks several times and were repulsed again, many of the foreign soldiers being killed. Just at meal-time more than 8,000 foreign troops, arriving from the foreign settlement of Tientsin, attacked the arsenal. They were met by commander Yao. Cavalry arrived from Chun Liang Ch'eng and attacked our troops, together with the foreigners attacking us from the west. The shells and bullets fell like rain. Pan Chin-shan was wounded in his right leg. Shortly afterwards a shell fell into one of the workshops of the arsenal and an explosion took place. The foreign troops, seizing this occasion, entered from every side. We could not hold our position and retreated to Hsi Ku. Three hundred of our soldiers had been killed, but the foreign losses were also not

insignificant. The arsenal occupies a space about 20 li in circumference. The foreigners had occupied only part of it, and, according to information received, only a part of the buildings have been burned and the machinery stores have not been damaged. The respective troops have received orders to act together with the Boxers and find means to recover the arsenal. At the same time that the arsenal was attacked foreign troops advanced also from the east of the river and attempted to repair the railway bridge at Ch'en Chia K'ou, in order to divide our troops, but one of the commanders, together with the Boxers, attacked them with artillery and killed many of the foreigners, destroying also the bridge which the foreigners had attempted to repair. The foreign troops fled in disorder to the settlement. On the 2d and 3d days of the sixth moon the foreign troops made no attempt en masse, but they kept provoking our troops on the concession and at Na Chia K'ou. They also made sorties from the railway station to places situated to the west of the river, but each time were repulsed by our troops. These are the details of the different engagements which have taken place since the 29th day of the last moon.

As far as the taking of Taku is concerned, we have learned from the spies that small gunboats of different powers—more than ten in number—are anchored at Tang Ku. The troops which have come up to Tientsin have been towed up by steam launches in barges. Among the troops the Russians were in preponderance. They were also accompanied by coolies, hired by the Russians for the repair of the railway, and by Christian natives. The Wan Nien bridge has been destroyed by the foreign troops, and the railway upward from Chun Liang Ch'eng has not been repaired.

At present General Ma Yu-kun, with his troops, has arrived (on the 3d day of the sixth moon) at Tientsin. On the arrival of these reinforcements the inhabitants of Tientsin felt themselves more secure. I have consulted with the above general about the mode of continuing the warfare, and we have come to the conclusion that in the first place it is necessary to force the foreign troops to retire from the foreign settlement of Tientsin and then to attack them at Taku. I have consulted on this subject several times with Generals Na Nieh and Lo, and hope to be able to retake the Taku forts.

Rescript approving this mode of action.

MEMORANDUM BY GOVERNOR-GENERAL YU LU.

Boxers at different places in my province have at different dates arrived at Tientsin and taken part in the battles. At present there is a Boxer chief of the district of Ching Hsi by the name of Chang Te-sh'eng, who arrived on the 2d day of the sixth moon with 5,000 Boxers and has presented himself to me. Seeing that he is a man physically strong and mentally capable, I have ordered him to choose a residence here and await further orders. I have also directed that firearms and provisions should be distributed to his followers. In case of merit on his part in the future, a special report will be made by me on this subject.

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[Inclosure 13.]

*Imperial decrees published in the Peking Gazette July 12, 1900.*

The death of General Nieh Shih Cheng.—Though he had done much to train the troops, yet on the occasion he made many blunders. We deprived him of his rank, but retained him in command, hoping he would redeem his faults, but on the eleventh moon, (July 9), he fell at the head of his forces.

Note by Yu Lu in the defense of Tientsin.—The gentry of Tientsin have stated that after several days of hard fighting our troops are sorely pressed. They ask reinforcements, and measures are proposed for their relief.

A decree has been sent to the southern viceroys to hurry up troops to the capital, which is described as in a state of confusion.

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[Inclosure 14.]

*Imperial decree published in the Peking Gazette July 18, 1900.*

The reason of the fighting between the Chinese and foreigners sprung from a disagreement between the people and Christians. We could but enter upon war when the forts of Taku were taken. Nevertheless the Government is not willing lightly

to break off the friendly relations which have previously existed. We have repeatedly issued edicts to protect the ministers of the various countries. We have also ordered the missionaries of the various provinces to be protected. The fighting has not become extensive. There are many merchants of the various countries in our dominions. All alike should be protected. It is ordered that the generals and governors examine carefully where there are merchants and missionaries and still, according to the provisions of the treaties, protect them without the least carelessness. Last month the chancellor of the Japanese legation was killed. It was indeed most unexpected. Before this matter had been settled the German minister was killed. Suddenly meeting this affair caused us deep grief. We ought to vigorously seek the murderer and punish him.

Not to mention the fighting at Tientsin, the shun tien fu and the governor-general of this province should command the officers under them to examine what foreigners have been causelessly killed and what property destroyed and report, that all may be settled at once.

Concerning the wretches who have been burning houses, robbing and killing the people these many days, they have caused this region to be all in disorder. It is ordered that the governors-general and the high officials should clearly ascertain the circumstances and unite in reducing to order and quiet the confusion and root out the cause of the disturbance. Cause all places to know this general edict.

[Inclosure 15.]

*A memorial published in the Pekin Gazette July 24, 1900.*

A memorial from Yu Lu and Sung Ch'ing describes later fighting at Tientsin. They state that General Nieh Shih-ch'eng fell after a desperate combat lasting six hours on the 9th of July, and that on his fall his men retreated. The foreign troops forced their way through the Hai-huang gate and the Hai-kuang temple was set on fire, but the Chinese troops were reinforced and the foreigners forced to withdraw to the foreign concession. Artillery fire was opened on the concession and the Hung Lou (red 2-story building) was destroyed and many foreigners killed. Memorialists in the afternoon of the same day (July 9) led an attack on the foreign concession, aided by the Boxers, advancing from Ma Chia K'ou, and destroyed a 2-story building by artillery fire, killing some score of foreign troops. The foreigners came out in detachments and gave battle in the concession. The Chinese gave way, but again advanced. When night came on, however, the Boxers could no longer hold out, and the troops on both sides were recalled.

On the 10th day of July a fresh attack was made by the Chinese forces from the Lao Lung T'ou railway station, hoping to destroy the railway, but this attempt was frustrated by fire from the foreign troops. Many Chinese officers were killed, and a retreat was only effected under cover of reinforcements brought up by memorialists. It was reported the same evening that the foreign loss was not small.

July 11, early, the foreigners attacked, but were forced to retreat. At noon they again advanced and set up guns at Ma Chia K'ou, firing at the Shui Shih Ying (naval secretariat) but, though they set it on fire, it was not quite destroyed, but the east and south gate of the city and places north and south of the river all suffered from their fire, which was only stopped by a flanking fire from the Chinese artillery.

The above, say the memorialists, is an account of the fight from July 9 to July 11. Sung Ch'ing arrived at Tientsin on July 10. He discussed the situation with Yu Lu and came to the conclusion that the (positions of the) foreign troops in the settlement were very strong, being protected by mines, but must be taken. He heard also that there were many foreign war ships coming and going at Taku. At the moment there were several score there and over 10 inside, besides 3 torpedo boats, and at Tong Ku there were over a thousand foreign troops. Further, the railway below Chun Liang Ch'eng was working, with mines laid at each side to prevent Chinese attacks. Thus it seemed that unless the trains and steam launches could be stopped the foreigners could not be destroyed. But the force at Tientsin only supplied for local need, and though reinforcements were expected from Shantung, dispatched by Yuan Shih-k'ai, these would not enable a successful attack to be made on Taku, and further large reinforcements were required.

Rescript expresses the regret of the Throne at death of the officers mentioned, and announces that posthumous honors will be bestowed on them.

[Inclosure 16.]

*A decree published in the Peking Gazette August 2, 1900.*

Owing to the disturbances caused by the people and the converts in the neighborhood of the capital, war broke out between China and the foreign powers. It was a duty to protect the envoys of the various foreign States residing in Peking, and the prince and ministers of the tsungli yamen addressed frequent letters to them inquiring after their welfare. They also, on account of the minds of the people in the city being excited and the difficulty of maintaining a complete defense, discussed with the various foreign ministers the question of detaching troops to give them safe escort to Tientsin, in order to avoid alarm and apprehension.

We direct the grand secretary, Jung Lu, to select in advance trustworthy officers, civil and military, of high rank, to take trustworthy troops, and when the foreign envoys have fixed the date for leaving the city give them safe-conduct on the road. If there should be evil-doers who lie in wait to plunder, these are to be immediately killed. Before the envoys leave the capital, if they have telegrams to be sent to their countries, provided they are en clair, the tsungli yamen is promptly to arrange the matter for them without delay. This will exhibit the extreme desire of the Throne to treat the people from afar with tenderness.

[Inclosure 17.]

*A decree published in the Peking Gazette August 2, 1900.*

The merchants and missionaries of all countries in China have nothing to do with the war that has broken out between China and foreign powers, and for that reason we issue instructions to the various provincial authorities to give protection as usual.

At the present moment great forces are collecting in the vicinity of the capital, and all the high officers in command of troops must also make the above aim their own, and steps must be taken to protect all foreign merchants and missionaries in accordance with the tender feeling of the Throne toward the people from afar.

The converts are also the children of the State, but as soon as the quarrel between them and the Boxers broke out they have been occupying villages, digging intrenchments, and throwing up barricades in resistance to the Government troops. Such conduct is equivalent to rebellion and must be severely dealt with. We remember, however, that they were actuated by fear of punishment, and if they will repent and reform the net may be opened (to allow them to escape).

We yesterday received a report from Sung Ch'ing to the effect that at Ta Pao Tien, in the Pao Ti district, he earnestly admonished the converts and the missionaries and others who were willing to deliver up their arms and their barricades, to fill up their intrenchments, and to disperse to their villages. Thus it may be seen that not all converts are willing evil doers. Wherever there are converts who repent and make submission the generals and officers and the local officials are hereby directed to act as above, and not to put all to death. The bad characters in different places who pretend to be patriotic people—i. e., Boxers (I Min)—and pick quarrels in order to pillage and slay are to be punished, in order that the springs of disorder may be purified.

[Inclosure No. 18.]

*The Tsungli Yamen to Mr. Conger.*

No. 187.]

PEKIN, June 19, 1900.

YOUR EXCELLENCY: The princes and ministers have the honor to inform the minister of the United States that the viceroy of Chihli has memorialized the Throne that he received a communication from M. du Chaylard, the French consul-general (at Tientsin), on the 17th instant, stating that the admirals of the foreign fleets had demanded the surrender of all the Taku forts to them by to-morrow morning at 2 o'clock, or else they will attack them and take them by force.

The princes and ministers have the honor to say that this news has caused them great astonishment, China having been so long at peace with the powers, and if now the foreign admirals intend to seize the forts this would show an intention on the part of the powers to break off friendly relations, and they would be the first to offend.

At the present time the Boxer banditti have risen in Peking and caused public excitement. The minister of the United States, with his family and staff, being here, his legation is now in danger, and China will find it a difficult matter to give complete protection. The princes and ministers therefore beg that within twenty-four hours the minister of the United States, with his family, etc., and taking his guards, keeping them under control, will leave for Tientsin, in order to avoid danger. An escort of troops has been dispatched to give protection en route, and the local officials have been also notified to allow the minister's party to pass.

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[Inclosure 19.]

*The Dean of the Diplomatic Corps to the Tsungli Yamen.*

PEKIN, June 19, 1900.

YOUR HIGHNESS AND YOUR EXCELLENCIES: The foreign ministers have received with great astonishment the note which the Tsungli Yamen has sent them dated to-day.

They know absolutely nothing of that which the note contains upon the subject of what may have taken place at the forts of Taku. The foreign ministers can only accept the declarations and the demand which the yamen makes to them and prepare to leave Peking. It is utterly impossible to arrange for the departure in the short time of twenty-four hours. The Chinese Government must understand that there are a great number of women and children here and that it is a very numerous procession that must be provided for.

The Tsungli Yamen tells us that it will furnish safeguards en route. The foreign ministers desire to know in what these safeguards will consist, understanding that the country is full of rebels. We do not doubt the sincere willingness of the Chinese Government in this regard, but since there are foreign soldiers en route who are marching toward Peking for the purpose of cooperating amicably with the Government in reestablishing order, the foreign ministers desire that these detachments should be quickly advised, so that they may join us and all depart together.

The foreign ministers must demand, besides the necessary means of transport, carts, boats, and provisions, and also be accompanied by some of the ministers of the Tsungli yamen.

For the purpose of arranging all these questions the members of the diplomatic corps request to be received by Prince Ching and Prince Tuan to-morrow, Wednesday, at 9 o'clock a. m.

The diplomatic corps expect an immediate reply.

COLOGAN, *Dean.*

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[Inclosure 20.]

*The Tsungli Yamen to the Dean of the Diplomatic Corps.*

PEKIN, June 20, 1900.

On the 19th instant we received the dispatch of the dean, as follows: "The diplomatic corps know absolutely nothing of the forts at Taku. Your yamen directs us for the present to leave Peking. It will be impossible to depart in twenty-four hours. The Chinese Government must understand that there are a great number of women and children here, and that it is a very numerous procession which must be provided for. We wish to be informed as to the nature of the guaranty of security which you will furnish us. The detachments at present en route to Peking have no other than friendly intentions. Moreover, we ask for to-morrow morning at 9 o'clock an interview with your yamen."

In making known to you by our dispatch of yesterday that you ought to leave Peking within twenty-four hours we were guided by no other consideration than that of disturbances raised by the bandits in the city of Peking itself and the fear of not being able to insure your protection. But the regions surrounding Peking being at present disturbed, it is to be feared also that the departure of a procession of the families of members of the legations and their children can not occur without great danger.

Since your dispatch declares to us that it is impossible for you to prepare to leave in twenty-four hours, we naturally agree to the delay and negotiate anew.



The relations of good friendship which have so long existed between China and the different powers have not been stained by any animosity. But at present, by reason of the disagreement which exists between the people and the Christians, a state of things has actually arrived which could not have really been foreseen.

To-day, as the foreign ministers express a desire to visit our yamen at 9 o'clock, we, prince and ministers, have an equal desire to express to them our thoughts. But, it being true that during these last days the streets are overexcited, the foreign ministers in going from their legations to our yamen would encounter en route very great danger, which gives us, prince and ministers, great anxiety for you. Besides, we are daily on guard at the palace, and it is impossible for us to be in two places at the same time.

Your dispatch contains not only assurances of peaceful intentions; it adds that you intend especially to safeguard good relations.

The prince and ministers have been profoundly pleased with this declaration, and we hope that you will be good enough to inform us expressly what are the intentions and instructions of your Governments, in order to enable us to negotiate in concert with you again. We pray you, besides, Mr. Dean, to be kind enough to communicate with haste this dispatch to the representatives of the powers.

Compliments and cards.

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[Inclosure 21.]

*The Dean of the Diplomatic Corps to the Tsungli Yamen.*

PEKIN, June 21, 1900.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to inform your highness and your excellencies that the foreign ministers have received and read with interest your dispatch of yesterday.

In reply to the question put to them, they instruct me to make known to you that their Governments have never given them any but the most friendly instructions in regard to China. They have at no time had any other purpose than assuring their safety. It is for this purpose only that the detachments are at present en route to Pekin.

The foreign ministers must for their part ask the entire attention of your highness and your excellencies to the firing upon them which has been continued since yesterday. They are convinced that this must be done against the wish of the Chinese Government, and that it may be charged only to rebels or to some groups of soldiers acting independently. They therefore request you to immediately put a stop to these aggressions, so contrary to the terms of your note just received and to the friendly spirit of the present dispatch.

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[Inclosure 22.]

*Prince Ching et al. to Sir Claude MacDonald.*

PEKIN, July 14, 1900.

For the last ten days the soldiers and militia have been fighting, and there has been no communication between us, to our great anxiety.

Some time ago we hung up a board expressing our intention, but no answer has been received, and, contrary to the expectation, the foreign soldiers made renewed attacks, causing alarm and suspicion amongst the soldiers and people. Yesterday the troops captured a convert named Chin Hu-hsi and learned from him that the foreign ministers were all well, which caused us very great satisfaction.

But it is the unexpected that happens. The reinforcements of foreign troops were long ago stopped and turned back by the Boxers, and if in accordance with previous agreement we were to guard your excellency out of the city, there are so many Boxers on the Tientsin-Taku road that we should be very apprehensive of misadventure. We now request your excellencies to first take your families and the various members of your staffs and leave your legations in detachments. We should select trustworthy officers to give you close and strict protection, and you should temporarily reside in the tsungli yamen pending future arrangements for your return home, in order to preserve friendly relations intact from beginning to end; but at the time of leaving the legations there must on no account whatever be taken any single

armed foreign soldier, in order to prevent doubt and fear on the part of the troops and people, leading to untoward incidents.

If your excellency is willing to show this confidence, we beg you to communicate with all the foreign ministers in Peking, to-morrow at noon being the limit of time, and to let the original messenger deliver your reply, in order that we may settle in advance the day for leaving the legation.

This is the single way of preserving relations that we have been able to devise in the face of innumerable difficulties. If no reply is received by the time fixed even our affection will not enable us to save you.

Compliments Prince Ching and others, 6th moon, 28th day.

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[Inclosure 23.]

*Sir Claude MacDonald to Prince Ching et al.*

PEKIN, July 15, 1900.

I have received your letter of to-day's date and avail myself of the opportunity to recall to your highness's recollection the fact that among all civilized States a foreign envoy occupies an almost sacred position as a guest whom his host is absolutely bound to protect. When war breaks out between two States the first anxiety of each is to give the envoys of the other safe conduct out of its dominions, for it would be disgraced if harm befell him within its borders. There has never been a case of war between two civilized powers in which the safety of the envoys was not guaranteed.

Now, what has been the treatment by China of the envoys who are guests at her capital?

Ever since the 20th of June the troops of the Chinese Government have kept up an incessant fire on all the foreign legations, both with rifles and artillery.

Even if China is at war with the whole world she is bound to protect the residence of foreign envoys.

Moreover, ordinarily when peace is declared after a war no action is taken against the officials of the defeated power; but if foreign envoys were to be killed in attacks on the legations by the troops of the Government to which they are accredited there is grave probability of personal reprisal against all those in official positions in the city. I beg your highness ponder these observations.

The letter under acknowledgment speaks of attacks by foreign soldiers. There have never been any such attacks. All that has been done is to defend the lives of those living in the legations against the Chinese troops. We shall continue to defend ourselves, but it would be better for China if she left off attacking.

In accordance with your request I have communicated to the other foreign ministers your suggestions that the ministers and their families should go without armed escort to the Tsungli Yamen. They beg me to state that they do not understand why they should be safer there than in the legations.

I have only to add that if it is desired to make any further communications I suggest that a trustworthy person be sent holding a plain white flag or white cloth. He will be in no way molested and will be allowed to return in safety.

I avail myself, etc.

C. MACDONALD.

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[Inclosure 24.]

*Prince Ching et al. to Sir Claude MacDonald.*

PEKIN, July 16, 1900.

We received last night your letter of the 15th July with an inquiry regarding the taking of your family to temporarily reside in the Tsungli Yamen.

Although the different foreign legations are not far distant from each other, yet they are somewhat scattered, and in her efforts to protect them China may fail at one point while looking after another. For this reason the suggestion was made that all should collect at the tsungli yamen, so that there might be concentration of force in the protection of a single place. This was the object of the previous note.

We now see from the letter under acknowledgment that the proposal is not accept-

able to the various foreign envoys. China must therefore increase the number of troops and strictly restrain the militia, preventing them from again opening fire on and attacking the foreign legations, while the latter should also not fire from time to time at pleasure, and so excite a general resentment which it will be more than ever difficult to appease. China will continue to exert all her efforts to keep order and give protection in accordance with the general law.

We believe that your excellency and the other foreign envoys will concur.

Further communications should be made in accordance with the plan suggested in your letter.

Compliments.

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[Inclosure 25.]

*Sir Claude MacDonald to Prince Ching et al.*

PEKIN, July 17, 1900.

Glad to hear that the Chinese Government intend strictly restraining the militia and not allow them to again open fire and attack the foreign legations.

We have never fired except in self-defense, but the continual attacks on us have naturally inspired great suspicion and it will take time before confidence is restored. Chinese troops moving across the north bridge were never molested until after the 20th of June, when they fired on us. The writers of the note must understand that while very anxious to reestablish peace and quiet, we can not be sure who it is that is moving in our vicinity, constructing barricades, preparing gun platforms; therefore they must not blame us if we fire when we observe such actions, for this is entirely in self-defense. It would be best, as temporary measure, for the Chinese Government to forbid all movements in sight of the legations until confidence is restored. There will certainly, under those rules, be no attacks by foreign troops.

They desire to add that even while this letter was being brought in many shells were fired into the British legation. Fortunately, no foreign envoy has as yet been wounded in the attacks on the legations.

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[Inclosure 26.]

*Prince Ching et al. to Sir Claude MacDonald.*

PEKIN, July 17, 1900.

We have just received your letter. The object of the entry of the troops of different countries into Peking was the protection of the legations, but later as they strolled about the streets and fired their rifles as they pleased there were cases of people being wounded, and the neighborhood of the Chang An street became almost closed to traffic. Moreover, on the 25th day of the fifth moon (June 21), a Manchu noble named Jun happened to be proceeding to court, when on reaching the street outside the Tung hwa gate (eastern gate of the palace) he suddenly heard a rifle shot and the bullet pierced the covering of his cart. This excited the anger of both the soldiers and people and led to mutual attacks.

Now, since it has been mutually agreed that there shall be no fighting in future on either side, there may be peace and quiet. But there are now to the east of the Chien men gate on the city wall foreign soldiers, who from time to time fire and make attacks. If the soldiers could be controlled and not allowed to go on the wall it would be most desirable.

Compliments, etc.

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[Inclosure 27.]

*Sir Claude MacDonald to Prince Ching et al.*

PEKIN, July 18, 1900.

I am in receipt of your letter of yesterday and beg to state in reply that on the 19th of June the legations received a dispatch from the Tsungli Yamen directing them to leave the city by 4 o'clock next day.

A reply was sent stating that this was impossible owing to want of transportation. The yamen answered that the time could be extended. In spite of this, at 4 o'clock

that afternoon, fire was opened and an attack made on the legations. The fire was, of course, returned, and probably it was then that the cart of a Manchu noble was struck. From that time until the 25th of June the Chinese fire was continued. A board was then displayed on the north bridge, stating that an Imperial decree had been received to protect the envoys and not to fire, and that a dispatch would be handed over at the bridge. A messenger was sent from the legation with a board stating that in accordance with the decree he came to receive the dispatch, but the Chinese soldiers threatened him with their rifles and he had to return. The board remained on the bridge and Chinese troops passed freely across and no shot was fired from the legation. But at midnight the Chinese, having apparently completed their preparations, suddenly opened a very heavy fire, and from that day on the attacks on the legations have continued without intercession.

As stated in a previous letter, such attacks on envoys are absolutely without parallel in the history of the world. With regard to the phrase in the letter under acknowledgment, that there is a mutual agreement not to fire, I must again, as in my previous letter, point out that preparations for attack are acts of hostility equally with actual firing, and therefore the legations can not at present allow the construction of gun platforms, and earthworks, and barricades in their neighborhood, even though no firing takes place, though it is to be hoped that the time will soon come when mutual confidence will be restored, and measures in defense of the foreign legations be no longer necessary.

As to the request that the foreign troops shall be withdrawn from the city wall, it is unfortunately the case that much of the firing has been directed against the legations from the wall, and therefore for the present the request can not be complied with.

I beg to ask in conclusion that sellers of ice and fruit may be allowed to come into the legation quarter, either along Legation street or from the north bridge, as these are articles of which there are none in the legations.

Compliments, etc.

CLAUDE MACDONALD.

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[Inclosure 28.]

*Sir Claude MacDonald to Jung Lu.*

PEKIN, July 18, 1900.

I received the message sent by the soldier. I have this morning already sent a letter to the north bridge in reply to that received yesterday.

The foreign ministers have no other desire than to see peace reestablished, but it is difficult for them to have confidence in consequence of the renewed attacks upon us. We never fire, except when we see people moving about in our vicinity, apparently preparing to attack us, or building barricades or gun platforms or other offensive work.

The best plan to suppress attacking us would be to cut off their supplies of ammunition, and thus by degrees peace will be restored and confidence resumed.

It would be a very good thing also if some responsible person be sent to discuss matters with us.

CLAUDE MACDONALD.

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[Inclosure 29.]

*Sir Claude MacDonald to Jung Lu.*

PEKIN, July 19, 1900.

Yesterday I sent to your excellency a letter, through General Sun, commanding the direction of the Ha-ta-men. This morning I have myself spoken with the colonel commanding the troops on the wall in the direction of the Chien-men, who had informed me that he wished personally to carry to your excellency a letter, in case my previous letter has not reached your excellency. I beg to repeat it. I would also add to this that the following orders have been issued to all European troops until such time as complete confidence has been restored:

First. Our troops not to fire unless fired upon.

Second. Soldiers constructing barricades to be fired upon.

Third. Any armed soldiers leaving their barricades seen in the neighborhood of the legations will be fired upon.

Fourth. Any unarmed officers or soldiers carrying letters or messages will not be fired at, but these should not exceed two in number. If unarmed soldiers leave their barricades or positions in greater numbers than the above stated, shots will be fired over their heads, and if they continue to advance they will be fired at.

CLAUDE MACDONALD.

P. S.—While this letter was being written the yamen secretary, Wen Pei, arrived and copies of the previous letters were handed him.

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[Inclosure 30.]

*Prince Ching et al. to Sir Claude MacDonald.*

PEKIN, July 19, 1900.

Yesterday we received the Secretary Wen's report of his interview, and learned that the foreign envoys also wish for peace.

It is possible that the foreign envoys do not fully realize the keen desire of the court on the present occasion to protect the legations, and we feel bound to give a detailed explanation.

The discord between the people and the converts is of very long standing, and trouble having suddenly broken out the whole people are of one mind. The Throne has repeatedly issued edicts, both for extermination and pacification, but all people detest the converts (or the religion), this feeling being universal. There is a great ferment, absolutely beyond control. The feeling has gone so far that only the destruction of the legations will satisfy it. For the last month, fortunately, your excellency and others have been at peace and well to the happiness of all countries and of China. But the fighting at Tientsin is now proceeding fiercely, and it is not advisable that your excellency and others should remain long in the city. Recently in the Manchuria and Shansi the Boxers are from all sides answering the call, and are showing their eagerness to serve their sovereign. In both cases stringent decrees have been issued directing the viceroys and governors concerned and the high officers in command of troops to use every effort to keep order and prevent a northward advance (sic?), but it is to be feared that the rivers dammed up will overflow, and the calamity will be indescribable.

After much consideration our only course is to again request your excellency and others to temporarily retire to Tientsin. The Throne will not fail to give protection, and will detach the forces of Sung Ching and Sun Wan-lin to give efficient escort, and guarantee your safety.

If your excellency determines to stay in Peking, and if there should happen any unfortunate disaster, we, the prince and ministers, have faithfully given warning in advance and can not accept the responsibility. We have stated what is in our hearts, and it is for your excellency to come to a decision and send a speedy reply, which we anxiously await.

(No "compliments" or usual ending of letters.)

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[Inclosure 31.]

*Sir Claude MacDonald to Prince Ching et al.*

PEKIN, July 20, 1900.

Yesterday evening I received your letter in which there are several points I do not understand.

It is stated that the keen desire of the court to protect the foreign legations is possibly not fully realized, and that a detailed explanation will be given, but all that is explained is that there is a great ferment absolutely beyond control, and that the feeling has gone so far that nothing but the destruction of the legations will satisfy it.

It is difficult to believe that since there is a real desire on the part of the Throne to protect the foreign envoys there can be any impossibility in doing so, provided proper orders are issued to the troops of the Chinese Government.

An imperial edict might also be issued to the people explaining that the foreign envoys are in the capital as the guests of the Sovereign, and that it is in the highest degree important in the interests of China that the legation quarter should be left in peace. All persons disregarding this would then be treated as disloyal subjects.

With regard to the request that the foreign envoys should leave the capital to go to Tientsin there are two observations to be made for your consideration. In the first place, as long as the envoys remain in the capital the reestablishment of friendly relations in accordance with general desire is facilitated, while their departure would mean that friendly relations with China and all the other powers of the world had been definitely broken off, and it would then take a very long time to reestablish peace.

The calamities thus brought on the officials and people of China would be indescribable. Moreover, so far as is known to the foreign ministers the Chinese representatives at the various foreign capitals are still at their posts, probably with the same object of endeavoring to reestablish friendly relations.

Secondly, in previous letters it was stated that it would not be safe for the envoys to proceed to Tientsin. The present letter also speaks of uncontrollable ferment and of the Boxers gathering from all sides. I therefore beg you to explain why, if the Chinese Government can not insure the protection of the foreign envoys in Peking by the Chinese troops, they feel confident of their power to do so outside the city on the way to Tientsin.

The letter closes by saying that you can not be responsible for any unforeseen disaster that may occur. But as the foreign envoys have come to Peking in reliance on the protection of the Chinese court I must point out that it is impossible for the latter to free itself from the responsibility for their safety.

I shall be glad to have an answer to this letter to communicate to my colleagues. Compliments, etc.

CLAUDE MACDONALD.

[Inclosure 32.]

*Prince Ching et al. to Sir Claude MacDonald.*

PEKIN, July 25, 1900.

We have received your reply stating that there were some points in our letter not altogether clear. We now propose to explain our meaning in full detail. From the first to last we have never neglected the protection of the legations, but owing to the fact that the numbers of rebellious people are daily increasing we are greatly afraid that something may happen too suddenly to be guarded against and produce a great calamity. This was why we renewed the suggestion for a temporary retirement. As to the inquiry what difference there is between giving protection in the city or on the road, and why it is not possible to give it in the former case while it can be given in the latter, there is only an apparent discrepancy. For being in the city is permanent, the being on the road is temporary. If all the foreign ministers are willing to temporarily retire, we should propose the route to Tung Chou and thence by boat downstream direct to Tientsin, which could be reached in only two days. No matter what difficulties there might be, a numerous body of troops would be sent, half by water to form a close escort, half by land to keep all safe on both banks. Since the time would be short we can guarantee that there would be no mischance. It is otherwise with a permanent residence in Peking, where it is impossible to foretell when a disaster may occur. No matter whether by day or night, a single hour or a single moment's remissness may produce an alarm without time to take precautions. This can be readily understood. The letter under acknowledgment further states that the continual residence of the foreign ministers in Peking facilitates the reestablishment of peace in accordance with the general desire, and that if they leave it will be more difficult and will take longer to reestablish friendly relations.

This observation shows that your excellency is not unmindful of the friendship that has hitherto existed. There is certainly no wish on the part of China for the calamity of war to be indefinitely prolonged. But at the present moment the warships of all nations have occupied an important fort and have further seized Tientsin. Seeing that warlike operations are in progress there, how does your excellency propose to put an end to them?

As your excellency and the other foreign ministers have to arrange the reestablishment of the status quo, it would seem better to settle matters at Tientsin, and we would repeat our request that you will pack your baggage by an early day and name a fixed date in order that we may prepare boats and provisions.

Compliments.

[Inclosure 33.]

*Prince Ching et al. to Sir Claude MacDonald.*

PEKIN, July 25, 1900.

For the past month and more military affairs have been pressing. Your excellency and the other foreign ministers ought to telegraph home that your families are well in order to soothe anxiety. But at present peace is not restored, and your legation telegrams must be wholly en clair, stating that all is well, without touching on military affairs.

Under these conditions the yamen can transmit them.

The writers beg that your excellency will communicate this to the various foreign ministers.

Compliments.

[Inclosure 34.]

*Sir Claude MacDonald to Prince Ching et al.*

PEKIN, July 27, 1900.

I have conferred with my colleagues regarding the proposal in your letter of the 25th instant that the foreign envoys should leave Peking for Tientsin via Tung Chou; and I beg to observe in their name that while the letter speaks of arrangements being made for boats and food, nothing is said in regard to chairs and carts from this city to Tung Chou.

They would be glad to know what arrangements the Chinese Government propose to make in this respect, and especially as to the transport of sick women and children, who will require special attention, and also to have further details as to the escort it is proposed to provide. When my colleagues know these details they will be in a position to examine the question, which for the present remains in the same state as heretofore.

Compliments.

[Inclosure 35.]

*Sir Claude MacDonald to Prince Ching et al.*

PEKIN, July 27, 1900.

I have duly communicated to my colleagues your letter suggesting that the foreign ministers should telegraph to their respective countries news of the well-being of their families, permission being given only to telegraph en clair, without reference to military matters.

In reply I beg to point out that it is impossible to telegraph that the ministers' families are well, because women and children have naturally suffered in health from the confinement in hot weather during the siege of the last five weeks and the lack of food to which they are accustomed.

I may further point out, with regard to the prohibition of cipher messages, that nothing but a cipher message would be accepted by foreign governments as proof that the envoy concerned was its author, and that as to the stipulation that no military news should be sent, the foreign envoys have no information in regard to the military situation and therefore could not send intelligence of that kind.

Compliments.

[Inclosure 36.]

*Prince Ching et al. to Sir Claude MacDonald.*

(Undated. Received July 28, 1900.)

We hear that in the different legations there are housed a considerable number of converts. The number of people being large and the space small, this must cause much inconvenience in this hot weather. Feeling is now quiet and tranquil, and the converts mentioned may very well be sent out and directed to quietly pursue their avocations. There is no need for doubt and fear.

If this meets concurrence, we would beg that an estimate be made of the number of people and days fixed for sending them out, notice being given us in advance, in order that there may be mutual harmony.

We beg you to take the requisite action and also communicate with the other foreign envoys with a view to their taking similar steps.

Compliments.

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[Inclosure 37.]

*Sir Claude MacDonald to Prince Ching et al.*

PEKIN, July 30, 1900.

I received the evening before last your further letter with regard to the proposal that the foreign ministers should proceed to Tientsin, and also a letter with regard to converts in the legations being sent out, tranquillity now prevailing, etc.

While my colleagues and myself were considering these letters we were surprised to hear the sound of heavy firing from the direction of the Pei Tang, which was evidently being attacked; we have no means of knowing by whom.

Further, there was constructed in the course of yesterday afternoon and last night a barricade across the North Bridge, from which a continuous fire has been kept up on the legations, and to-day there has also been a fire directed against the French and Russian legations.

There seems to my colleagues and to me to be a strange contradiction between the professions of a desire to protect us contained in the letters we have received and the actions above described. There are European officers and soldiers as well as missionaries at the Pei Tang, and as long as attacks on the legations and the Pei Tang are permitted, or if not permitted can not be prevented, it is difficult to see how similar attacks could be prevented on the journey to Tientsin.

We must, therefore, before further discussing the question of transport to Tung Chou, invite your explanations with regard to the above.

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[Inclosure 38.]

*Prince Ching et al. to Sir Claude MacDonald.*

PEKIN, July 31, 1900.

We received yesterday your note. The Pei Tang affair was due to the converts having previously gone out in all directions to plunder food. There were also some around with rifles who, on being stopped, immediately fired. This caused anger and resentment amongst the people, who joined the crowd of Boxers and made continuous attacks. A decree has now been requested to the effect that if the converts do not come out to plunder—this kind of people being also children of the State—they are to be protected and not further attacked. This practice will thus be gradually stopped.

As to the northern bridge matter, the troops of Tung were building a road, and the legations misunderstood them to be building a barricade and so opened fire, which the troops returned. This was a misunderstanding on both sides which will not lead to further attacks.

As to giving protection in temporarily leaving, it is not an easy matter, and it was only after much arrangement and after it had been found possible to give guaranty against mischance that the suggestion was put in writing. The matter is one of the greatest importance, and we could not purposely deceive.

We would therefore ask you and the other foreign ministers not to be overanxious, but to come to a decision with regard to a temporary retirement and send us a reply.

Compliments.

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[Inclosure 39.]

*Prince Ching et al. to Sir Claude MacDonald.*

PEKIN, August 1, 1900.

Yesterday we sent a letter in reply to your note, and in it stated that the mutual misunderstanding would not lead to further attack. But last night there were some converts who again fired on the posts of the Government troops, wounding 2 of the



latter. The fire was immediately returned, and thereupon ceased. If the converts are not more amenable to control, it is to be feared that they will produce great disaster and ruin the whole situation. We therefore request you, in consultation with the other foreign ministers, to impose the strictest restraint, so as to avoid hostility arising from this. This is very important.

We hear of late that the converts have collected in great numbers and that they do not wish the foreign envoys to leave Peking, their hope being that they will thus have perpetual support.

Rumor is not, of course, to be trusted; but if the above is really the case, we believe that the various foreign envoys will have long ago seen through the design and will not fall into their trap.

With regard to a temporary retirement, we sent yesterday an answering note, to which we have not yet received a reply. We must beg that within two or three days a date be fixed and communicated, in order that preparations may be made.

Compliments.

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[Inclosure 40.]

*Sir Claude MacDonald to Prince Ching et al.*

PEKIN, August 2, 1900.

The letter received yesterday has caused me the greatest surprise. In the first place, the legations are not defended by converts, but by legation guards who came to Peking with the consent of the Chinese Government for that purpose. Secondly, no shot was fired against the Chinese the day before evening, as stated in the letter. But from the newly constructed barricade on the north bridge and from other quarters there was directed against the legations a steady fire during the whole of that day and night, which was continued to the present moment, in spite of the fact that not a shot has been fired in return. Last night over 300 shots were thus fired without reply. Thirdly, the letter under acknowledgment speaks of firing by the Chinese Government troops. The foreign representatives are reluctant to believe that the fire directed against them the last two days proceed from the troops of the Chinese Government, but if it does not they find it impossible to understand why it is permitted to continue.

The writers of the letter do not yet seem to fully understand the difficulty in which the foreign representatives are placed by these renewed attacks, and I beg therefore to explain it in fuller detail. Suppose that they declare their readiness to proceed to Tientsin on a certain day; how are they to leave their legations? It can not be expected that they should come out and expose themselves to the fire now directed against them. If that fire ceased shortly before their departure, what security have they that it would not be renewed the moment they were on the road?

This is the difficulty in which the foreign envoys find themselves whenever they meet to consider the question of proceeding to Tientsin. It is a difficulty that naturally presents itself, and is in nowise suggested by the converts, whose interference would not be for a moment tolerated by the foreign representatives.

I shall again address you with regard to the subject of transport to Tientsin as soon as I have received your reply to the present letter.

Compliments.

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[Inclosure 41.]

*Prince Ching et al. to Sir Claude MacDonald.*

PEKIN, August 3, 1900.

We have received your letter of the 2d of August. With regard to the question of a temporary withdrawal (from Peking to Tientsin), a public Imperial decree was issued yesterday appointing the Grand Secretary Jung Lu to select capable civil and military officers to take the troops to afford safe escort.

The Grand Secretary Jung Lu, before undertaking this responsible duty, had already taken the greatest pains and naturally considered every possible point, and it was not until he had done so that he ventured to accept the responsibility. Thus the case is quite different from that of some person without authority taking upon himself duties for which he is unfit.

We would therefore request your excellency and the other foreign representatives

to make your minds at ease and not to hesitate and be overanxious, and earnestly trust that you will speedily send us a reply stating the details of the arrangements and the date you have decided on, in order that all necessary steps may be taken.

With regard to the firing during the night, it was, as before, the result of a mutual misunderstanding. Fortunately neither side crossed its frontier. It was more or less on the same footing as the sounding of the evening drum and the morning bell (of temple priests). It is really hardly worth a smile.

Compliments.

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[Inclosure 42.]

*The Tsungli Yamen to Sir Claude MacDonald.*

August 4, 1900.

A letter was yesterday addressed to you containing an inquiry as to the date of departure of yourself and your colleagues. We have not yet received a reply.

We have received frequent telegrams from the different Chinese ministers abroad with regard to this matter, and all the foreign offices request that safe escort out of Peking should be provided without delay. Now that the legations have all been placed in telegraphic communication (with abroad) we must beg you to speedily send a reply informing us of the date you have decided upon leaving the capital, in order that with all haste the necessary arrangements for the journey may be made.

As to the thorough and sincere protection to be given, full details have been communicated in the previous letter.

Compliments.

(Cards of all yamen ministers—twelve. Hsu Ching Cheng and Yuan Chang missing.)

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[Inclosure 43.]

*The Tsungli Yamen to Sir Claude MacDonald.*

PEKIN, August 4, 1900.

We beg to acknowledge the receipt of your letter of yesterday, inclosing a telegram to Her Majesty's secretary of state for foreign affairs in reply to that forwarded by the yamen, and also seven telegrams from other foreign ministers.

Telegraphic communication between Peking and Tientsin is at present interrupted, and all telegrams are sent to Chinanfu for transmission. We have already sent the eight telegrams by 600 li courier (courier supposed to cover 200 miles a day) to Yuan Ta-jen, governor of Shantung, for speedy transmission to their various destinations.

Compliments.

(Cards of twelve yamen ministers.)

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[Inclosure 44.]

*The Dean of the Diplomatic Corps to the Tsungli Yamen.*

PEKIN, August 5, 1900.

At the moment when His Excellency Sir Claude MacDonald was occupied in replying to the letter received to-day, and to which you refer, he received and communicated to me the red letter which your highness and your excellencies sent to-day and in which it is stated that all our Governments had expressed the desire that you would furnish us without delay a safe escort for leaving Peking.

Although I know that this letter comes from the Tsungli Yamen, I have, in my capacity as dean, called together the diplomatic corps to consider this important matter.

The reply which I must address to the Tsungli Yamen, in the name of my honorable colleagues, is very simple. We send you eight telegrams for our Governments in order that we may ourselves receive their orders and instructions direct, which we regard as necessary before leaving our posts, and as soon as we receive a reply we shall be in a position to arrange this matter with you.

[Inclosure 45.]

*The Tsungli Yamen to Mr. Conger.*

PEKIN, August 7, 1900.

YOUR EXCELLENCY: The princes and ministers have the honor to inform the minister of the United States that on the 7th of August the following decree was issued from the Throne:

"Let Li Hung Chang be appointed as our plenipotentiary to consult and make arrangements by telegraph of all matters with the ministers for foreign affairs of the various foreign countries."

As in duty bound the prince and ministers send a copy of the above decree for the information of the minister of the United States so that he may respectfully take note accordingly.

[Inclosure 46.]

*Sir Claude MacDonald to Prince Ching et al.*

PEKIN, August 9, 1900.

On the 3d August I received from you a letter informing me that an Imperial edict had been issued appointing the Grand Secretary Jung Lu to select capable civil and military officers to take troops to afford safe escort for a temporary withdrawal of the foreign representatives to Tientsin. You added that the grand secretary before undertaking this responsible duty had already taken the greatest pains and considered every possible point, and it was not until he had done so that he ventured to accept the responsibility.

As I have frequently told you, it is impossible to understand how safe escort can be provided outside the city, where, as you have informed me, much disturbance prevails, when inside the city no foreign representative can move outside his legation gate without being deliberately shot at from behind their barricades by Chinese Imperial troops.

I had hoped that the appointment of so high an official as Jung Lu would have put a stop to this extraordinary and disgraceful state of affairs, but even so late as this morning bullets have been fired into the grounds of this legation by Chinese Imperial troops.

On the 7th instant the Chinese troops in the street behind the American legation fired at some people who were walking on the south bridge under the city wall. For what purpose they fired it is difficult to say. As it was midday, it could not have been, as suggested by you, for the purpose of "sounding the evening drum and morning bell." However that may be, shots passed over the bridge and fell among the Chinese soldiers who held the barricade on the same street behind the German legation, causing considerable confusion among them.

This incident, which I myself observed, has occurred often, and would account for the accusation that the legation guards fire on the troops without provocation.

I note that you consider the firing of several hundred shots into the legations, which, as you are aware, are inhabited by women and children as well as by the foreign representatives and their staffs, as "hardly worth a smile." I regret that this is an opinion which I can not share with you.

[Inclosure 47.]

Hon. E. H. CONGER,

*Our Respected and Beloved Minister:*

Your very kind note of yesterday reminds us anew of the appreciation that you have manifested and the interest you have shown in all the work of American missionaries. Nor can we fail to recall the constant kindness and attentive care that you have always accorded us personally. We assure you it shall never be forgotten.

And we shall remember also the sincere interest you have taken in the welfare and preservation of Chinese Christians at a time when, but for the noble stand you took, perhaps even the remnant would have perished.

Please accept for Mrs. Conger and yourself our thanks for your personal interest in all that has concerned us at a time when the strain on yourselves was peculiarly severe.

With great respect, yours, sincerely,

John Wherry, G. R. Davis, W. F. Walker, F. D. Gamewell, W. T. Hobart, Charles A. Killie, Geo. W. Verity, E. G. Tewksbury, Courtney H. Fenn, John Whiting, W. S. Ament, Chauncey Goodrich, Arthur H. Smith, Gilbert Reid, Franklin M. Chapin, William B. Stelle, J. H. Ingram, Howard S. Galt, John Inglis, H. E. King, Charles E. Ewing.

PEKIN, *Sunday, August 19, 1900.*

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[Inclosure 48.]

Hon. E. H. CONGER,

*Minister of the United States of America.*

DEAR SIR: At a meeting of the American missionaries held this morning at 8.30 the following resolution was unanimously adopted, and it was further voted that the resolution be drafted and presented to you:

“The Americans who have been besieged in Pekin desire to express their hearty appreciation of the courage, fidelity, and patriotism of the American marines to whom we so largely owe our salvation.

“By their bravery in holding the wall in the face of overwhelming numbers and in cooperating in driving the Chinese from a position of great strength they made all foreigners in Pekin their debtors and gained for themselves an honorable name among the heroes of their country.”

For the meeting:

ARTHUR H. SMITH, *Chairman.*  
CHARLES E. EWING, *Secretary.*

PEKIN, *Saturday, August 18, 1900.*

[Inclosures 49 and 50 are sketches facing this page.]

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*The President to Mr. Conger, via Consul Fowler.*

DEPARTMENT OF STATE,

*Washington, August 19, 1900.*

The whole American people rejoice over the safety of your companions of our own and the other nations who have shared your perils and privations, the fortitude and courage which you have all maintained, and the heroism of your little band of defenders.

We all mourn for those who have fallen and acknowledge the goodness of God which has preserved you and guided the brave army that set you free.

WILLIAM MCKINLEY.

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*Mr. Adee to Mr. Conger.*

[Telegram—Paraphrase.]

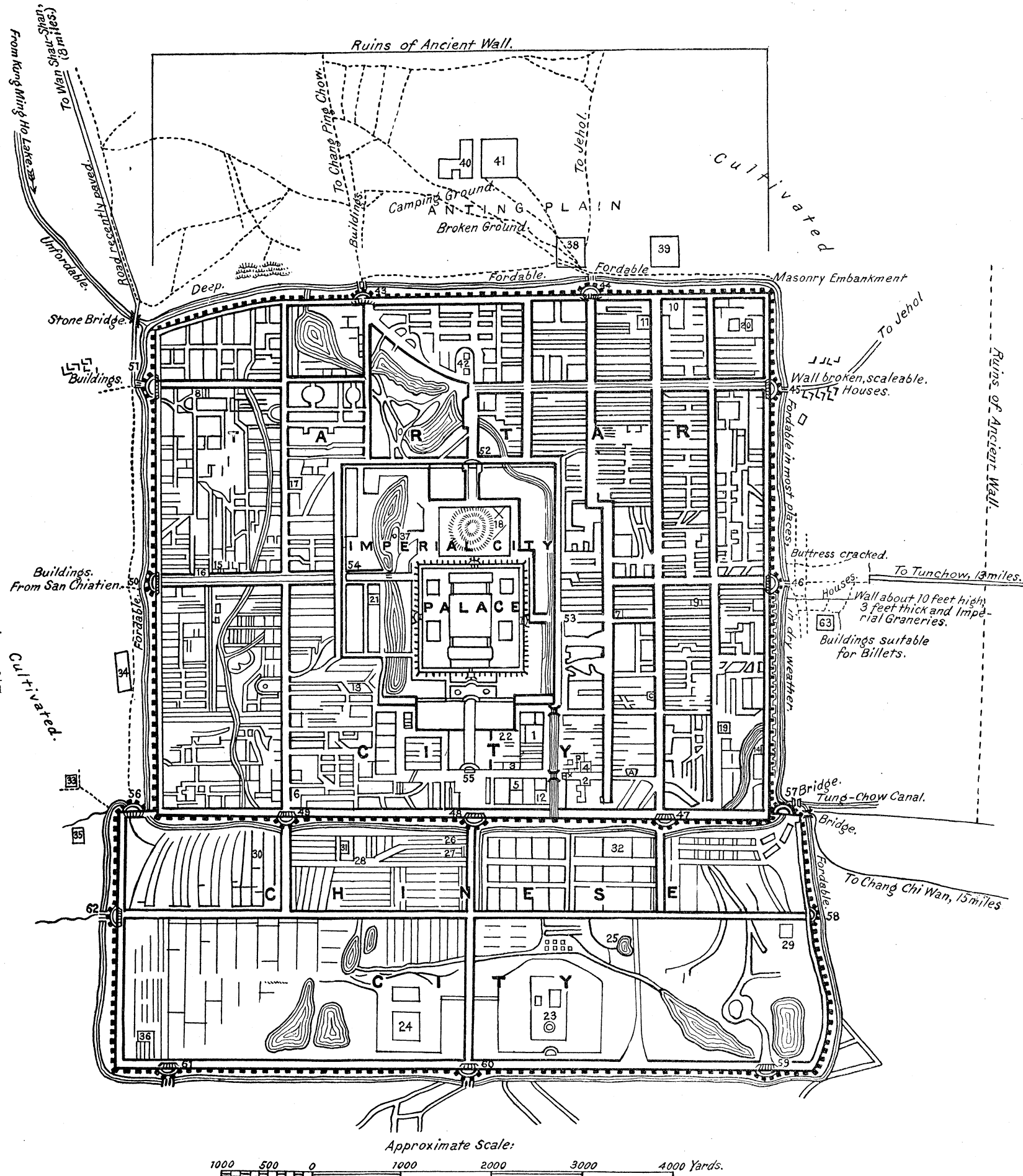
DEPARTMENT OF STATE,

*Washington, August 28, 1900.*

(Mr. Adee directs Mr. Conger to consult General Chaffee with a view to ascertaining, if possible, the fate of Americans at Paoting, reports regarding which are conflicting; and, if any are alive, to report, dating his telegram, if relief can be given.)

REFERENCES.

1. British legation.
2. German legation.
3. Russian legation.
4. French legation.
5. United States legation.
6. Nan-t'ang.
7. Tung-t'ang. } French mission churches.
8. Si-t'ang.
9. Foreign customs inspectorate.
10. Tung-ho-kung (Lama temple).
11. Wen-miao (Confucian temple).
12. Korean embassy.
13. Mahomedan mosque.
14. Kuang-sing-tai (observatory).
15. Ti-wang-miao (Imperial temple).
16. Pai-ta-ssü (temple).
17. Hu-po-ssü (temple).
18. Mei-shan (hill of coal).
19. Kao-chang (examination hall).
20. Russian mission.
21. Peh-t'ang (French ecclesiastical mission).
22. Mongolian market.
23. Temple of heaven.
24. Temple of agriculture.
25. Golden fish ponds.
26. Si-ho-yen (Picture street).
27. Lang-fang-t'ou-tiao-hu-tung (Picture street).
28. Ta-sha-lan-rh (theaters in this street).
29. Beek street.
30. Foundling hospital.
31. Yang-chi-yuan (lock hospital).
32. Chou-chang a (soup kitchen).
33. Chou-chang b (soup kitchen).
34. Po-yung-kuan (temple).
35. Temple of the moon.
36. T'ien-ling-ssü (temple).
37. Wan-jen-keng (place of deposit for bodies of criminals).
38. White Ming pagoda.
39. Russian cemetery.
40. Jih-tau (temple of the sun).
41. Hwang-ssü. } Lama temples.
42. Drum tower.
43. Tê-sheng-mên.
44. An-ting-mên.
45. Tung-chih-mên.
46. Chi-ho-mên.
47. Hai-tê-mên.
48. Chien-mên.
49. Shun-chih-mên.
50. Ping-tzu-mên.
51. Si-chih-mên.
52. How-mên.
53. Yung-hua-mên.
54. Si-hua-mên.
55. Ta-ching-mên.
56. Si-pien-mên.
57. Tung-pien-mên.
58. Sha-huo-mên.
59. Cheang-tzu-mên.
60. Yung-ting-mên.
61. Nan-si-mên.
62. Hang-yi-mên.
63. Jih-tou (temple).
64. Tsai-shih-kou-rh (execution ground).
- A. Italian legation.
- B. Spanish legation.
- C. Belgian legation.
- D. Japanese legation.

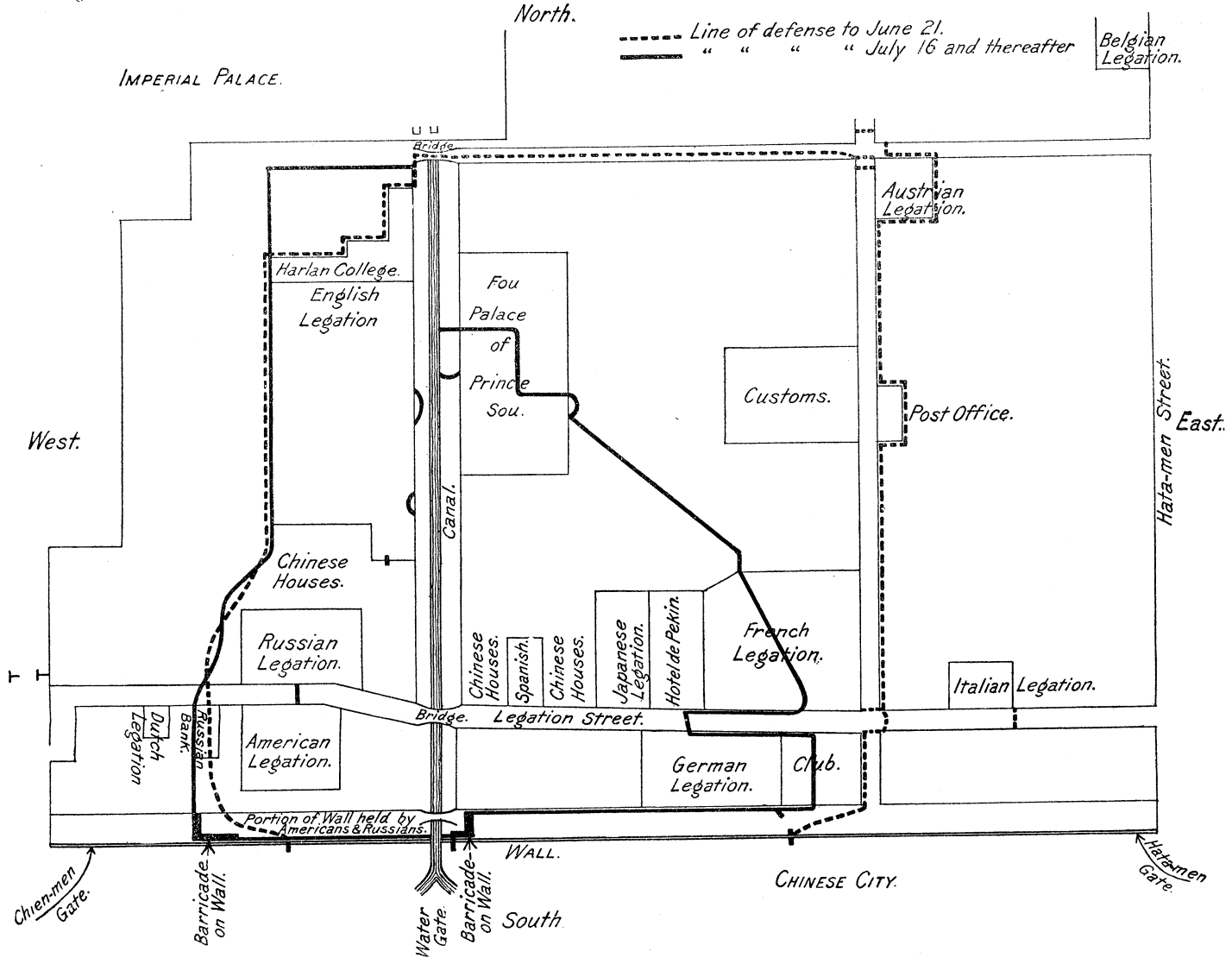


Approximate Scale:

1000 500 0 1000 2000 3000 4000 Yards.

MAP OF PEKING.

NOTE.—The thick lines are according to Russian and French surveys. The thin lines indicate, approximately, the general direction of the smaller streets and lanes.



*Mr. Conger to Mr. Hay.*

No. 399.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, September 1, 1900.*

SIR: I have the honor to inclose herewith the hospital record of such United States marines as were treated in hospital during the "siege of Peking;" also a general summary of casualties.

These have been kindly furnished me by Dr. Gustav Velde, Stabsarzt of the Seventy-fourth Regiment of Infantry, the official surgeon of the German legation, who was in charge of the hospital at the time, and rendered such unselfish, impartial, intelligent, and successful service as to merit the most grateful recognition of all.

For his constant care and tender devotion to the sick and wounded of our detachment I have on their behalf and my own offered him by letter expressions of high appreciation and profound gratitude.

I have the honor to be, etc.,

E. H. CONGER.

[Inclosure 1.]

*International hospital—List of wounded Americans.*

No.	Name.	Nationality.	Nature of wound (disease).	Date.	
				Admitted.	Discharged.
14	Kehm .....	U. S. marine .....	Contusion of back from shell.....	June 24	June 30
20	Gold.....	do .....	Flesh wound right leg .....	June 25	Do.
25	Muller.....	do .....	Shot left leg and left hand .....	do .....	July 25
44	Dr. Lippett, surgeon.	do .....	Shot left thigh; femur fractured.	June 29	Aug. 18
45	Schroeder .....	do .....	Shot left elbow joint; typhoid ...	June 30	Do.
55	T. F. Hall .....	do .....	Flesh wound right knee.....	July 1	July 1
58	T. Silva .....	do .....	Left elbow joint; chest.....	do .....	Aug. 7
75	Moody .....	do .....	Flesh wound left leg .....	July 4	July 15
77	Dr. Reid .....	American missionary.	do .....	July 5	July 17
120	Westmark .....	U. S. marine .....	Ascariis lumbricoides; fever .....	July 23	Aug. 9
125	Captain Myers.....	do .....	Typhoid fever; spear wound right knee.	July 27	Aug. 18
150	Michel .....	do .....	Bullet wound right arm (humerus fractured).	Aug. 14	Do.
155	Hoskins .....	14th U. S. Infantry.....	Bullet wound left thigh (flesh wound).	do .....	Aug. 14
156	Lynch .....	do .....	Bullet wound head (scalp wound)	do .....	Aug. 15
157	McGrain .....	do .....	Sunstroke .....	do .....	Aug. 17
158	Josef F. Carr .....	do .....	do .....	do .....	Do.

VELDE,  
*Stabsarzt, Surgeon in Charge of the Hospital.*

PEKIN, August 30, 1900.

*Casualties during the siege in Peking.*

[Inclosure 2.]

	Officers.		Men.		Killed and died of wounds.		Wounded.		Casualties at legations.			Died of diseases, men.		Volunteers and independents.		Total.	
	Officers.	Men.	Officers.	Men.	Officers.	Men.	Officers.	Men.	Killed.	Wounded.	Total.	Killed.	Wounded.	Killed.	Wounded.	Total.	
American .....	3	53	...	7	2	8	<i>P. ct.</i>	<i>P. ct.</i>	<i>P. ct.</i>	12.5	17.8	30.3	...	...	1	7	11
Austrian .....	5	30	1	3	3	8	11.4	31.4	42.8	...	...	...	...	...	4	4	11
British .....	3	79	1	2	2	8	3.7	24.4	28.1	...	...	3	6	6	6	6	26
French .....	3	45	2	9	...	37	22.9	77.1	100.0	...	...	2	6	13	6	13	42
German .....	1	50	...	12	...	15	23.5	31.4	54.9	...	...	1	1	13	16	13	16
Japanese .....	1	24	...	5	...	21	20.0	84.0	104.0	...	...	3	5	8	10	10	29
Italian .....	1	28	...	7	1	11	24.1	41.4	65.5	...	...	...	...	...	7	7	12
Russian .....	2	479	...	4	1	18	4.9	23.9	28.3	...	...	2	1	1	7	7	20
Total .....	19	388	4	49	9	136	13.1	35.6	48.7	2	12	23	67	167			
French .....	1	30	1	4	...	8	<sup>1</sup> 16.1	<sup>2</sup> 25.8	<sup>3</sup> 41.9	...	...	...	...	5	8	8	
Italian .....	1	11	...	6	1	3	<sup>4</sup> 50.0	<sup>5</sup> 33.3	<sup>5</sup> 33.3	...	...	...	...	6	4	4	
Total .....	2	41	1	10	1	11	<sup>2</sup> 25.6	<sup>2</sup> 27.9	<sup>5</sup> 53.3	...	...	...	...	11	12	12	
Grand total .....	21	429	5	59	10	147	14.2	34.9	49.1	2	12	23	78	179			

<sup>1</sup>Baron von Ketteler.<sup>2</sup>Mr. Cordes.<sup>3</sup>Including Captain Ando.<sup>4</sup>Including 7 cossacks of the legation.<sup>5</sup>At Peitang.

VELDE,

*Stabsarzt, Surgeon in Charge of the Hospital.*

PEKIN, August 30, 1900.

*Mr. Conger to Mr. Hay.*

No. 400.]

LEGATION OF THE UNITED STATES,  
*Peking, China, September 3, 1900.*

SIR: I have the honor to confirm, on the overleaf, my telegram of August 30.<sup>1</sup>

Reports from Paoting-fu, which probably reached you long since, inform us that all the missionaries there were brutally murdered; also that 28 were killed in the province of Shansi, to which province Governor Yu Hsien was last winter transferred from Shantung against the protests of the British minister and myself. We have heard of several missionaries who escaped from Shensi and Honan, but the probability is that outside of Peking and Tientsin there is not a living missionary in all north China.

Native Christians are daily coming in with most horrible reports of killing, quartering, and burning women and children. Some Chinese Christians are still in hiding in the country, and I am asking General Chaffee to send troops out to rescue some of those within a reasonable distance from the city.

That the Throne indorsed and encouraged the Boxers in their attacks against foreigners, organized them, placed princes and ministers in command of them, paid them, exhorted them, extolled them, and made common cause with them is abundantly confirmed by the Imperial decrees transmitted in my dispatch No. 395 of August 17, and is therefore responsible for the whole movement and its results.



At first, under the advice of some of the more conservative and enlightened ministers, the Empress Dowager was rather inclined to suppress the Boxers, but later, especially after the repulse of Admiral Seymour and Captain McCalla, and the partial defeat of our troops at Tientsin, she was encouraged by Prince Tuan, Kang-I, and others, and was thereafter controlled by them. Ministers Hsu Ching-ch'eng, Hsu Yung-i, Yuan Chang, and Lien Yuan were summarily decapitated for advising a different and more civilized course of action. Prince Ching, it is said, seeing that he was powerless, did not too strongly oppose Prince Tuan, and survived.

Information comes to us from reliable sources that Prince Tuan had planned to have his soldiers massacre all the foreign ministers at the Tsungli Yâmen on June 20. But while the prince and ministers were arranging the hour to receive us the impatient soldiers prematurely attacked and killed Baron von Ketteler, which created such excitement that we were not invited to the Tsungli Yâmen, and so were saved.

A secretary of the Tsungli Yâmen and also a president of one of the boards have assured me that every attempt to get us outside of our lines, either to go to the Tsungli Yâmen or to Tientsin, was only a plan of Prince Tuan and his colleagues to secure an opportunity to kill us, which would have surely been accomplished had we gone out.

On the 11th of August Prince Ching and others sent us a note asking us to fix an hour when they could call and discuss the question of a preliminary suspension of hostilities. We named 11 a. m. the next day (12th). They did not come, but later in the day wrote us they were too busy to come. The same yâmen secretary has since told me that the reason of their not coming was because Prince Tuan and his friends said they should not, and that when Prince Ching and Wang Wen-shao insisted upon going he (Prince Tuan) said he would order his soldiers to fire upon them if they did.

We did not witness during the siege, nor have we been able to discover since our relief, any evidence whatever that since June 20 the Chinese Government ever made one single effort in our defense or antagonistic to the Boxers in any way. All its endeavors through its ministers abroad to make the world believe that it did were basest hypocrisy.

The English own a very beautiful cemetery just outside the west wall of the city, in which were buried all Protestant Europeans and Americans who have died here. Many beautiful and expensive monuments were erected therein. It has been desecrated in the most ruthless and savage manner. Not a vestige of the wall surrounding it is left. Every tree has been cut down and every headstone and monument completely destroyed. Many of the bodies have been exhumed and strewed around or burned. \* \* \*

I have the honor to be, sir, your obedient servant,

E. H. CONGER.

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*Mr. Conger to the Secretary of State.*

[Telegram—Paraphrase.]

PEKIN, *September 3, 1900.*

Received via Taku September 3, 1900.

(Mr. Conger states that New York papers just received represent, through Chinese minister, that Chinese Government tried continuously

to protect legations from Boxers. That this is untrue; that after June 20 the Boxers were organized, officered, paid, and praised by an Imperial decree; that edicts may have been issued for consumption abroad, but in China the Chinese Government and Boxers made common cause against everything foreign. Ministers disagreeing with this policy were beheaded or kept silent.)

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*Mr. Conger to Mr. Hay.*

LEGATION OF THE UNITED STATES,  
*Pekin, China, September 4, 1900.*

SIR: Continuing my dispatch No. 400, of the 3d instant, I have the honor to inclose translations of two proclamations which were found prominently posted in the city, giving additional and conclusive proof of the responsibility of the Chinese Government for the Boxer movement.

I have the honor to be, sir, your obedient servant,

E. H. CONGER.

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[Inclosure 1—Translation.]

Proclamation issued by prince and ministers, by Imperial appointment, in command of the society of the "Fist of Righteous Harmony," as under—

Prince Chuang, K'ang I, assistant grand secretary; Ying Nien, senior lieutenant-general of the gendarmerie, and Duke Lan, acting junior lieutenant-general of the gendarmerie:

Whereas the Boxers have now assembled together in Peking, the prince and ministers are collecting contributions of silver and rice in order to enable them to accomplish the loyal and patriotic object they have in view, and render it convenient for them to attack and exterminate (the foreigners and Christians). The prince and ministers have recently heard, however, that there are persons who have no sense of shame, who impersonate others and fraudulently solicit contributions with the avowed purpose of seeking their own profit. This practice is certainly detrimental to the interest of the Boxers.

This proclamation is therefore issued so that in future the officials, scholars, merchants, and people may know that those who are public spirited and willing to contribute toward the aid of the Boxers' cause, on seeing the subscription lists, should send their contributions to the office of the secretary of the Boxers, in the palace of Prince Chuang, in order to prevent fraud and that their contributions may be verified. A receipt will be given immediately contributions are received, giving the name of the contributor and the amount of donation, in order to prevent any mistakes. When the contributions amount to a fair sum, printed lists will be circulated from time to time giving the name of each contributor and the amount subscribed for general information. Persons bringing contributions from others must get a receipt for same to be given to the contributor.

The prince and ministers will appoint official messengers to carefully examine into the matter, and if they find persons who are illegally collecting subscriptions by acting fraudulently and impersonating others, on their being arrested they will be severely punished. Anyone accused of such practices will be severely punished. Liberal rewards will be given to those who arrest or bring actions against persons committing these practices.

Let all fear and obey and none disobey this special proclamation.

NOTE.—The above proclamation was duly sealed.

F. D. CHESHIRE,  
*Chinese Secretary United States Legation.*

[Inclosure 2—Translation.]

*Proclamation issued by the office of the gendarmerie offering rewards.*

Whereas the missionary chapels situated in Peking have been entirely destroyed by fire, foreigners have now no place where they can hide or conceal themselves. They have necessarily, in confusion, absconded to keep out of sight.

Therefore this proclamation is issued to inform you scholars, soldiers, brave Boxers, and people that if there are any foreigners secretly hiding themselves they will certainly, under the law, suffer death by decapitation. If they can be found and taken alive a reward of 50 taels will be given for a man, 40 taels for a woman, and 30 taels for a child. They must be really alive, and after this fact has been verified the reward will be immediately paid.

Let all fear and obey and none disregard this special proclamation.

Dated second day, sixth moon, of the twentieth year of Kuang Hsu. (June 28, 1900.)

NOTE.—Prince Chuang was at the head of the gendarmerie when this proclamation was issued. The above proclamation was duly stamped with the official seal of the office of the gendarmerie.

F. D. CHESHIRE,

*Chinese Secretary United States Legation.**Mr. Conger to Mr. Hay.*

No. 417.]

LEGATION OF THE UNITED STATES,  
*Peking, China, September 22, 1900.*

SIR: I herewith inclose copy of a very interesting letter from Dr. John Wherry, giving additional particulars of the fiendish murder of the Americans at Paoting-fu,

And to be, sir, etc.,

E. H. CONGER.

[Inclosure.]

*Dr. John Wherry to Mr. Conger.**PEKIN, September 19, 1900.*

DEAR SIR: From a young man [Chinese] named \_\_\_\_\_, originally from \_\_\_\_\_, but who for nearly a year has been at Paoting-fu, \* \* \* I learn some particulars of the last days of our missionaries at that place. Since their death Mr. \_\_\_\_\_ has been in hiding from the Boxers, and has but recently dared to venture into the city. He is a Christian and is regarded as thoroughly trustworthy. He says that until near the final catastrophe the provincial treasurer remained friendly to the missionaries, although conscious that he thereby incurred the ill-will of the Boxers. Among other kindly acts, he offered the missionaries a public building (not a yamen) in the city as a refuge. This, however, they declined to accept, partly because they feared that moving thither might precipitate an attack upon them, and especially because in any event they would have been no safer there than at their own homes. This refusal to accept the treasurer's offer made no difference in his friendship toward them. For ten days or more previous to the 25th or 26th of June a guard of 18 cavalymen had been stationed at a temple close by the Presbyterian mission, a short distance outside the north gate of the city. These were reenforced for two nights only by some 200 of General Nieh Shih-cheng's infantry. About the 25th or 26th of June an imperial edict was said to have reached Paoting-fu denouncing the Christians, whereupon the original guard and General Nieh's troops all abandoned their watch and did not return. At the same time the attitude of the provincial treasurer toward the missionaries and Christians changed. In appearance at least he became hostile. From this date the Boxers, who were known to be enrolled in large numbers, but who had kept themselves hidden, became much bolder and began to appear on the streets in their distinctive colors.

At the fatal attack on the Presbyterian Mission, Mr. \_\_\_\_\_ was not present, Dr. and Mrs. Hodge having released him in the gathering storm from service. But during his hiding he was thrown into company with a young man named \_\_\_\_\_, who, as an eyewitness of the final catastrophe, gave him some important particulars.

———, though the son of a Presbyterian convert, was not himself a professing Christian, and so, having no special fear of the Boxers, mingled freely with the crowd that gathered to witness the killing of the foreigners and the destruction of their buildings. From his account it seems that the city was still quiet enough on the morning of the 30th of June to allow Dr. Taylor to enter it on his professional duties as usual. In the afternoon, after Dr. Taylor's return, he and Mr. and Mrs. Simcox and their three children, and Dr. and Mrs. Hodge, being each in his own house, the assault came. One or two of the missionaries made some defense, and two of their assailants were killed. ———, the witness, was himself slightly wounded in the head by a bullet from one of the houses. Undeterred, however, the Boxers crowded up to the doors and set the buildings on fire, and the inmates, with one exception, perished in the flames. One of Mr. Simcox's children, presumably Paul, the oldest, driven by the heat or smoke, ran out, and was immediately dispatched by a sword or spear. After the houses were consumed the charred remains of the dead were thrown into a well. The bodies of the two dead Boxers were carried away.

The above account differs in some points from that received by Mr. J. W. Lowrie at Tientsin. I think it is likely more nearly correct.

Mr. ——— had also some information regarding the destruction of the American Board mission at the south of the city, but no doubt you will receive a fuller and more accurate account than he can give from some member of the same mission in Peking.

With high appreciation of your interest in our martyred brethren, and protracted efforts to save them,

I am, dear sir, yours, sincerely,

JOHN WHERRY.

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*Mr. Hill to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, September 21, 1900.

(Mr. Hill directs that Mr. Conger extend to Swedish and Norwegian missionaries attached to American missions at Kweihua-Che'eng, or elsewhere in China, all possible proper protection.)

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*Mr. Hill to Mr. Conger.*

No. 281.]

DEPARTMENT OF STATE,  
Washington, September 25, 1900.

SIR: I confirm on the overleaf the Department's telegram to you of the 21st instant in regard to protection to Swedish and Norwegian missionaries attached to American missions, and inclose for your information translation of a note from the *chargé d'affaires ad interim* of Sweden and Norway at this capital.

I am, etc.,

DAVID J. HILL,  
*Acting Secretary.*

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[Inclosure—Translation.]

*Mr. G. de Strale to Mr. Hay.*

LEGATION OF SWEDEN AND NORWAY,  
Washington, August 21, 1900.

MR. SECRETARY OF STATE: A certain number of the Swedish and Norwegians who are propagating the Christian religion in China are attached to American Associations for the Propagation of the Faith, amongst others the "Evangelical Alliance Mission," of New York, and the "Christian Missionary Alliance," under the direction of Dr. Simpson, at Boston or New York.

In order to insure, as far as practicable, their safety in the midst of the disturbances

now prevailing in China, it would be very desirable to know the names of the missionaries and those of the places in which they are stationed.

In obedience to orders received from my Government, I have the honor to apply for the intercession of your excellency and to beg that you will lend your good offices near the aforesaid associations in view of obtaining the above-indicated information.

I venture at the same time to express to your excellency how thankful the King's Government would be if the Government of the United States should see no objection to instruct its military and naval forces in China, charged with the protection of American missionaries, to extend to Swedish and Norwegian missionaries, whose labors are under the direction of American associations, the benefits of such protection.

Receive, Mr. Secretary of State, the assurance of my most respectful consideration.

G. DE STRALE.

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*Mr. Hay to Mr. Conger.*

No. 285.]

DEPARTMENT OF STATE,  
*Washington, October 11, 1900.*

SIR: I inclose herewith for your information a copy of a letter from the American Board of Commissioners for Foreign Missions in relation to the massacre of the missionaries and their families connected with the board, in the province of Shansi, and the participation of the governor of the province in the deed.

I am, etc.,

JOHN HAY.

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*Mr. Smith to Mr. Hay.*

AMERICAN BOARD OF COMMISSIONERS  
FOR FOREIGN MISSIONS,  
*Boston, October 5, 1900.*

SIR: Some weeks since I had occasion to communicate to the State Department the anxiety of the officers and friends of the board concerning the safety and protection of those American citizens who were engaged in missionary work in the province of Shansi under the direction of our board. The assurance given in response to this reply, that everything possible was being done by our Government for the welfare of these people, was most welcome and is gratefully acknowledged.

On September 8 word came through Consul-General Goodnow, at Shanghai, that our entire force in that field, 5 men, 5 women, and 5 children, had been massacred, some on July 31, the others on August 15. Further tidings immediately followed which made it clear that this foul murder was done with the connivance of the governor of the province, if not by his express direction. The husband and father in two of the families—the only means of support in each case to a wife and three little children, happily in this country—fell, and the fear of want has been added to the unspeakable anguish of the terrible bereavement. Nothing could well exceed the atrocity of this deed. Its bold defiance of our treaty rights, the undisguised treachery of this governor which attended the act, the tremendous proportions of the crime, the extinction of a whole mission, all alike demand most careful inquiry and righteous punishment. When our Government arranges a settlement with China this horrible deed of the Shansi governor will not be forgotten, and a repetition of such a deed in the future will surely be made impossible.

Confiding in the impartial regard of our Government for each and every one of its citizens and in its inflexible purpose to see that justice is done,

I am, etc.,

JUDSON SMITH.

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*Mr. Hay to Mr. Conger.*

No. 292.]

DEPARTMENT OF STATE,  
*Washington, October 27, 1900.*

SIR: Referring to instruction No. 281, of September 26 last, I inclose herewith for your information a copy of a note from the chargé d'affaires of Sweden and Norway at this capital, expressing the thanks of

his Government for the action of the Secretary of War in instructing the United States commander in chief at Pekin to afford all possible protection to all Swedish and Norwegian missionaries in China who are under the direction of American missionary boards.

I am, etc.,

JOHN HAY.

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[Inclosure.—Translation.]

*Mr. G. de Strale to Mr. Hay.*

LEGATION OF SWEDEN AND NORWAY.

*Washington, October 20, 1900.*

MR. SECRETARY OF STATE: In a note dated the 2d instant his excellency Mr. Secretary of State Hay was pleased to inform the King's legation that the Government of the United States has charged the commander in chief of the American military forces in China to protect, as far as practicable, the Swedish and Norwegian missionaries laboring in that country under the direction of American associations.

I have not failed to acquaint the Government of the King with that information, and, in obedience to instructions received by me, I have the honor to solicit your excellency's obliging interposition to forward to the Government of the United States the expressions of the deep gratitude of the King's Government for the good will shown on this occasion by the Government of the United States.

Be pleased to accept, etc.,

G. DE STRALE.

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*Mr. Hay to Mr. Conger.*

No. 300.]

DEPARTMENT OF STATE,

*Washington, November 28, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 399, of September last, inclosing the hospital record of such United States marines and soldiers as were treated in hospital during the "siege" at Pekin and commending the services of Dr. Gustav Velde, surgeon in charge.

In reply I have to inform you that the United States ambassador to Germany has been instructed to request the German Government to convey to Dr. Velde the sincere appreciation and deep gratitude of the Government of the United States for the services rendered by him on the occasion mentioned.

I am, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Conger.*

No. 301.]

DEPARTMENT OF STATE,

*Washington, November 30, 1900.*

SIR: I inclose herewith for your information a copy of a letter from the secretary of the board of foreign missions of the Presbyterian Church in the United States of America, embodying a resolution of the board expressive of its grateful appreciation of your kindly offices in behalf of its missions and missionaries in China.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Ellinwood to Mr. Hay.*NEW YORK, *November 21, 1900.*

STR: It gives me pleasure to report the action of the Presbyterian Board of Foreign Missions at a meeting held on the 19th instant in relation to the kindly offices of the representatives of our Government in China and Korea. The recognition intended includes the sympathetic action shown by the United States minister, Dr. H. N. Allen, of Korea, toward our mission in that country; that of United States Minister E. H. Conger, who rendered such invaluable service to our besieged missionaries in Peking; also the good offices of Secretaries [Consuls] Fowler and Goodnow at Chefoo and Shanghai, and more recently the interest shown by Consul R. M. McWade in Canton.

The action taken was as follows:

"Referring to the action of the Korea mission, September, 1900, in regard to certain questions which have arisen between one of its missionaries and the United States authority represented by its minister, Dr. H. N. Allen, it was—

"*Resolved*, That the board highly approves of the vindication of the minister's action in the case and the tender of thanks to Minister Allen for its repeated acts of kindness and protection to the mission, and it would express its own appreciation of the many instances in which the United States minister has shown sympathy with the missionaries and has used the influence of his high office in legitimate ways for the protection of the mission and the furtherance of its philanthropic efforts in Korea.

"Referring to letters to the Canton mission bearing testimony to the kindly offices of United States Consul R. M. McWade in the present crisis of violence and persecution, also to the many evidences of sympathetic interest on the part of United States Minister E. H. Conger and the consuls in the northern ports of China, it was—

"*Resolved*, That the board would express, through the Department of State at Washington, its grateful appreciation of the kindly offices of United States Minister E. H. Conger and various consuls representing those portions of China which have been subjected to violence and persecution, and it would tender its thanks to one and all."

The board has always taken particular pains to inculcate in its missionaries the spirit of entire loyalty to the representatives of our Government, whose protection they so often need, and to avoid unnecessary complications with native authorities. The favors received by the board and its missionaries during the present administration have been numerous and are highly appreciated.

Very respectfully,

F. F. ELLINWOOD.

## NEGOTIATIONS WITH CHINA FOR SETTLEMENT AND REPARATION.

*Mr. Adee to Mr. Conger, via Consul Fowler.*

[Telegram—Partly paraphrased.]

DEPARTMENT OF STATE,  
*Washington, August 22, 1900.*

(Mr. Adee states that telegrams from Earl Li, dated the 19th and 21st, asking stoppage of hostilities, withdrawal of troops, and appointment of an envoy to negotiate have been communicated by the Chinese minister, and that the following reply has to-day been made:

While the condition set forth in the memorandum delivered to the Chinese minister August 12 has not been fulfilled, and the powers have been compelled to rescue their ministers by force of arms, unaided by the Chinese Government, still this Government is ready to welcome any overtures for a truce, and invite the other powers to join, when security is established in the Chinese capital and the Chinese Government shows its ability and willingness to make on its part an effective suspension of hostilities there and elsewhere in China. When this is done—and we hope it will be done promptly—the United States will be prepared to appoint a representative to join with the representatives of the other similarly interested powers and of the authoritative and responsible Government of the Chinese Empire to attain the ends declared in our circular to the powers of July 3, 1900.

This may be communicated by Mr. Conger to his colleagues. Their governments have received similar proposals from Earl Li. Replies of other powers, it is presumed, will be on same line as ours. Asks if Mr. Conger has any suggestion to make. In replying, date dispatches and use cipher.)

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*Mr. Conger to Secretary of State.*

[Telegram—Paraphrase.—Received, via Taku, August 27. Date lost in transmission.]

PEKIN, August 23, 1900.

(Mr. Conger reports that since his last dispatch there have been no important movements. The military is endeavoring to restore order. No representative of the Chinese Government encountered yet. Several ministers of the Tsungli Yamen reported to be in the city, and are expected to appear soon. Two thousand Germans arrived to-day. Generals believe Imperial palace practically vacant, and decide not to enter it.)

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*Mr. Conger to Secretary of State.*

[Telegram—Paraphrase.—Received August 30, 1900. Date lost in transmission.]

PEKIN, August 25, 1900.

(Mr. Conger reports that the Imperial palace will be entered August 28. Military promenade of all nations will be made through it, after which it will be closed and guarded. This action is necessary to forcibly impress the Chinese. More Russian, German, Italian, and French troops are arriving. Prince Ching is expected in a few days. Asks if Department has instructions for him.)

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*Mr. Adee to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, August 26, 1900.

(Mr. Adee states that Mr. Rockhill was appointed, while Mr. Conger was inaccessible, as special agent to examine and report on situation. He will reach Peking shortly. Instructs to confer fully with him, and make joint recommendation as to action now and for the future.)

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*Mr. Conger to the Secretary of State.*

[Telegram—Paraphrase.—Received September 3, 1900. Date lost in transmission.]

PEKIN, August 27, 1900.

(Mr. Conger, acknowledging an undated telegram,<sup>1</sup> just received, reports, in reply to—

Paragraph 2. That they were surrounded constantly by soldiers with Imperial uniforms, flags, and arms, under command of Imperial

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<sup>1</sup> This telegram is in answer to Mr. Adee's telegram of August 8, 1900.



officers. They saw and conversed with officers and men, who obeyed commands of Imperial officers.

Paragraph 3. His communications with the Imperial Government were simply receiving and acknowledging Li Hung Chang appointment, and transmitting telegrams. The British minister carried on general correspondence for all, which was chiefly—

The Chinese Government demanded their departure from Peking, which was declined. Making mutual agreements to cease firing, which was violated by the Chinese, who promised protection but maintained continual firing.

Paragraph 4. Imperial Government ordered them from Peking; made several attempts to ambush them; shelled legations from June 21 to July 17; kept up two months' firing, and its soldiers attempted to explode mines. For many days after July 17 the Chinese Government stopped severe firing, and sent them, on July 21, three bags of flour, a few watermelons, cucumbers, eggplants, and squashes.

Nothing more—no arms or any other defense—was furnished them.)

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*Mr. Conger to Mr. Hay*

[Telegram.—Paraphrase received, via Taku, September 6, 1900.]

PEKIN, August 29, 1900.

(Mr. Conger reports that Department's telegram, containing reply to Earl Li, has been received and communicated to his colleagues. He is ignorant of circular of July 3. Suggests that a commissioner with full powers be ready as soon as authorized representatives of Chinese Government appear. Earl Li's early arrival is probable and Prince Ching is expected in a few days. First of all, the chief patrons and leaders of the Boxers must be punished. The best possible government should then be established as quick as possible, with proper foreign supervision. Important that China should give sufficient assurance of peace and order for the future, and guarantee for payment of indemnities. \* \* \*

There are now here 30,000 troops. If they remain this winter famine will ensue. Military occupation by so many powers is creating irreparable devastation and bringing terrible punishment upon innocent people, and if long continued will arouse among the people such hatred as will render the situation very difficult and induce uprising against all foreigners in peaceable provinces.)

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*Mr. Conger to the Secretary of State.*

[Telegram.—Paraphrase.]

PEKIN, August 30, 1900.

(Via Taku, September 4, 1900.)

(Mr. Conger reports that Prince Ching has sent word he has requested edict ordering him to return to Peking about September 3. Requests most definite instructions possible in view of military occupation, other difficult conditions, and Department's knowledge of facts

unknown in Peking. Reports are being received daily from the interior of murders of missionaries and converts. An Imperial decree was published July 2, saying that all missionaries of every nationality must at once be driven away to their own countries, so that they may not linger here or make trouble. \* \* \* )

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*Mr. Conger to the Secretary of State.*

[Telegram—Paraphrase.]

PEKIN, *September 6.*

(Received via Taku Sept. 10, 1900.)

(Mr. Conger reports Prince Ching made a personal friendly call upon him. He says edict has appointed him and Earl Li with full powers (to) settle matters. The latter is expected in a few days. The Russian minister (Mr. de Giers) leaves Peking to-morrow. \* \* \* Asks if negotiations can not be better conducted at Shanghai, or at some point where telegraph communication is more rapid and certain than here? Chinese commissioners should go where most convenient to foreign powers.)

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*Mr. Conger to the Secretary of State.*

[Telegram—Paraphrase.]

PEKIN, *September 12, 1900.*

(Received via Taku August 14, 1900.)

(Mr. Conger acknowledges Department's telegram containing Russian declaration and reply<sup>1</sup> of United States, and reports that a larger part of the Russian forces are now being withdrawn. The restoration of order in this province or of Chinese authority in Peking is, for the present, impossible. Joint military occupation of Peking is absolutely essential to successful negotiations, and should continue until same are completed. One-third of the present force will suffice.)

Mr. Conger does not believe, from his acquaintance with Prince Ching and Earl Li, that they can offer any feasible plan. It must be devised by foreign powers, hence the necessity of their early conference and agreement.)

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*Mr. Conger to Mr. Hay.*

No. 413.]

LEGATION OF THE UNITED STATES,

*Peking, China, September 16, 1900.*

SIR: A whole month has elapsed since the arrival of the "relief expedition" and the flight of the Imperial court, and apparently no progress has been made toward reestablishment of Chinese authority here or negotiations for a settlement.

Prince Ching is still waiting the arrival of Li Hung Chang. Most of the foreign ministers here are without instructions. At a meeting of the diplomatic corps yesterday it was suggested that if the Emperor

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<sup>1</sup>See circular telegram of August 29, printed p. 304.

and Empress Dowager could be induced to return to Peking negotiations might be greatly facilitated. All agreed that if they could be withdrawn from the influence of Prince Tuan and other pernicious advisers it would be better. Much time could also be saved, because, if acts of Prince Ching and Li Hung Chang must be presented to the Throne for approval, it would take weeks to get them to Sianfu and returned. \* \* \*

It was agreed that each would write an informal note to Prince Ching suggesting the return of the "Emperor and Empress Dowager," "the Court," or the "Emperor," as he pleased. I preferred to mention only the "Emperor," and have written Prince Ching accordingly, inclosing a copy herewith of the note sent him.

I have the honor to be, etc.,

E. H. CONGER.

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[Inclosure.]

*Mr. Conger to Prince Ching.*

Informal.]

PEKIN, September 10, 1900.

YOUR HIGHNESS: I have the honor to address your highness concerning the existing situation. Into the cause of that situation it is not necessary at this moment to inquire. It is sufficient to refer to the fact that, in order to relieve the foreign legations from immediate peril, a joint expedition was undertaken by various foreign powers, which have led to the withdrawal of the court and the present occupation of the capital.

The main object of this expedition was the relief of the legations, and as soon as that was accomplished the ministers showed their willingness to terminate hostilities by welcoming your highness back to Peking for the purpose of opening peace negotiations.

These negotiations seem to be delayed by the nonarrival of the grand secretary, Li Hung Chang. In the meantime I beg to point out to your highness that it is my personal opinion that permanent peace negotiations would be very much facilitated if the Emperor were also to return to the capital.

It is, as your highness must acknowledge, difficult to restore tranquillity to the country while the minds of the people are disturbed by uncertainty as to the future; and nothing would reassure them more than His Majesty's return. While he remains at a distance, surrounded by the same advisers as before, the prospect of a permanent settlement must remain doubtful, however successful your highness may be in arranging its terms; for it suggests both to foreign governments and to the people that there will be no change in the policy of the Throne toward foreign powers and their subjects in China.

I therefore venture to suggest to your highness the advisability of making known to His Majesty the views herein expressed, and I beg to add that there need be no apprehension that if he remains he will be treated otherwise than with all respect, or subjected to any restraint.

I am sure that the treatment your highness has received since your return will support this assurance.

I have the honor to be,

Your highness' obedient servant,

E. H. CONGER.

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*Mr. Conger to Mr. Hay.*

No. 416.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, September 20, 1900.*

SIR: I have the honor to inclose herewith translation of Prince Ching's reply to my informal note of the 16th instant regarding the return of the Emperor to Peking, copy of which I transmitted in my No. 413 of the 16th instant.

I have the honor to be, etc.,

E. H. CONGER.

[Inclosure.]

*Prince Ching to Mr. Conger.*

Informal.]

PEKIN, *September 19, 1900.*

YOUR EXCELLENCY: On the 16th instant I had the honor to receive your excellency's note, in which you state that the main object of the expedition sent by the various foreign powers was the relief of the legations, and as soon as that was accomplished the ministers showed their willingness to terminate hostilities and open peace negotiations. Your excellency also pointed out that it is your personal opinion that permanent peace negotiations would be very much facilitated if the Emperor were to return to the capital; that the minds of the people are disturbed and nothing would reassure them more than His Majesty's return. While he remains at a distance the prospect of a permanent settlement must remain doubtful, however successful I may be in arranging its terms, for it suggests that there will be no change in the policy of the Throne toward foreign powers and their subjects in China. Your excellency therefore suggested the advisability of making known to His Majesty the views expressed in your note, and to add that there need be no apprehension that if he returns he will be treated otherwise than with all respect.

In reply I beg to observe that on account of the reckless manner in which the disturbances have been caused by the Chinese banditti, which resulted in a revolution suddenly breaking out, the forces of the various foreign powers came to Peking to relieve the legations. I feel a deep sense of shame that this should have been found necessary.

Your excellency's note is full of peaceful sentiments. You say that the return of His Majesty will have the effect of reassuring the minds of the people. From this it is evident that your excellency is interested in what is good and right and that you hold upright and noble views. Words are inadequate to express my gratitude and thanks for your excellency's kindly expressions.

I have, together with some of the high ministers of Peking, prepared a joint memorial to the Emperor requesting his return to Peking. I shall have a copy of your excellency's note made and send it to His Majesty, together with the other memorial, within a day.

The grand secretary, Li Hung Chang, has already left Shanghai for Tientsin and should be here in a few days. When the terms of the peace have been determined upon and settled China will not fail to see that they are wholly and sincerely acted upon. On no account will matters be attended to as heretofore, and your excellency need not be too anxious about this.

Cards with compliments of Prince Ching.

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*Mr. Hill to Mr. Conger.*

[Telegram.]

WASHINGTON, *September 22, 1900.*

(Via Mr. Buck, Tokyo, Japan.)

Part 1. On September 17 the Chinese minister presented copy of circular telegram from Prince Ching, announcing appointment as the plenipotentiary, conjointly with Li Hung Chang, to negotiate peace and requesting that United States minister at Peking be instructed to open negotiations. The following reply has been made to-day to Chinese minister:

The Government of the United States accepts the plenipotentiary authority of Earl Li Hung Chang and Prince Ching as prima facie sufficient for the preliminary negotiations looking toward the return of the Imperial Chinese Government and to the resumption of its authority at Peking, and toward the negotiation of a complete settlement by the duly appointed plenipotentiaries of the powers and of China.

To these ends, the United States minister in Peking will be authorized to enter into relations with Earl Li and Prince Ching as the immediate representatives of the Chinese Emperor.

Part 2. On September 17 the Russian chargé delivered a memorandum inquiring, first, whether the United States intends to transfer its legation from Peking to Tientsin; second, if full powers of

Prince Ching and Li Hung Chang are recognized by the United States as sufficient; and third, if the United States is prepared to charge its representatives to enter forthwith upon preliminary negotiations with the plenipotentiary of the Chinese Emperor. The following memorandum in reply has been sent to the Russian chargé:

(1) The Government of the United States has not any present intention to withdraw its legation from Peking.

(2) The Government of the United States accepts the plenipotentiary authority of Earl Li Hung Chang and Prince Ching as prima facie sufficient for the preliminary negotiations looking toward the return of the Imperial Chinese Government and to the resumption of its authority at Peking, and toward the negotiation of a complete settlement by the duly appointed plenipotentiaries of the powers and of China.

(3) To these ends, the United States minister in Peking will be authorized to enter into relations with Earl Li and Prince Ching as the immediate representatives of the Chinese Emperor.

Part 3. On September 18 the German chargé communicated by note the Imperial German circular proposition, that as prerequisite to any negotiation the Chinese Government shall deliver the real responsible authors of crimes against international law recently perpetrated in China. To this the following note has been handed the German chargé to-day:

SIR: In response to your inquiry of the 18th instant as to the attitude of the Government of the United States in regard to the exemplary punishment of the notable leaders in the crimes committed in Peking against international law, I have the honor to make the following statement:

The Government of the United States has from the outset proclaimed its purpose to hold to the uttermost accountability the responsible authors of any wrongs done in China to citizens of the United States and their interests, as was stated in the Government's circular communication to the powers of July 3 last. These wrongs have been committed not alone in Peking, but in many parts of the Empire, and their punishment is believed to be an essential element of any effective settlement which shall prevent a recurrence of such outrages and bring about permanent safety and peace in China. It is thought, however, that no punitive measures can be so effective by way of reparation for wrongs suffered and as deterrent examples for the future as the degradation and punishment of the responsible authors by the supreme imperial authority itself; and it seems only just to China that she should be afforded in the first instance an opportunity to do this, and thus rehabilitate herself before the world. Believing thus, and without abating in any wise its deliberate purpose to exact the fullest accountability from the responsible authors of the wrongs we have suffered in China, the Government of the United States is not disposed, as a preliminary condition to entering into diplomatic negotiations with the Chinese Government, to join in a demand that said Government surrender to the powers such persons as, according to the determination of the powers themselves, may be held to be the first and real perpetrators of those wrongs. On the other hand, this Government is disposed to hold that the punishment of the high responsible authors of these wrongs, not only in Peking, but throughout China, is essentially a condition to be embraced and provided for in the negotiations for a final settlement. It is the purpose of this Government, at the earliest practicable moment, to name its plenipotentiaries for negotiating a settlement with China, and in the meantime to authorize its minister in Peking to enter forthwith into conference with the duly authorized representatives of the Chinese Government with a view to bringing about a preliminary agreement whereby the full exercise of the imperial power for the preservation of order and the protection of foreign life and property throughout China, pending final negotiations with the powers, shall be assured.

HILL, *Acting.*

*Mr. Conger to the Secretary of State.*

[Telegram—Paraphrase.—Received September 30, 1900, via Taku.]

PEKIN, *September 27, 1900.*

(Mr. Conger reports that notice has to-day been sent by Prince Ching that he, Earl Li, Jung Lu, and Viceroy Liu Kun-Yi and Chang Chih-tung are all to concert in peace negotiations. Li is at Tientsin and Jung Lu is in the interior. No request has yet been made to negotiate, nor have powers been exhibited. Chinese Government has made no visible effort to restore order.)

*Mr. Hill to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, September 29, 1900.*

(Mr. Hill states that this Government laid down, in a memorandum<sup>1</sup> handed to Mr. Wu on September 7, the principle that it was unwilling to negotiate through any person who is believed to share responsibility for the recent outrages committed in Peking upon foreigners. Earl Li Hung Chang and Prince Ching having presented prima facie evidence of their full powers as negotiators immediately representing the Emperor of China, and the former having given assurance that the lives and property of Americans in China will be respected, they have been informed that their plenipotentiary authority is accepted as sufficient for the preliminary negotiations looking toward the return of the Imperial Chinese Government and the resumption of its authority in Peking, and toward the negotiation of a final settlement by the duly appointed plenipotentiaries of the powers and of China. To these ends Mr. Conger is authorized to enter into relations with Earl Li and Prince Ching as the immediate representatives of the Chinese Emperor, in case their authority continues to appear satisfactory, for the purposes already defined.

In his preliminary communications with Earl Li and Prince Ching, Mr. Conger will obtain valuable guidance as to the purposes of this Government by referring to the circular telegram<sup>2</sup> of July 3, in which the general intentions of this Government are fully represented.

Mr. Conger is directed to constantly bear in mind the principle laid down in the memorandum of September 7, and to withhold recognition from all persons proposed as negotiators not acceptable under its terms or not possessed of immediate full power from the Emperor of China.

In case of further wrongs, anywhere in China, to American life or property, Mr. Conger will remind Earl Li of his promise of protection and insist upon it as a condition of continued relations.

His legation will, until further instructed, remain in Peking, under the protection of an adequate military guard which has been ordered to remain there for that purpose. Mr. Conger will endeavor to prepare the way for such final negotiations as may hereafter be found

<sup>1</sup> Not printed.<sup>2</sup> Printed p. 299.

necessary to accomplish the declared purposes of the United States, making full report of his progress and, before concluding definite arrangements, awaiting further instructions from the Department.)

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*Mr. Conger to Secretary of State.*

[Telegram—Paraphrase.—Received October 1, 1900.]

PEKIN, *September 29, 1900.*

(Mr. Conger reports that the Russian legation has to-day been removed to Tientsin.)

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*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, *October 1, 1900* (via Taku, October 5).

(Mr. Conger acknowledges receipt on September 30 of Department's telegram of September 22 communicating replies to Chinese, Russian, and German Governments.)

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*Commissioner Rockhill to Mr. Hay.*

No. 8.]

SHANGHAI, CHINA, *October 1, 1900.*

SIR: I have the honor to confirm as follows my cablegram to you of the 21st ultimo from Peking; paraphrase:

(Mr. Rockhill very carefully examined the situation with the minister and entirely concurs with him in all his views and the steps he proposes to take in interest of reestablishment of peace and order. Mr. Rockhill and Mr. Conger agree as to no reduction in military forces in Peking until preliminary settlement has been made.)

In explanation of the above dispatch I have the honor to state that I reached Peking on the 18th September, making the journey up to Taku on the U. S. S. *New Orleans* and from Taku to Peking by transportation furnished me by order of General Chaffee.

I stopped in Tientsin long enough to inquire into the general condition of the place and to visit not only the whole of the foreign settlement but also the native city. In the former I found the foreign troops in complete possession of everything and acting much as they would in a conquered city. In the native city the provisional government has begun to establish some semblance of order, and the Chinese were more numerous there than in any other part of Tientsin. The authority of this Government is, however, strictly limited to the native city and denied outside of it. \* \* \*

Between Tientsin and Peking the country for several miles on either side of the highroad has been abandoned by the Chinese, and the villages are one mass of ruins, some now held by detachments of foreign troops, others completely deserted. A few peasants may now and then be seen hiding in the fields of corn or sorghum, trying to cut some of the now ripe grain, but when their presence is detected by the foreign soldiers traveling along the road or on the river, they are exposed to being shot at. I saw several corpses along the road, evidently those of peasants shot in this manner. I am pleased to be able to state that our troops here and everywhere are behaving as we could wish them to, and their discipline and fine bearing are greatly admired by all. From our officers commanding detachments along the route I

heard that during the last few weeks several reconnoissances had been made to points from 5 to 7 miles on either side of the road and at which the presence of Boxers had been reported. Though the latter were found in force, they offered no serious resistance to the troops and fled as soon as they were attacked. So little resistance did they offer that both our officers and men said they had not the heart to cut them down, and none now consider them as constituting any danger to our lines of communication or likely to undertake any operations against us.

On arriving in Peking I went very carefully and in great detail over the whole situation as created by recent events in north China with Mr. Conger, General Chaffee, and Gen. James H. Wilson, and read all the correspondence which has passed between Mr. Conger, the Department of State, and the Chinese Tsungli Yamen. Two days before my arrival in Peking Mr. Conger had addressed to Prince Ching, who had returned to the capital some days earlier, commissioned by the Emperor to open negotiations with the diplomatic representatives at Peking for the reestablishment of peace, a note urging upon him the necessity of the Emperor's return to Peking as the most potent means of restoring tranquillity to the country and consequently facilitating and expediting negotiations. "While he (the Emperor) remains at a distance," says Mr. Conger in his note, "surrounded by the same advisers as before, the prospect of a permanent settlement must remain doubtful, \* \* \* for it suggests both to foreign governments and to the people that there will be no change in the policy of the Throne toward foreign powers and their subjects in China."

The views of Mr. Conger on this subject were identical with my own, as the Department is aware by my cablegram of September 21. Another point on which I was pleased to find my views coincide with those of our minister was the imperative necessity of maintaining the present force of troops in Peking until after the signing of at least the preliminaries of peace and the demonstration by the Chinese Government of not only its willingness but its ability to restore order. Any withdrawal of troops from the capital before the return of the Emperor would, in our opinion, be unquestionably prejudicial to American interests, as it would be represented by the Chinese Government to the people, and universally so believed by them, to be due to fear or as a result of imperial commands. The moral effect on the people of the occupation of Peking by the powers would be minimized by such a step and the conclusion of satisfactory negotiations greatly jeopardized. In our opinion the withdrawal from Peking should be gradual and contingent on the reestablishment of order in the disturbed provinces, especially in that of Chihli, and we believe that nothing would so stimulate the Chinese Government to energetic action as a hope of putting an end to the foreign occupation of the capital.

\* \* \* \* \*

From General Chaffee and General Wilson I learned that in various reconnoissances in the neighborhood of Peking—extending over a large area of country—no opposition had been made to the troops by the parties of Boxers met with; they had on every occasion dispersed at the first attack. Such being the condition, the imperial troops and the Boxers having apparently ceased to hold the field, no longer forming any organized force against which our troops can possibly operate, it becomes apparent that the only power which can bring about the complete reestablishment of order is the Chinese one. To this task it



should now be strictly held, and it is my belief that it can easily and rapidly accomplish it.

The return of the Chinese Government to Peking being once recognized as an indispensable preliminary to the reestablishment of order, it would seem that no offensive military operations not necessitated for purposes of defense should be now engaged in by the international forces, for such would unquestionably fill the Chinese with not unfounded apprehensions as to the intention of the powers and thereby delay, if not make impossible, the desired return of the Emperor to Peking. If punitive expeditions should be decided upon, they can be led without a doubt throughout the length and breadth of China, but the result would be to utterly defeat the ends we have in view, and anarchy might reign throughout the Empire, but they can never exercise, as some foreigners now think, a quieting influence on the country.

While in Peking I called on Prince Ching. He told me that he thoroughly concurred with Mr. Conger's views concerning the necessity of the Emperor's return to Peking, and that he and the other high officials now in Peking had memorialized him to do so, sending him a copy of Mr. Conger's note. I urged upon him the necessity of his Government taking prompt and effective measures throughout the country to completely reestablish order as the only means of arresting offensive operations on the part of the foreign forces. He answered that imperial orders had already been sent for the extermination of the Boxers everywhere and that they were being carried out. Li Hung Chang, he told me, had also issued a proclamation in Chihli, which would greatly tend to attain these ends. \* \* \* The straightforward and clear declaration by the United States of its policy in China as made known to him through your circular of July 3 last, and your note to Wu Ting-fang of August 22 were, I gained, a source of sincere gratification to him. He finally assured me that his Government would not fail in any effort to promptly reestablish order and honestly perform the conditions necessary to future cordial relations. In all this I think the Prince was absolutely sincere. It remains to be seen how far his views and suggestions meet with the support of the Emperor, now exposed to the influence of hostile advisers.

I had also while in Peking several conversations with Sir Robert Hart, whose long experience in China entitles his views to every consideration. He looked upon the Boxer movement as a national and patriotic one for freeing China of the foreigners to whom, rightly or wrongly, is attributed all the country's misfortunes during the last half century. Though crushed at present, he feared that unless the powers could agree to treat the question in a conciliatory spirit which would tend to establish cordial relations with China, a state which had never existed in the past, it might some day come to life again, when the world might have to face an armed China, not a rabble carrying spears and tridents. He thought that China could still pay a reasonable indemnity, though its finances were in a bad condition. Perhaps it could pay £50,000,000, or £100,000,000, but he feared the powers' demand, would greatly exceed these figures and that further cessions of territory would be insisted upon, which would continue indefinitely the feeling of unrest, suspicion, and hostility on the part of the Chinese.

Referring to the coming negotiations of Prince Ching with the diplomatic representatives, he told me that he had prepared for him a statement of facts showing China's responsibility in the present troubles. [Copy inclosed.] \* \* \*

Sir Robert said that he believed that the Chinese would readily agree to the severest punishment of Prince Tuan, Prince Chuang, and all those who were responsible for the present troubles, but he held that the punishment should only be demanded after the Emperor had returned to Peking and the first steps had been taken in the negotiations. He believed that if insisted upon at the present moment, all the guilty would probably escape. \* \* \*

Mr. Conger agreeing with me in thinking that it was urgently necessary to impress on the viceroys of Nanking and Wuchang the advisability of their memorializing the throne in favor of the Emperor's return to Peking, and of ascertaining how far they would support Prince Ching's views, I decided to leave Peking at once and proceed as rapidly as possible to those two provincial capitals. I left Peking on the 24th ultimo and arrived in Shanghai on the 30th.

I asked Admiral Remy, when on board the *Brooklyn*, off Taku, on the 27th September, on my way down here, to have me sent up the Yangtze on one of our men-of-war now stationed at Shanghai, and believe that the viceroys would be pleased at my thus visiting them. We owe them much for the perfect order they have maintained in their provinces during the present troubles. I shall leave as soon as the Admiral's orders are received.

Admiral Remy having mentioned to me on the 27th September that the naval commanders off Taku had decided, at the suggestion of the German vice-admiral, he believed, that an international naval force should be sent to capture Chin Wangtao, near Shanhai Kuan. Believing, as I do, that such an operation is not only uncalled for but might possibly be highly prejudicial to the real interests of the United States and as it is contrary to the views held by Mr. Conger and myself, I sent you on the 1st October a cablegram, which I now have the honor to confirm, as follows (paraphrase):

Admiral Remy informed Mr. Rockhill last Thursday commanding officers naval forces made an agreement attack Tsing Wangtao. Although now garrisoned Chinese forces, they are passive. Military operations except on the defensive at the present moment will unquestionably retard the return of the Emperor Peking, the restoration of order by China, which it declares that it has begun, and conclusion of preliminaries peace. \* \* \*

I have, etc.,

W. W. ROCKHILL,  
*United States Commissioner.*

[Inclosure.]

*Siege of Peking.—Memoranda for Prince Ching.*

1. In 1898 the attitude of the Kansuh general, Tung Fuh Hsiang, and his soldiers caused the legations to bring guards to Peking for their temporary protection.
2. During 1899 foreigners in China were disquieted by reports from Shantung concerning the Boxers' movements. No edict had as yet been seen approving of them, but they were said to be supported by the provincial officials.
3. Early in 1900 the Boxers crossed from Shantung into Pechili and reached Pao-tingfoo, burning churches and massacring converts wherever fallen in with. Legation guards were again brought to Peking.
4. Boxer outrages continued, and the situation became more grave when Fengtai was reached. The decision of the foreign representatives to strengthen the legation guards was, however, impossible to give effect to, and the force led by Admiral Sir E. Seymour had to return to Tientsin, owing to the destruction of the railway.
5. On the 11th June the chancellor of the Japanese legation, Mr. Sugiyama, was killed by Tung Fuh Hsiang's soldiers near the Yung Tingmen gate, and on the 13th the Boxers entered Peking by the Hatamen gate and began burning houses, etc., in every quarter. On this the legations posted their guards to protect the legation quar-

ter, and Chinese were no longer allowed to circulate freely; the protection of the legations required this.

6. On the 14th June Peking and Tientsin could no longer communicate, and the naval authorities at Taku decided to occupy the Taku forts, as forces would have to pass them for the rescue of the legations. On the 18th the yamen directed the foreign representatives to quit Peking within twenty-four hours; on the expiration of the time the firing began and the siege commenced.

7. Before the siege the Boxers, although said to be supported by the Shantung provincial authorities, were not known to have been recognized by edict, but after the siege began edict after edict praised them for their doings, and princes and high ministers were appointed to lead them; the proclamations of these leaders were also seen in the streets. Accordingly for the Boxer doings, whether they harmed natives or foreigners, the Government can not disclaim responsibility; on this point every power will insist. If it be said that what was done was neither with the Emperor's knowledge nor by the Emperor's wish, it will be asked, Who, then, is emperor, the ministers, who do not obey the Emperor's orders, or the Emperor, who obeys ministers? Argue it as you may, the fact is that the Government is responsible, and the Government will have to atone for all that has occurred.

8. It will be no easy task for either side now to propose or assent, and China's task will be by far the hardest. But, to settle this business, there are only two plans—either follow Tung Fuh Hsiang's advice and fight it out, or devise some way of making a peaceful arrangement. Now, as to fighting it out, the fact that China's military strength could not arrest the steps of the foreign forces, and that a fortnight sufficed for them to march victoriously from the sea to Peking, is in itself enough to show what can be hoped from the noble idea of no surrender. And as for peaceful arrangement, it, too, has its difficulties; but if no daring negotiator will come forward and make peace, then what security can there be for China's ten-tenths? While on the other hand, if a bold statesman will settle the matter, in the end he will be found to have yielded only a fraction of one of those tenths; this idea is well worth weighing. To conclude, the attack on the legations was the greatest of crimes in international dealings—do not regard it lightly; do not make any mistake about it—and it is something no power can or will condone. Appended for consideration is a draft of a general proposal.

1 September, 1900, handed Prince Ching 4th in Chinese.

*Mr. Rockhill to Mr. Hay.*

No. 9.] COMMISSIONER OF THE UNITED STATES TO CHINA,  
*Shanghai, China, October 3, 1900.*

SIR: As of possible interest to the Department, I have the honor to inclose herewith clippings from the North China Daily News of October 1, 1900, publishing translations of imperial decree granting imperial funeral sacrifices in honor of the late Baron von Ketteler, commanding Yu Hsien, governor of Shansi, to resign, and appointing Hsi Liang, provincial treasurer of Hunan, to succeed him; promoting Wang Pei-yu, governor of Peking, to be director of the court of sacrificial worship, and appointing Ch'en K'uei-lung to be governor of Peking.

I have the honor to be, etc.,

W. W. ROCKHILL,  
*United States Commissioner.*

[Inclosure 1.]

[From the North China Daily News (Shanghai) October 3, 1900.]

*Imperial decrees 25th September.*

IMPERIAL FUNERAL SACRIFICES GRANTED THE LATE BARON VON KETTELER.

(1) We have already expressed our deep regret and sympathy for the death of the late Baron von Ketteler, minister of the great German Empire to this court at the time of his murder by soldiers in Peking. Now as we recall to mind the urbanity,

courtesy, and firmness of the late minister in his relation with our Government ever since his arrival in China, we feel all the more the loss we have suffered from his premature death, and we therefore hereby bestow upon him an Imperial funeral sacrifice before the remains, and command the Grand Secretary K'un Kang (Manchu) to proceed on date of his receipt of this decree at once to perform the said Imperial funeral sacrifices and to pour out a libation before the remains on our behalf. Furthermore, when the late Baron von Ketteler's coffin is started on its way to his native country we hereby command the viceroys of Chihli and the Liangkiang provinces, in their capacity of Imperial commissioners of the Peiyang and Nanyang administration, to take all precautions for the safe transportation of the said remains through their respective jurisdictions; and, finally, when the late minister's remains shall have reached Germany, we further command Lu Hai-huan, junior vice-president of the board of revenue and our minister to the court of Berlin, to proceed forthwith and perform another Imperial funeral sacrifice before the said remains, pouring forth a libation on our behalf, as a true mark of our constant desire never to forget the duties we owe to a friendly State.

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[Inclosure 2.]

[From the North China Daily News.]

*Imperial decree of 26th September.*

[SHANGHAI,] *October 1, 1900.*

Yü Hsien, governor of Shansi, is hereby commanded to resign his post and await further appointment from the Throne. Hsi Liang (Manchu), provincial treasurer of Hunan, is hereby promoted to be governor of Shansi. [NOTE.—Hsi Liang was one of the first high provincial officials who led troops to “rescue the Empress Dowager,” and is a man very similar in character to the notorious Yü Hsien, whom he now succeeds.—TRANSLATOR.]

*Imperial decree.*

Wang Pei-yu, governor of Peking, is promoted director of the court of sacrificial worship and Ch'en K'nei-lung is appointed governor of Peking in his stead.

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*Mr. Conger to the Secretary of State.*

[Telegram.—Paraphrase.]

PEKIN, *October 3, 1900.*

(Via Taku, *October 6, 1900.*)

(Mr. Conger reports that on September 25 an Imperial decree was issued acknowledging the responsibility of the Chinese Government for the recent troubles, the Emperor accepting his share. The decree deprives Princes Chuang, Tsai Lien, and Tsai Ying of all titles of nobility; removes Prince Tuan from office and turns him over to Imperial clan court for determination of punishment, and hands over Duke Lan, Ying Nien, Kang Yi, and Chao Shu Chiao to proper boards for further punishments. He is evidently feeling his way, but others must be included and most severe and lasting punishment be insisted upon finally.)

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*Mr. Hay to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,

*Washington, October 3, 1900.*

(Mr. Hay states that the Imperial edict of September 25 has been communicated by the Chinese minister, whereby Prince Chuang, Prince Yih, Secondary Princes Tsai Lien and Tsai Ying are deprived of all

their respective ranks and offices; Prince Tuan is deprived of office and is handed over to the Imperial clan court, which shall consult and decide upon a severe penalty, and his salary is to be stopped. Duke Tsai Lan and the president of the censorate, Ying Nien, are handed over to said board, who shall consult and decide upon a severe penalty, and Kang Yi, assistant grand secretary and president of the civil board, and Chao Shu Chiao, president of the board of punishments, are handed over to the board of censors, who shall consult and decide upon a penalty.

This edict, if it embraces all the high responsible officials to whom are imputable the crimes and wrongs against foreign legations, and if it leads to condign punishment which shall for the future safeguard our citizens and prevent a recurrence of the disasters from which we and other powers have suffered, may be regarded as a notable step in the direction of peace and order in China.

Mr. Conger is directed to report immediately, first, if the principal responsible authors are correctly and satisfactorily enumerated in the list given in the edict; secondly, if the punishments proposed accord with the gravity of the crimes committed, and, third, in what manner assurance that these punishments are carried out is to be given to the powers.

Before answering these inquiries Mr. Conger will confer with his colleagues.)

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*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase. Received October 5, 1900.]

PEKIN, *October 4, 1900.*

(Mr. Conger acknowledges Department's cipher telegram of September 29.)

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*Mr. Conger to Mr. Hay.*

No. 423.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, October 4, 1900.*

SIR: I have the honor to confirm Department telegrams of September 22 and 29, and mine of October 1, 3, and 4.<sup>1</sup> I also inclose copy of Imperial decree mentioned in my telegram of the 3d instant, and which has to-day been received by the dean of the diplomatic corps from Prince Ching. The punishments so far named are grossly inadequate. Titles of nobility can easily be restored, and it is not uncommon for a Chinese officer to be degraded and soon thereafter to be reinstated or promoted to a higher place. Governor Yü Hsien and General Tung Fu-hsiang, who, with the exception of Prince Tuan, were the worst of all, are not mentioned in the decree.

The question of punishment is most important, but, in my judgment, it may well be left until after preliminary negotiations are begun.

The arrival of Li Hung-chang is still awaited. More German troops are arriving, while American and Japanese are being with-

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<sup>1</sup> Printed ante.

drawn. The foreign ministers all seem to be waiting definite instructions, so no apparent progress is being made. However, I shall do whatever I properly may to facilitate the preliminary negotiations.

I have the honor to be, etc.,

E. H. CONGER.

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[Inclosure.]

*Translation of an Imperial decree issued by the Emperor at Tai-yuen Fu, Shansi.*

On the 25th of September the grand secretariat received a decree as follows: The trouble at the present time which broke out between China and foreign countries is a revolutionary movement quite out of the ordinary, and has been the cause of bringing calamity upon us. This was not in accordance with our wish, and it is all due to the princes and ministers of state having participated in and protected the Boxer banditti movement, thus embroiling us in trouble with friendly nations, causing injury to our State and our removing from the capital.

We certainly can not but acknowledge that we are at fault and reprove ourselves. The princes and ministers having without cause stirred up the present trouble, it is urgently necessary that they should have meted out to them various degrees of severe form of punishment.

Let Prince Chuang, Prince I, Tsai Lien, and Tsai Ying (the last two princes of the third order) be deprived of their rank or title of nobility. Prince Tuan we treat more leniently, and he is hereby removed from all his official appointments and handed over to the Imperial clan court for the determination of a severe form of penalty; he is also deprived of his official salary. Duke Lan, and Ying Nien, president of the censorate, are ordered to be handed over to the yamen concerned for the determination of a severe form of punishment. K'ang I, assistant grand secretary and president of the board of civil office, and Chao Shu-chiac, president of the board of punishments, are to be handed over to the censorate and board of civil office for the determination of a penalty, in order to make an example of them.

We have been charged and intrusted by our ancestors with the performance of an important post. Our only hope is to serve and protect the public interests, regardless of others. The princes and ministers have not served the country as good statesmen, and they have themselves to blame. This is understood by the officials and people of the Empire.

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*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, October 6, 1900.

(Mr. Conger replies to the Department's cipher telegram of October 3 that all agree that list must include Yu Hsien and Tung Fu Hsiang. That probable reason for edict not including them is that the court is now in the capital of the former and is surrounded by the army of the latter.)

Second. That entire list of punishments is not yet determined, but those mentioned by no means accord with the gravity of the crimes.

Third. Reports he has no means as yet of ascertaining manner of assuring powers that punishments are carried out. Thinks this may be secured as negotiations progress. Mr. Conger has just received from Earl Li a copy of an Imperial decree giving him full powers, but has no information as to his arrival at Peking.)

*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, *October 7, 1900.*

(Mr. Conger reports that an edict of 28th September orders Prince Tuan banished, Princes Chuang I and Duke Lan imprisoned for life, and Ying Nien Kang I and Chao Shu-Chiao forthwith decapitated. Adds that Earl Li is expected in Peking on the 9th.)

*Mr. Conger to Secretary of State.*

[Telegram—Paraphrase. Received October 14.]

PEKIN, *October 12, 1900.*

(Mr. Conger reports departure this date of large joint military expeditions from Tientsin and Peking for Paotingfu and Chentingfu. Americans, Russians, and Japanese are going. He fears negotiations will be delayed thereby. Earl Li arrived yesterday; called to-day, and says he will soon be ready for negotiations.)

*Mr. Conger to the Secretary of State.*

[Telegram—Partly paraphrased.]

PEKIN, *October 16, 1900.*

(Received via Taku, 18th.)

(Mr. Conger reports that the following has been submitted by Prince Ching and Earl Li as a general preliminary treaty, together with request for a meeting with the foreign ministers:)

ARTICLE 1. Laying siege to legations of the foreign ministers is a high offense against one of the important principles of international law. No country can possibly tolerate such a thing. China acknowledges her great mistake in this respect and promises that it will never occur again.

ART. 2. China admits her liability to pay indemnity for the various losses sustained on this occasion, and the Powers will each appoint officials to examine and present the above-mentioned claims for final consultation and settlement.

ART. 3. As to future trade and general international relations, each Power should designate how these matters should be dealt with, whether the old treaties shall continue or new conventions be made slightly adding to the old treaties and negotiating new ones. Any of these plans may be adopted, and when China has approved, further special regulations can be made in each case as required.

ART. 4. This convention will be made by China with the combined Powers to cover general principles which apply alike to all. This settled, the foreign ministers there should remove the seals they caused to be placed in various parts of the tsungli yamen. Then the yamen ministers may go to the yamen and attend to business as usual. And, further, each Power should arrange its own special affairs with China so that separate treaties may be settled in due order when the various items of indemnity are all arranged properly, or an understanding has been come to about them. Then the Powers will successively withdraw their troops.

ART. 5. The troops sent to China by the Powers were for protection of the ministers and for no other purpose; so when negotiations begin for treaties of peace, each Power should declare an armistice.

(Mr. Conger has merely acknowledged above, and awaits further instructions before replying; he states that the general negotiations should cover as many points as possible. The general treaty should

include, in addition to the above draft, (1) a complete statement of the purpose in landing troops in China; (2) the restoration of order and return of the Imperial Government or proof of its potential existence; (3) acknowledgment by the Imperial Government of liability for attacks on all foreigners, as well as ministers; (4) indemnity for expenses and wrongs, as well as losses, some general plan for measuring and paying same, and effective guaranties for the future; (5) provision for a defensible legation settlement and legation and railroad guards; (6) the substitution of a minister for foreign affairs instead of the Tsungli Yamen; (7) Chinese capital to be a treaty port; (8) adequate punishment of leaders and abettors of crimes against legations and foreigners.)

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*Mr. Rockhill to the Secretary of State.*

[Telegram—Paraphrase.]

HANKOW, *October 16, 1900.*

(Mr. Rockhill reports his arrival on the 15th instant. The viceroy inquires whether the United States would accept removal of personages guilty of present troubles, their names to be specified by the powers, to a place where it would be impossible for them to participate in the government of the country or to influence the Imperial Government, this to be done without prejudice, their punishment to be settled later, and proof of complete isolation to be satisfactory to the powers, as an indication of the ability and willingness of the Imperial Government to restore order and agree to open negotiations with plenipotentiaries now appointed. Viceroy asks that United States strongly urge acceptance of other powers on this being done, if acceptable. Viceroy's opinion is that this will expedite negotiations. He requests a reply to this suggestion. He is associated as negotiator with Ching and Li and Viceroy Nankin.

Mr. Rockhill will be in Shanghai Saturday.)

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*Mr. Hay to Mr. Rockhill.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, October 19, 1900.*

(Mr. Hay states that while the viceroy's suggestion is worthy of consideration it should be presented by the full board of negotiators. Assumes that Mr. Rockhill is going to Peking, where he will receive further instructions.)

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*Mr. Conger to Mr. Hay.*

No. 427.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, October 19, 1900.*

SIR: I have the honor to confirm, on the overleaf, my cipher telegram of the 16th instant<sup>1</sup> and to inclose copy of the convention submitted by Prince Ching and Earl Li Hung-chang, their note of

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<sup>1</sup>Printed ante.



submission and my acknowledgment thereof. The dean of the diplomatic corps also received a brief note requesting the ministers to visit the plenipotentiaries to discuss the proposed terms of settlement on the 20th instant or on any other day which might suit their convenience.

The German minister has not yet arrived; the new British minister is here, but has not yet taken charge; the French minister is ill, so there must still be some delay before commencing negotiations. In the meantime I hope to receive reply to my telegram of the 16th instant.

It will be useless for the foreign representatives to meet with the Chinese plenipotentiaries for discussion until the powers have more fully agreed among themselves. I still think it best, as I have already written you, and which I understand is in accordance with the views of the Department, that a convention—the most preliminary possible—should be made which shall include the restoration of order, the reestablishment of potential government, agreements to negotiate, how and when, guarantees of punishment, indemnities, and future protection of all foreign rights and interests; to be followed by due appointment of plenipotentiaries, who shall make as nearly as can be done a general final settlement, leaving as little as possible for separate negotiations between the separate powers. However, a purpose seems now to be indicated by most of the representatives here to let the very first negotiations include and settle as much as possible, and let separate negotiations with the various powers settle the rest.

The expeditions which left here and Tientsin for Paotingfu some days since met with no opposition on the way, and the city was surrendered on their approach without firing a gun.

We have no information of their determination as to proceeding farther into the interior or returning, though it is reported that the French and German troops will remain there indefinitely, the former because of their and the Belgian interest in the railroad, and the latter for what reason is not known.

Count von Waldersee is here, but further great international movements appear not to be necessary, Chinese soldiers, so says Li Hung-chang, having been ordered not to fire on or oppose the movements of the foreign armies in any way. This seems to be confirmed by the reports from Paotingfu expeditions, and indicates a practical suspension of hostilities in this province.

I have seen the French proposals and anxiously await your views thereon. Lord Salisbury telegraphed the British minister that all the governments have agreed to them.

I have the honor to be, etc.,

E. H. CONGER.

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[Inclosure 1.]

*Prince Ching and Li Hung-chang to Mr. Conger.*

PEKIN, October 15, 1900.

Prince Ching, by Imperial decree president of the Tsungli Yamen and minister plenipotentiary, and Li Hung Chang, Imperial commissioner and minister plenipotentiary with full powers; senior reader to the heir apparent; senior grand secretary state; minister of commerce; superintendent of trade for the northern ports; viceroy of Chihli and earl of the first rank, make the following communication to his excellency E. H. Conger, minister of the United States, etc.:

Last spring the Boxer bandits made their appearance around Peking and caused the most unheard of calamities; they multiplied so fast that at last they besieged the

foreign legations, and then the Powers sent troops to Peking and the court removed to a distant place. If anyone had predicted these events several months beforehand nobody would have believed him. But now the court is aware that these misfortunes came through the protection given the Boxer banditti by prince and ministers; these delinquents, therefore, are to be severely punished according to Chinese law as the proper tribunals may decide, and we, Prince Ching and Li Hung-chang, have been appointed plenipotentiaries with full power to open negotiations for peace at once and settle this affair. But our negotiations will not be confined to one country, nor will the questions be the same with all the countries concerned; add to this the unusual nature of the case, and it will be seen that the negotiations are beset with difficulties.

In view of this we think it will be better first to settle general questions with the combined Powers in a special convention applying to all, and then proceed to negotiate a separate treaty in detail with each Power as varying conditions will require. This done, the commercial treaties may then be settled if any changes are to be made in existing ones, and finally rules for application of treaty provisions in specified provinces may be made for the common benefit and lasting security of both high contracting parties.

We inclose herewith for your consideration, and that of the diplomatic corps, copy of a draft of the preliminary convention we propose, and we ask that your excellency will telegraph our proposals to your Department of State, with the view to an early settlement of these matters.

Besides sending you this copy, we have sent similar ones to your colleagues, and we now beg your excellency to consider this matter and favor us with a reply.

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[Inclosure 2.]

*Translation of inclosure with dispatch, dated October 15, 1900, from Prince Ching and Li Hung-chang, peace commissioners.*

His Majesty the Emperor, being oppressed with sorrow for the unexpected events of the past few months, has now appointed the writer, Prince Ching, to return to Peking to verbally express this sentiment, and has given to us—namely, Prince Ching and Minister Li Hung-chang—full plenipotentiary powers to settle all affairs that may come under discussion. As a preliminary we now submit the subjoined draft of articles proposed for a special convention between the combined powers and China.

ARTICLE 1. Laying seige to legations of foreign ministers is a high offense against one of the important principles of international law; no country can possibly tolerate such a thing. China acknowledges her great fault in this respect, and promises that it shall never occur again.

ART. 2. China admits her liability to pay indemnity for the various losses sustained on this occasion, and the powers will each appoint officials to examine and present all claims for final consultation and settlement.

ART. 3. As to future trade and general international relations, each power should designate how these matters should be dealt with—whether the old treaties shall continue, or new conventions be made slightly adding to the old treaties, or canceling the old treaties and negotiating new ones—any of these plans may be adopted, and when China has approved, further special regulations can be made in each case as required.

ART. 4. This convention will be made by China with the combined powers to cover general principles which apply alike to all. This settled, the foreign ministers will remove the seals they caused to be placed in various parts of the tsungli yamen, and then the yamen ministers may go to the yamen and attend to business as usual. And further, each power should arrange its own special affairs with China so that separate treaties may be settled in due order. When the various items of indemnity are all arranged properly, or an understanding has been come about them, then the powers will successively withdraw their troops.

ART. 5. The troops sent to China by the powers were for protection of the ministers and for no other purpose, so when negotiations begin for the treaties of peace each power should first declare an armistice.

NOTE.—The “separate treaties” mentioned in article 4 are distinct from commercial treaties in article 3; each treaty will have its own procedure. The titles and precedence of plenipotentiaries for insertion on the first page of the convention can be arranged at the meeting.

[Inclosure 3.]

*Mr. Conger to Prince Ching and Earl Li Hung-chang.*

No. 227.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, October 17, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCY: I have the honor to acknowledge the receipt of the note of your highness and your excellency transmitting a copy of a proposed convention by your highness and your excellency suggesting certain terms as a basis for a settlement of the recent troubles which made it necessary for foreign powers to bring troops into China.

I have, as you request, telegraphed the convention to my Government, and shall soon be ready to discuss it with you.

I avail myself of the occasion to assure your highness and your excellency of my highest consideration.

F. H. CONGER.

*Mr. Hay to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, October 19, 1900.*

(Mr. Hay acknowledges Mr. Conger's telegram of the 16th instant, and states that the Chinese propositions are, in the main, acceptable to the United States, with the incorporation of his suggestions and of points hereinafter expressed. If Mr. Conger's seventh suggestion means placing Peking on the footing of a treaty port, it is commendable.

The French proposition of terms, which was communicated to Mr. Hay on the 4th instant and replied to on the 10th, is probably now in Mr. Conger's possession. The United States accepts the first article, taking the Chinese punishment edict as a starting point; additional names to be suggested by representatives of the powers when negotiations are begun.

Second. It is not understood that interdiction of importation of arms is to be permanent; its duration and regulation proper subject of discussion.

Third. All the powers desire equitable indemnity, intention of acquisition of territory being positively disclaimed by all. The United States would favor Russian suggestion to remit the question to The Hague arbitration court in case of a protracted disagreement as to amount of indemnity.

Fourth. While now maintaining precautionary legation guards, the United States is unable to make permanent engagement without legislative authorization.

Fifth. As to dismantling Taku forts the President reserves opinion, pending further information in regard to the situation in China.

Sixth. The United States can not commit itself to participation in military occupation of the road from Tientsin. It would require legislation, but it is desirable that assurance be obtained from China by the powers of the right to guard legations and to have unrestricted access when required.

Mr. Hay is advised that the French proposition has been acquiesced in by all the powers, with more or less reservations, which, like his, are not calculated to embarrass negotiations. French note received the 17th instant urges that the powers agree to show to China their

readiness to negotiate by communicating, without prejudice to discussion of the points reserved as above, the French propositions, either severally or through the dean of the diplomatic corps. Mr. Conger is instructed to confer with his colleagues with a view to doing this. The United States is anxious to have the negotiations begin as soon as it and the other powers are satisfied of the Emperor's ability and power to deal justly and sternly with the responsible offenders, and the President so replied to an appeal of the Emperor, communicated by telegraph yesterday.

During the negotiations no opportunity to safeguard the principle of impartial trade, to which all the powers are pledged, should be lost.)

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*Mr. Hay to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, October 22, 1900.

(Mr. Hay states that he has learned, through the Italian ambassador, of Li's assurance of the Emperor's early return to Peking, and suggesting the return of the summer palace, which is favored by ministers of Italy and Austria. Any step which would tend to reinstate the Imperial authority and afford guaranty for the negotiation and execution of an effective settlement would be welcomed by the Government of the United States.)

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*Mr. Hay to Mr. Conger.*

No. 289.]

DEPARTMENT OF STATE,  
Washington, October 23, 1900.

SIR: I inclose for your information a copy of a letter from Mr. Thomas D. Holmes, stating that Major Siao, the Chinese military official of Kinhua, province of Chekiang, China, rescued him and his family and another family—eight persons in all—from certain death at the hands of a Chinese mob in that city, and that for this act of kindness Major Siao has been recalled to Hangchao and degraded.

The disgrace or other vindictive treatment of any official counseling friendly action toward foreigners, or aiding them in their perilous straits, is indirectly, but none the less effectively, a wrong to foreigners. A striking instance of this was seen in the decapitation of the two friendly members of the Tsungli Yamen and in the beheading of Chang Yen Hoon, formerly minister of China in Washington. Such acts not only deserve the severest censure, but persistence in their commission must inevitably impair, if not destroy, confidence in the protestations of the Chinese Government of its desire and purpose to punish the authors and abettors of antforeign outrages.

I am, etc.,

JOHN HAY.

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*Mr. Holmes to Dr. Hill.*

WESTFIELD, UNION COUNTY, N. J., October 18, 1900.

MY DEAR SIR: I, T. D. Holmes, was with my family about seven years in the interior of China. Last July we were hopelessly surrounded by a Chinese mob and were about to be murdered. But Major Siao, the military official of the city Kinhua, in

Chekiang Province, where we were, rescued us at the risk of his own life and gave us a private bodyguard and escort of twenty soldiers to Shanghai, and lent us \$100 besides. For this act of kindness I learn that he has been recalled to Hangchao and degraded. Can not our Government look into the matter, and through our ministers protest to the viceroy at Hangchao against such treatment? The man had been in that position for eighteen years and was a good official.

I beg that this matter may be looked into, for if he had not helped us two families (eight persons) would have been murdered.

I am, etc.,

THOMAS D. HOLMES.  
(Class 1890, U. of M.)

*Mr. Conger to Secretary of State.*

[Telegram—Paraphrase.]

PEKIN, *October 24, 1900.*

(Mr. Conger reports Earl Li's statement that Emperor has given no intimation of returning, and that no one can speak for him.

May have to accept as sufficient proof of Imperial authority the punishment of designated leaders and restoration of order, without Emperor's early return.)

*Mr. Hay to Mr. Conger.*

[Telegram—Paraphrase.]

WASHINGTON, OCTOBER 24, 1900.

(Mr. Hay states that the Emperor's intention to remove both Yangtze viceroys is reported by Wilcox. Directs Mr. Conger to consult his colleagues and protest energetically if such action is probable.)

*Mr. Rockhill to Secretary of State.*

[Telegram—Paraphrase.]

SHANGHAI, *October 25, 1900.*

(Mr. Rockhill reports that antforeign appointments in their provinces are rapidly undermining the power of the Yangtze viceroys, and that their own removal is not impossible. Their retention in present offices is essential, they being the only high officials sincerely desirous of peace. The Emperor should be notified that the United States must insist on it and will hold as unfriendly acts all antforeign appointments in Yangtze provinces.

The above has been telegraphed to the minister.)

*Mr. Hay to Mr. Rockhill.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, October 25, 1900.*

(Mr. Hay acknowledges Mr. Rockhill's telegram of this date in regard to viceroys, and states that Mr. Conger has already been instructed to investigate and, if the reported action is probable, to pro-

test. It appears that other powers will not appoint special commissioners to negotiate. The President will be glad if Mr. Rockhill will proceed to Peking to aid Mr. Conger with counsel and advice. His stay is left to his discretion. It is impossible to say how long negotiations will last.

Mr. Rockhill will pay special attention in final arrangement to open door, in regard to which he is thoroughly informed as to the wishes of this Government—the protection of American merchants and missionaries, the establishment of minister for foreign affairs instead of yamen, the punishment of guilty persons, the posthumous honors to friendly ministers of yamen and to Chang Yin-huan.)

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*Mr. Conger to the Secretary of State.*

[Telegram—Paraphrase.]

PEKIN, October 25, 1900.  
(Received via Taku, 26.)

(Mr. Conger states that the reported intention to remove Yangtze viceroys is said by Li to be untrue.)

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*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, VIA TAKU, October 26, 1900.

(Mr. Conger reports the unanimous agreement of the diplomatic corps to demand, as Article I in treaty, as an ultimatum, the death of the nine persons named in the decree referred to in his telegram of October 3, adding Tung Fu-hsiang and Yu Hsien, and designating others for commensurate punishment when discovered. Asks if Department approves. He advises it.

Has made protest against removal of the Yangtze viceroys or the appointment of reactionary officials.)

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*Mr. Rockhill to Mr. Hay.*

No. 18.] COMMISSIONER OF THE UNITED STATES TO CHINA,  
*Shanghai, China, October 27, 1900.*

SIR: I have the honor to transmit to you herewith what purports to be the translation of an imperial decree issued on the 13th instant, giving the reasons for the Emperor's flight from Peking and the conditions under which he will return.

The phrase "insist on our performing those things which we can not do" seems to apply to the much-apprehended demands of the powers for the punishment of the Dowager Empress.

The decree as here given is genuine. Of this I have no doubt. \* \* \*

I am, sir, etc.,

W. W. ROCKHILL,  
*United States Commissioner.*

[Inclosure.—North China Daily News, October 27, 1900.]

*Court to return to Peking on certain conditions.*

We translate the following decree, published in the Shên-pao yesterday morning, purporting to have been issued on the 13th instant, and received by Prince Ching and Li Hung Chang on the 21st instant.

We have received the memorials of Liu K'unyi and others, praying that when matters become settled the court shall return, and that a decree be issued beforehand informing all of this purpose. With regard to the present troubles, originating in hostilities between Boxers and converts, it having transpired that there was great difficulty in suppressing them, the disturbances became so widespread that they created war with our neighboring countries and finally so disturbed the court that we were compelled to escort Her Imperial Majesty the Empress Dowager out of Peking under a rain of bullets and flee in confusion to the west, undergoing much suffering and inconvenience therein. We feel that our viceroys and governors, when they hear of this, can not possibly bear to think of what we have suffered.

We have already issued a decree accusing ourselves of inability to govern properly, and we have also denounced the princes and high ministers who have failed in their duty, and have ordered them to be severely punished therefor, in proportion to their various degrees of guilt. This was because we desired speedy negotiations for peace, in order that we might settle upon an early date for the court's return. This was necessary to put our empire on a firm basis and calm the hearts of our people. There was, indeed, no intention of ours to willingly and lightly abandon our capital and selfishly seek peace for ourselves far away.

At present Prince Ching and Li Hung Chang are in Peking with the purpose of opening negotiations for peace with the ministers of the foreign powers, which have not yet, however, begun, while foreign troops hold the various parts of the capital, making it difficult for both officials and well-behaved people to go about at ease. Hence we would ask how we are to be treated if the court suddenly returns to Peking? But only let the foreign powers show sincerity in their desire for peace; let them not take away our independence, of action or forcibly insist on our performing those things which we can not do; then as soon as the negotiations are carried out we will surely issue, on that very day, notice of the day of departure of the court back to Peking. Our present journey to Hsian was originally intended as a temporary measure, concerning which we have already clearly given due notice by a former decree. This was a step which force of circumstances compelled us to undergo, with all its troubles and sufferings to ourselves. And this, we feel sure, all our officials and people throughout the empire clearly know and sympathize with us. Hence we feel surprise that the said memorialists, with all their weight of years and experience in governing the empire, should not consider these circumstances. It is our earnest hope, therefore, that our viceroys, etc., carefully guard the frontiers of their several jurisdictions and diligently send us supplies (during our absence from the capital).

Let the above decree be sent, at the rate of 600 li a day, to Prince Ching, Li Hung Chang, Cho Hôpu (Tartar general of Szechuan), Shou Yin (Tartar general of Canton), Ch'ang En (Tartar general of Hangchow), Shan Lien (Tartar general of Foochow), Liu K'unyi, Chang Chihtung, Hsü Yingk'uei, Wei Kuangtao, Te Shou, Yü Yinlin, Yü Liensan, Yuan Shihkai, Liu Shutang, Wang Chihch'un, Nieh Chihkuei, and Shêng Hsüanhuai.

*Mr. Conger to Mr. Hay.*

No. 431.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, October 27, 1900.*

SIR: I have the honor to confirm, on the overleaf, my cipher telegram of the 26th instant,<sup>1</sup> and to say that on yesterday the several foreign ministers met to formally begin the discussion of terms of settlement to be presented to the Chinese plenipotentiaries. Each had been instructed that all the powers had agreed substantially or in principle with the French proposition, and as the question of punishments was the first of these it was the first taken up. After much

<sup>1</sup> Printed ante.

discussion it was unanimously decided that the punishment of death should be demanded for eleven officials, whom it is agreed by all foreign ministers and Chinese Government are chiefly responsible for the crime committed, to wit, Princes Tuan and Chuang I (Pu Ching), Tsai Lien, and Tsai Ying, Duke Lan, Tung Fu-hsiang, Yu Hsien, Kang I, Chao Shu-chiao, Ying Nien. The manner of their death was much discussed, but it is believed that whatever we demanded most of them would either voluntarily or by Imperial order commit suicide, and so we simply say "death." I have to-day received a note from Li Hung-chang informing me that Kang I had died and that Governor Yu Hsien had taken his own life by swallowing gold leaf.

The details that come to us of the horrible murder and mutilation of our missionaries in the interior are so frightfully shocking that less severe punishment can not be asked, and I believe the Chinese Government are so impressed by the terrible results of their efforts to get rid of the foreigners that they will readily accede to our demand, unless the court is held in the power of those who are to be thus punished; but, whether or no, they should be made to do it and to furnish ample and satisfactory proof of its accomplishment. Provision must also be made for adequate punishment for all provincial and local officials who may be proved to be in any way responsible for or accessory to the crime.

I inclose copy of my correspondence with Prince Ching and Li Hung-chang regarding the rumored probability of removal of the Yangtze viceroys.

I have the honor to be, etc.,

E. H. CONGER.

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[Inclosure 1.]

*Mr. Conger to Prince Ching and Li Hung-chang.*

No. 232.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, October 26, 1900.*

YOUR HIGHNESS AND YOUR EXCELLENCY: Reports are reaching me from several sources that reactionary and disturbing officials are being appointed in the Yangtze provinces; that the power of the viceroys is being thus undermined, and the removal of the viceroys Liu Kun-i and Chang Chih-tung is contemplated. I can not believe this, for such appointments or removals would be acts most unfriendly toward the foreign powers who are now trying to negotiate a settlement of the troubles which China has unfortunately brought upon herself.

And yet the matter is so important that I am constrained to file a formal and energetic protest against such action, and respectfully request your highness and your excellency to communicate it to the Emperor by telegraph.

I avail myself of this occasion to renew to your highness and your excellency the assurance of my highest consideration.

E. H. CONGER.

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[Inclosure 2.]

*Prince Ching and Li Hung-chang to Mr. Conger.*

No. 203.]

PEKIN, *October 27, 1900.*

YOUR EXCELLENCY: We have just received your excellency's communication in which you state that reports have been reaching you that reactionary disturbing officials are being appointed in the Yangtze provinces; that the power of the viceroys is being undermined and the removal of the viceroys of the two Hu provinces and of Nanking is contemplated, but that you can not believe this, etc.



In reply we have the honor to say that it is very evident from your excellency's communication that you are sincerely friendly in your intercourse (with us), for which we feel exceedingly grateful.

We would observe, however, that in regard to the two viceroys—Liang Hu provinces and Nanking—a decree was recently issued appointing these officers to consult with us in arranging terms of peace, and they are granted the position of minister plenipotentiary. The court certainly relies on the position of these officers, and they certainly have not been removed from their respective posts. Even supposing that the idea of [their removal] emanated from persons who are opposed to them, still the fact of their being high officials of the Government would certainly prevent them from venturing to defeat or overthrow them before the very presence of the Throne. We may inform your excellency that we have never heard of the reports to which you allude, and even your excellency also knows that they certainly are not really true.

In sending this communication in reply to your excellency, which we beg you will take due note of, we ask you not to listen to false reports.

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*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, *October 28, 1900.*

(Mr. Conger asks if indemnity for Chinese Christians shall be demanded, and states that such demand is strongly opposed by the Russian minister.)

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*Mr. Rockhill to Mr. Hay.*

No. 17.] COMMISSIONER OF THE UNITED STATES TO CHINA,  
*Shanghai, China, October 28, 1900.*

SIR: I have the honor to confirm as follows my telegram to you of yesterday's date:

Have reliable information to the effect that Yu Hsien committed suicide 22d.

This information was wired yesterday to Sheng Taotai by Viceroy Chang Chih-tung, and is therefore, I think, reliable.

In this connection I may state that I have been informed by various Chinese officials, and seen it also mentioned in the native press, that Prince Tuan and Prince Chuang have not accompanied the court to Hsian Fu, but have remained, whether by Imperial order or not I do not know, in T'ai-yuan Fu, in Shan-hsi. General Tung Fu-hsiang is said to have left the court and to have started westward to Kansu, his native province, accompanied by most of his troops.

Kang-Yi died, I believe without doubt, a few weeks ago in Shan-hsi, and the grand secretary, Hsu Tung, has committed suicide. Yung Lu is with the court.

It is also reported, but on insufficient grounds, that the heir apparent, Pu Chun, Prince Tuan's son, is dead.

It is thought that it will be more difficult to secure the person of Tung Fu-hsiang than that of any other of the guilty officials, on account of the devotion of his troops to him. The capital punishment of Prince Tuan will not probably meet with the great opposition foreigners have been led to expect.

I am, sir, etc.,

W. W. ROCKHILL,  
*United States Commissioner.*

*Mr. Hay to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, October 29, 1900.*

(Mr. Hay acknowledges Mr. Conger's telegram of the 26th instant. The President thinks that before submitting the proposed ultimatum, therein referred to, the Chinese Government should be advised that the ministers are in possession of indubitable evidence of the guilt of the nine persons named in the edict, and others, and it should be ascertained from that Government what punishment it proposes to inflict upon them. Should such punishment not be adequate, further action to secure compliance with just demands can be considered and determined.)

*Mr. Hay to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, October 30, 1900.*

(Mr. Hay states that peremptory demand should be made for securing religious liberty and rights and full guaranties in the future for Chinese Christians not technically under our protection, as well as exemplary punishment of those who have wronged them. The existing treaty entitles us to this. Should the Chinese Government be inclined to allow them compensation for their losses and sufferings, it should be accepted as an evidence of desire to make all due reparation, and Mr. Conger is directed to use every endeavor to promote such a result.)

*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, *November 1, 1900 (VIA TAKU, November 3).*

(Mr. Conger acknowledges receipt on November 1 of Department's telegram of October 29, and reports that formal acknowledgment of the criminal responsibility of the eleven persons named has been made by the Chinese Government. His colleagues unanimously agree that their case would be greatly weakened and the negotiations would be jeopardized should the Chinese Government be asked the punishment it proposed to inflict. The foreign ministers have so far, in addition to the punishment of the leaders, unanimously agreed to the following:

First. The prohibition, at the discretion of the powers, of the importation of arms.

Second. The suppression for two years of civil and military examinations in criminal districts, and the decreeing of death punishment for future members of boxer organization.

Third. Indemnities for governments, societies, individual foreigners, and Chinese employed by foreigners.

Fourth. Legations shall have the right to put legation quarters in a state of defense and to establish permanent guards, and to occupy certain points to assure free communication between the capital and the sea.

Fifth. The destruction of Taku and other forts which might interfere with such communication.

Sixth. The substitution for the Tsungli Yamen of minister for foreign affairs.

Seventh. Court ceremonials similar to those in European countries.

Other questions are still under discussion. When ministers shall have agreed they intend to meet the Chinese plenipotentiaries and present the conditions as a whole.

(Asks if Department approves.)

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*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, *November 6, 1900.*

(Received via Taku November 7, 1900.)

(Mr. Conger reports that the ministers have all agreed that provisions for suitable reparation for the murder of Baron von Ketteler should be made in the general treaty. The following is agreed to by all except Russian and French ministers:

First. The Chinese Government should undertake to negotiate hereafter on lines which it may seem convenient for the foreign powers to propose, for the requisite amendment of commercial treaties and other subjects relating to commerce and navigation.

Second. The Chinese Government shall undertake such financial measures to guarantee the payment of an indemnity and the interest on Government loans as may be indicated by the foreign powers.

Third. As a further guaranty against future troubles an Imperial edict shall be issued and published everywhere in the Empire making all vice royal, provincial, and local officials responsible for order in their respective jurisdictions, and whenever antiforeign disturbances or any other infraction of treaties occur therein which are not immediately suppressed and the responsible parties punished, the said official shall at once be removed and prohibited forever thereafter from holding office or receiving official honors.

Mr. Conger states that all of these points are very important, and believes that, even if a separate convention with the powers agreeing should be necessary, they should be insisted upon.)

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*Mr. Hay to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,

*Washington, November 9, 1900.*

(Mr. Hay, replying to Mr. Conger's telegram of the 1st instant, states that the seven proposed conditions are approved by the President, who thinks dismantling Taku forts would be preferable to their

destruction, and suggests consultation on this point with military commander.

Replying to Mr. Conger's telegram of the 6th instant, Mr. Hay states that the first and second conditions, especially the second, appear to be practical safeguards for the future. If the powers can not agree on the first condition, this Government would reserve the right to negotiate in that sense with China, independently but coincidentally with the powers entertaining the same view. The third condition would appear to devolve responsibility too completely on the local authorities. The President is of the opinion that the primary responsibility of the Chinese Government should be emphasized, the suggested accountability and provisions for punishment of delinquent local authorities being merely one phase of the enforcement of the supreme obligation to repress, punish, and make adequate reparation for treaty infractions. The President regards as of greatest importance prompt agreement upon bases of settlement, and would regret if divergence upon essential points should necessitate separate convention with powers agreeing upon such points, as is intimated by Mr. Conger.

The moral effect of unanimous concert can hardly be overestimated.)

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*Mr. Hay to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, November 9, 1900.

(Mr. Hay states that Department's instructions of October 29 still express the views of the President.

Formal acknowledgment of responsibility of the eleven persons named having been made by the Chinese Government, Mr. Conger is directed to insist upon their severe and adequate punishment, though the President does not undertake to determine what the punishment shall be in each case. It is important that the negotiations be not defeated or greatly delayed.)

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*Mr. Hay to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, November 16, 1900.

(Mr. Hay directs Mr. Conger to try to arrange before negotiations close, if possible, that Peking may be made a treaty port and that the Chinese minister for foreign affairs shall be required to speak some foreign language. This Government favors lump sum for indemnity, distribution among the powers to be subsequently arranged, possibly by arbitration. Repeats suggestion as to posthumous honors to the three friendly Chinese statesmen. It would be advisable to provide against arbitrary execution, without trial, of high officers of state.

Mr. Conger is to keep always in view and to urge in conference the consideration that impossible terms must not be asked, which would only result in the defeat of the purposes aimed at.)

*Mr. Hay to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, November 16, 1900.*

(Mr. Hay, replying to Mr. Conger's telegram of the 14th instant, states that this Government favors securing foreign rights at treaty ports by adequate foreign concession, either as an international settlement or separate for the interested nations; but forcible appropriation, under claim of conquest, conflicts with the declared purposes of the powers and disturbs their harmonious action. Mr. Conger's protest is approved. We think the matter should be conventionally adjusted as part of the general arrangement, in which the rights of the United States of America should be reserved to an impartial share.)

*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, *November 16, 1900.*

(Mr. Conger reports the decapitation at Paotingfu of the provincial treasurer, a Tartar general, and a lieutenant-colonel, under sentence of military court, approved by field marshal.)

*Mr. Conger to Mr. Hay.*

No. 451.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, November 16, 1900.*

SIR: Confirming on the overleaf my dispatch of this date, I have the honor to report that while the military expedition of the allied forces were at Paoting-fu, a court of inquiry was organized and 5 Chinese officials were tried and 3 of them sentenced to decapitation, viz, Ting Yung, the provincial treasurer, who, at the time of the murder of the missionaries last July, was provincial judge; Kuei Heng, the chief Tartar official of the city, and Wang Chan-kuei, a lieutenant-colonel of the Chinese army, who, with his command, stood idly by while the murders were committed.

The present provincial judge, Shen Chia-pen, was recommended to be degraded and to be kept under military restraint until the appointment and arrival of his successor.

The taotai, T'an Wen-huan, was recommended to be sent to Tientsin for trial.

The sentences were approved by Field Marshal Count von Waldersee, and on the 6th instant the three first were duly executed.

For their connection with and gross negligence in the presence of the atrocious butchery of the helpless missionaries these men richly deserved the punishment inflicted; but, under all the circumstances, and in view of the present negotiations for a settlement, I apprehend a wiser course would have been to hold the prisoners for execution by the Chinese authorities under a peremptory demand by the powers.

The whole movement has greatly frightened the court and will make its early return to Peking more difficult and less probable.

It was known to the allied forces sending out this expedition that orders had been previously given by Li Hung-chang to the Chinese soldiers to make no resistance, and the provincial and city officials at Paoting-fu were instructed to come out and meet them and give them a friendly reception.

I have the honor to be, etc.,

E. H. CONGER.

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*Mr. Conger to Mr. Hay.*

[Telegram.]

PEKIN, *November 19, 1900.*

(Mr. Conger reports that by a new Imperial decree, dated November 13, punishment of persons mentioned in Imperial decree of September 25 is fixed. In every case the punishment is totally inadequate and is considered as farcical by the diplomatic corps.)

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*Mr. Conger to Mr. Hay.*

No. 455.]

LEGATION OF THE UNITED STATES,  
*Peking, China, November 20, 1900.*

SIR: I have the honor to confirm, on the overleaf, your cipher telegram of the 16th instant.<sup>1</sup>

When we reach the matter of reformation of the Tsungli Yamen, I will present the requirement that the minister for foreign affairs shall be able to speak some foreign language. But I fear that this will limit the choice to a very small number of mostly young men, and preclude the selection of the stronger, better educated men of China.

We are discussing the question of Peking as a treaty port, but in order to reach an agreement on the preliminary demands, I fear this will have to be deferred to a later period in the negotiations.

As to the demand for posthumous honors, I have conferred with my colleagues, and I find that this too must come later in the negotiations, if at all. With the exception of Chang Yin-huan, it is not known how thoroughly the others interested themselves in foreigners or foreign affairs. So far as our relation with them at the Tsungli Yamen was concerned, their friendship toward foreigners was notable only in contrast with the intense antiforeign sentiments of their colleagues.

I will urge the agreement upon a lump sum for indemnity, at the proper time, and think if that plan can be adopted it will expedite final settlement. I have from the start tried to make the preliminary demands as general and as simple as possible, in order to avoid asking impossible terms, which might defeat the purposes aimed at. I have been afraid that if we demand, in the beginning, the death of all the strong men surrounding the court, their execution will be impossible,

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<sup>1</sup> Printed ante.

because there will be nobody to perform the work, and it is hardly to be expected they will execute themselves.

General Tung Fu-hsiang has command of all the troops with the court, and is practically master of the situation, and I have urged my colleagues to leave his name out of the first demand, so that he might carry out the Imperial order for the execution of the others; but my colleagues are unanimous in their insistence that in view of the leading part he and his troops have taken in the whole antiforeign movement, his name must be included in the very first demand, and, if the impossibility of compliance is made evident, some different arrangement can be made as the negotiations progress.

You will observe from this that the word "ultimatum," which I have used in my telegrams, is not to be taken in its usual sense, of meaning a fixed period within which demands must be complied with or hostilities will begin, but rather as an irrevocable decision, with a sort of mental reservation, that, in case of meeting actual impossibilities, it may be slightly changed. We have found it rather difficult to secure an agreement of the ten ministers upon all points, so several compromises have had to be made. We have, however, finally agreed in principle upon all the points named in my telegrams, except the one which requires China to agree to adopt such financial measures as the powers may indicate, to guarantee the payment of the said indemnities and the interest on the public loan.

I fully appreciate the importance of a speedy termination of negotiations. Trade is at a standstill. The revenues of China are falling off at the rate of half a million dollars per month; the expense of these great armies is adding so rapidly to her liabilities, that soon it will be impossible for her to pay. Practically all missionary work is suspended, the business of our manufacturers and exporters at home is suffering, and unexpected internal disturbances may arise to further complicate matters at any time. Yet I think no settlement should be made that is not reasonably comprehensive, with an assurance of permanency and adequate guarantee for the future.

I have the honor to be, etc.,

E. H. CONGER.

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*Mr. Conger to Mr. Hay.*

No. 454.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, November 20, 1900.*

SIR: I have the honor to confirm, on the overleaf, my telegram of the 19th instant,<sup>1</sup> and also to inclose a copy of the decree therein mentioned. The punishments are all grossly inadequate, and by no means commensurate with the crimes. Prince Tuan, the chief patron of the Boxers, and the responsible leader of the movement, is only stripped of his titles and banished to Moukden, the capital of Manchuria. The other princes are treated still more leniently. The two members of the tsungli yamen, Ying Nien and Chao Shu-chiao, who were also patrons of the Boxers and directors of their movements, are simply

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<sup>1</sup> Printed ante.

degraded but remain in their high offices. Yu Hsien is punished a little more severely, but since he himself is responsible for the commencement of the Boxer movement in Shantung, and later for the murder of our missionaries in Shansi, and of which he, as governor of that province, boasts, nothing but death is a fit punishment for him.

I have the honor to be, etc.,

E. H. CONGER.

[Inclosure 1.]

*Translation of an Imperial decree.*

On the 13th of November the grand secretariat received the following decree: The present calamity is due to the ministers of state having participated in and protected the Boxer banditti movement which has embroiled us in trouble with friendly nations and caused injury in our state.

We some time ago issued our decree ordering that various degrees of punishment should be meted out to the guilty. At the present time the Boxers have not been completely suppressed in the vicinity of Peking, and as a consequence the country is oppressed, the people are in distress. On reflecting on this condition of things we can not but express a feeling of bitter hatred. If strenuous punishment is not inflicted on the guilty, we will not be able to conciliate popular feeling and appease the anger of friendly nations.

Let Prince Tuan (Tsai I) be deprived of his rank or title of nobility, and together with Prince Chuang, already degraded, be temporarily handed over to the Imperial clan court to be imprisoned within high walls, and after military operations have ceased they are to be transferred to Moukden to be imprisoned for life.

The degraded Prince I (Pu Ching) and degraded prince of the second order, Tsai Ying, are in like manner to be handed over to the Imperial clan court to be imprisoned within high walls. Prince Tsai Lien has already been deprived of his title of nobility. Let him be kept within closed doors, so that he may reflect on his misdeeds.

Let Duke Lan be deprived of his entire salary and emoluments of office and degraded one step and transferred to another post.

Let Ying Nien, president of the censorate, be degraded two steps and transferred to another post.

Kang I, formerly assistant grand secretary and president of the board of civil office, was deputed to investigate the matter of the Boxer bandits, and on his return to Peking memorialized us, in which he said a great deal in favor of protecting and screening the Boxers. He should be vigorously punished, but he is dead and there is no need to further consider his case.

Chao Shu-chiao, president of the board of punishments, was sent to investigate the matter of the Boxer bandits, but he returned to Peking the next day. He certainly performed the duty imposed upon him in a careless manner. In his report, however, he did not present a trumped-up story. Let him be deprived of his rank, but allowed to retain office.

The degraded governor of Shansi—Yu Hsien—while holding office tolerated and acted in an easy-going way toward the Boxer bandits, resulting in the murder of missionaries, and the circumstances attending his action are very serious. Let him be deported to the frontier to do hard service and never allowed to return.

We are thoroughly conversant with this matter from the very beginning. Take, for instance, the cases of Prince I, Tsai Lien, and Tsai Ying in the successive memorials from the various high ministers in Peking and the provinces denouncing certain officials; their names were not mentioned. Further, the names of these three princes were not even mentioned in the telegraphic memorials from our ministers abroad; but, acting upon the real facts, we, in like manner, punish them. Thus it may be perceived that the punishment, light or heavy, we have inflicted on these persons is perfectly just throughout, and not the least partiality has been shown. We think the whole world will now excuse us.



[Inclosure 2.]

*Translation of telegram from cabinet ministers to peace commissioners.*

A decree was issued to-day inflicting rigorous punishment on the high ministers who had been connected with the present calamity. But in the case of Tung Fu-hsiang it is difficult to suddenly deprive him of his military power and properly punish him. We presume you have seen our last telegram about this. It should be attended to later on. This may be frankly explained to the foreign ministers to avoid misunderstanding and possible trouble for the Government.

From Yung Lu, Wang Wen-shao, and Lu Chuan-lin, 13th November.

[Inclosure 3.]

*Decree issued to Prince Ching and Li Hung Chang, and sent by telegraph.*

We have inflicted severe punishment on the ministers of state who have brought about the present calamity, by the issuance of our edict to-day. It will be seen that we have not screened them, but punished them as they deserve. Prince Ching and Li Hung Chang are to at once explain this to the foreign ministers and shortly commence negotiations. If there be any further delay which will hinder this business the said prince and minister will be held responsible.

*Mr. Hay to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, November 20, 1900.

(Mr. Hay states that the President is most solicitous that the present negotiations shall not fail, either through the presentation of demands with which it may be impossible for China to comply or by reason of a lack of harmonious cooperation among the powers. The President, confiding in Mr. Conger's experience and wisdom, has left him large discretion as to details, and prefers still to follow that course. The President desires Mr. Conger, however, to consult with his colleagues and to seriously consider whether the presentation of a list of high Chinese officials and the demand for their capital punishment, as an ultimatum, may not result in a failure of negotiations through confession by China of inability to carry out all the death sentences. The United States Government, in common with the other powers, desires and must exact the severe and exemplary punishment of those high officials whose crimes have shocked the civilized world, but the President thinks it would be most unfortunate if the powers, having presented an ultimatum to which China may possibly not be able to give effect, should be compelled either to withdraw their demands or to enforce them by a course of action which all deprecate and which would entail consequences impossible to foresee.)

Mr. Hay further states that similar considerations apply to the question as to the amount of indemnity to be demanded. The President favors the exaction of a lump sum, not beyond the limit of China to pay, to be hereafter equitably distributed among the interested powers. He directs Mr. Hay to repeat to Mr. Conger the instructions heretofore frequently given—that in view of the serious complications which may result from delay, Mr. Conger use every endeavor to bring the negotiations to a speedy and satisfactory close.)

*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, *November 21, 1900.*

(Mr. Conger refers to his telegram of the 6th November, and states that the Russian minister is still opposed to the second proposition, and that the German and English ministers have, for the present, instructions not to sign the note without it. Mr. Conger deems it one of the most important demands. He asks instructions upon the suggestion in the last paragraph of his telegram of the 6th, Mr. Hay's telegram of the 9th not covering that point. The Department's reply will be anxiously awaited.)

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*Mr. Hay to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, November 23, 1900.*

(Mr. Hay answers Mr. Conger's telegram of the 21st, stating that the United States Government favors the second proposition in Mr. Conger's telegram of the 6th, but does not wish to embarrass the general negotiations by insisting upon it. He states that if Mr. Conger means, by the suggestion in the last paragraph of his telegram of the 6th, the contingency of separate conventions between China and the powers agreeing to the three conditions, this Government thinks for China to suppose such separate treaties possible might seriously obstruct the general convention upon points concerning which all the powers are agreed. He adds that a general convention is of the first importance, and that, when concluded, each power has, of course, liberty to negotiate upon any points not therein expressed.)

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*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, *November 23, 1900.*

(Mr. Conger acknowledges the receipt of Mr. Hay's telegram of the 20th and reports that all his colleagues are of the opinion that capital punishment can be inflicted upon the persons named, with the exception, possibly, of Tung Fuh-hsiang, whose services may be needed to punish others. Nevertheless his colleagues insist on including his name in the demand, but are disposed to modify it as regards that officer after the presentation of the demand to the Chinese plenipotentiaries upon a satisfactory demonstration by the Chinese Government of its inability to carry out the sentence in his case. Mr. Conger adds that he will do everything possible for a speedy conclusion of the negotiations.)

*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, *November 24, 1900.*

(Mr. Conger reports the unanimous agreement of all the ministers to the demands enumerated in his telegrams of October 26, November 1, 6, 21. He refers to his telegram of the 23d, and adds that the ministers now only wait for some of their number to receive instructions to sign the joint note.)

*Mr. Conger to Mr. Hay.*

LEGATION OF THE UNITED STATES,

*Pekin, China, November 26, 1900.*

No. 459.]

SIR: I have the honor to confirm on the overleaf my telegram of the 24th instant,<sup>1</sup> and to inclose a copy of the note setting forth the demands which it is proposed to present to the Chinese plenipotentiaries, either jointly or in identic notes. Some of the ministers have not been instructed whether to sign joint or identic notes. I am aware that ordinarily our Government is not in favor of joint action with European powers, but this is so plainly a world-wide question, and the necessity of strengthening our demands by unanimity, as well as by every other means, is so apparent; and being convinced that a joint note will be much more effective than separate notes, and will consequently hasten the final settlement which the President and yourself justly deem so important, I have felt myself authorized to sign a joint note, and shall do so, if all the other ministers are so authorized. If not, we will send in identic notes.

The agreement of the Russian minister to the last paragraph of demand No. 5 was obtained by employing the words "measures acceptable to" instead of "'indicated by' the foreign powers."

There have been some concessions made by each minister in order that we might reach an agreement. In consequence, the demands are not exactly in accordance with the letter of your instructions, but are as near with their spirit as seemed possible to come to an agreement upon. I tried to have no names mentioned in connection with the death penalties, simply saying all those mentioned in the decree of September 25, and such others as should be designated. Then I tried to have the name of Tung Fu-hsiang left out, in order to have him and his soldiers to punish the others. I also urged the dismantling instead of razing the Taku forts. But I was almost alone on all these propositions, and to have insisted upon them would have delayed indefinitely the negotiations. Therefore, in order to facilitate negotiations, and secure the agreement of my colleagues to other important propositions, so that negotiations might begin, I yielded on these. If, therefore, the governments all approve and authorize their representatives to sign, we ought to be ready to meet the Chinese plenipotentiaries in a very few days. \* \*

Although the note inclosed has been definitely agreed upon, it is possible that by the direction of some of the governments changes may be necessary. Should this, however, occur, I will immediately inform you.

I have the honor to be, etc.,

E. H. CONGER.

[Inclosure.]

*Translation of amended text.*

During the months of May, June, July, and August of the present year serious disturbances broke out in the northern provinces of China, and crimes unheard of in human history, crimes against the law of nations, against the laws of humanity, and against civilization, were committed under particularly odious circumstances. The principal of these crimes were the following:

1. On the 20th June H. E. Baron von Ketteler, minister of Germany, proceeding to the tsungli yamen, was murdered while in the exercise of his functions by soldiers of the regular army acting under orders from their chiefs.

2. The same day the foreign legations were attacked and besieged, these attacks being continued without interruption until the 14th of August, on which date the army of foreign troops put an end to them. These (attacks) were made by regular troops who joined the Boxers and who obeyed orders of the court emanating from the Imperial palace. At the same time the Chinese Government was declaring officially, through its representatives near the powers, that it guaranteed the security of the legations.

3. A member of the legation of Japan, in the discharge of an official mission, was killed by regulars at the gates of the city. In Peking and in several provinces foreigners were assassinated, tortured, or were attacked by Boxers and regular troops, and only owed their salvation to their determined resistance. Their establishments were pillaged and destroyed.

4. Foreign cemeteries, particularly in Peking, have been desecrated, the tombs opened, the remains scattered.

These events led the foreign powers to send their troops to China to protect the lives of their representatives and their nationals and to restore order. In their march on Peking the allied forces met with the resistance of the Chinese armies and had to overcome it by force.

China having recognized its responsibility, expressed its regrets, and manifested the desire to see an end put to the situation created by the disorders referred to, the powers have resolved to accede to its request on the irrevocable conditions enumerated below, which they deem indispensable to expiate the crimes committed and prevent their recurrence.

1. (a) Dispatch to Berlin of an extraordinary mission, led by an imperial prince, to express the regrets of His Majesty the Emperor of China and of the Chinese Government for the murder of his excellency the late Baron von Kettler, minister of Germany.

(b) Erection on the place of the murder of a commemorative monument worthy of the rank of the deceased, bearing an inscription in the Latin, German, and Chinese languages, expressing regrets of the Emperor of China for the murder.

2. (a) Death penalty for Princes Tuan and Chuang, Duke Lan, Yien Nien, Kang Yi, Chao Shu-chiao, Tung Fu-hsiang, and Yu Hsien and those whom the representatives of the powers shall later on designate. Exemplary punishment proportionate to their crimes for the other personages named in the imperial decree of September 25, 1900, and for those whom the representatives of the powers shall later on designate.

(b) Suspension of all official examinations for 5 years in all cities in which foreigners have been massacred or have been subjected to cruel treatment.

3. An expiatory monument shall be erected by the Imperial Chinese Government in each of the foreign or international cemeteries which have been desecrated and in which the tombs have been destroyed.

4. Maintenance, under conditions to be settled between the powers, of the interdiction of the importation of arms as well as of material for the manufacturing of arms and munitions.

5. Equitable indemnities for the governments, societies, and individuals, as well as for the Chinese who have suffered during the late events in person or property on account of their being in the service of foreigners.

China shall adopt financial measures acceptable to the powers, for the purpose of guaranteeing the payment of said indemnities and the interest on loans.

6. Right for each power to organize a permanent guard for its legation and to put the diplomatic quarter in a state of defense. Chinese shall not have the right to reside in this quarter.

7. The forts of Taku and those which could prevent free communication between Peking and the sea shall be razed.

8. Right to occupy militarily certain points, to be settled on by an understanding between the powers, for keeping open communication between the capital and the sea.

9. The Chinese Government shall have posted during two years in all subprefectures an imperial decree stating—

(a) Perpetual prohibition, under pain of death, from belonging to any antiforeign society;

(b) Enumerating of the punishment which shall have been inflicted on the guilty, together with the suspension of all official examinations in the cities where foreigners have been murdered or have been subjected to cruel treatment;

(c) An impartial edict shall be made and published throughout the Empire declaring that the governors-general and governors and all provincial or local officials shall be responsible for order in their jurisdiction, and that in case of fresh troubles or other infractions of treaties and in case of acts of hostility against foreigners which shall not have been immediately repressed and the guilty persons punished, these officers shall be at once removed from office and may not be recalled to new functions or receive new honors.

10. The Chinese Government pledges itself to negotiate the amendments deemed useful by the foreign representatives to the treaties of commerce and navigation and upon other subjects relating to commercial relations, with the object of facilitating them.

11. The Chinese Government pledges itself to reform the office of foreign affairs and to modify the court ceremonial concerning the reception of foreign representatives in the sense which the powers shall indicate.

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*Mr. Hay to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, November 27, 1900.

(Mr. Hay acknowledges Mr. Conger's last telegram and states that he has received fuller reports of the conferences from the Japanese minister. The President disapproves the word "irrevocable" as apparently equivalent to the ultimatum to which he understands all the powers are opposed. The President gravely questions whether it will be possible to have the death sentences executed in all cases. He also doubts the advisability of the clause prohibiting the importation of materials which enter into manufacture of munitions of war. Mr. Conger is instructed to present the foregoing views to his colleagues, and, after urging them, to advise the Department of the result. He is directed to submit for the President's consideration, before signing, copy of the identical note.)

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*Mr. Conger to Mr. Hay.*

[Telegram—Partly paraphrased.]

PEKIN, December 4, 1900. (Received December 5.)

(Mr. Conger states that he communicates below the full text of the note as amended and that day finally agreed upon for the sake of immediate and unanimous action. He adds that his colleagues will agree to the present wording if the United States Government insists, although the majority of them prefer to retain the word "irrevocable." As any further changes or delays will jeopardize negotiations, he asks prompt reply, and, if possible, instructions to sign.)

During the months of May, June, July, and August of the present year serious disturbances broke out in the northern provinces of China,

and crimes unprecedented in human history—crimes against the law of nations, against the laws of humanity, and against civilization—were committed under peculiarly odious circumstances. The principal of these crimes were the following:

1. On the 20th June, His Excellency Baron von Ketteler, minister of Germany, proceeding to the tsungli yamen, was murdered while in the exercise of his official duties by soldiers of the regular army acting under orders of their chiefs.

2. The same day the foreign legations were attacked and besieged. These attacks continued without intermission until the 14th August, on which date the arrival of foreign troops put an end to them. These attacks were made by the regular troops who joined the Boxers, and who obeyed orders of the court emanating from the Imperial Palace. At the same time the Chinese Government officially declared by its representatives abroad that it guaranteed the security of the legations.

3. The 11th June Mr. Sugiyama, chancellor of the legation of Japan, in the discharge of an official mission, was killed by regulars at the gates of the city. At Peking and in several provinces foreigners were murdered, tortured, or attacked by Boxers and regular troops and only owed their salvation to their determined resistance. Their estates were pillaged and destroyed.

4. Foreign cemeteries, at Peking especially, were desecrated, the graves opened, the remains scattered abroad.

These events led the foreign powers to send their troops to China in order to protect the lives of their representatives and their nationals and to restore order. During their march to Peking the allied forces met with the resistance of the Chinese army and had to overcome it by force.

China having recognized her responsibility, expressed her regrets, and manifested the desire to see an end put to the situation created by the disturbances referred to, the powers have decided to accede to her request on the conditions enumerated below, which they deem absolutely indispensable to expiate the crimes committed and to prevent their recurrence.

First. (a) Dispatch to Berlin of an extraordinary mission, headed by an Imperial prince, to express the regrets of His Majesty the Emperor of China and of the Chinese Government for the murder of his excellency the late Baron von Ketteler, German minister. (b) Erection on the place where the murder was committed of a commemorative monument, suitable to the rank of the deceased, bearing an inscription in Latin, German, and Chinese languages, expressing the regrets of the Emperor of China for the murder.

Second. (a) The severest punishment for the persons designated in the Imperial decree of September 25, 1900, and those whom the representatives of the powers shall subsequently designate. (b) Suspension of all official examinations for five years in all the towns where foreigners have been massacred or have been subjected to cruel treatment.

Third. Honorable reparation shall be made by the Chinese Government to the Japanese Government for the murder of Mr. Sugiyama.

Fourth. An expiatory monument shall be erected by the Imperial Chinese Government in every foreign or international cemetery which has been desecrated and in which the graves have been destroyed.

Fifth. Maintenance, under conditions to be settled between the

powers, of the prohibition of the importation of arms, as well as of material used exclusively for the manufacturing of arms and ammunition.

Sixth. Equitable indemnities for the Governments, societies, companies, and individuals, as well as for Chinese, who have suffered during the late events, in person or in property, in consequence of their being in the service of foreigners. China shall adopt financial measures acceptable to the powers for the purpose of guaranteeing the payment of said indemnities, and the interest and amortization of the loans.

Seventh. Right for each power to maintain permanent guards for its legations, and to put the legation quarter in a defensible condition. Chinese shall not have the right to reside in this quarter.

Eighth. The destruction of the forts which might obstruct free communication between Peking and the sea shall be destroyed.

Ninth. Right to military occupation of certain points, to be determined by an understanding between the powers, for keeping open communication between the capital and the sea.

Tenth. The Chinese Government shall cause to be published during two years, in all subprefectures, an Imperial decree embodying (a) a perpetual prohibition, under pain of death, of membership in any anti-foreign society. (b) Enumeration of the punishments which are to be inflicted on the guilty, together with the suspension of all official examinations in the localities where foreigners have been murdered or have been subjected to cruel treatment. (c) An Imperial decree shall be issued and published everywhere in the Empire declaring that the governors-general, governors, and all provincial or local officials shall be responsible for order in their respective jurisdictions, and that whenever fresh antforeign disturbances or any other treaty infractions occur which shall not have been forthwith suppressed and the guilty persons punished, they, the said officials, shall be immediately removed and forever prohibited from holding any office or honors.

Eleventh. The Chinese Government will undertake to negotiate the amendments of the treaties of commerce and navigation, considered useful by the foreign powers, and upon other subjects connected with commercial relations, with the object (of) facilitating them.

Twelfth. The Chinese Government shall determine by what method to reform the office of foreign affairs and to modify the court ceremonies concerning the reception of foreign representatives, in the manner which the powers shall indicate.

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*Mr. Conger to Mr. Hay.*

No. 466.]

LEGATION OF THE UNITED STATES,  
*Peking, China, December 5, 1900.*

SIR: I have the honor to confirm, as inclosure herein, your cipher telegram of the 27th ultimo, and mine of the 4th instant.<sup>1</sup>

The latter is the full text of the note, including the demands which the ministers have unanimously agreed upon to be sent to the Chinese plenipotentiaries. You will observe that several changes have been made in the demands as originally sent to you, the most important of them in compliance with your telegram, and agreed to by a majority

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<sup>1</sup>Printed ante.

of my colleagues, only because I strenuously insisted upon them and in order not to greatly endanger negotiations by further unnecessary delay. All the ministers, except the Russian and British, had been instructed to sign the note as it was.

The British minister had not yet received definite instructions, and the Russian minister had been instructed to sign only on condition that the death penalty was left out. I therefore had the active assistance of these two and the Japanese minister, and have been working with the others ever since the receipt of your telegram.

A meeting was called at my suggestion on yesterday. Upon the question of substituting the words "severest punishment" for "death penalty," the German, Austrian, and Italian ministers voted "no," but agreed that when it came to signing the note, they would sign the changed note. The death penalty having been stricken out, it was thought by a majority of the ministers that there could not be serious objection to the use of the word "irrevocable" in the preamble; but I insisted that it should go out, and, instead of referring to the conditions as "irrevocable," we would say "absolutely indispensable;" and finally all agreed that if my Government would not give way on this point they all would, for the sake of harmonious and immediate action, agree to the change. But the German, French, Austrian, Italian, Spanish, and Belgian ministers very much preferred to retain the word "irrevocable," and begged me to ask my Government to yield. I promised to telegraph you the facts and await instructions.

Their principal reasons for insisting upon the word "irrevocable" were that any changes would weaken our case and encourage the Chinese, and that by retaining the word there would be far less danger of quibbles and delays on the part of the Chinese, and that, with the words "death penalty" stricken out, there was no danger in leaving the word "irrevocable" in. Besides, they all insisted that it was not used in the sense of an ultimatum. \* \* \* However, whether or not you insist upon its being stricken out, the note will be signed as soon as I hear from you. I am presuming that the British minister will by that time have received his instructions. Everything is so chaotic here, and unexpected conditions so likely to arise at any moment, that further delay is very dangerous. So many concessions have been made, and so many changes agreed to by the several ministers, that now, having reached a possible agreement, advantage should be taken of it and the matter closed.

The British minister is expecting to-day his instructions to sign. When he does receive them they will be only waiting for me. I hope, therefore, very soon to receive your telegraphic approval of and authority to sign the note.

I have the honor to be, etc.,

E. H. CONGER.

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*Mr. Hay to Mr. Conger.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, December 5, 1900.

Sign joint note as transmitted. President sends cordial congratulations.

HAY.



*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, *December 16, 1900.*

(Mr. Conger reports that at the last moment, when the British minister believed himself authorized to sign the note and had agreed to it, but awaited formal authorization, his Government objects to the word "irrevocable" as committing the powers to possible ulterior operations the scope of which is not defined; and Great Britain proposes to add at the end of the conditions the words:)

Until the Chinese Government has complied with the above conditions to the satisfaction of the powers, the undersigned can hold out no expectation that the occupation of Peking and the province of Chihli by the general forces can be brought to a conclusion.

(Mr. Conger thinks that the above words, instead of limiting the scope of ulterior operations, appear to commit the powers still more extensively. He adds that the German and Russian ministers agree to the addition, that others will probably do so, and asks if he shall accept.)

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*Mr. Conger to Mr. Hay.*

No. 478.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, December 17, 1900.*

SIR: I have the honor to inclose herewith copy of my telegram of the 16th instant, and to say that this suggested change comes as a great surprise from the British Government, because we have believed it fully appreciated the necessity of and was as anxious for early negotiations as any of us.

The British minister had agreed to the terms of the note as I telegraphed it to you, and believed himself authorized to sign, but preferred to wait formal authorization. Hence my former telegram to you saying that all of my colleagues were waiting for me.

The British minister insists that the idea of his Government in suggesting the additional paragraph, "Until the Chinese Government has complied with the above to the satisfaction of the powers, the undersigned can hold out no expectation that the occupation of Peking and the province of Chihli by the general forces can be brought to a conclusion," is to limit the scope of possible ulterior operations to the continued occupation of Peking and the province of Chihli only, and so alleviate in part the rigor of the apparent ultimatum contained in the word "irrevocable." \* \* \*

As stated in my telegram, the German and Russian ministers have already agreed to the addition, and all the others, except the Japanese minister, who is waiting a reply to a telegram sent to his Government yesterday, have since signified their willingness to accept the addition.

Most of my colleagues construe this British amendment rather in the nature of a promise to withdraw the troops from Peking if the Chinese Government does comply with our demands. If, therefore, the Chinese Government so understands and properly appreciates the situation, and earnestly desires an amicable settlement and will, with-

out delay, accept the terms submitted by the powers and at once set about compliance therewith, the execution of nearly all the demands can either be fully accomplished or such progress made toward that end as will justify the withdrawal from Peking of all the troops except the actual legation guard, and the return of the court to the capital. It will be impossible for the troops to withdraw before spring and equally impossible for the Imperial Government to come hither before that time. It never can nor will come while the troops remain.

In the meantime the criminals named can be punished; satisfactory arrangements can be made with the German and Japanese Governments for sending the missions and erecting the expiatory monuments proposed; the Taku forts can be razed or arrangements made therefor; formal decrees can be issued covering other points, and all may be done from Sian Fu, leaving for future adjustment practically only demands Nos. 6 and 11—that is, questions of indemnities, requisite financial measures, and the necessary amendments to the treaties of commerce and navigation. These are the most important of all and can not be settled at once. They can be much more equitably, satisfactorily, and speedily settled by a conference of the powers, either in Europe or America. \* \* \*

The question of withdrawing the troops from Peking is a most important one and will soon confront us. For the benefit of China, as well as in the interest of all the powers, it should be accomplished at the earliest possible date. \* \* \* It seems, therefore, that it would be advantageous if such preliminary communication might be had with the strong powers as would prepare the way for telegraphic orders for the immediate withdrawal of troops when the proper stage in the negotiations shall be reached.

It will undoubtedly be necessary to continue considerable foreign force in China some time yet, that is until negotiations are completed, though by no means the large armies now here. This force, however, ought to be located where it will have the least possible contact with the Chinese people and interfere in the least possible way with Imperial or local control of Chinese affairs or the execution of Chinese laws. It should simply remain in China to insure the completion of satisfactory and promised negotiations, or for emergencies possible to arise whilst China is getting back to normal conditions.

I write this dispatch at this time in anticipation and for the better understanding of probable telegraphic communications likely to be made later on.

I have the honor to be, etc.,

E. H. CONGER.

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*Mr. Hay to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, December 17, 1900.

(Acknowledging Mr. Conger's telegram of the 16th, Mr. Hay refers to the text of the note telegraphed on December 4 as having been agreed upon, which omitted "irrevocable," and states that Mr. Conger was telegraphed on the 5th to "sign joint note as transmitted." Mr. Hay does not understand how "irrevocable" comes to be restored

without the Department's knowledge. The United States Government objects to it and has done so from the beginning.

The additional amendment proposed by Great Britain is also objectionable, since the United States can not engage to participate in an indefinite occupation of Peking and Chihli by the general forces. This objection is individual on the part of the United States Government. Mr. Conger is instructed that if he finds general concurrence in the British amendment he need not stand out against it, but in yielding he should make it clear that it does not bind the United States to continue conjoint military operations. But the Department thinks earnest endeavor should be made for acquiescence in the agreed draft telegraphed December 4.)

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*Mr. Hay to Mr. Conger.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, December 19, 1900.

Insist upon omission of the word "irrevocable."

HAY.

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*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, December 19, 1900.

(Mr. Conger replies to Mr. Hay's telegram of 17th, and states that in his telegram of the 4th he said: "The majority of them prefer to retain the word 'irrevocable,' and that the Department's answer, as received, reads: 'Sign joint note as *majorities*.'" He accordingly informed his colleagues, who were gratified at concession to their views. As all have notified their governments that 'irrevocable' was to be retained, he doubts whether they will again agree to omit it. He thinks 'irrevocable' not so objectionable since death penalty is omitted. Says he will, however, insist on its omission, but asks if he shall yield should final agreement depend upon his so doing.")

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*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, December 20, 1900.

(Mr. Conger reports that the ministers have agreed to and will sign that day the joint note, as transmitted to the Department December 4, inserting the word "irrevocable," and adding the British amendment, with the definite understanding that the amendment commits no power to any joint military operations. He has felt obliged to at once acquiesce without awaiting Department's reply to his telegram of the 19th,

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<sup>1</sup> A telegraphic error for *transmitted*.

or else make his Government responsible for indefinite delay and possible failure of negotiations. He hopes the Department will approve his action.)

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*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, *December 20, 1900.*

(Mr. Conger acknowledges receipt of the Department's instructions of December 19, just as the ministers were about to sign the joint note. Found it impossible to secure the omission of the word "irrevocable" that day, and reports that it can only be done, if at all, by opening the whole question for other and objectionable changes. He is confident it will be very prejudicial to the negotiations if he is not permitted to sign now, and thinks it will never be possible to secure unanimity on another note with so few objections as this one has. He awaits the Department's definite instructions.)

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*Mr. Rockhill to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, *December 20, 1900.*

(Mr. Rockhill expresses his belief that to secure further delay is most dangerous and may greatly imperil negotiations as final agreement has been published. Regrets word "irrevocable," but strongly urges acceptance at once as omission now seems impossible.)

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*Mr. Hay to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE.

*Washington, December 21, 1900.*

(As Mr. Conger has felt obliged to acquiesce in the note retaining the word "irrevocable," and considering his statement that if he does not sign it will probably result in failure of negotiations, Mr. Hay authorizes him to sign after again stating the views of this Government.)

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*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, CHINA, *December 22, 1900.*

(Mr. Conger acknowledges the Department's telegram of the 21st, and reports that he has signed the note that day (22d) after again stating the Department's views. He adds that the note will be handed on the 24th to the Chinese plenipotentiaries.)

*Mr. Conger to Mr. Hay.*

No. 482.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, December 23, 1900.*

SIR: I have the honor to confirm herewith your telegrams of the 5th, 17th, 19th, and 21st instants, and mine of the 19th, 20th, 20th, and 22d instants.

I am gratified with and grateful for your permission to sign the note in the final terms agreed to, and I believe it will turn out better thus than if we had insisted to the end of opening up the whole question again.

I regret exceedingly the error in the transmission of your cipher telegram of the 5th instant. But for this all the late trouble and misunderstanding would have been avoided. As it arrived and was understood here it instructed me to sign the note as the majority desired, that is, retaining the word "irrevocable." The erroneous group in your telegram was "majorities." It is true this did not make a correct grammatical construction, and for this reason its repetition might have been requested, but it was such a direct reply to the inquiry in which I used the word "majority" that, after trying numerous other combinations, we had no doubt that you intended for me to accede to the wish of the majority and retain the word. This construction did not seem unreasonable, since I understood your strongest opposition to the word grew out of its use in connection with the demand for death punishments, the omission of which I had secured. As further strengthening this view, I apprehended that you had concluded that it was such a short step from "conditions absolutely indispensable" to "irrevocable conditions" that the latter might be used instead of the former. Hence, as I wired you, I immediately notified all my colleagues, on the 7th instant, that my Government instructed me to accept the word "irrevocable," and we all believed the matter settled until the receipt of your telegram of the 16th instant. In the meantime all my colleagues had so wired their Governments, and none of them were willing, unless compelled to do so, to telegraph for further instructions. I therefore feel certain that your permission to sign, although reluctantly given, has greatly facilitated negotiations. I also hope and believe that no serious trouble can come from the retention of the word "irrevocable."

A meeting of the ministers was held yesterday afternoon, in which I again clearly stated to my colleagues that my statement to them on the 7th instant that my Government had agreed to the retention of the word "irrevocable" was a mistake resulting from an error in the transmission of a telegram, and that, on the contrary, you had been opposed to the word from the beginning, and still believe its use unwise as apparently equivalent to "ultimatum;" but that in order not to unnecessarily delay or imperil negotiations, you had authorized me to sign the note with its retention. I therefore signed, and it was decided to request Prince Ching and Li Hung-chang to meet us at the Spanish legation at 10 o'clock a. m. on Monday, the 24th instant, when it will be presented to them.

I inclose herewith a copy of the note in French, that being the language in which it is written, and also a copy of the English translation agreed upon by the British minister and myself, which, together with a Chinese translation, will accompany the note.

I have the honor to be, etc.,

E. H. CONGER.

[Inclosure.]

*Joint note of the Powers.*

The following English version is the translation agreed upon by the American and British ministers to China of the French text of the note addressed to the Government of China, signed by the representatives of the cooperating powers at Peking, December 22, 1900:

"During the months of May, June, July, and August of the present year, serious disturbances broke out in the northern provinces of China, and crimes unprecedented in human history, crimes against the law of nations, against the laws of humanity and against civilization, were committed under peculiarly odious circumstances. The principal of these crimes were the following:

"1. On the 20th of June, His Excellency Baron von Ketteler, German minister, proceeding to the tsungli yamen, was murdered while in the exercise of his official duties by soldiers of the regular army acting under orders of their chiefs.

"2. The same day the foreign legations were attacked and besieged. These attacks continued without intermission until the 14th of August, on which date the arrival of foreign troops put an end to them. These attacks were made by regular troops who joined the Boxers and who obeyed orders of the court, emanating from the Imperial Palace. At the same time the Chinese Government officially declared by its representatives abroad that it guaranteed the security of the legations.

"3. The 11th of June, Mr. Sugiyama, chancellor of the legation of Japan, in the discharge of an official mission, was killed by regulars at the gates of the city. At Peking and in several provinces foreigners were murdered, tortured, or attacked by Boxers and regular troops, and only owed their safety to their determined resistance. Their establishments were pillaged and destroyed.

"4. Foreign cemeteries, at Peking especially, were desecrated, the graves opened, the remains scattered abroad.

"These events led the foreign powers to send their troops to China in order to protect the lives of their representatives and their nationals, and to restore order. During their march to Peking the allied forces met with the resistance of the Chinese armies, and had to overcome it by force. China having recognized her responsibility, expressed her regrets, and manifested the desire to see an end put to the situation created by the disturbances referred to, the powers have decided to accede to her request on the irrevocable conditions enumerated below, which they deem indispensable to expiate the crimes committed and to prevent their recurrence:

## "I.

"(A) Dispatch to Berlin of an extraordinary mission, headed by an Imperial Prince, to express the regrets of his Majesty, the Emperor of China, and of the Chinese Government, for the murder of His Excellency, the late Baron von Ketteler, German Minister.

"(B) Erection on the place where the murder was committed of a commemorative monument suitable to the rank of the deceased, bearing an inscription in the Latin, German, and Chinese languages, expressing the regrets of the Emperor of China for the murder.

## "II.

"(A) The severest punishment in proportion to their crimes for the persons designated in the Imperial decree of September 25, 1900, and for those whom the representatives of the Powers shall subsequently designate.

"(B) Suspension of all official examinations for five years in all the towns where foreigners have been massacred or have been subjected to cruel treatment.

## "III.

"Honorable reparation shall be made by the Chinese Government to the Japanese Government for the murder of Mr. Sugiyama, chancellor of the Japanese Legation.

## "IV.

"An expiatory monument shall be erected by the Imperial Chinese Government in each of the foreign or international cemeteries which have been desecrated, and in which the graves have been destroyed.

## “V.

“Maintenance, under conditions to be settled between the Powers, of the prohibition of the importation of arms, as well as of material used exclusively for the manufacturing of arms and ammunition.

## “VI.

“Equitable indemnities for Governments, societies, companies, and private individuals, as well as for Chinese who have suffered during the late events in person or in property in consequence of their being in the service of foreigners. China shall adopt financial measures acceptable to the Powers for the purpose of guaranteeing the payment of said indemnities and the interest and amortization of the loans.

## “VII.

“Right for each power to maintain a permanent guard for its legation and to put the legation quarter in a defensible condition. Chinese shall not have the right to reside in this quarter.

## “VIII.

“The Taku and other forts which might impede free communication between Peking and the sea shall be razed.

## “IX.

“Right of military occupation of certain points, to be determined by an understanding between the powers, for keeping open communication between the capital and the sea.

## “X.

“(A) The Chinese Government shall cause to be published during two years in all subprefectures an Imperial decree embodying—

“Perpetual prohibition, under pain of death, of membership in any antiforeign society.

“Enumeration of the punishments which shall have been inflicted on the guilty, together with the suspension of all official examinations in the towns where foreigners have been murdered or have been subjected to cruel treatment.

“(B) An Imperial decree shall be issued and published everywhere in the Empire, declaring that all governors-general, governors, and provincial or local officials shall be responsible for order in their respective jurisdictions, and that whenever fresh antiforeign disturbances or any other treaty infractions occur, which are not forthwith suppressed and the guilty persons punished, they, the said officials, shall be immediately removed and forever prohibited from holding any office or honors.

## “XI.

“The Chinese Government will undertake to negotiate the amendments to the treaties of commerce and navigation considered useful by the powers and upon other subjects connected with commercial relations with the object of facilitating them.

## “XII.

“The Chinese Government shall undertake to reform the office of foreign affairs, and to modify the court ceremonial relative to the reception of foreign representatives in the manner which the powers shall indicate.

“Until the Chinese Government have complied with the above to the satisfaction of the powers, the undersigned can hold out no expectation that the occupation of Peking and the province of Chihli by the general forces can be brought to a conclusion.

“PEKIN, December 22, 1900.

“For Germany:  
 “For Austria-Hungary:  
 “For Belgium:  
 “For Spain:  
 “For United States of America:  
 “For France:  
 “For Great Britain:  
 “For Italy:  
 “For Japan:  
 “For Netherlands:  
 “For Russia:

A. MUMM.  
 M. CZIKANN.  
 JOOSTENS.  
 B. F. DE COLOGAN.  
 E. H. CONGER.  
 S. PICHON.  
 ERNEST SATOW.  
 SALVAGO RAGGI.  
 T. NISSI.  
 F. M. KNOBEL.  
 MICHEL DE GIERS.”

*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, *December 24, 1900.*

(Mr. Conger reports that the first formal meeting was had with Prince Ching this date. His and Li's full powers were presented. The joint note was placed in his hands. Li was not present, being slightly indisposed.)

*Mr. Conger to Mr. Hay.*

No. 483.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, December 24, 1900.*

SIR: I have the honor to confirm, on the overleaf, my telegram of to-day,<sup>1</sup> and to say that at 10 o'clock this morning the representatives of the foreign powers met in formal session at the Spanish legation with Prince Ching, who came with his secretaries and interpreters. Li Hung-chang, who has for some days been suffering with a severe cold, was not able to be present.

The joint note heretofore telegraphed to you, and of which a copy was transmitted in my dispatch No. 482, of the 23d instant, was handed to Prince Ching by the Spanish minister, who read the brief remarks, copy of which I inclose. Prince Ching briefly responded in the few words, copy of which I also inclose. Prince Ching then delivered to each minister the full powers of himself and Li Hung-chang, which appear to be in proper form, duly signed with the Imperial seal. The sufficiency of the powers will be determined at the next meeting. I inclose a translation of them herewith. I also transmit herewith translations of the note of the Spanish minister of the 23d inviting the Chinese plenipotentiaries to meet with us, and Prince Ching's reply.

I have the honor to be, etc.,

E. H. CONGER.

[Inclosure 1.]

*Remarks made by Mr. de Cologan on placing the joint note in the hands of Prince Ching, December 24, 1900.*

I have the honor to hand you a joint note in which the foreign representatives have set forth, in the name of their respective governments, the conditions necessary for the reestablishment of friendly relations with China.

I beg you will transmit it to His Majesty the Emperor of China and give us as prompt a reply as possible.

[Inclosure 2.]

*Translation of Prince Ching's address in reply to M. de Cologan, dean.*

Having received from their excellencies the ministers of the foreign powers the proposals for peace, I beg to say that I will at once send them by telegram to His Majesty the Emperor of China. On receipt of His Majesty's decree I will send the foreign ministers reply.

DECEMBER 24, 1900.



[Inclosure 3.]

*Translation of powers granted Prince Ching and Li Hung Chang.*

An extraordinary Imperial mandate issued by His Majesty the Emperor of China: Whereas we are desirous of placing the relations between ourselves and the Government of the United States on an universal and friendly footing, we for this purpose specially delegate as our ambassadors plenipotentiary I-Kuang, an Imperial prince of the first order, with the title of Ching, president of the Tsungli Yamen, and Li Hung-chang, a member of the first degree of the third rank of hereditary nobility, with the honorific appellation Su-i, senior grand secretary, governor-general of the province of Chihli, minister superintendent of foreign trade.

They will meet and treat with the plenipotentiaries appointed by all the powers, and, availing themselves of their discretionary powers of action, in concert with them draw up preliminary articles (of a treaty), absolute authority thereto to append their names and affix their signs manual being granted to them.

The said prince and ministers are animated by feelings of loyal and disinterested patriotism, and their previous record of long and distinguished service gives us assurance that they will display care and diligence in the exercise of their functions, and, by knitting together the ties of friendship which bind nations to each other, prove themselves not unworthy of the trust reposed in them.

We shall ourselves ratify such treaty as may be agreed upon, and, if found to be in proper and due form, proceed to ratify the same.

[Inclosure 4.]

*Note from Mr. B. F. de Cologan to Prince Ching and Li Hung-chang.*

PEKIN, December 23, 1900.

YOUR HIGHNESS AND YOUR EXCELLENCY: In the name of my honorable colleagues I have the honor to invite you to come to the Spanish legation the 24th instant at 10 o'clock a. m. for the purpose of having made known to you upon what conditions the representatives of the foreign powers consider that friendly relations between their governments and China can be reestablished.

The representatives of the powers consider that this meeting should be limited to the delivery of the note containing the conditions to which I have just alluded, and that consequently there should be permitted no exchange of views upon the subject.

I content myself with communicating to your highness and your excellency the text of some words which I have been charged to address to you, and I will be grateful if you will, before the opening of the conference, furnish me with the text of the reply which you will make.

I improve the occasion to reiterate to your highness and your excellency the assurance of my highest consideration.

COLOGAN.

[Inclosure 5.]

PEKIN, December 23, 1900.

*Prince Ching and Li Hung-chang, peace commissioners, to Mr. de Cologan, Spanish minister and dean.*

YOUR EXCELLENCY: We have just received your excellency's note, in which you invite us to meet at the Spanish legation on the 24th December at 10 o'clock a. m., when will be presented to us in person the conditions upon which the representatives of the foreign powers consider that friendly relations between their Governments and China can be reestablished. Your excellency requests that we forward to you a copy of the address we will make at the meeting.

In reply we beg to state that it is right that we should be at the Spanish legation at the appointed hour. The grand secretary, Earl Li, however, is laid up with a cold, and will not be able to be present, but the prince, with his attachés and interpreters, will attend the meeting of the foreign ministers at the time named.

We inclose copy of the address which will be made at the meeting, which we beg you will peruse.

*Mr. Conger to Mr. Hay.*

[Telegram—Paraphrase.]

PEKIN, *December 30, 1900.*

(Mr. Conger reports that the Chinese plenipotentiaries have notified the ministers that the Emperor decrees acceptance of the demands of the powers as a whole and requests further conference. The plenipotentiaries also ask that military excursions in the interior cease. Mr. Conger thinks they should cease at once.)

*Mr. Hay to Mr. Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, December 31, 1900.*

(Mr. Hay states that Mr. Conger's opinion, that expeditions should cease, is shared by the President and instructs him to endeavor also to have the forts disarmed instead of destroyed.)

#### UPRISING AGAINST FOREIGNERS.

CORRESPONDENCE WITH THE CONSUL-GENERAL AT SHANGHAI DURING THE SIEGE OF THE LEGATIONISTS AT PEKIN.

*Mr. Goodnow to Mr. Hay.*

[Telegram.]

SHANGHAI, *June 25, 1900.*

No communication Pekin since 14th; gravest fears.

GOODNOW.

*Mr. Goodnow to Mr. Hay.*

[Telegram.]

SHANGHAI, *June 26, 1900.*

Viceroy Nankin, Hankow, guarantee to-day by special deputies peace Yangtze Valley, we guaranteeing noninterference while they maintain peace. American Association telegram to-day reflects opinion here.

GOODNOW.

*Mr. Goodnow to Mr. Hay.*

No. 265.]

CONSULATE-GENERAL OF THE UNITED STATES,  
*Shanghai, June 28, 1900.*

SIR: I have to confirm your telegram of June 27:

Consuls may consult with viceroys about measures to preserve peace in their provinces and protection to Americans. Notify consuls.

I have accordingly wired Consuls McWade, Johnson, Gracey, Wilcox, Lewis, and Fowler and have written Consul Martin, and have informed Consul Martin of my communication with the viceroy at Nankin. I have added "notify Ragsdale" to the wire to Consul Fowler.

I was very pleased to receive your dispatch, as of necessity we have had to have such consultations, acting to the best of our judgments and trusting to receive your approval.

I have the honor to be, etc.,

JOHN GOODNOW,  
*Consul-General.*

*Mr. Goodnow to Mr. Cridler.*

No. 267.] CONSULATE-GENERAL OF THE UNITED STATES,  
*Shanghai, June 29, 1900.*

SIR: \* \* \* On June 26 the viceroy instructed the Shanghai Taotai, Mr. Ferguson, and Sheng Tajen, director-general of railways, to meet the consular body in Shanghai to ask from the consuls assurances that the Nankin and Hankow vice-royalties would not be attacked provided the Hankow and Nankin viceroys protected life and property under their jurisdictions, regardless of what may happen in the north. The consular body sent to the Taotai as the result of this meeting the following letter:

I am directed by my colleagues to express our pleasure at receiving from your excellency and from His Excellency Sheng Tajen the assurances from Their Excellencies Chang Chih-tung, viceroy at Wuchang, and Liu Kun-yi, viceroy at Nankin, that they undertake to keep the peace and to protect life and property in their provinces, and to hold themselves responsible for any damage done by riot or insurrection in such provinces. We have to thank their excellencies, and to express our high appreciation of their good intentions.

We desire to inform their excellencies that the admirals of the allied fleets at Taku have proclaimed that they only fight against the Boxers and those who strive to prevent the rescue of the foreigners in danger at Pekin and other places. We desire you to assure their excellencies that our Governments have had no intention, and now have no intention, either individually or collectively, to take any hostile action or land any hostile force in the Yangtze Valley so long as their excellencies are able to, and do, maintain the rights of the foreigners in their provinces as provided for in the treaties with the Government of China.

This was agreed to by all the treaty consuls here and signed by the senior consul. I wired you on June 26 as follows:<sup>1</sup>

Since this meeting the viceroys and the governors of these provinces have been very active in taking precautions against trouble and preparing to meet it should it arise. In almost all the cities and villages of the Yangtze Valley proclamations have been posted by the proper Chinese authorities commanding the peace and that foreign rights must be acknowledged and foreigners and their property protected. My reports from the missionaries in the smaller cities of this district now are of the most encouraging character.

In Shanghai, however, the conditions are not very favorable. I wired you June 25:

No communication Pekin since 14th; gravest fears.

The situation at Pekin and the fighting in and about Tientsin has absolutely stopped all trade. There are now eight foreign men-of-war in this harbor. This, together with the fact of the stoppage of

<sup>1</sup> Printed ante.

the steamboat lines and the shutting down of the cotton mills, has caused many to become apprehensive that the foreign gunboats are here for the purpose of attacking the town, or that the unemployed Chinese might riot for the sake of loot, and in consequence of these fears thousands of Chinese are leaving the city daily. This has also made a run on the banks and a monetary panic, as the Chinese are converting their property into cash and are refusing to accept bank notes, but insist on having silver, which they are hoarding. To attempt to allay this feeling the consular body has to-day issued a proclamation, which I send you herewith.

This comprises the important events here up to the present time. Since the troubles began this office has been deluged with people coming from the interior, with newspaper correspondents, and all kinds of people with all manner of troubles.

Since Peking has been closed to communication I have asked the consuls to keep me posted as to the situation in their districts, which they have kindly and thoroughly done. From their reports I can say that the various viceroys south of the Yangtze are taking the same position as the Viceroys Chang and Liu.

I ask your approval of my actions noted above

I have the honor to be, etc.,

JOHN GOODNOW, *Consul-General.*

[Inclosure.]

*Consular proclamation to Chinese.*

The following is a translation of a proclamation to be issued to-day in Chinese by the consular body:

"Owing to the troubles in the north, many rumors have been circulated in Shanghai which have unsettled the minds of the people. In their ignorance of the true state of affairs they have frightened themselves and each other, and in fleeing homeward from Shanghai have in many cases fallen a prey to robbers.

"We, the consular body at Shanghai, have consulted with the Chinese authorities regarding the protection of life and property in this neighborhood, and have agreed to act in cooperation in putting down any disturbance that may occur. The municipal council holds the volunteer corps in readiness for the protection of the settlement, and our war ships have taken up their positions in the river for the same purpose, and for that alone.

"With such precautions, both on shore and afloat, and with the cordial cooperation of the Chinese authorities, there is no reason why the troubles in the north need spread into these parts. There is no cause for alarm, and we hereby give notice to all that the presence of foreign men-of-war in the river is only a measure of precaution for the protection of the settlement, and that there is no foundation of truth in the idle rumors with which many persons are now exciting themselves.

JOAQUIM MARIA TRAVASSOS VALDEZ,  
*Consul-General for Portugal and Senior Consul.*

*Mr. Goodnow to Mr. Cridler.*

No. 269.] CONSULATE-GENERAL OF THE UNITED STATES,  
*Shanghai, June 29, 1900.*

SIR: Referring to my No. 265 of June 28, I have to quote reply received to-day from Consul Johnson at Amoy:

Daily consultation with officials. Satisfied have their confidence and cooperation. Every precaution taken.

Consul Wilcox on June 25 wired me—

Taotai from viceroy requests that I inform my Government that he and Viceroy Liu will keep peace Yangtze provinces, no matter what Peking orders, and requests our Government not to make war on these provinces. Requests answer.

To which I replied June 26 as follows:

Thank viceroy. Say admirals for Governments have proclaimed that they only make war on Boxers, and those opposing rescue our nationals at Peking.

On June 20 Consul McWade wired—

Viceroy starts for Peking by express 27th. Asks that minister be informed his coming is for mutual interests Chinese and foreigners.

To which I answered by mail—

All communication with Peking is interrupted at present. Also His Excellency Li is well known to the minister.

Dr. Gracey, consul at Foochow, writes me that he is in constant communication with the authorities, who seem anxious to avoid trouble. Consul Martin at Chin-kiang writes the same.

I have the honor to be, etc.,

JOHN GOODNOW, *Consul-General.*

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*Mr. Goodnow to Mr. Cridler.*

No. 270.] CONSULATE-GENERAL OF THE UNITED STATES,  
*Shanghai, June 29, 1900.*

SIR: Continuing my 269, this date, I have received to-day from Consul Gracey, Foochow:

Have consulted regarding protection for three weeks past. Instruct if anything more contemplated. All quiet.

This carries out the statement in my No. 265 that you have now authorized what circumstances has compelled us to do without direct authority.

I have the honor to be, etc.,

JOHN GOODNOW, *Consul-General.*

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*Mr. Goodnow to Mr. Cridler.*

CONSULATE-GENERAL OF THE UNITED STATES,  
*Shanghai, July 3, 1900.*

SIR: I beg to hand you herewith (in duplicate) proclamation issued here at request of the admirals allied fleet.

I have the honor to be, etc.,

JOHN GOODNOW, *Consul-General.*

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[Inclosure.]

*Proclamation.*

TAKU, *June 20, 1900.*

The admirals and senior officers of the allied powers in China desire to let it be known to all viceroys and authorities on coast, river provinces, and cities in China

that they intend use of their arms only against the Boxers and those people who oppose them in their march to Peking for the rescue of their fellow countrymen.

Published by request of the senior admiral at Taku.

JOAQUIM MARIA TRAVASSOS VALDEZ,  
*Consul-General for Portugal and Senior Consul.*  
 SENIOR CONSULATE, *Shanghai, June 23, 1900.*

UNITED STATES CONSULATE-GENERAL,  
*Shanghai, China, July 3, 1900.*

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*Mr. Hay to Mr. Goodnow.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, July 5, 1900.*

Assurances of Viceroy Liu cordially appreciated. Now that anarchy controls capital, the President trusts to responsible provincial authorities to maintain order and fulfill treaty and international obligations of Chinese nation.

HAY.

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*Mr. Goodnow to Mr. Hay.*

No. 272.] CONSULATE-GENERAL OF THE UNITED STATES,  
*Shanghai, July 8, 1900.*

SIR: Continuing the narrative of dispatch 270, I have to confirm my telegrams of July 1:

Prince Tuan issued edict 20th ordering all viceroys fight foreigners. Central and southern viceroys have concertedly ignored it.

German minister murdered 18th. Three legations standing 23d. Yung Lu wires, 26th, other ministers safe, but situation desperate as Prince Tuan in power orders attack. Viceroys central and south China unitedly ask consuls-general as representing Governments to agree not to attack their provinces regardless of what happens at Peking so long as they maintain order and protect foreigners. Fear holding back worse news Peking.

and your reply—

Orders given our forces not to attack central and southern Chinese provinces so long as the local authorities maintain order and protect foreigners. We have communicated our purpose to other powers. Inform viceroys.

On July 1, I wired the viceroys at Nanking and Wuchang—

United States will not attack central and southern provinces so long as order is maintained and Americans protected. I urge you immediately issue proclamations commanding peace as agreed regardless of edict.

All the central and southern viceroys issued identical proclamations, of which I send you copies in translation.

I wired on July 2 to the consuls—

Inform viceroy United States will not attack provinces central and southern China so long as order is maintained and foreigners protected. All nations are acting together. Urge him immediately issue proclamation commanding peace regardless edict.

For a little time the governor of Chekiang province was uncertain what to do, having already put out Prince Tuan's edict among the officials. On July 3 I wired Consul Gracey—

Ask viceroy instruct Governor Chekiang immediately, protect foreigners fully. Answer.

to which I received the following reply July 5:

Viceroy has your request. Says will protect foreigners whatever happens North. Joins Yangtze viceroys in plans. Asks admirals not send gunboats, fearing effect on people. Several American missionaries request gunboats. Consul and merchants do not.

On that day I received a telegram from the governor of Chekiang saying that he would thoroughly protect all foreigners in his district.

I have to confirm my telegram July 3.

Hart couriers, 25th, British, German, Italian legations standing. Diplomats and missionaries in British legation under rifle fire.

Twenty-seventh, two legations standing. Emperor, Empress Dowager prisoner in palace. City gates closed. Tuan and Boxers controlling all. Anarchy in streets. \* \* \*

The news from Peking in the first part of this telegram as in all my other telegrams comes from Yung Lu through the governor of Shantung to the representative of the viceroys here. With reference to the latter part of the telegram, it will be recollected that Liu Kun-yi is the viceroy at Nanking; is 77 years old; has been a viceroy for thirty-five years; is the leader of the Hunanese, the most warlike of the provincials in central China, and that he went to Peking last March at the command of the Empress Dowager and told her that her reactionary policy meant the ruin of China. In spite of this and of his active antagonism to Prince Tuan, Kang Yi and the other leaders of the reactionaries, Liu was too strong to be dismissed, and so was allowed to return to Nanking. While in Peking he brought to his way of thinking Yung Lu, who is the nephew of the Empress and who then was generalissimo of the Chinese armies. Then was arranged the league of the viceroys of central and southern China and the Liberals in Peking to resist the antiforeign faction in the palace. Since then Yung Lu has been the mouthpiece of the Liberal coalition. \* \* \*

I have to confirm my telegram of July 5:

Situation serious. Boxer movement extending. Should allied forces north meet reverses, must extend central south China. Result, expulsion, murder foreigners interior, ruin trade. Strong force necessary check Boxers north, support viceroys south. Identical dispatch all consuls.

and my telegrams July 7—

Two legations standing July 2; attack continuing. Legations standing 3d; slight attack. Starvation methods.

All viceroys governors south of Shantung now in agreement protect foreigners, we confining attack north. Governor Shantung offers formally same thing. Much damage already done our citizens in that province. Instruct fully. Important enlist native authorities resist spread Boxers.

For some time the governor of Shantung has been on the fence. His capital is near Peking, and he has been under much pressure from there. A few days ago he was ordered to take an army of drilled men to Nanking, to supersede Liu as viceroy and superintendent of southern trade, and carry out the edict of Prince Tuan to fight the foreigners. He was threatened with punishment also if he did not do this. After much telegraphing back and forth between the governor and the viceroys and the governor's friends here, he yesterday wired Liu that he would have a representative here to-morrow, July 9, to offer to officially protect foreigners in his province if we would agree to not attack him. I wired you for full instructions, as there already have been riots in that province and considerable American property has been destroyed. I felt very certain, however, that this governor can, if he

will, protect our people against further serious trouble. At any rate, if he issues a proclamation for the protection of foreigners, he must, to save his own head, oppose the further spread of Boxerism and the influence of Prince Tuan's Government, as Shantung is the next province south of Chihli. The problem with him is more difficult than it has been with the other viceroys, as there have been no outbreaks in the other provinces south of Shantung. \* \* \*

I have the honor to be, etc.,

JOHN GOODNOW, *Consul-General*.

[Inclosure 1—Translation.]

*The viceroy of Nanking to Mr. Goodnow.*

Your telegram is received and contents noted.

The friendly intercourse between your country and China has always been genuine. This I have always known. It is evident that these peaceful relations will long continue. As to the Americans and all other foreigners in the Yangtze Valley, Chang Chih-tung and I will use our utmost endeavors to protect them; and we will on no account change (this determination). To-morrow I will discuss and arrange (with the other viceroys), and issue a proclamation which shall be satisfactory. And I will further inform and instruct by telegraph the provincial authorities of Nan Yang, so that they shall act uniformly.

Please be at ease.

VICEROY OF NANKING.

[Inclosure 2.]

*Proclamation by H. E. Chang Chih-tung, viceroy at Wuchang.*

Outlaws in the north having created disturbances, which are giving cause for trouble with the allied powers and exciting the people, to the injury of the public welfare:

We, the governor-general and provincial governor, received an imperial decree, dated the 29th and 30th of the fifth moon (June 25 and 26), to the effect that the legations in the capital (Pekin) should, as before, be protected to the utmost, and that the governor-general and governors should devise ways and means to maintain the integrity of the Empire in the present need.

It is but proper that we should reverently obey this order.

Now, in the planning to carry out the imperial will, we have, in consultation with His Excellency Liu, viceroy at Nanking, come to the conclusion that the provinces east and south must give all possible protection. Also, on consultation with the consuls, it was agreed that if their marines and war ships were not to make a hostile naval demonstration on the Yangtze River the local authorities would be expected to protect, at all costs, the lives and property of the foreigners in these provinces. This being brought to a satisfactory understanding, we wired to the Throne that this was the most feasible way of maintaining order. But fearing that our message to the Throne may not yet be generally known among the people, and fearing that bad characters may take this opportunity to make trouble, with injury to the common welfare, we issue this special proclamation for the information of all soldiers and people. You must understand that the fighting going on at present in the north was unexpected by the imperial court, and the edict is evidence that the legations are still protected, and that it is the purpose of the Throne to protect the settlements and the chapels in all the provinces, according to treaty, as has been done for years.

The allied powers being willing that we do give protection, their marines and war ships will not act in a hostile way on the Yangtze River, and the people may live in peace and quietness, as usual. Ruffians must not be allowed to create confusion. The advantages of having life and property preserved in these provinces are not a few, hence you must on no account give cause for trouble.

Being aware that the purpose of the Throne is really to promote the general welfare, the gentry and elders should all the more earnestly instruct the people to keep the peace and help to maintain the integrity of the Empire.



The goodness of the Throne is as exalted as Heaven!

Now, if, after the issue of this proclamation, anyone sets idle rumors afloat, fanning doubt in people's minds, or if anyone gets together crowds for the purpose of disturbing the chapels, strict inquiry will be made, and those arrested will be dealt with as outlaws or as secret-society men (beheaded).

Rascals who attempt to get up a riot will be put to death, for which purpose strong forces are stationed everywhere.

In case soldiers or runners are found creating trouble or injuring the people, they will be dealt with according to martial law (beheaded without civil trial).

Thus traders may go on quietly with their business, and the place will be kept in peace, in accordance with the imperial decree that ways and means should be devised to maintain the integrity of the Empire.

Let everyone tremblingly obey!

An important and special proclamation!

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*Mr. Goodnow to Mr. Hay.*

CONSULATE-GENERAL OF THE UNITED STATES.

*Shanghai, July 13, 1900.*

SIR: I beg to hand you (in duplicate) translation of edict of June 29.

As a piece of special pleading and self-justification I know of no equal to it.

I have the honor to be, etc.,

JOHN GOODNOW,  
*Consul-General.*

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[Inclosure.]

*The instructions of the Chinese Government to ministers abroad.*

The following decree, dated the 29th of June last, was recently received by His Excellency Viceroy Liu K'un-yi, at Nankin, and a copy of it was sent to his excellency Yü Taotai here, which we translate below:

IMPERIAL DECREE.

[29th June.]

The fighting which has begun between China and foreign nations has been caused by a succession of unlooked-for circumstances and adverse incidents everywhere, all of which were beyond the anticipation of the Government. Our ministers in foreign countries, being separated from their country by a succession of wide oceans, naturally are unable to give reliable versions of what has occurred in China to the governments to which they are severally accredited, and consequently can not speak with authority on the crisis nor on the real policy of the Government. It is our intention, therefore, to speak now in detail on the question for the special information of the said ministers abroad.

In the first place, there sprang up in the provinces of Chihli and Shantung a number of anarchists and rebels, who settled down in the country villages and began to teach the people boxing and quarterstaff exercises, mixing with these certain devilish incantations and invocations. The local authorities concerned failed to awake to the seriousness of this movement or suppress it in its infancy, hence the people began to be excited and restless, numbers joined, and within a tenth month almost the whole countryside was filled with the followers (of these anarchists), who spread up even to the very walls and precincts of Peking itself.

These anarchists, with their devilish charms and incantations, were looked upon by the masses as imbued with supernatural powers, the number of believers accumulating daily. Then some of them began to turn their thoughts on chaos and rebellion, and started the cry against missionaries and their converts.

In the middle of June matters suddenly came to a head. Churches and mission premises were attacked, burned, and destroyed, converts were ruthlessly massacred; the entire populace of Peking were incited to rise, forming a fierce and resistless avalanche which it was utterly impossible to keep back. Previous to this we had received dispatches from the ministers of the various powers in Peking asking to be allowed to bring into the capital foreign troops to protect the legations. The Government, who had by that time seen that matters were getting serious, willingly went beyond the limit of international law and gladly gave the required permission. The result was that some 500 foreign troops entered Peking for that purpose. This is a clear proof of the solicitude with which the Government regard the representatives of friendly countries. In ordinary times there had been no enmity between the members of the legations and the general masses in Peking, but when the foreign troops came to the capital, instead of attending to the duties for which they had come—viz, guarding the legations—they wandered about, sometimes mounting the city walls and firing their rifles, and at other times patrolling the streets, so that people were repeatedly hit by the bullets fired by these legation guards. More than this, these soldiers were wont to ramble about beyond bounds, and at times even tried to enter Tunghua gate of the "Forbidden City" almost by force. Had these foreign soldiers not been prevented by the palace guards they would have succeeded in getting within the "sacred precincts." In consequence of all this, anger was loudly expressed by both our soldiery and the masses; there was a union of dissatisfaction at the conduct of the foreign legation guards which evil-minded men and outlaws immediately took advantage of, and, the worst passions of the masses being aroused, a series of massacres and pillaging of Christians followed in defiance of all laws. The various powers then called for additional troops into Peking, who, however, were opposed halfway by the anarchists and their followers. Fighting followed, and the additional troops were compelled to retire.

At this crisis the anarchists and rebel populace of the two provinces of Chihli and Shantung had already spread chaos throughout the whole territory, forming one united body, which made it impossible for the Government to treat with them. It must be, however, noted that the Government was never unwilling to send commands to troops to vigorously suppress these anarchists and rebel populace, but owing to their near proximity, as it were, under our very elbows, it followed that if severe repressive measures were ordered we would not be able to protect the legations with us and a great calamity would at once ensue. There were also fears that the rebel populace of both Chihli and Shantung would rise together at this crisis and unite in massacring all missionaries and converts within those provinces and leave none alive. We were therefore forced to hesitate and consider the situation, the one course feasible at the time being to request the ministers at the various legations to abandon Peking temporarily for Tientsin.

While this proposition was being discussed between us there suddenly came the news that the minister for Germany, Kê Té-lin (Baron von Ketteler), had that morning, while proceeding to the tsungli yamen, been murdered by the anarchist enemies of the Christians. It appeared that the German minister had the day before notified by letter the tsungli yamen that he was going there the next day, but that owing to constant disturbances occurring on that route the ministers of the said yamen refused to consent to a meeting with the said German minister on that day. With the murder of the German minister the rebels found themselves caught in a dilemma from which there was no alternative save to go on in their reckless course, and, as it appeared to the Government at the time that in view of this it would be unwise to send the various ministers, although with strong escorts for their protection, to seek safety at Tientsin, the matter had perforce to be given up. The only course the Government could do was, therefore, to issue stringent orders to the troops guarding the said legations to be all the more on the lookout, to keep strict watch over their safety, and prevent sudden attack on them.

At this crisis we were suddenly surprised to hear that General Lo Yung-kuang, commanding our forts at Taku, had been personally addressed on the 16th June by the foreign officers in that vicinity who demanded the handing over of the said forts to the foreign fleets, which, if not done by 2 o'clock the next day, would be forcibly taken possession of. Naturally, Lo Yung-kuang refused to do this. At the expiration of the time the foreign fleets indeed began to open fire at our forts and a battle ensued for the whole day, until at last our troops, unable to do more, abandoned the forts to the foreign troops. A war had thus been commenced which was not of our beginning or choosing. For you will perceive that, even if China should, regardless of her own power and strength, rush into war, was it likely or reasonable that she would of her own accord elect to fight all the powers at once? Was it probable that, granting such recklessness, she would have relied on a rebel populace to commence a war against all the powers?

We sincerely trust that the governments of the various powers, when approached by your excellencies, will take the above under their serious consideration and make allowances therefor, and that the said governments be informed of the serious dilemma in which this Government has been placed, and that we were surrounded by forces utterly beyond our control. Your excellencies are commanded to explain all these in detail to the various foreign governments to which you are accredited.

You are to explain the true intentions of this Government in this matter, and that we have given stringent orders to our commanders of troops to protect as usual the various legations to the best of their ability, and that this Government will take upon itself the responsibility of suppressing and punishing these anarchists and rebel populace.

Your excellencies are to continue as before your duties in respect to our international relations with the various powers, and you are warned not to keep aloof and stand by as spectators (in the present difficulties of this Government). Let these instructions be telegraphed to the various ministers concerned.

NOTE.—The characters "Wai-pu" are here used to signify "forbidden governments," but the character "pu" has also the meaning of "small states" or "tribes" and is often used in connection with the Mongol and other indigenous and tributary tribes, which abound on the northern, northwestern, western, southwestern, and southern frontiers of China proper.—Translator.

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*Mr. Goodnow to Mr. Hay.*

No. 276.] CONSULATE-GENERAL OF THE UNITED STATES,  
*Shanghai, July 17, 1900.*

SIR: Continuing the narrative of my No. 272, I have to confirm my telegram of July 10:

Shangtung governor says legations standing fifth. Outlaws dispersing. Disbelieved. Also your telegram of July 10:

Use whatever means of communication you may have to convey to Prince Ching and to Yung-lu the appreciation felt by this Government for their efforts in behalf of the protection of foreigners and the restoration of peace in China.

At once I attempted to forward your message. I have to confirm my telegram of July 13:

Attempting send your message Peking. All messages since June 27 doubtful. Sheng asks, if ministers brought safe Shanghai, can troops be held Tientsin pending negotiations? Think him plotting delay, but forward it you for information.

In the course of my attempt to forward your message to Peking I discover that no word has been had from Prince Ching or Yung-Lu since June 27, when Yung-Lu wired that the situation was desperate and that he had no further power. All telegrams since that time have come from Yuan Shih-kai, governor of Shangtung, and the authorities here profess not to know from whom he gets his information in Peking, and when pressed are unwilling to personally guarantee the correctness of it. Beside the inherent improbabilities of the situation as given by these telegrams, Sheng, who is the director-general of the telegraph company, claims that the telegraph is not working to Paoting Fu, and that all telegrams and messages for Peking must be sent to Tsinan Fu, capital of Shangtung, and sent thence by courier, a four or five days' journey, to Peking. On the other hand, Viceroy Liu's secretary informs me that the viceroy sends telegrams to Paoting Fu, and thence by courier, a day's journey, to Peking. Thus you will see the whole matter of communication with Peking is uncertain and unreliable. \* \* \*

I wired you July 13:

Governor Shantung wires Boxers, soldiers bombarding legation for final attack 7th. Fears extremely for ministers and our Chinese friends in Peking. He and we fear worst.

On July 14 the North China Daily News claimed that they had bought from a subofficial in the telegraph office a message from the governor of Shantung to Sheng, the substance of which was that all the foreigners in Peking were killed on the 8th. This was published here the 16th and telegraphed from here to all the news associations. Sheng officially denied the receipt of such a telegram and compelled the News to retract. Knowing that you must have seen the alleged dispatch in the newspapers at home, I wired you 16th:—

No reliable news from Peking since my telegram 13th. \* \* \*

I have to confirm my telegram of July 14:

Governors Honan, Shansi issued proclamations favoring Boxers. Barriers erected against them.

It was to be expected that these provinces, being in the north and closely identified with the province of Chihli, would take this stand. Promptly on receipt of this news Chang Chih-tung ordered the governors of Hupeh and Nganhwei to prepare to repel any incursions of soldiery from the first two provinces. He reports to us that this has been done and that there is no danger of any raid from either province. \* \* \*

I have wired Consul Wilcox and acting Consul Lewis that they should have Americans come from out ports to protected places. This they are doing to the best of their ability; but it must be remembered that some men in Consul Wilcox's district are a six weeks' journey from Hankow. Some missionaries from Shantung are also retreating on Hankow, and it will be several weeks before that district will be thoroughly emptied of Americans.

Consul Martin was here several days last week, and reported that then only two Americans were left in his district.

Consuls Johnson and Gracey some days ago ordered all their missionaries to come in from the out-stations, and report no difficulty nor danger at present in their districts. In this district we still have missionaries at Ningpo, Soochow, and Hangchow. At these places the Chinese authorities are apparently using every endeavor to protect foreigners and are succeeding. Only men, however, are still at these stations. \* \* \*

All the treaty consuls have united in a prohibition of the sale of arms and ammunition to the Chinese, except under special permit. \* \* \*

Much excitement has been caused among foreigners and natives by reckless statements and untruthful telegrams published in local papers. I think a press censorship will be established to-morrow for local papers. There is only one American paper. It is printed in Chinese, and the owner expresses his entire willingness to come under the regulation of a censor.

I have the honor to be, etc.,

JOHN GOODNOW, *Consul-General.*

*Mr. Goodnow to Mr. Hay.*

[Telegram.]

SHANGHAI, *July 18, 1900.*

Bombarding legations 30th June with Krupp cannon. Reliable. Sixty foreigners, 100 Chinese massacred Tai-yuan Shansi.

GOODNOW.

*Mr. Goodnow to Mr. Hay.*

[Telegram.]

SHANGHAI, *July 20, 1900.*

Martin wires much ammunition going up Grand Canal. Governor Shantung says sent you cipher message Conger 18th. Is statement true?

GOODNOW.

*Mr. Cridler to consul, Shanghai.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, July 20, 1900.*

Statement true. Conger's message stated—

In British legation under continued shot and shell from Chinese troops. Prompt relief necessary to prevent massacre.

CRIDLER.

*Mr. Goodnow to Mr. Hay.*

No. 277.] CONSULATE-GENERAL OF THE UNITED STATES,  
*Shanghai, July 21, 1900.*

SIR: I beg to report that His Excellency Li Hung-chang arrived in Shanghai to-day. His friends have not indicated how long he will stay here, but say he has not yet decided.

Lord Li (his son) told General Chang Ki-tong to-day that a decree has been received from Peking appointing Kang Yi (the notorious foreign agitator) viceroy of Canton.

I have the honor to be, etc.,

JOHN GOODNOW, *Consul-General.*

*Mr. Goodnow to Mr. Hay.*

[Telegram.]

SHANGHAI, *July 23, 1900.*

Tuan wires officer Tsungli Yamen saw all ministers 18th; none hurt; no attack being made. Inconsistent cipher telegram. Have demanded send my telegram. Only Conger can answer.

GOODNOW.

*Mr. Hay to Mr. Goodnow.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, July 23, 1900.

Call on Viceroy Li. Ascertain his purpose.

HAY.

*Mr. Goodnow to Mr. Hay.*

[Telegram.]

SHANGHAI, July 24, 1900.

Saw Li as directed. Says purpose attempt persuade Throne send ministers Tientsin. Afterwards hopes military operations will be suspended; then negotiations can follow. Says Boxers and troops can be stopped by Chinese Government. Asks is it possible, if ministers are escorted Tientsin safely, that military operations can be suspended? Assures ministers now safe. \* \* \*

GOODNOW.

*Mr. Goodnow to Mr. Hay.*

[Telegram.]

SHANGHAI, July 27, 1900.

Official telegram received here 18th, all foreigners many native Christians killed Paoting-fu, missions burned. Americans Simcox family, Taylor, Pitkin, Misses Gould, Morrill. Custom reports disturbances Yunnan yesterday.

GOODNOW.

*Mr. Hay to Mr. Goodnow.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, July 30, 1900.

(Answering your telegram of 24th) this Government will not enter into any arrangement regarding disposition or treatment of legation without first having free communication with Minister Conger. Responsibility for their protection rests upon Chinese Government. Power to deliver at Tientsin presupposes power to protect and to open communication. This is insisted on.

HAY.

*Mr. Hay to Mr. Goodnow.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, August 1, 1900.

I do not think it expedient to submit the proposition of Earl Li to the other powers. Free communication with our representatives in Peking is demanded as a matter of absolute right, not as a favor.

Since the Chinese Government admits that it possesses the power to give communication, it puts itself in an unfriendly attitude by denying it. No negotiations seem advisable until the Chinese Government shall have put the diplomatic representatives of the powers in full and free communication with their respective Governments and removed all danger to their lives and liberty. We would urge Earl Li earnestly to advise the Imperial authorities of China to place themselves in friendly communication and cooperation with the relief expedition. They are assuming a heavy responsibility in acting otherwise.

HAY.

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*Mr. Goodnow to Mr. Hay.*

[Telegram.]

SHANGHAI, August 1, 1900.

MacDonald courier 21st reports continuous artillery attack the 16th; holding American, German, Russian legations, and part wall; food, ammunition short. Sixty killed; 120 wounded. Japanese courier 23 reports the same.

GOODNOW.

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*Mr. Goodnow to Mr. Hay.*

[Telegram.]

SHANGHAI, August 2, 1900.

Delivered your message. Li says Tsungli Yamen wired him they are seriously considering his proposition to send ministers Tientsin.

GOODNOW.

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*Mr. Goodnow to Mr. Cridler.*

No. 285.] CONSULATE-GENERAL OF THE UNITED STATES,  
Shanghai, August 2, 1900.

SIR: I have to confirm my dispatch of July 31:

Shanghai taotai says Tsungli Yamen instructed him to tell me my cipher message 22d July will not be delivered Conger. If I will send message in English Tsungli Yamen will decide regarding delivery that message after seeing it.

On the 22d of July I gave the Taotai a cipher message to Mr. Conger telling the anxiety with which all were waiting authentic news. I asked him to answer me fully, giving date in cipher and such details of persons in our legation that there would be no question as to the authenticity of the message. On the morning of the 31st of July the Taotai's private secretary came to me and delivered verbally the message as I wired to you, and asked me then to give him an English message at that time. I told him that I did not care to do business in that informal fashion and would prefer that the Taotai write me so important a matter as a message from the tsungli Yamen. The secretary left promising to bring me this in writing. About 2 o'clock

another secretary appeared, asking me as from the Taotai not to forward to you anything of the message given to me that morning. "As they were afraid you would be very angry and as His Excellency Sheng had wired the Tsungli Yamen asking them to deliver the message." I answered that of course I must send you the message as I received it. Li Hung-chang also told me the same afternoon that he had wired the Tsungli Yamen urging them to deliver my message, and he also hoped that I would not feel bounden to transmit the message to you.

Several messages have been taken by Sheng, by Li, and by the Taotai from consuls here for their ministers. To all the others the reply has been given that no word has been received from Peking with reference to their message, and it was apparently through indiscretion that the Taotai told me this.

I have the honor to be, sir, etc.,

JOHN GOODNOW,  
*Consul-General, Shanghai.*

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*Mr. Goodnow to Mr. Cridler.*

No. 287.] CONSULATE-GENERAL OF THE UNITED STATES,  
*Shanghai, August 2, 1900.*

SIR: I received your telegram of July 23 on the 24th. As therein directed, I called on His Excellency Li Hung Chang on July 24 and wired you as follows:<sup>1</sup>

As you will note, I took down in writing the first part of the above telegram. It seemed to me that there were two important points in it, and I read to him in Chinese twice as the message which I would send home. Vice-Consul-General Hykes was with me as my interpreter, and Earl Li had present Marquis Tseng and Dr. Mark. Earl Li was positive that the Boxers and rebellious troops can be at any time stopped by the Chinese Government. This I asked him three or four times in different ways. When he said to me that the ministers were safe, I asked him who was included in that statement. He answered "the ministers." I asked him, "What about the women and children, preachers and teachers, customs people and guards?" He answered, "I know nothing about those people; they are unimportant." I told him that we could not consider them unimportant, and the mere delivery of the ministers would not settle the whole matter. He replied that from the Chinese standpoint others than the ministers do not count. \* \* \*

He sent to me on the 29th and I wired you on that date, "Li asks answer my telegram 24th."

On July 31 I received the following telegram from you:

This Government will not enter into any arrangement regarding disposition or treatment of legation without first having free communication with Minister Conger. Responsibility for their protection rests upon Chinese Government. Power to deliver to Tientsin presupposes power to protect and to open communication. This is insisted on. Hay.

<sup>1</sup> Printed ante.



I called on Earl Li on that date and wired you as follows:

Delivered message Li to-day. He dictated question, "If free communication is established between ministers and their Governments, will America arrange that allies will not advance on Peking pending negotiations?" Says if unfavorable answer he will have nothing more to say. Says he to-day wired Tsungli Yamen give minister my cipher message. Expects answer in eight days.

When I read him your message, of which I gave him a copy in Chinese, he said it was what he expected, and at once asked me to send you the question, which I did, as dictated by him.

I told him that the same principle seemed to be involved in it, but he said he desired it to go to you, as he had nothing more to say if the answer was unfavorable. He talked a good deal on the line that now was the opportunity for America to show her friendship. I told him that while the friendship of the Americans to the Chinese people was undoubted, yet the Chinese Government, by imprisoning the minister and threatening his life and threatening the lives of a large number of Americans, had put itself in a very unfriendly attitude and could hardly expect friendly intervention by America while that attitude continued. He said that he was convinced that free communication would be allowed to the ministers within a few days. I then told him of the formal refusal of the Tsungli Yamen to me to deliver my message to Minister Conger. He knew of this and said that he greatly deprecated such refusal and had wired the yamen urging them to deliver my message and return to me whatever message Minister Conger might choose to give, whether in cipher or in plain words. He then maintained that he could not get a reply under eight days.

I to-day received the Secretary's message, as follows:

I do not think it expedient to submit the proposition of Earl Li to the other powers. Free communication with our representatives in Peking is demanded as a matter of absolute right and not as a favor. Since the Chinese Government admits that it possesses the power to give communication, it puts itself in an unfriendly attitude by denying it. No negotiations seem advisable until the Chinese Government shall have put the diplomatic representatives of the powers in full and free communication with their respective Governments and removed all danger to their lives and liberty. We would urge Earl Li earnestly to advise the Imperial authorities of China to place themselves in friendly communication and cooperation with the relief expedition. They are assuming a heavy responsibility in acting otherwise. Hay.

And my reply of August 2:

Delivered your message Li. Says Tsungli Yamen wired him they are seriously considering his proposition to send ministers Tientsin.

When I gave him your message he made no reply at all, but said that he had good news for me, viz, that the Throne was seriously considering his proposal to send the ministers to Tientsin. I asked him if it had been decided to send them, or if only the ways and means were under discussion. He answered that the Tsungli Yamen was now considering the practicability of sending the numerous foreigners safely through the region from Peking to Tientsin, which, he said, was thickly infested with the Boxers. If it was decided practicable to send them, then they would seriously consider the advisability of sending them. \* \* \* I urged upon him the absolute necessity of following your advice. He gave me no indication of his further intentions. He blames the missionaries for the trouble and made a number of statements regarding missionary methods. \* \* \*

This morning (August 3) Li has returned to Comte de Bezaure, French consul-general, a message which the latter had given him in

plain French for M. Pichon. In regard to this Li wrote that it had been decided that no messages would now be given to the ministers, as the foreigners were advancing from Tientsin toward Peking. This letter is more openly hostile than anything Li has said before, although he continually laid stress on the undesirability of an advance on Peking.

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*Mr. Goodnow to Mr. Cridler.*

No. 288.] CONSULATE-GENERAL OF THE UNITED STATES,  
*Shanghai, August 4, 1900.*

SIR: I have to confirm my dispatch of August 3, as follows:

Third. Americans left Chungking yesterday. Li told French consul to-day no messages will be delivered ministers because foreigners advancing on Peking. Two proforeign members Tsungli Yamen beheaded 27th, for urging preservation ministers, by Li Ping-heng, now commanding troops Peking. He ordered Paoting massacre.

I am, etc.,

GOODNOW.

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*Mr. Adee to Mr. Goodnow.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, August 5, 1900.*

President directs you protest against any limitations of right of full and free communication with Minister Conger.

Repeat in cipher to consuls at Tientsin and Chefoo.

ADEE, *Acting.*

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*Mr. Goodnow to Mr. Hay.*

[Telegram.]

SHANGHAI, *August 5, 1900.*

Conger-Squiers messages Ragsdale, dated July 21, reads as follows:

All well; no fighting since 16th by agreement; enough provisions; little ammunition; hope speedy relief.

Sheng to-day communicated Imperial edict July 30, ordering Yung Lu provide escort ministers Tientsin when ministers fix date. Edict says ministers can receive messages not in cipher. Yet plain messages were returned to consuls yesterday.

GOODNOW.

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*Mr. Cridler to Mr. Goodnow.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, August 8, 1900.*

Minister Wu officially communicated to-day Imperial edict 5th instant, allowing free cipher communication between ministers and Governments.

CRIDLER.

*Mr. Goodnow to Mr. Hay.*

[Telegram.]

SHANGHAI, August 8, 1900.

Japanese couriers, 1st August, report: "Attack on legations recommended." Fowler wires advance from Tientsin began 5th. Sheng says viceroys expecting edict degrading them—ordering them commit suicide. Thinks they would obey if from Empress. Tsungli Yamen informs me will transmit peaceful messages. Answered protesting, demanding free communication.

GOODNOW.

*Mr. Goodnow to Mr. Hay.*

[Telegram.]

SHANGHAI, August 17, 1900.

Wuchang and Nankin viceroys wire following:

We received telegram from Chefoo; allies victorious Tung Chow, and intend attacking Pekin. We have no reliable news of Empress Dowager or Emperor. If attacked with cannon palace will experience unexpected danger. Whole country becoming angry. Where will resulting trouble end? We have hitherto acted by Imperial instruction. If allies do not regard persons of Empress Dowager and Emperor, what can we do? We earnestly ask consuls send urgent telegram to commanders allies asking how they will act. We require guaranty they will not even frighten Empress or Emperor; that the minds of southern rulers and people may not be changed. Answer must be sent within twenty-four hours. Extremely urgent.

Signed by both.

Am replying have telegraphed you. English soldiers landing to-day. French have sailed from Saigon.

GOODNOW.

*Mr. Goodnow to Mr. Hay.*

[Telegram.]

SHANGHAI, August 18, 1900.

Viceroys to-day wire satisfaction allied Governments' position regarding Empress and Emperor; relief Pekin confirmed; no details.

GOODNOW.

*Mr. Adee to Mr. Goodnow.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, August 19, 1900.

Two telegrams relative inquiry Nankin viceroys received.

You will assure them that announced policy of this Government rests on consideration for the Chinese people not implicated in antiforeign

outrages, and will duly regard high personalities of Empress and Emperor. In circular of July 3 to powers we said:

The policy of the United States is to seek a solution which may bring about permanent peace and safety to China and to preserve Chinese territorial and administrative entity.

To this we adhere.

ADEE, *Acting.*

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*Mr. Adee to Mr. Goodnow.*

No. 214.]

DEPARTMENT OF STATE,  
Washington, August 22, 1900.

SIR: I have to acknowledge the receipt of your No. 276 of July 17, 1900, in regard to the situation in China.

The Department appreciates your watchfulness, and looks forward with interest to the continuation of your chronological reports.

I am, sir, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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*Mr. Goodnow to Mr. Cridler.*

No. 303.]

CONSULATE-GENERAL OF THE UNITED STATES,  
Shanghai, August 25, 1900.

SIR: In connection with my telegrams of August 17 and 18 I have to hand you the following reply from His Excellency Liu Kunyi, viceroy at Nankin, dated August 2:

The very friendly intentions of the Government of your honorable country are highly appreciated.

Our Empress Dowager and Emperor consider friendly international relations of great importance, and have for some tens of years made no difference between ministers and people at home or from abroad. Having received repeated commands from their majesties to give orders in every province that outlaws harassing foreigners should, whenever occasion requires, be severely dealt with, so as to give a quietus to the source of anarchy, the viceroys and governors feel bound to obey and to carry out loyally these commands. We still hope that the Government of your honorable country will save the situation so that international peace may be preserved, which will be most fortunate. I therefore ask you to oblige me by conveying our thanks to your Government.

I have the honor to be, etc.,

JOHN GOODNOW, *Consul-General.*

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*Mr. Goodnow to Mr. Hay.*

[Telegram.]

SHANGHAI, August 29, 1900.

Japanese consul-general writes me Japanese Government has landed small force Amoy solely to protect consulate and foreign residents. French, English, German cruisers gone there.

GOODNOW.

*Mr. Goodnow to Mr. Hay.*

[Telegram.]

SHANGHAI, *August 30, 1900.*

Japanese consul-general informs me Japanese Government has ordered withdrawal the marines landed in native city of Amoy, and will withdraw from island when satisfied order will be kept.

GOODNOW.

*Mr. Goodnow to Mr. Hay.*

[Telegram.]

SHANGHAI, *September 6, 1900.*

Saw Japanese consul-general. Agreement made simultaneously withdrawing all marines from Amoy Friday.

GOODNOW.

*Mr. Cridler to Mr. Goodnow.*

No. 218.]

DEPARTMENT OF STATE,  
*Washington, September 11, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 285, of the 2d ultimo, in regard to the refusal of the Tsungli Yamen to deliver your cipher message to Minister Conger, and to express the Department's approval of your actions in the premises.

I am, sir, your obedient servant,

THOS. W. CRIDLER,  
*Third Assistant Secretary.*

## SIEGE OF TIENTSIN.

*Report of the consul to the Assistant Secretary of State.*

No. 48.]

CONSULATE OF THE UNITED STATES,  
*Tientsin, China, July 16, 1900.* (Received Sept. 21.)

SIR: In submitting this report I have the honor to refer you to my dispatch No. 44, dated February 17, 1900, predicting what might happen should the Chinese officials continue to give encouragement to the organization known as Boxers. Long before that, as early as September, 1899, this society had made itself very obnoxious in the province of Shantung, committing robbery and murder, coupled with threats that all foreigners should be driven from China. They had the encouragement and sympathy of the governor of that province, whose every act was sustained by the Government at Peking, and who gave the Boxers the advice to "loot, burn, and plunder foreign property as much as you like, but do not take life." Again and again the attention of the Peking authorities and the Government was called to the abominable outrages committed by their especially patronized volunteers, and the removal of the governor of Shantung, Yu Hsien, was demanded by our legation. In answer to these appeals the governor was finally ordered, but only that he might be promoted, to a higher position, viz, governor of Shansi. This act of defiance only gave new encouragement to the "loyal supporters," as the Empress termed them. From this time on the situation became more grave. Rev. Mr. Brooke, an English missionary, was captured, mutilated, and finally murdered. A pretense of trial was given to the murderers and meager punishment meted out to one or two of the perpetrators, and some recompense paid.

After the repeated protests of our legations some pretense of suppression of these outlaws was made. Yuan was made governor of Shantung, and from his general reputation the foreigners expected and hoped for great good to follow. His hands, however, were tied. Edicts were issued commending these loyal supporters, but warned them that they must not admit traitors or bad characters to their societies. Notwithstanding all this the outlaws continued to increase in number and the infection spread rapidly, and in April had reached the eastern limits of this (Chihli) province. The lives of missionaries in the vicinity of Paotingfu were threatened. On receiving this information I appealed to the viceroy, Yu Lu, and demanded the suppression of the insurrection. In compliance therewith he, the viceroy, immediately issued proclamations to that effect and sent small detachments of troops. The proclamations were torn down as fast as posted. The troops went from village to village, but offered no protection.

By the 25th of May the infection had reached Tientsin (native) city, and the situation grew so alarming that at 9 o'clock p. m. on May 27 I felt it my duty to send the following message to Admiral Kempff, who had arrived at Taku bar on the previous day.

TIENTSIN, CHINA, *May 27, 1900.*

Rear-Admiral LOUIS KEMPF,  
*U. S. Flagship Newark, Taku.*

SIR: Part of railway to Paotingfu destroyed by Boxers last evening. Three stations already burned. Destruction of main line to Peking threatened. Workshops and godowns at several stations from Peking already destroyed. Boxers are in control and stations deserted by agents and employees. Viceroy promises to send

troops to-morrow morning, but I have doubts as to their reliability. There is great uneasiness here amongst the foreigners, and the situation is most serious. Can't you land a force of marines with Maxim or quick-firing guns? If so, bring by rail if permitted, otherwise by river.

J. W. RAGSDALE, *Consul.*

This message was telegraphed to Tang-ku and sent out by a tug, reaching the admiral at 4 o'clock a. m. on the 28th. In response the admiral acted most promptly, as he has done in every emergency, and immediately landed 100 men with the gallant and meritorious Captain McCalla in command. These troops reached Tientsin at 10 o'clock in the evening, and were the first to arrive. They were met at the landing by the entire foreign population of Tientsin with a brass band, who accompanied the soldiers to the quarters prepared for them. Their arrival was most timely, as an attack was for the time being, at least, frustrated. Two days after 56 of these men in command of Captain Myers were forwarded to Pekin. On the 28th some 32 Belgian engineers (some having their wives and children with them) left Paotingfu by houseboats for Tientsin. An escort of native soldiers was sent with them, but on the second day out were attacked by the Boxers, when the guards promptly deserted, leaving the refugees to fight their way out as best they might. Although the distance was but 100 miles, they were six days reaching their destination, during which time they were continuously fighting for their lives. Five were killed. The greater number of those who did arrive were wounded.

On the 8th of June my Chinese writer visited the native city at my request, and on his return assured me that the greatest excitement prevailed there—that all the blacksmiths were working night and day, making spears, and that they were getting three prices for their work. I again wired the Admiral and suggested the landing of more troops, which suggestion was complied with promptly. The report from Pekin was so discouraging and the plea for relief so heartrending that several meetings of the consular body was held with a view of forwarding more troops at once. \* \* \* At that time the various nationalities had present, ready for any emergency, 1,400 or 1,500 troops and could readily have spared 800. \* \* \* I took the position that an immediate advance should be made. The English, Japanese, Germans, Italians, and Austrians coincided with my suggestion, but it was not until the gallant Captain McCalla declared, "Our minister has wired the consul that our people are in great distress and that unless relief is sent soon all will be lost, and I propose to leave for Pekin to-morrow morning" that the Russians and French gave in. A demand was then made on the viceroy for transportation for 800 men and unless this demand was granted that our troops would seize a train and go anyway. Consent was granted, but orders were sent out from Pekin that the road should be destroyed. \* \* \* At 7 a. m. on June 10 our troops arrived at the station, to find that several trains had just arrived from Taku with a large number of troops under command of Admiral Seymour. With little delay 2,200 troops were under way. They arrived at the station 25 miles from here without incident, but there the trouble began. They found the rails torn up and damaged and the cross-ties had disappeared entirely. Thousands upon thousands of coolies had been at work carrying off the ties. For four or five days every effort was made to repair the road, but it was impossible to repair as fast as the enemy destroyed. On the 14th the enemy destroyed the track in the rear, and for ten days no communication

whatever was heard from this command until June 25, when it was relieved by a force of 1,700 men sent out from Tientsin, our marines, under another most meritorious officer, Major Waller, participating. For ten days the Seymour command had been constantly harassed by the Boxers. About 180 marines had been wounded, and it required nearly 1,000 men to carry them, otherwise they might have fought their way out single handed. Fortunately for them, they had succeeded in capturing the Siku Arsenal, located some 9 miles from Tientsin, where they found large stores of rice and good forts for their protection. Before returning, the relief, assisted by our worn-out command set fire to the arsenal, destroying munitions of war to the value of several millions of dollars.

In the meantime General Nieh's army, to the number of 6,000, who had been sent out to protect the railroad from destruction, was ordered back to Tientsin, arriving in the native city at midnight June 14. On the morning of the 15th, at 3 o'clock, the Boxers set fires in many directions and made an effort to enter the foreign settlement, but were repulsed with great loss of life. In this engagement, as in many of those following, private citizens participated, myself and two sons, one only 15 years of age, being among the number. On the night of the 16th the Taku forts were taken, for reasons well known to you long since. \* \* \* The presence of the armies of Generals Nieh, Ma, and Sung was well known to us, but for some unexplained reason the officer in command of the allied forces did not think it necessary to capture the military college, a fortified position within 300 yards of the settlement and 600 yards from this consulate. This position was occupied by 200 military students, well armed and drilled, and who had at their command 8 large Krupp guns. Had they opened fire, the foreign concession would have been riddled and perhaps captured. \* \* \* I hunted up the other consuls and commanders and demanded that the place be captured at once. \* \* \* The commander \* \* \* arranged for an attack to be made at 3 p. m. At that hour the line was formed ready for the assault, when the first shell was fired into the city from the viceroy's fort, some 2 miles away. The position and guns were captured at once and with little casualty to our forces. Fifty Manchu students refused to surrender and were all killed. Had this attack been delayed for one hour there might have been a different story to tell. I had constant information from an intelligent Chinese, who, by the way, is a graduate of Yale College. \* \* \*

Two days prior the Russians had landed about 1,700 troops, with one 6-gun battery, so that at the time the siege began we had perhaps 2,500 troops all told to maintain a position of 8 or 10 miles in length. It had been previously arranged that, in the event of an attack, all women and children should assemble at Gordon (city) Hall, a very large and substantial building near the center of the settlement. There we found ample cellar room, that proved very good indeed, and, fortunately so, for the enemy's guns were trained on that particular spot. They had their spies in our midst, and evidently knew by whom the building was occupied. For eight days there was continuous shelling and volley firing. The enemy closed in their lines and eventually occupied the mud wall, a strong position some 600 yards to the east of us. Large guns were planted there, where they had easy range, and the fire was continuous and very accurate, but, providentially—it could not have been otherwise—only two or three foreigners were injured.



On the contrary, very many natives who had been unable to leave the settlements were killed and wounded, many of them occupying high positions in life. The loss of life from the fire of the sharpshooters was more effectual. One could not cross the street without hearing the z-zip of Mauser bullets. We were completely cut off from communication with our fleets and knew nothing of the efforts made to send us relief.

On the night of the 19th an effort was made to send a launch to Taku. My interpreter, R. H. Maclay, volunteered to go on this launch with a verbal message to Admiral Kempff. Eight other men were sent for various purposes, but the launch had proceeded only 9 miles when it ran onto a pile of rocks thrown into the river by the Boxers, and those on board had to fly for their lives. They continued their journey on to Taku by land, wandering through fields of corn, swamp grass, and canals, finally reaching their destination half dead from hunger and exposure. On the 22d some 200 United States marines, accompanied by 300 Russians, attempted to enter the city, following the railroad, but when within 2 miles of their destination were ambushed and compelled to retire, the enemy being on three sides of them. Our marines in this engagement lost 3 killed and 13 wounded. Before reaching their starting place they were reinforced with 1,500 new troops, and returned on the 24th and forced their way in, much to the joy of the careworn troops and citizens. As usual, our troops led the van. The enemy withdrew from their position on the east and retired to the walled city, thus leaving communication with Taku unobstructed.

On the 26th the large and splendidly equipped arsenal, some 3 miles to the northeast, was captured by the Russians, being supported by our marines and those of Great Britain and Germany. This arsenal was splendidly fortified and manned, and commanded the railway approach; hence the importance of its capture. Arms and munitions of war to the value of many millions were found stored there. The assault was witnessed by many of our people from the housetops, and was indeed a grand sight. A few days later a new position some 2 miles to the southwest was seized, fortified, and occupied by the enemy. This position gave them unobstructed range on the city, but their tenure was of but short duration, for on the 10th the Japanese troops, supported by those of the American, German, French, and English, made an assault and captured the position and 4 guns, and killed 300 or more. Without stopping, the army deflected to the right and captured the west arsenal, but the position being of light importance and requiring a large force to maintain, our forces withdrew. In this, as in all subsequent engagements, the Japanese soldiers won the praise of all and proved themselves soldiers of first rank. They are, in fact, ideal soldiers and entitled to the greatest credit.

In the meantime the enemy continued to shell the city, foreign concession, most unmercifully. It is estimated that not less than 5,000 shells were fired into the settlement. I can not at this moment think of one house that has escaped damage, many having been struck twenty times. The very first day a shell struck my kitchen, and on the last day two entered the consular office, and a large piece entered my bedroom window. As relics I have a hatful of pieces of shells picked up in my yard, to say nothing of Mauser and gingall bullets. (The gingall is a native weapon (gun) about 10 feet long and so heavy

that it requires two men to handle it. The cartridge used is about 5 inches long and weighs one-quarter of a pound.)

The shelling was far more terrific than any I experienced during the civil war, and I served under General Sherman. On the 13th day of July the Russians asked permission to make an advance on the right, and requested the support of other allied troops on the left. At daylight our forces marched out on the left, and after severe fighting recaptured the arsenal abandoned on the 10th and formed a line of battle inside of the mud wall and within a few hundred yards of the walled city. The position occupied by the Ninth United States Infantry was in front of a lake and without any protection whatever. They were exposed to the fire from the troops behind the brick wall, supported artillery firing shrapnel, as well as by numerous Gatling or other quick-firing guns. Their loss was exceedingly heavy, Colonel Liscum being killed early in the morning. Many other officers were killed or wounded. The troops were compelled to lie in the water all day long, and the heat was intense. Though the water was filthy and contained many dead Chinese, the soldiers had to drink it.

Early in the forenoon I visited the field many times, carrying bottles of ice water and stimulants to the wounded, and did everything in my power to make them comfortable, although it was not comfortable to me. After nightfall the Japanese drew near the south gate and finally succeeded in blowing it open, when they entered with a rush, the enemy retreating without further order. At daylight next morning our flags were flying on the walls in every direction. The Russians captured the forts on the extreme right, with 12 guns. In all, 58 guns were captured. The city was divided up into districts, the United States troops occupying the position immediately in front of their line the previous day, in which was located a large armory containing immense stores of arms and munitions of war. They also had control of the salt commissioners' yamen, where they found a million dollars' worth, or more, of silver bullion. The Japanese and English each found as much more in various locations. So ended the twenty-nine days of siege, during which time there was not an hour that we did not hear the shriek of shells or the whistle of bullets. The loss of the allied forces in this engagement aggregated 745 killed and wounded, the loss of the Chinese during the month exceeding, no doubt, 15,000. A visit to the native city the next day was most distressing. The streets and houses were filled with the dead and severely wounded. The wounded able to move and to be moved had disappeared. The loss to the Chinese in treasure and munitions of war can not be less than taels 25,000,000, or gold \$17,500,000.

Communication with Peking by telegraph ceased June 10, and with the outside world on June 15. Prior to that time the Chinese had control of the telegraph lines and acted as press censors, absolutely refusing to send dispatches that conveyed intelligence of their duplicity. My telegram to the Department, dated June 15, was held up (after accepting payment) for nine hours. I called in the evening to find out whether the message had really been forwarded or not, and was informed to the contrary. I then drew my revolver and forced the operator to act at once. He complied, but from a newspaper quotation I fear that the message was distorted. In this connection I desire to say that as long as communication was open I kept the minister constantly informed of the situation, who duly reported to the

Department. Afterwards I kept the admiral thoroughly posted until the siege. I did not think it proper for so many to be telegraphing to the Department, as the stories would be more or less conflicting. This will explain any apparent neglect on my part.

At this writing the armies are preparing for an advance on Peking, but will probably not be ready to move before August 1. We have evidence that our people in Peking are still alive, after nearly five weeks of siege under continued shell and rifle fire. They still have provisions, but very little ammunition left. As early as July 4 they had commenced to eat their ponies. The distress of mind to them must be truly appalling. \* \* \* The enemy occupies very strong positions some 17 miles from here, and number many thousands. We have, all told, about 23,000 soldiers. At least 5,000 must be retained here.

The destruction of property in the settlements is very great indeed. The homes of some of our American citizens have been destroyed, some losing everything they possessed. I hope that in the final settlement the Chinese Government will be made to repay them for their losses. A more uncalled-for uprising was never perpetrated. Had the authorities only heeded the admonitions and demands of our legations it would not only have escaped the condemnation of the entire world, but would have saved to itself and its subjects a loss in treasure and property almost unlimited in value. Instead, however, the Government encouraged the movement to exterminate the foreigners. It can not dodge the responsibility. We have evidence that for months the authorities had been preparing for this very event, and they should not be permitted to go unpunished. \* \* \*

I have, etc.

JAS. W. RAGSDALE,  
*U. S. Consul.*

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## CORRESPONDENCE WITH THE CHINESE MINISTER.

### UPRISING AGAINST FOREIGNERS.

[Memorandum.]

DEPARTMENT OF STATE,  
*Washington, June 22, 1900.*

The Chinese minister called this morning and communicated to the Secretary of State the substance of a telegram just received from Chang Chih-tung, who is the viceroy of the Liang Hu, residing at Wu Chang. It is very similar in substance to the dispatch of Liu Kun-yi received yesterday.

He says that the southern provinces are at peace and that he and his colleague of Nanking are perfectly able and determined to keep the peace and to prevent any outrages upon foreigners in the five provinces under their rule. He begs that the United States for their own part will wire the American admiral not to send any military or naval forces into the Yangtze Kiang so long as no breach of the peace takes place in those provinces, and that we will consult with other powers and request them to pursue the same course of action.

Mr. Wu would like the decision of the United States on these points communicated to him as soon as possible.

*Mr. Hay to Mr. Wu Ting-fang.*

DEPARTMENT OF STATE,  
*Washington, June 22, 1900.*

DEAR MR. MINISTER: I have communicated to the President the telegrams you showed me from the Viceroys Chang Chih-tung and Liu Kun Yih. He is much gratified at the assurances contained in these telegrams, that these distinguished magistrates are determined and are confident of their ability to maintain order in their various provinces and to protect the lives and the rights of foreigners within their jurisdiction. He authorizes me to assure you that so long as this is done he has no intention of sending any military or naval forces into regions where their presence is not needed. I have the pleasure also of informing you that I have communicated the assurances of the viceroys and my answer to you to our representatives at the courts of London, Paris, Berlin, St. Petersburg, and Japan.

I am, etc.,

JOHN HAY.

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*Mr. Wu Ting-fang to Mr. Hay.*

CHINESE LEGATION, *Washington, June 23, 1900.*

DEAR MR. SECRETARY: I beg to acknowledge the receipt of your letter of yesterday, in which you inform me that His Excellency the President is much gratified at the assurances contained in the telegrams I received from Viceroys Liu Kun Yee and Chang Chi Tung of their ability to maintain order and to protect the lives of foreigners within their jurisdiction, and that His Excellency authorizes you to assure me that so long as this is done he has no intention of sending any military or naval forces into those provinces, for which I tender my sincere thanks.

I beg also to inform you that in answer to my telegraphic inquiry as to the safety of Minister Conger in Peking, I have just received a telegraphic reply from Viceroy Liu Kun Yee to the effect that all the foreign ministers in Peking are well.

I am, etc.,

WU TING-FANG.

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CHINESE LEGATION, *June 25, 1900.*

*Translation of a cablegram from His Excellency Chang Chih Tung, viceroy of Hunan and Hupeh provinces, dated at Wuchang June 23, 1900, to Minister Wu Ting-fang at Washington, left at the Department of State June 25, 1900.*

Boxer rioters, in disobedience of Imperial edicts, are causing disturbance in the north, to the injury and loss of life and property of people of various nations. Within Peking and for hundreds of li outside of Peking Chinese subjects have sustained losses of property to the aggregate value of hundreds of thousands [of taels].

The killing of an attaché of the Japanese legation was due to the want of proper action on the part of the [Chinese] officials concerned. It was certainly not what the Imperial Government could have foreseen. It is feared that the consequent action of the foreign war ships in attacking and seizing the Taku forts may lead to a rupture.

Li Hung Chang has now been summoned by telegram to Peking by Her Majesty the Empress Dowager and His Majesty the Emperor, who will at once consult and come to a satisfactory understanding with the foreign powers, so as to avoid a breach of the peace. As it will be half a month before Grand Secretary Li can reach Tientsin, and as foreign forces without limit are daily proceeding thither, if further conflict of arms should occur, a solution of the situation would be attended with still greater difficulty, and further opportunity would then be afforded to riotous mobs to indulge in acts of violence and disorder to the greater injury of peaceful subjects.

As no war decree has been received by any of the viceroys or governors it is evident that the Imperial Government has no intention whatever of breaking off friendly relations. It is earnestly hoped the United States Government will confer with the governments of the several powers, urging them to telegraph instructions to commanders of their respective forces about Tientsin to refrain from further fighting, but to wait until Grand Secretary Li arrives at Peking and receives Imperial instructions to open negotiations [with the diplomatic representatives], when the whole matter will certainly be brought to a satisfactory settlement, and no calamity of war will result. The Imperial troops, with undivided energy, will then be able to suppress the rioters. The viceroys and governors of the provinces bordering on the Yangtze and the coast have assumed the responsibility and are doing all in their power to afford protection [to life and property]. Foreigners of all nationalities need feel no solicitude. If there should be further conflict of arms in or about Tientsin it would necessarily follow that southern China would also be involved.

The situation is critically urgent. The prompt issuance of instructions as above suggested is earnestly requested.

The above has the concurrence of all the viceroys and governors, and a like message has been communicated, by cable, to the ministers of foreign affairs of the different countries.

LI HUNG CHANG,  
*Acting Viceroy of Kwangtung and Kwangsi Provinces  
and Grand Secretary.*

LIU KUN YIH,  
*Viceroy of Kiangsu, Kiangsi, and Anhui Provinces.*

CHANG CHIH TUNG,  
*Viceroy of Hunan and Hupeh Provinces.*

YUAN SHIH KAI,  
*Governor of Shantung Province.*

WANG CHIH CHUN,  
*Governor of Anhui Province.*

YU LIEN SAN,  
*Governor of Hunan Province.*

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*Mr. Hay to Mr. Wu Ting-fang.*

No. 150.]

DEPARTMENT OF STATE,  
*Washington, June 25, 1900.*

SIR: I have the honor to acknowledge the receipt of a copy of the telegram sent you by His Excellency Chang Chih Tung, viceroy of

Hunan and Hupeh provinces, on the 23d of June, in which he informs you that the Imperial Government has no intention whatever of breaking off friendly relations, and desires that this Government shall confer with the governments of the several powers, urging them to telegraph instructions to commanders of their respective forces about Tientsin to refrain from further fighting, and to await until the Grand Secretary Li Hung Chang arrives at Peking and receives Imperial instructions to open negotiations with the diplomatic representatives. His excellency also advises you that the viceroys and governors of the provinces bordering on the Yangtze and the coast have assumed the responsibility and are doing all in their power to afford protection to life and property.

I have communicated this information to the President, who directs me to acknowledge receipt of your communication, and is greatly gratified to receive the viceroy's assurance that the deplorable events of the last few weeks have been without the authority and against the wishes of the Chinese Imperial Government. He is also pleased to learn of the disposition of the viceroys to maintain order in their jurisdiction, and to protect the lives and the property of the foreign residents therein.

He is unable, however, to give any orders to our naval and military officers in China which would prevent them from doing everything in their power to open up communication with our countrymen who are in peril of their lives in Tientsin and in Peking, and to assist in the restoration of peace and order where it has been so lamentably disturbed, nor can he engage to recommend such action to the other powers. He sincerely hopes that the Imperial Government of China, in cooperation with the powers, may speedily provide means to put an end to lawlessness and disturbance, and to provide against their renewal.

Accept, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Wu Ting-fang.*

DEPARTMENT OF STATE,  
Washington, June 27, 1900.

DEAR MR. WU: I have sent a cable authorizing our consuls to put themselves in communication with the viceroys as to the preservation of peace and order.

JOHN HAY.

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*Memorandum handed to the Secretary by Minister Wu.*

CHINESE LEGATION, July 3, 1900.

*Translation of a cablegram sent by Viceroy Liu Kun-Yih and Viceroy Chang Chih-Tung, dated at Nankin July 3, 1900, and received by Minister Wu Ting-fang the same day.*

Please inform Secretary of State that, it being feared that if military operations shall be pressed more forcibly in northern China the people in eastern and southern China may become agitated, a clear understanding should be arrived at; that regardless of what may happen (in

the north), the foreign powers agree not to dispatch forces to the Yangtze Valley or the interior of Kiangsu and Chekiang provinces, and the undersigned also agree to guarantee protection in accordance with the treaties to the lives and properties of people of all nationalities within their respective jurisdictions.

LIU KUN-YIH.  
CHANG CHIH-TUNG.

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*Mr. Hay to Mr. Wu Ting-fang.*

DEPARTMENT OF STATE,  
Washington, July 5, 1900.

DEAR MR. MINISTER: I inclose copies of telegrams sent to the American consul-general at Shanghai on the 27th of June and the 1st of July.<sup>1</sup>

JOHN HAY.

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*Mr. Wu Ting-fang to Mr. Hay.*

CHINESE LEGATION,  
Washington, July 11, 1900.

MY DEAR MR. SECRETARY: I have the pleasure to acknowledge receipt of your letter of the 5th instant inclosing copies of telegrams sent to the American consul-general at Shanghai on the 27th of June and the 1st of July, respectively, for which please accept my sincere thanks.

WU TING-FANG.

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*Memorandum handed to the Secretary by the Chinese Minister.*

CHINESE LEGATION, July 11, 1900.

An Imperial decree dated 3d day of sixth moon (June 29) has this day (July 10) been received by telegraph by Minister Wu from the taotai of Shanghai, transmitted on the 1st July from the treasurer of the Chihli Province, who received it by special courier on June 30 from the board of war, who in turn received it from the privy council in Peking. The decree is as follows:

The circumstances which led to the commencement of fighting between Chinese and foreigners were of such a complex, confusing, and unfortunate character as to be entirely unexpected. Our diplomatic representatives abroad, owing to their distance from the scene of action, have had no means of knowing the true state of things, and accordingly can not lay the views of the Government before the minister for foreign affairs of the respective powers to which they are accredited. Now, we take this opportunity of going fully into the matter for the information of our representatives aforesaid.

In the first place, there arose in the provinces of Chihli and Shantung a kind of rebellious subjects, who had been in the habit of practicing boxing and fencing in their respective villages and at the same time clothing their doings with spiritualistic and strange rites. The local authorities failed to take due notice of them at the time. Accordingly the infection spread with astonishing rapidity. Within the space of a month it seemed to make its appearance everywhere, and finally even reached the capital itself. Everyone looked upon the movement as supernatural and strange,

and many joined it. Then there were lawless and treacherous persons who sounded the cry of "Down with Christianity." About the middle of the fifth moon these persons began to create disturbances without warning. Churches were burned, and converts were killed. The whole city was in a ferment. A situation was created which could not be brought under control. At first the foreign powers requested that foreign troops be allowed to enter the capital for the protection of the legations. The Imperial Government, having in view the comparative urgency of the occasion, granted the request as an extraordinary mark of courtesy beyond the requirements of international intercourse. Over 500 foreign troops were sent to Peking. This shows clearly how much care China exercised in the maintenance of friendly relations with other countries.

The legations at the capital never had much to do with the people. But from the time foreign troops entered the city the guards did not devote themselves exclusively to the protection of their respective legations. They sometimes fired their guns on top of the city walls and sometimes patrolled the streets everywhere. There were repeated reports of persons being hit by stray bullets. Moreover, they strolled about the city without restraint, and even attempted to enter the Tung-hua gate (the eastern gate to the palace grounds). They only desisted when admittance was positively forbidden. On this account both the soldiers and the people were provoked to resentment and voiced their indignation with one accord. Lawless persons then took advantage of the situation to do mischief and become bolder than ever in burning and killing Christian converts. The powers thereupon attempted to reinforce the foreign troops in Peking, but the reinforcements encountered resistance and defeat at the hands of the insurgents on the way and have not yet been able to proceed. The insurgents of the two provinces of Chihli and Shantung had by this time effected a complete union and could not be separated. The Imperial Government was by no means reluctant to issue orders for the entire suppression of this insurgent element. But as the trouble was so near at hand, there was a great fear that due protection might not be assured to the legations if the anarchists should be driven to extremities, thus bringing on a national calamity. There was also a fear that uprisings might occur in the provinces of Chihli and Shantung at the same time, with the result that both foreign missionaries and Chinese converts in the two provinces might fall victims to popular fury. It was therefore absolutely necessary to consider the matter from every point of view. As a measure of precaution, it was finally decided to request the foreign ministers to retire temporarily to Tientsin for safety. It was while the discussion of this proposition was in progress that the German minister, Baron von Ketteler, was assassinated by riotous mob one morning while on his way to the tsungli yamen. On the previous day the German minister had written a letter appointing a time for calling at the tsungli yamen. But the yamen, fearing he might be molested on the way, did not consent to the appointment suggested by the minister. Since this occurrence the anarchists assumed a more bold and threatening attitude, and consequently it was not deemed wise to carry out the project of sending the diplomatic corps to Tientsin under an escort. However, orders were issued to the troops detailed for the protection of the legations to keep stricter watch and take greater precaution against any emergency.

To our surprise on the 20th of the fifth moon (June 16) foreign (naval?) officers at Taku called upon Lo Jung Kwang, the general commanding, and demanded his surrender of the forts, notifying him that failing to receive compliance they would, at 2 o'clock the next day, take steps to seize the forts by force. Lo Jung Kwang being bound by the duties of his office to hold the forts, how could he yield to the demand? On the day named they actually first fired upon the forts, which responded and kept up a fighting all day and then surrendered. Thus the conflict of forces began, but certainly the initiative did not come from our side. Even supposing that China were not conscious of her true condition, how could she take such a step as to engage in war with all the powers simultaneously, and how could she, relying upon the support of anarchistic populace, go into war with the powers? Our position in this matter ought to be clearly understood by all the powers. The above is a statement of the wrongs we have suffered, and how China was driven to the unfortunate position from which she could not escape.

Our several ministers will make known accurately and in detail the contents of this decree and the policy of China to the ministers of foreign affairs in the respective countries, and assure them that military authorities are still strictly enjoined to afford protection to the legations as hitherto, to the utmost of their power. As for the anarchists, they will be severely dealt with as circumstances permit.

The several ministers will continue in the discharge of the duties of their office as hitherto without hesitation or doubt. This telegraphic decree to be transmitted for their information. Respect this.



*Memorandum left at Department of State by Minister Wu.*

CHINESE LEGATION, *July 17, 1900.*

Cablegram received on July 17, 1900, from Viceroys Liu Kun Yi and Chang Chih-tung and Director-General Sheng, dated July 16, 1900, retransmitted by the Chinese minister in London, dated July 17, 1900, as follows:

Utmost efforts made to protect all foreign ministers who were well on 13th (July 9). If Tientsin city should be destroyed it would be difficult to restore same in one hundred years. Request the powers to preserve it, as the consequences would affect Chinese and foreign commerce. Earl Li Hung Chang is transferred to north China (as viceroy of Chihli). Please transmit this to Ministers Yang, Lu, Yu, and Wu.

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*Mr. Hay to Mr. Wu Ting-fang.*

DEPARTMENT OF STATE,  
*Washington, July 18, 1900.*

DEAR MR. WU: The President has transmitted to our officers in Tientsin the request of the viceroys and his hope that it may be complied with.

JOHN HAY.

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*Pro memoria.*

CHINESE LEGATION,  
*Washington, July 18, 1900.*

I have been requested by Grand Secretary Li Hung Chang to consult your Government as to the possibility of obtaining from the treaty powers either a guaranty of the territorial integrity of China or a self-denying ordinance in any action circumstances may call on them to take in the present disturbed state of the country.

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*Mr. Hay to Mr. Wu Ting-fang.*

DEPARTMENT OF STATE,  
*Washington, July 18, 1900.*

DEAR MR. WU: In reference to your inquiry made this morning on behalf of the Grand Secretary Li Hung Chang, I have the honor to reply that the position and the intention of the United States Government in favor of the territorial and administrative integrity of China are set forth with sufficient clearness in our circular of the 3d of July,<sup>1</sup> that we still hold the same attitude, and that we have ground to believe that similar views are entertained by all the other powers.

I am, etc.,

JOHN HAY.

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<sup>1</sup>See p. 299.

*Memorandum handed to the Secretary of State by the Chinese minister.*

CHINESE LEGATION, July 20, 1900.

*Cablegram from the Shanghai Taotai Yu, dated 20th July, received by Minister Wu on same date.*

Your telegram was forwarded as requested. I send you the reply of Tsungli Yamen, as follows:

Your telegram of the 15th day of this moon (11th July) received. Secretary of State's telegram has been handed to Minister Conger. Herewith Minister Conger's reply to the Secretary of State.<sup>1</sup> Please forward.

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[Memorandum.]

CHINESE LEGATION, July 21, 1900.

*Cablegram from Liu Kun-Yi, viceroy at Nankin, dated July 21, 1900, and received by Minister Wu at 10 a. m. the same day. Left at the Department of State July 21, 1900.*

According to edict of 22d of this (sixth) moon (July 18), with the exception of the German minister who was killed by anarchists, with regard to which rigorous measures are being taken to investigate and punish the guilty parties, all the other ministers, to whom strenuous efforts are being made to afford protection, are fortunately unharmed.

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*Mr. Wu Ting-fang to Mr. Hay.*

CHINESE LEGATION,  
Washington, July 23, 1900.

MY DEAR MR. SECRETARY: I have the honor to acknowledge the receipt of your personal note of the 18th instant, stating that the Government of the United States still holds the same position and intentions as are set forth in the Department circular of the 3d of July in favor of the territorial and administrative integrity of China, and also your personal note of the 19th instant, inclosing a copy of the above-mentioned circular. I shall take great pleasure in forwarding the gratifying information to Grand Secretary Li Hung Chang, on whose behalf I made the inquiry.

Thanking you for giving me this valued assurance of the United States Government, I am, etc.,

WU TING-FANG.

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*Memorandum left at the Department of State by the Chinese minister.*

CHINESE LEGATION, July 23, 1900.

*An Imperial edict, issued on the 21st day of the sixth moon (July 17), transmitted by the viceroy, Liu Kun-Yih, on the 20th of July, and received by Minister Wu on the 21st day of July at 7 o'clock.*

\* The present conflict between China and the foreign powers had its origin in the long-standing antagonism between the people and Chris-

tian missions. The subsequent fall of the Taku forts precipitated the meeting of force with force. The Imperial Government having due regard to the importance of international intercourse, still refused to go so far as to interrupt the existing relations. We have already repeatedly issued decrees providing for the protection of the foreign legations, and also commanded the provincial authorities to protect missionaries. Inasmuch as there is still no cessation in the employment of force, foreign merchants and subjects residing in China, who form a numerous body in the country, should be protected without distinction. We hereby command all the Tartar generals, governors-general, and governors of provinces to look after the foreign merchants and missionaries living in the open ports, prefectures, departments, and districts under their respective jurisdiction, and to afford them due protection in accordance with treaty stipulations without fail. Last month we heard with profound astonishment and regret of the killing of the chancellor of the Japanese legation, Mr. Akira, and the same fate befel the German minister shortly afterwards. The violent removal of the German minister, whose residence at the residence at the capital was necessary to the transaction of business between the two countries, affected us very deeply. It is the duty of the authorities concerned to cause stringent orders for the speedy arrest and punishment of the murderers to be carried out. Since the commencement of the attack in Tientsin there are foreign subjects and missionaries who have, on account of local disturbances, suffered death or loss of property through no fault of their own. We hereby command the governor of Peking and the viceroy of Chihli to cause investigations to be made by their respective subordinates of all such claims except those arising directly from the said attack, with a view to their ultimate settlement. Moreover, local outlaws and rebellious subjects have of late given themselves up to burning, killing, and plundering, to the great disquiet of our loyal subjects. This is an utter defiance of law. We hereby command the said governors-general, governors, and commanders of our forces to investigate the situation and to take such measures for the punishment of the offenders and restoration of order as the necessities of the case demand. We hereby command this our general edict to be made known for the information of all whom it may concern. Respect this.

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*Mr. Wu Ting-fang to Mr. Hay.*

CHINESE LEGATION,  
Washington, July 24, 1900.

MY DEAR MR. SECRETARY: I have the honor to acknowledge receipt of your note of yesterday, inclosing a copy of a letter from the President of the United States to the Emperor of China, which I have transmitted by telegraph to its high destination as requested.

With renewed assurances, etc.,

WU TING-FANG.

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*Mr. Hay to Mr. Wu Ting-fang.*

DEPARTMENT OF STATE,  
Washington, August 1, 1900.

MY DEAR MR. WU: In accordance with my promise of this morning, I send you herewith copy of the telegram<sup>1</sup> which I have just dis-

<sup>1</sup> Printed p. 260.

patched to the United States consul-general at Shanghai. I beg that you will use your best endeavors to impress upon Earl Li the importance and urgency of the communication Mr. Goodnow is directed to make to him.

I am, etc.,

JOHN HAY.

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*Mr. Wu Ting-fang to Mr. Hay.*

CHINESE LEGATION,  
Washington, August 1, 1900.

MY DEAR MR. SECRETARY: I have the honor to acknowledge receipt of your note of this morning, inclosing copy of a telegram sent by you to the United States consul-general at Shanghai.

I have at once telegraphed to Earl Li the views and wishes of your Government as embodied in the telegram above referred to, urging him to memorialize the Throne by telegraph upon the subject.

I am, etc.,

WU TING-FANG.

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*Mr. Wu Ting-fang to Mr. Hay.*

CHINESE LEGATION,  
Washington, August 3, 1900.

MY DEAR MR. SECRETARY: I am very glad to learn that you have received official confirmation from Mr. Consul Fowler of the absolute genuineness of Mr. Conger's much-discussed cipher telegram of a fortnight ago, not only because it is indisputable proof of the good faith of the Chinese officials concerned in the transmission of the message, which has been openly or tacitly impugned by some journals, especially those in Europe, but it thoroughly vindicates and justifies the stand you took in accepting from the beginning the authenticity of the dispatch, an act which exerted wide and strong influence in dispelling doubt and distrust from the minds of a large portion of the American public and which has been very deeply appreciated by me.

I thank you sincerely for your kind expression of appreciation of my earnest efforts to foster and preserve unbroken the amicable relations between my country and the United States, which it will ever be my pleasant duty to do.

Thanking you also for your good wishes for my personal comfort and hoping you will enjoy a well-earned rest, I am, etc.,

WU TING-FANG.

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*Memorandum delivered by the Chinese minister.*

CHINESE LEGATION, August 4, 1900.

*Cablegram of Yu Lien Yuen, taotai of Shanghai, dated August 2, 1900, was received by Minister Wu on the evening of August 3. Left with Acting Secretary Adee August 4, 1900.*

Tsungli yamen's cablegram of July 30 is as follows:

Foreign ministers in Peking are all safe and well. Recently vegetables, fruit, and provisions have been repeatedly supplied to them. Relations most friendly. At present consultations are going on for the protection of various ministers going to

Tientsin for temporary shelter, which will soon be concluded satisfactorily. But as fighting is going on in Tientsin it is inexpedient that cipher telegrams should be sent. Different consuls have been notified, so that they may inform their respective governments. Please inform the foreign office.

Besides wiring to other ministers I transmit the above to you.

YU LIEN YUEN.

*Memorandum delivered by the Chinese minister.*

CHINESE LEGATION, August 8, 1900.

An Imperial edict of the eighth day of the seventh moon (August 2, 1900), transmitted by Viceroy Li Hung Chang, Viceroy Liu Kun Yi, and Director-General Sheng, under date of August 4, 1900, to Minister Yang, at St. Petersburg, and retransmitted by the latter, under date of August 7, and received by Minister Wu on the evening of the last-named date. It is as follows:

Li Hung Chang and Liu Kun Yi, in response to their joint memorial proposing the sending of the foreign ministers to Tientsin, received on the 8th instant (August 2) the following Imperial edict:

Throughout the disturbances recently caused by our subjects on account of Christian missions, which have resulted in a conflict of forces, it has been found necessary to afford protection to all the foreign ministers in Peking. On repeated occasions the Tsungli Yamen sent notes inquiring after their welfare. And, as Peking has not yet been restored to order and precautionary measures may not secure absolute safety, the foreign ministers are being consulted as to the proposed plan of detailing troops to escort them safely to Tientsin for temporary shelter, so that they may be free from apprehensive anxiety or fear.

We hereby command Jung Lu to appoint, as a preliminary step, trustworthy high civil and military officials, who, together with reliable and efficient troops, shall, at such time as the foreign ministers may agree upon for leaving Peking, escort and protect them throughout their journey. Should lawless characters manifest evil designs upon the ministers, or attempt to rob them, or in any way create trouble, they (the high officials) shall at once repress them without fail.

If the foreign ministers before leaving Peking should desire to communicate with their respective governments, and if their telegraphic messages should be in plain language, the Tsungli Yamen shall at once attend to them without the least delay, thus manifesting the utmost friendliness of the Imperial Government. Respect this.

*Memorandum delivered by the Chinese minister.*

CHINESE LEGATION, August 8, 1900.

*Cablegram from Yu Lien-Yuen, taotai of Shanghai, received by Minister Wu on the 8th of August, 1900.*

Have received telegram from Governor Yuan Shih-Kai to the effect that the Tsungli Yamen received on the 5th of August an Imperial edict allowing all the foreign ministers free communication with their respective governments in cipher.

*Memorandum handed to the Chinese minister August 8, 1900.*

DEPARTMENT OF STATE,  
Washington, August 8, 1900.

We are availing ourselves of the opportunity offered by the Imperial edict of the 5th of August allowing to the foreign ministers free communication with their respective governments in cipher, and have sent a communication to Minister Conger, to which we await an answer.

We are already advised by him, in a brief dispatch received August 7, that Imperial troops are firing daily upon the ministers in Peking. We demand the immediate cessation of hostile attacks by Imperial troops upon the legations and urge the exercise of every power and energy of the Imperial Government for the protection of the legations and all foreigners therein.

We are also advised by the same dispatch from Minister Conger that, in his opinion, for the foreign ministers to leave Peking as proposed in the edict of August 2 would be certain death. In view of the fact that the Imperial troops are now firing upon the legations, and in view of the doubt expressed by the Imperial Government in its edict of August 2 as to its power to restore order and secure absolute safety in Peking, it is evident that this apprehension is well founded, for if your Government can not protect our minister in Peking, it will presumptively be unable to protect him upon a journey from Peking to the coast.

We therefore urge upon the Imperial Government that it shall adopt the course suggested in the third clause of the letter of the President to His Majesty the Emperor of China, of July 23, 1900, and enter into communication with the relief expedition, so that cooperation may be secured between them for the liberation of the legations, the protection of foreigners, and the restoration of order. Such action on the part of the Imperial Government would be a satisfactory demonstration of its friendliness and desire to attain these ends.

ALVEY A. ADEE,  
*Acting Secretary.*

*Memorandum handed to Mr. Adee by the Chinese minister, Mr. Wu.*

CHINESE LEGATION, August 11, 1900.

*A joint telegram from Viceroy Li Hung Chang, Liu Kun-Yi, and Chang Chih Tung and Director-General Sheng, dated at Nankin, seventh moon, sixteenth day (August 10), and received by Minister Wu on the same day.*

Although the foreign settlements at Shanghai are under the joint protection of the several powers, we have assumed the responsibility of protecting the whole region from Shanghai up on the Yangtze River, and no disturbance by lawless characters will be tolerated. There are now anchored in the vicinity about twenty foreign war ships, most of them being British. Information is also received of the expected arrival of two thousand Indian troops at Shanghai, which is causing an alarm and an exodus of merchants and other Chinese. It

is feared that the place will, in consequence, become deserted and business paralyzed, in which event the purpose of the movement may be misunderstood at the different ports and disturbances may arise to the great detriment of trade. Please invoke good offices of Secretary of State at once to take steps to stop the movement.

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*Mr. Adee to Mr. Wu.*

DEPARTMENT OF STATE,  
Washington, August 11, 1900.

*Memorandum touching the joint telegram from Viceroy Li Hung Chang, Liu Kun-Yi, and Chang Chih-Tung and Director-General Sheng, dated at Nankin, August 10, and communicated to Mr. Adee by Mr. Wu August 11, having reference to the landing of foreign troops at Shanghai.*

The question whether any power should land troops at Shanghai for the protection of its citizens and interests in that part of China is one which each power must determine for itself. If we consider it necessary for the protection of our citizens at Shanghai to land troops there, we should do so, as we have done at Taku; and we can not question the right of any other power having treaty rights at that port to do the same.

If the communication delivered by Mr. Wu is to be regarded as an appeal for our good offices with the others powers to prevent action injurious to China, it is impossible that we should take any step in that direction so long as the Chinese Government has not complied with the requirements of the President's letter of July 23.

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#### NEGOTIATIONS FOR THE RESTORATION OF ORDER.

*Memorandum delivered to the Department of State by the Chinese minister, Mr. Wu Ting-fang.*

CHINESE LEGATION, August 12, 1900.

*An Imperial edict forwarded by the privy council at Peking, under date of the 14th day of the 7th moon (August 8), to Governor Yuan, at Tsinan, Shantung, who transmitted it on the 17th day of the same moon (August 11) to the taotai at Shanghai, by whom it was retransmitted to Minister Wu, who received it on the night of the same day (August 11).*

The Imperial edict, as transmitted by the privy council, is as follows:

In the present conflict between Chinese and foreigners there has been some misunderstanding on the part of foreign nations and also a want of proper management on the part of some of the local authorities. A clash of arms is followed by calamitous results and causes a rupture of friendly relations, which will ultimately do no good to the world. We hereby appoint Li Hung Chang as our envoy plenipoten-

tiary, with instructions to propose at once by telegraph to the Governments of the several powers concerned for the immediate cessation of hostile demonstrations pending negotiations which he is hereby authorized to conduct for our part for the settlement of whatever questions may have to be dealt with. The questions are to be severally considered in a satisfactory manner and the result of the negotiations reported to us for our sanction. Respect this.

The above is respectfully copied for transmission on to your excellency, to be communicated to the Secretary of State for his excellency's information.

NOTE.—Mr. Wu also informed the State Department that, subsequent to the receipt of the foregoing edict, he had received a cablegram from Earl Li Hung Chang notifying his appointment as above, and asking Minister Wu to request of the United States the cessation of hostile demonstrations.

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*Memorandum delivered to the Chinese Minister, Mr. Wu Ting-fang, touching the Imperial edict of August 8 appointing Li Hung Chang envoy plenipotentiary to conduct negotiations, on the part of China, with the powers, and the request for a cessation of hostilities, pending negotiations, communicated to Mr. Adee by Mr. Wu on the 12th of August, 1900.*

DEPARTMENT OF STATE,  
Washington, August 12, 1900.

The Government of the United States learns with satisfaction of the appointment of Earl Li Hung Chang as envoy plenipotentiary to conduct negotiations with the powers, and will, on its part, enter upon such negotiations with a desire to continue the friendly relations so long existing between the two countries.

It is evident that there can be no general negotiation between China and the powers so long as the ministers of the powers and the persons under their protection remain in their present position of restraint and danger, and that the powers can not cease their efforts for the delivery of these representatives, to which they are constrained by the highest considerations of national honor, except under an arrangement adequate to accomplish a peaceable deliverance.

We are ready to enter into an agreement between the powers and the Chinese Government for a cessation of hostile demonstrations, on condition that a sufficient body of the forces composing the relief expedition shall be permitted to enter Peking unmolested and to escort the foreign ministers and residents back to Tientsin; this movement being provided for and secured by such arrangements and dispositions of troops as shall be considered satisfactory by the generals commanding the forces composing the relief expedition.

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*Mr. Adee to Mr. Wu Ting-fang.*

DEPARTMENT OF STATE,  
Washington, August 12, 1900.

DEAR MR. WU: The appointment of an envoy plenipotentiary to represent the Chinese Government in negotiation with the powers suggests to me that a useful indication of the spirit with which the



United States approaches the subject may be afforded by advising you (as I am authorized by the Secretary of War to do) of the tenor of the instructions already sent to General Chaffee. The following is an extract from the telegram cabled to him on the 19th of July last:

It is the desire of this Government to maintain its relations of friendship with the part of the Chinese people and Chinese officials not concerned in outrages on Americans. Among these we consider Li Hung Chang, just appointed viceroy of Chili. You will to the extent of your power aid the Government of China, or any part thereof, in repressing such outrages and in rescuing Americans and in protecting American citizens and interests, and, wherever Chinese Government fails to render such protection, you will do all in your power to supply it. \* \* \*

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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*Memorandum handed to the Acting Secretary of State by the Chinese minister.*

CHINESE LEGATION, August 16, 1900.

*Cablegram from Earl Li Hung Chang, envoy plenipotentiary of China, dated August 15, and received by Minister Wu at 7 p. m. on the same day.*

The allied forces are approaching Tung Chow. I have memorialized the Imperial Government to depute envoy to negotiate an armistice with the several commanders on the spot. I will also shortly proceed to Peking. The powers, being fully aware of the embarrassing position in which Their Majesties the Empress Dowager and the Emperor are placed, are earnestly requested to telegraph instructions to their respective commanders after arriving at Tung Chow with their forces to stop their further advance to the capital, so as not to cause alarm and fear to Their Majesties and calamities to the people; for such advance would shake the foundations of the Ta Ching Empire and wound the feelings of all her people, high and low. For a compliance with this appeal the millions of people of the Empire will be profoundly grateful to the powers. Please communicate this cablegram at once to the Secretary of State.

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*Memorandum communicated to the Chinese minister.*

DEPARTMENT OF STATE,  
Washington, August 16, 1900.

Foreseeing that there would be insufficient time after receiving a reply to our memorandum of August 12 to get instructions to the relief column before it had reached Peking, we sent on the same day to the general commanding the American forces in China the following dispatch:

ADJUTANT-GENERAL'S OFFICE,  
Washington, August 12, 1900.

FOWLER, Chefoo (for Chaffee):

Secretary War directs me to inform you that Li Hung Chang, appointed by Chinese Government to negotiate with powers, requests cessation of hostilities. We

have replied that we are ready to enter into agreement between powers and Chinese Government for cessation of hostilities on condition that sufficient body of the forces composing the relief expedition shall be permitted to enter Peking unmolested and to escort foreign ministers and residents back to Tientsin, the movement being provided for and secured by such arrangements and dispositions of troops as shall be considered satisfactory by generals commanding the forces composing relief expedition. We have communicated this to all the powers. Japanese Government takes same position. We have not heard from other powers.

CORBIN.

And two days ago, in view of the rapid progress of the relief expedition, we sent the following:

ADJUTANT-GENERAL'S OFFICE,  
Washington, August 14, 1900.

FOWLER, *Chefoo* (for Chaffee):

August 14. In anticipation of acceptance by Chinese Government of condition in our reply to them cabled you August 12. If Chinese authorities communicate willingness to deliver ministers and persons under their protection to relief column at Peking, under arrangements which you consider safe, you are authorized to make and carry out arrangement in concert with other commanders, without referring it here. From informal communications with representatives of other governments here, we believe all to take substantially same position. Question whether you should insist upon entering Peking and going to legations or will receive delivery at gate of inner Tartar city, or at outer wall, taking risk of ministers passing through city with only Chinese escort, you and the other generals must determine.

By order Secretary of War.

CORBIN.

We are advised by Minister Conger that the attacks by Imperial troops upon the legations in Peking have not ceased. While these attacks continue we can not stop the advance of our forces toward Peking. If such attacks cease the above-quoted instructions will be allowed to stand, and they would seem to provide for all the action required under the circumstances stated by Earl Li in his dispatch.

ALVEY A. ADEE,  
*Acting Secretary.*

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*Memorandum handed to Mr. Adee by Mr. Wu.*

CHINESE LEGATION, August 20, 1900.

*Cablegram dated August 19 from Viceroy Li Hung Chang, was transmitted by the Chinese minister in London and received by Minister Wu on the night of the same day.*

It was the declaration of all the ministers for foreign affairs of the great powers that the expedition of the allied troops was solely for the rescue of the ministers in Peking. Now, the allied troops having entered Peking and found all the ministers safe, it seems proper that hostilities should at once cease and that negotiations should commence. I therefore request the United States Government to appoint an envoy with full powers or appoint the minister now in Peking for the purpose, as he is necessarily acquainted with the affairs between Chinese and foreigners, and to inform me if the conference will take place in Peking. After receipt of a definite reply, I will at once proceed to the north. Please request the Secretary of State to lay the matter before His Excellency the President. I await reply.

*Memorandum received at the Department of State from Mr. Wu.*

CHINESE LEGATION, August 21, 1900.

*Cablegram from Viceroy Li Hung Chang, dated August 21, 1900, and received by Minister Wu on the same day.*

The Boxer rebels in Peking having been dispersed, there will be positively no more fighting. Further military operations on the part of the powers are greatly to be deplored. Besides urging cessation of hostilities, please confer with Secretary of State upon subject of withdrawal of troops and appointment of plenipotentiary to negotiate settlement of all other questions so as to preserve amicable relations. I await early reply.

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*Memorandum handed to Mr. Adee by Minister Wu, August 21, 1900.*

*Cablegram from Viceroys Liu Kun Yi and Chang Chih Tung, dated August 19, transmitted by the Chinese minister at London and received by Minister Wu on August 20, 1900.*

On account of the entrance of the allied troops into Peking we telegraphed the consular representatives at Shanghai yesterday to transmit our request to the various powers concerned not to cause alarm to their majesties the Empress Dowager and the Emperor. We were urgently hoping for a reply within two days, so as to quiet the people of the whole Empire, high and low, and for no other purpose. Their majesties having left (the capital), the various viceroys will continue to assume protection and maintain order in eastern and southern China according to agreement. Please inform Secretary of State.

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DEPARTMENT OF STATE,  
Washington, August 21, 1900.

*Memorandum touching a cablegram from the Viceroys Li Kun Yi and Chang Chih Tung, dated 17th, transmitted by the Chinese minister at London, received by Minister Wu on August 20, 1900, and by him communicated to the Department of State August 21, 1900.*

On the 17th instant the Department received from Consul-General Goodnow a telegram communicating a message received by him on that day from the Nankin viceroys asking that the foreign consuls convey to the commander of the cooperating relief forces, then reported to be approaching Peking, a request to regard the persons of the Empress Dowager and the Emperor, and not cause them alarm.

The next day Mr. Goodnow reported that the viceroys had telegraphed that they were satisfied with the position of the cooperating governments in regard to the Empress and Emperor.

Mr. Goodnow was directed, by a telegram sent August 19, to assure the Nankin viceroys that the announced policy of this Government rests on consideration for the Chinese people not implicated in the

antiforeign outrages, and will duly regard the high personalities of the Empress Dowager and the Emperor.

The first part of the telegram from the Nankin viceroys to Mr. Wu, has, therefore, been already answered.

As to the second part, the Government of the United States is gratified at the guaranties given by the viceroys of continued protection and maintenance of order in eastern and southern China.

ALVEY A. ADEE,  
*Acting Secretary.*

DEPARTMENT OF STATE,  
*Washington, August 22, 1900.*

*Memorandum in response to the Chinese minister's communication of cablegrams from Viceroy Earl Li Hung Chang, dated August 19 and 21, proposing the immediate cessation of hostilities and the appointment of an envoy to conduct negotiations received at the Department of State August 20 and 21, 1900.*

While the condition set forth in the memorandum delivered to the Chinese minister August 12 has not been fulfilled, and the powers have been compelled to rescue their ministers by force of arms unaided by the Chinese Government, still this Government is ready to welcome any overtures for a truce, and invite the other powers to join, when security is established in the Chinese capital and the Chinese Government shows its ability and willingness to make on its part an effective suspension of hostilities there and elsewhere in China. When this is done—and we hope it will be done promptly—the United States will be prepared to appoint a representative to join with the representatives of the other similarly interested powers and of the authoritative and responsible Government of the Chinese Empire to attain the ends declared in our circular to the powers of July 3, 1900.

ALVEY A. ADEE,  
*Acting Secretary.*

*Memorandum handed to Acting Secretary Hill by the Chinese Minister.*

CHINESE LEGATION, *September 10, 1900.*

*Cablegram from Earl Li Hung Chang, dated the 7th September, 1900, transmitted by the Chinese minister at St. Petersburg under date of the 9th September and received by Minister Wu on the last-named date.*

I am in receipt of an imperial edict of the 30th day of the seventh month (August 24, 1900), transmitted by way of Paoting Fu. It is as follows:

Li Hung Chang, envoy plenipotentiary, is hereby vested with full discretionary powers, and he shall promptly deal with whatever questions may require attention. From this distance we will not control his actions. Let this edict be forwarded with extra expedition at the rate of 600 li per day (to Earl Li) for his information and guidance. Respect this.

*Memorandum handed to the Chinese Minister, Mr. Wu, by Acting Secretary Hill.*

DEPARTMENT OF STATE, *September 11, 1900.*

The United States does not feel called upon to express any opinion at this time as to the sufficiency of Li Hung Chang's authority, but hopes it will transpire that his credentials are full and authoritative, not only for negotiation, but to enable him without further delay to give assurance that the life and property of Americans will henceforth be respected throughout the Chinese Empire.

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*Memorandum handed to Acting Secretary Hill by the Chinese Minister, Mr. Wu.*

CHINESE LEGATION, *September 11, 1900.*

*Cablegram from Earl Li Hung Chang, dated September 9, 1900, transmitted by the Chinese minister at London under date of September 10 and received by Minister Wu on the night of the last-named date.*

I have just received a telegram, dated September 3, from governor of Shantung, transmitting a dispatch addressed to me by the privy council, from Ta-tung Fu (Shansi), on August 30.

The privy council to Li Hung Chang, envoy plenipotentiary, grand secretary of state, and viceroy of Chihli.

On the third day of the eighth moon of Kwang-hsu, twenty-sixth year (August 27), the following imperial edict was issued:

"We hereby command Li Hung Chang, envoy plenipotentiary with full discretionary powers and grand secretary of state, to proceed at once by steam vessel to Peking and there to associate himself with Prince Ching in discussing and dealing with all pending questions. Let there be no delay. Respect this."

The above has been communicated to me in obedience to the imperial will.

Another communication from the privy council states an edict has already been issued commanding Sir Robert Hart to confer with (the representatives of) the foreign nations for the loan of a steam vessel to convey Li Hung Chang without delay to Peking, where he is to associate himself with Prince Ching in dealing with all pending questions. There was also a copy of an edict for Li Hung Chang, which the inspector-general of customs (Sir Robert Hart) was directed to depute an official to deliver in person (to Earl Li). The documents referred to have been dispatched by post, but on account of the roundabout method employed and fearing a mistake or failure might arise, the edicts are respectfully transcribed (as above). On receipt of the same the Shantung government is requested to transmit them by telegraph to Envoy Li.

Having received imperial orders urging my speedy departure for the north, it behoves me to make arrangements to start on my journey soon. Please inform Secretary of State and request instructions be telegraphed to the United States commanders at Tientsin and Peking to cooperate in affording me protection, if required.

*Memorandum handed to the Chinese Minister, Mr. Wu, by Acting Secretary Hill.*

DEPARTMENT OF STATE,  
Washington, September 12, 1900.

In reply to the request of Earl Li that instructions be telegraphed to the United States commanders at Tientsin and Peking to cooperate in affording him protection, if required, on his journey to Peking, the Government of the United States, so far at its own forces are concerned, will be happy to facilitate in every proper way the journey of Earl Li to Peking, and will so instruct its commanders.

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*Memorandum handed to Acting Secretary Hill by the Chinese Minister.*

CHINESE LEGATION, September 13, 1900.

*Cablegram from Earl Li Hung Chang, dated Shanghai, September 12, 1900, to Minister Wu, who received it on the evening of the same day.*

Your telegram of September 11 received. I have proper credentials, with full and authoritative powers for opening and conducting negotiations with the several powers. The life and property of Americans in China will be respected.

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*Memorandum handed to Mr. Adee by the Chinese Minister, Mr. Wu.*

CHINESE LEGATION, September 17, 1900.

*Cablegram from Prince Ching, dated (at Peking) September 8, 1900, transmitted by the Chinese minister at St. Petersburg on the 16th instant to Minister Wu, who received it on the night of the same day.*

Foreign troops having entered Peking, and their majesties the Empress Dowager and the Emperor having gone westward on a tour, I have received an imperial edict appointing me envoy plenipotentiary with full discretionary powers, in conjunction with Grand Secretary Li Hung Chang, to negotiate peace. Please inform Secretary of State and request that, in view of the long friendly relations (existing between the two countries), instructions be telegraphed to the (United States) minister at Peking to open negotiations in a harmonious way at an early date, to the interest and gratification of all concerned.

*Memorandum handed to Mr. Adee by Minister Wu.*

CHINESE LEGATION, *September 20, 1900.*

*Cablegram dated September 19, 1900, from Viceroy Liu Kun-yih, of Nankin, and Viceroy Chang Chih-tung, of Wuchang, received by Minister Wu on the night of the same day.*

The object of the allied troops was to rescue the foreign ministers. Now the said ministers have been rescued and an Imperial decree has been issued ordering the extermination of the Boxers. The missionaries at Pao-ting and Ching-ting have been safely escorted and handed by the acting viceroy of Chihli Province to the allied troops at Chang-sin-tien and Lukow-chiao. Prince Ching, Earl Li Hung Chang, and Grand Secretary Jung Lu are now prepared to open negotiations. We sincerely hope that the foreign powers will keep their word, and not advance any more troops nor in any way alarm any of the ports, and will at once give full power for conducting negotiations.

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*Mr. Hill to Mr. Wu.*

DEPARTMENT OF STATE,  
*Washington, September 21, 1900.*

*Memorandum in response to Mr. Wu's communication, September 17, 1900, of a cablegram from Prince Ching, dated Peking, September 8, 1900.*

The Government of the United States accepts the plenipotentiary authority of Earl Li Hung Chang and Prince Ching as prima facie sufficient for the preliminary negotiations looking toward the return of the Imperial Chinese Government and to the resumption of its authority at Peking, and toward the negotiation of a complete settlement by the duly appointed plenipotentiaries of the powers and of China.

To these ends the United States minister in Peking will be authorized to enter into relations with Earl Li and Prince Ching as the immediate representatives of the Chinese Emperor.

DAVID J. HILL,  
*Acting Secretary.*

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**LETTERS FROM THE EMPEROR OF CHINA AND THE PRESIDENT'S REPLIES.**

CHINESE LEGATION, *July 20, 1900.*

*Translation of a cablegram received by Minister Wu on July 20, 1900, from the Taotai of Shanghai, dated July 19, 1900.*

Have received a telegram from Governor Yuan (of Shantung), dated 23d day of this moon (July 19), who, having received from the privy council (at Peking) a dispatch embodying an imperial letter to the President of the United States, has instructed me to transmit it to

your excellency. The imperial message is respectfully transmitted, as follows:

*The Emperor of China to His Excellency the President of the United States, greeting:*

China has long maintained friendly relations with the United States, and is deeply conscious that the object of the United States is international commerce. Neither country entertains the least suspicion or distrust toward the other. Recent outbreaks of mutual antipathy between the people and Christian missions caused the foreign powers to view with unwarranted suspicion the position of the Imperial Government as favorable to the people and prejudicial to the missions, with the result that the Taku forts were attacked and captured. Consequently there has been clashing of forces, with calamitous consequences. The situation has become more and more serious and critical. We have just received a telegraphic memorial from our envoy, Wu Ting-fang, and it is highly gratifying to us to learn that the United States Government, having in view the friendly relations between the two countries, has taken a deep interest in the present situation. Now China, driven by the irresistible course of events, has unfortunately incurred well-nigh universal indignation. For settling the present difficulty China places special reliance in the United States. We address this message to your excellency in all sincerity and candidness, with the hope that your excellency will devise measures and take the initiative in bringing about a concert of the powers for the restoration of order and peace. The favor of a kind reply is earnestly requested and awaited with the greatest anxiety.

Kwanghsu, twenty-sixth year, sixth moon, 23d day (July 19, 1900).

It is therefore my duty to transmit the above with the request that your excellency, in respectful obedience of imperial wishes, will deliver the same to its high destination and favor me with a reply.

YU LIEN-YUEN,  
*Taotai at Shanghai.*

KWANGHSU, *twenty-sixth year, sixth moon, 23d day (July 19, 1900).*

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*Mr. Hay to Mr. Wu Ting-fang.*

DEPARTMENT OF STATE,  
*Washington July 23, 1900.*

MY DEAR MR. MINISTER: I inclose a copy of a letter from the President to the Emperor of China which I beg you will transmit by telegraph to its high destination.

I am, etc.,

JOHN HAY.

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*The President of the United States to the Emperor of China, greeting:*

I have received Your Majesty's message of the 19th of July, and am glad to know that Your Majesty recognizes the fact that the Government and people of the United States desire of China nothing but what is just and equitable. The purpose for which we landed troops in China was the rescue of our legation from grave danger and the protection of the lives and property of Americans who were sojourning in China in the enjoyment of rights guaranteed them by treaty and by international law. The same purposes are publicly declared by all the powers which have landed military forces in Your Majesty's Empire.

I am to infer from Your Majesty's letter that the malefactors who have disturbed the peace of China, who have murdered the minister of Germany and a member of the Japanese legation, and who now hold besieged in Pekin those foreign diplomats who still survive, have not only not received any favor or encouragement from Your Majesty, but are actually in rebellion against the Imperial authority. If this be the case, I most solemnly urge upon Your Majesty's Government to give public assurance whether the foreign ministers are alive, and if so, in what condition.



2. To put the diplomatic representatives of the powers in immediate and free communication with their respective governments and to remove all danger to their lives and liberty.

3. To place the Imperial authorities of China in communication with the relief expedition, so that cooperation may be secured between them for the liberation of the legations, the protection of foreigners, and the restoration of order.

If these objects are accomplished it is the belief of this Government that no obstacles will be found to exist on the part of the powers to an amicable settlement of all the questions arising out of the recent troubles, and the friendly good offices of this Government will, with the assent of the other powers, be cheerfully placed at Your Majesty's disposition for that purpose.

WILLIAM MCKINLEY.

JULY 23, 1900.

By the President:

JOHN HAY, *Secretary of State.*

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*The Emperor of China to the President, and the President to the Emperor of China.*

[Handed to the President by Minister Wu, October 17, 1900.]

The following telegraphic Imperial letter, dated October 14, 1900, forwarded by the privy council from Tung-Kuan (in Shensi) and retransmitted from Shanghai by Director-General Sheng under date of October 16, has been received by Minister Wu:

*The Emperor of the Ta Tsing Empire to His Excellency the President of the United States, greeting:*

We are extremely grateful to your excellency for taking the initiative in the withdrawal of troops (from Peking) and for consenting, in the interest of friendly relations, to use your kindly offices between China and the friendly powers who have been offended on account of the recent unexpected uprising in China.

We therefore especially delegate our envoy extraordinary and minister plenipotentiary, Wu Ting-fang, to personally deliver this telegraphic letter to your excellency conveying our sincere expression of thanks.

We beg that your excellency, in the interest of peace and international good relations, will exert your friendly influence with the other powers toward the complete effacement of all ill feeling and the speedy determination on their part to negotiate for a peaceful settlement. For this we shall feel unbounded gratitude toward your excellency, whose good offices we are now earnestly beseeching.

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[Communicated to Minister Wu for transmission, October 18, 1900.]

WASHINGTON, October 18, 1900.

*His Majesty Kwang Hsu, Emperor of China, greeting:*

It has afforded me much pleasure to receive your imperial majesty's telegraphic letter of October 14, which has been delivered by your majesty's minister in Washington.

I cordially share your majesty's wish that there may be a peaceful settlement of all questions between China and the powers whose interests and nationals have so grievously suffered wrong in your majesty's dominions, and that the outcome may be the complete effacement of ill feeling between them. The desire of this Government that such a settlement may be brought about speedily has been made known to all the powers, and I trust that negotiations may begin so soon as we and the other offended governments shall be effectively satisfied of your majesty's ability and power to treat with just sternness the principal offenders, who are doubly culpable, not alone toward the for-

eigners, but toward your majesty, under whose rule the purpose of China to dwell in concord with the world has hitherto found expression in the welcome and protection assured to strangers.

WILLIAM MCKINLEY

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**PUNISHMENT OF GUILTY CHINESE OFFICIALS.**

*Memorandum handed to the Secretary by the Chinese Minister.*

CHINESE LEGATION, *October 2, 1900.*

A cablegram received from Director-General Sheng, at Shanghai, states that by an Imperial edict issued on September 25 Prince Chwang, Prince Yi, Secondary Princes Tsai Lien and Tsai Ying are deprived of all their respective ranks and offices; that Prince Tuan (as an act of clemency) is deprived of office and is handed over to the Imperial clan court, which shall consult and decide upon a severe penalty, and his salary is to be stopped; that Duke Tsai Lan and the president of the censorate Ying Nien are handed over to the said board, who shall consult and decide upon a severe penalty, and that Kang Yi, assistant grand secretary and president of the civil board, and Chao-Shu-Chiao, president of the board of punishments, are handed over to the board of censors, who shall consult and decide upon a penalty.

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DEPARTMENT OF STATE,

*Washington, October 3, 1900.*

*Memorandum in response to the communication by the Chinese minister on October 2, 1900, of an Imperial edict, dated September 25, ordering the degradation and punishment of Prince Tuan and other high Chinese officials.*

The Secretary of State has received from the Chinese minister a memorandum informing him that a cablegram has been received from Director-General Sheng, at Shanghai, stating that by an Imperial edict issued on the 25th of September Prince Chwang, Prince Yih, Secondary Princes Tsai Lien and Tsai Ying are deprived of all their respective ranks and offices; that Prince Tuan is deprived of office, and is handed over to the Imperial clan court, which shall consult and decide upon a severe penalty, and his salary is to be stopped; that Duke Tsai Lan and the president of the censorate Ying Nien are handed over to the said board, who shall consult and decide upon a severe penalty, and that Kang Yi, assistant grand secretary and president of the civil board, and Chao Shu-Chiao, president of the board of punishments, are handed over to the board of censors, who shall consult and decide upon a penalty.

The Secretary of State has communicated this information to the President, who desires to express his gratification at this proof of the desire of the Imperial Government to satisfy the reasonable demands of the foreign powers for the injury and outrage which their legations and their nationals have suffered at the hands of evil-disposed persons in China. He regrets, however, that there is a certain vagueness in regard to the punishment which some of the inculpatated persons are to receive. It would be most regrettable if Prince Tuan, who appears

from the concurrent testimony of the legations in Peking to have been one of the foremost in the proceedings complained of, should escape such full measure of exemplary punishment as the facts warrant, or if Kang Yi and Chao Shu-Chiao should receive other than their just deserts.

With a view to forming a judgment on these points the United States minister in Peking will be instructed to report whether the edict completely names the persons deserving chastisement, whether the punishments proposed accord with the gravity of the crimes committed, and in what manner the United States and the other powers are to be assured that satisfactory punishment is inflicted.

JOHN HAY.

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*Memorandum.*

CHINESE LEGATION, *October 26, 1900.*

Cablegram from Viceroy Chang Chih-tung, dated October 25, states that governor of Shensi has reported that Kang Yi died on October 18; that Yu Hsien (late governor of Shansi) has committed suicide by swallowing gold leaf, and Prince Tuan has not been permitted to accompany the court.

A cablegram dated October 24 from Director-General Sheng states that an Imperial decree has been issued directing Prince Ching and Earl Li to fix and submit for approval the several penalties to be inflicted on those princes and ministers that ought to be punished. He adds that Kang Yi has died of sickness and that Prince Tuan and Prince Chwang have not been allowed to accompany the court to Shensi.

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*Memorandum.*

CHINESE LEGATION, *November 6, 1900.*

*Cablegram dated November 6, 1900, from Viceroy Chang Chih-tung, received by Minister Wu on the morning of November 7.*

The other day I received a telegram from Chen, governor of Shensi, informing me that Yu Hsien had committed suicide by swallowing gold leaf, which news I wired to you. I have now received another telegram from Governor Chen stating that he has not yet received confirmation of Yu's death, and he fears it is not reliable. I have, however, learned that Yu Hsien has left Shansi and that the governor of Shansi, Hsi Liang, is taking the responsibility or suppressing all rioters. Please convey the above news to the honorable Secretary of State.

*Memorandum handed to the Secretary by Mr. Wu.*

CHINESE LEGATION, *November 7, 1900.*

*Cablegram from Prince Ching and Earl Li Hung Chang, transmitted by the Chinese minister at St. Petersburg, under date of November to Minister Wu, who received it on the evening of the same day.*

Those princes who were responsible for the disturbance have been by a decree deprived of their ranks and offices. As regards those princes, dukes, and high officials handed over for punishment, the proper boards have jointly memorialized the Throne, proposing degradation from office besides other suitably severe punishment to be added thereto. This proposal will undoubtedly receive Imperial approval. According to the laws [of China] the deprivation of rank and official emolument in the case of a prince or a duke, together with the prohibition of his descendants from inheriting the same, is just one degree less in severity to capital punishment.

Besides the above, a memorial has been addressed to the Throne by us proposing that Tung Fu-hsiang and Yu Hsien, against whom the foreign ministers are deeply incensed, be severely punished.

The course thus pursued seems to be most just and satisfactory.

As to Kang Yi and Yu Hsien, the former has died of illness and the latter committed suicide.

We hear that the foreign ministers are considering to join in demanding capital punishment for all those officers. We earnestly request you to urge the honorable the Secretary of State to show consideration in the matter by directing the minister [at Peking] to open negotiations at an early date and causing immediate cessation of military operations and early withdrawal of troops, in order to prevent further alarm to the people and to the end that a complete settlement may be satisfactorily reached and friendly relations restored.

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*Memorandum.*

CHINESE LEGATION, *November 28, 1900.*

*Cablegram from Liu Kun-Yih, viceroy at Nankin, dated November 28, 1900, has been received by Minister Wu.*

During the past two months since his arrival in Shansi Governor Hsi Liang has dealt very severely with the Boxer rebels, having decapitated over eighty important leaders, and has been earnestly affording protection to missionaries. He is very different from his predecessor, Yu Hsien. You are earnestly requested to secure the good offices of the United States Government in dissuading other powers from advancing their forces into Shansi.

NEGOTIATIONS OF THE POWERS FOR THE RESTORATION OF  
ORDER IN CHINA.

AUSTRIA-HUNGARY.

*Mr. Hay to Mr. Herdliska.*

[Circular telegram.]<sup>1</sup>

DEPARTMENT OF STATE,  
*Washington, July 3, 1900.*

In this critical posture of affairs in China it is deemed appropriate to define the attitude of the United States as far as present circumstances permit this to be done. We adhere to the policy initiated by us in 1857, of peace with the Chinese nation, of furtherance of lawful commerce, and of protection of lives and property of our citizens by all means guaranteed under extraterritorial treaty rights and by the law of nations. If wrong be done to our citizens we propose to hold the responsible authors to the uttermost accountability. We regard the condition at Peking as one of virtual anarchy, whereby power and responsibility are practically devolved upon the local provincial authorities. So long as they are not in overt collusion with rebellion and use their power to protect foreign life and property we regard them as representing the Chinese people, with whom we seek to remain in peace and friendship. The purpose of the President is, as it has been heretofore, to act concurrently with the other powers, first, in opening up communication with Peking and rescuing the American officials, missionaries, and other Americans who are in danger; secondly, in affording all possible protection everywhere in China to American life and property; thirdly, in guarding and protecting all legitimate American interests; and fourthly, in aiding to prevent a spread of the disorders to the other provinces of the Empire and a recurrence of such disasters. It is, of course, too early to forecast the means of attaining this last result; but the policy of the Government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international law, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire.

You will communicate the purport of this instruction to the minister for foreign affairs.

HAY.

*Mr. Herdliska to Mr. Hay.*

[Telegram—Paraphrase.]

VIENNA, *July 4, 1900.*

(Mr. Herdliska, chargé, reports that acting upon the Department's instructions he has that day communicated the purport of Mr. Hay's telegram of the 3d, upon the policy of the United States in China, to the Austro-Hungarian foreign office.)

<sup>1</sup>Also sent to the representatives of the United States at Berlin, London, Paris, Rome, St. Petersburg, and Tokio.

*Mr. Adee to Mr. Herdliska.*

[Circular Telegram.]<sup>1</sup>

DEPARTMENT OF STATE,  
Washington, August 8, 1900.

The Chinese minister to-day officially communicated to me an imperial edict, dated August 2, in response to the joint memorial of Li Hung Chang and Liu Kun-Yi, proposing the sending of the foreign ministers to Tientsin. The edict reads as follows:

Throughout the disturbances recently caused by our subjects on account of Christian missions, which have resulted in a conflict of forces, it has been found necessary to afford protection to all the foreign ministers in Peking. On repeated occasions the Tsungli Yamen sent notes inquiring after their welfare; and, as Peking has not yet been restored to order and as precautionary measures may not secure absolute safety, the foreign ministers are being consulted as to the proposed plan of detailing troops to escort them safely to Tientsin for temporary shelter, so that they may be free from apprehensive anxiety or fear.

We hereby command Jung Lu to appoint, as a preliminary step, trustworthy high civil and military officials, who, together with reliable and efficient troops, shall, at such time as the foreign ministers may agree upon for leaving Peking, escort and protect them throughout their journey. Should lawless characters manifest evil designs upon the ministers or attempt to rob them or in any way create trouble they (the high officials) shall at once repress them without fail.

If the foreign ministers before leaving Peking should desire to communicate with their respective Governments, and if their telegraphic messages should be in plain language, the Tsungli Yamen shall at once attend to them without the least delay, thus manifesting the utmost friendliness to the Imperial Government. Respect this.

Minister Wu also communicated to me a cablegram received by him on the morning of the 8th instant from Yu Lien-Yuen, taotai of Shanghai, reading as follows:

Have received telegram from Governor Yuan Shih-Kai to the effect that the tsungli yamen received on the 5th of August an imperial edict allowing all the foreign ministers free communication with their respective Governments in cipher.

The following signed memorandum in reply was handed to the Chinese minister this evening:

We are availing ourselves of the opportunity offered by the imperial edict of the 5th of August allowing to the foreign ministers free communication with their respective Governments in cipher, and have sent a communication to Minister Conger, to which we await an answer.

We are already advised by him, in a brief dispatch received August 7, that Imperial troops are firing daily upon the ministers in Peking. We demand the immediate cessation of hostile attacks by Imperial troops upon the legations and urge the exercise of every power and energy of the Imperial Government for the protection of the legations and all foreigners therein.

We are also advised by the same dispatch from Minister Conger that, in his opinion, for the foreign ministers to leave Peking as proposed in the edict of August 2 would be certain death. In view of the fact that the Imperial troops are now firing upon the legations, and in view of the doubt expressed by the Imperial Government in its edict of August 2 as to its power to restore order and secure absolute safety in Peking, it is evident that this apprehension is well founded, for if your Government can not protect our minister in Peking it will presumptively be unable to protect him upon a journey from Peking to the coast.

We therefore urge upon the Imperial Government that it shall adopt the course suggested in the third clause of the letter of the President to His Majesty the Emperor of China of July 23, 1900, and enter into communication with the relief expedition, so that cooperation may be secured between them for the liberation of

<sup>1</sup>Also sent to the United States representatives at Berlin, London, Paris, Rome, St. Petersburg and Tokio.

the legations, the protection of foreigners, and the restoration of order. Such action on the part of the Imperial Government would be a satisfactory demonstration of its friendliness and desire to attain these ends.

ALVEY A. ADEE, *Acting Secretary.*

You will communicate this for the information of the minister for foreign affairs.

ADEE, *Acting Secretary.*

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*Mr. Herdliska to Mr. Hay.*

No. 118.]

UNITED STATES LEGATION,  
Vienna, August 9, 1900.

SIR: I have the honor to acknowledge the receipt this morning of Acting Secretary Adee's open telegram of yesterday's date, reading as follows:<sup>1</sup>

\* \* \* \* \*

Immediately upon receipt of the above cablegram I called upon Count Szecsen, in the absence of Count Goluchowski on leave, Imperial and royal acting minister for foreign affairs, and communicated the contents thereof to him, handing him at the same time a copy. Count Szecsen expressed his thanks for the communication and assured me that the information imparted and the attitude taken by the United States would be received with great satisfaction by the Imperial and Royal Government.

I have the honor to be, etc.,

CHARLES V. HERDLISKA, *Chargé.*

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*Mr. Adee to Mr. Herdliska.*

[Circular telegram.]<sup>2</sup>

DEPARTMENT OF STATE, August 12, 1900.

This morning the Chinese minister delivered to me text of the imperial edict, forwarded by privy council, Peking, dated August 8, appointing Earl Li Hung Chang as envoy plenipotentiary on the part of China to conduct negotiations by telegraph with the Powers concerned for the cessation of hostile demonstrations pending negotiations through him for the settlement of whatever questions may have to be dealt with.

Late this afternoon the following memorandum was delivered to Minister Wu as the response of this Government to the foregoing communication:

The Government of the United States learns with satisfaction of the appointment of Earl Li Hung Chang as envoy plenipotentiary to conduct negotiations with the Powers, and will, on its part, enter upon such negotiations with a desire to continue the friendly relations so long existing between the two countries.

It is evident that there can be no general negotiation between China and the Powers so long as the ministers of the Powers and the persons under their protection remain in their present position of restraint and danger, and that the Powers can not cease their efforts for the delivery of these representatives, to which they are con-

<sup>1</sup> Printed ante.

<sup>2</sup> Also sent to the United States representatives at Berlin, London, Paris, Rome, St. Petersburg, and Tokio.

strained by the highest considerations of national honor, except under an arrangement adequate to accomplish a peaceable deliverance.

We are ready to enter into an agreement between the Powers and the Chinese Government for a cessation of hostile demonstrations, on condition that a sufficient body of the forces composing the relief expedition shall be permitted to enter Peking unmolested and to escort the foreign ministers and residents back to Tientsin; this movement being provided for and secured by such arrangements and dispositions of troops as shall be considered satisfactory by the generals commanding the forces composing the relief expedition.

You will communicate the foregoing to the minister for foreign affairs.

ADEE, *Acting.*

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*Mr. Herdliska to Mr. Hay.*

No. 120.]

UNITED STATES LEGATION,  
*Vienna, August 13, 1900.*

SIR: I have the honor to acknowledge the receipt this morning of Acting Secretary Adee's open cablegram of yesterday's date, reading as follows:<sup>1</sup>

\* \* \* \* \*

Immediately upon the receipt of the foregoing cablegram I called upon Count Lützwow, in charge of the foreign office, in the absence of Count Goluchowski at Ischl with the Emperor, and read the same to him, handing him at the same time a copy.

Count Lützwow expressed his thanks for the communication and assured me that the response of the United States to the Chinese edict would be received with much interest and satisfaction by the Imperial and Royal Government.

I have the honor to be, etc.,

CHARLES V. HERDLISKA, *Chargé.*

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*Mr. Adee to Mr. Herdliska.*

[Circular telegram.]<sup>2</sup>

DEPARTMENT OF STATE,  
*Washington, August 22, 1900.*

The Chinese minister has communicated telegrams from Earl Li Hung Chang, dated 19th and 21st August. The first recites that as the relief forces have rescued the legations their declared purpose is accomplished. The second says that Peking is occupied, the Boxers dispersed, and fighting stopped. They accordingly ask suspension of hostilities, withdrawal of troops, and appointment of envoy to negotiate.

The following answer has been made to the Chinese minister to-day: While the condition set forth in the memorandum delivered to the Chinese minister August 12 has not been fulfilled, and the powers have been compelled to rescue their ministers by force of arms unaided by the Chinese Government, still this Government is ready to welcome any overtures for a truce, and invite the other powers to join, when security is established in the Chinese capital and the Chinese Govern-

<sup>1</sup>Printed ante.

<sup>2</sup>The above telegram also sent to the representatives of the United States at Berlin, London, Paris, Rome, St. Petersburg, and Tokio.



ment shows its ability and willingness to make on its part an effective suspension of hostilities there and elsewhere in China. When this is done, and we hope it will be done promptly, the United States will be prepared to appoint a representative to join with the representatives of the other similarly interested powers, and of the authoritative and responsible Government of the Chinese Empire, to attain the ends declared in our circular to the powers of July 3, 1900.

You will communicate this to the minister for foreign affairs. It is presumed he has received similar communications. If so, we would be pleased to be informed of his reply.

ADEE, *Acting.*

*Mr. Herdliska to Mr. Hay.*

No. 123.]

UNITED STATES LEGATION,  
*Vienna, August 25, 1900.*

SIR: I have the honor to acknowledge the receipt, on the morning of the 23d of August, 1900, of Acting Secretary Adeë's open cablegram of date the 22d of August, 1900, reading as follows:<sup>1</sup>

\* \* \* \* \*

Immediately on the receipt of the foregoing cablegram I personally communicated the contents thereof to Count Lützow, second chief of section in the foreign office (second assistant secretary), in charge of the foreign office in the absence of Count Goluchowski at Ischl with the Emperor, at the same time leaving with him a note containing a copy, to which I added:

In having the honor to acquaint your excellency of the foregoing, I beg, in accordance with the instruction contained therein, that your excellency will be good enough (should similar communications have been received by the Imperial and Royal Government) to advise me, as early as may be convenient, of the reply of your excellency to them, in order that I may be enabled to meet the wishes of my Government in this matter, as expressed, with the least possible delay.

In expressing his thanks for the information imparted, Count Lützow informed me that the Imperial and Royal Government had, in fact, received similar communications, but had not answered the first, and it was his opinion that no attention would be paid to the second either; nevertheless, he did not wish me to accept this as the answer of the foreign office, it being his purpose to communicate the contents of the cablegram to Count Goluchowski for reply, which, when received, he would at once transmit to me. This morning I received from him a letter dated yesterday, the 24th of August, 1900, stating that he had just seen Count Goluchowski and was able to confirm what he had told me on the day before, namely, that they would not answer Li Hung Chang's last telegram any more than they did the preceding one. I cabled you the contents of this letter to-day, the 25th of August, 1900, in an open telegram reading as follows:

Referring to your cablegram of 22d instant, respecting Li Hung Chang's overtures, Austro-Hungarian foreign minister replies that he has received similar communications, but does not intend to answer them.

HERDLISKA.

I have the honor to be, etc.,

CHARLES V. HERDLISKA, *Chargé.*

*Mr. Adee to Mr. Herdlika.*

[Circular telegram.]<sup>1</sup>

DEPARTMENT OF STATE,  
*Washington, August 29, 1900.*

The Russian chargé yesterday afternoon made to me an oral statement respecting Russia's purposes in China to the following effect:

That, as already repeatedly declared, Russia has no designs of territorial acquisition in China; that, equally with other powers now operating there, Russia has sought safety of legation at Peking and to help the Chinese Government to repress the troubles; that, incidentally to necessary defensive measures on Russian border, Russia has occupied Niuchwang for military purposes, and as soon as order is reestablished will retire troops therefrom if action of other powers be no obstacle thereto; that the purpose for which the various governments have cooperated for relief of legations in Peking has been accomplished; that, taking the position that, as the Chinese Government has left Peking, there is no need for her representative to remain, Russia has directed Russian minister to retire with his official personnel from China; that the Russian troops will likewise be withdrawn, and that when the Government of China shall regain the reins of government and afford an authority with which the other powers can deal, and will express desire to enter into negotiations, the Russian Government will also name its representative. Holding these views and purposes, Russia expresses hope that the United States will share the same opinion.

To this declaration our reply has been made by the following memorandum:

The Government of the United States receives with much satisfaction the reiterated statement that Russia has no designs of territorial acquisition in China, and that, equally with the other powers now operating in China, Russia has sought the safety of her legation in Peking and to help the Chinese Government to repress the existing troubles. The same purposes have moved and will continue to control the Government of the United States, and the frank declarations of Russia in this regard are in accord with those made to the United States by the other powers. All the powers, therefore, having disclaimed any purpose to acquire any part of China, and now that adherence thereto has been renewed since relief has reached Peking, it ought not to be difficult by concurrent action through negotiations to reach an amicable settlement with China by which the treaty rights of all the powers will be secured for the future, the open door assured, the interests and property of foreign citizens conserved, and full reparation made for wrongs and injuries suffered by them.

So far as we are advised, the greater part of China is at peace, and earnestly desires to protect the life and property of all foreigners, and in several of the provinces active and successful efforts to suppress the Boxers have been taken by the viceroys, to whom we have extended encouragement through our consuls and naval officers. This present good relation should be promoted for the peace of China.

While we agree that the immediate object for which the military forces of the powers have been cooperating—viz, the relief of the ministers at Peking—has been accomplished, there still remain the other purposes which all the powers have in common, which are referred to in the communication of the Russian chargé and which were specifically enumerated in our note to the powers of July 3.

These are: To afford all possible protection everywhere in China to foreign life and property; to guard and protect all legitimate foreign interests; to aid in preventing the spread of the disorders to other provinces of the Empire and a recurrence of such disorders; and to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed by treaty and international law to friendly powers, and safeguard

<sup>1</sup>Also sent to the representatives of the United States in Berlin, London, Paris, Rome, St. Petersburg, and Tokio.

for the world the principle of equal and impartial trade with all parts of the Chinese Empire.

In our opinion these purposes could best be attained by the joint occupation of Peking under a definite understanding between the powers until the Chinese Government shall have been reestablished and shall be in a position to enter into new treaties with adequate provisions for reparation and guaranties of future protection. With the establishment and recognition of such authority the United States would wish to withdraw its military forces from Peking and remit to the processes of peaceful negotiation our just demands.

We consider, however, that a continued occupation of Peking would be ineffective to produce the desired result, unless all the powers unite therein with entire harmony of purpose. Any power which determines to withdraw its troops from Peking will necessarily proceed thereafter to protect its interests in China by its own method, and we think that this would make a general withdrawal expedient. As to the time and manner of withdrawal, we think that, in view of the imperfect knowledge of the military situation resulting from the interruptions of telegraphic communication, the several military commanders at Peking should be instructed to confer and agree together upon the withdrawal as a concerted movement, as they agreed upon the advance.

The result of these considerations is that, unless there is such a general expression by the powers in favor of continued occupation as to modify the views expressed by the Government of Russia and lead to a general agreement for continued occupation, we shall give instructions to the commander of the American forces in China to withdraw our troops from Peking after due conference with the other commanders as to the time and manner of withdrawal.

The Government of the United States is much gratified by the assurance given by Russia that the occupation of Niuchwang is for military purposes incidental to the military steps for the security of the Russian border provinces menaced by the Chinese, and that as soon as order shall be reestablished Russia will retire her troops from those places, if the action of the other powers be not an obstacle thereto. No obstacle in this regard can arise through any action of the United States, whose policy is fixed and has been repeatedly proclaimed.

You will communicate the foregoing to the minister for foreign affairs and invite early consideration and response.

ADEE, *Acting.*

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*Mr. Herdliska to Mr. Hay.*

[Telegram.—Paraphrase.]

VIENNA, *September 8, 1900.*

(Mr. Herdliska refers to Mr. Adee's telegram of August 29 respecting withdrawal of foreign contingents from Peking and reports that the foreign office entertains well-founded hope that agreement will be arrived at between cooperating powers as to date thereof, whereby this question will find satisfactory solution. He adds that the Austrian chargé had left Peking and arrived at Taku at time of the communication of Mr. Hay's telegram.)

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*Mr. Hill to Mr. Herdliska.*

[Circular telegram.]

DEPARTMENT OF STATE,  
Washington, *September 21, 1900.*

Part 1. On September 17 the Chinese minister presented copy of a circular telegram from Prince Ching, announcing appointment as plenipotentiary conjointly with Earl Li Hung Chang to negotiate peace,

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<sup>1</sup>Also to the United States representatives at Berlin, London, Paris, Rome, St. Petersburg, and Tokyo.

and requesting the United States minister at Peking be instructed to open negotiations. The following reply has been handed to-day to Chinese minister:

The Government of the United States accepts the plenipotentiary authority of Earl Li Hung Chang and Prince Ching as prima facie sufficient for the preliminary negotiations looking toward the return of the Imperial Chinese Government and to the resumption of its authority at Peking, and toward the negotiation of a complete settlement by the duly appointed plenipotentiaries of the powers and of China.

To these ends the United States minister in Peking will be authorized to enter into relations with Earl Li and Prince Ching as the immediate representative of the Chinese Emperor.

Part 2. On September 17 the Russian chargé delivered a memorandum, inquiring, first, whether the United States intends to transfer its legation from Peking to Tientsin; secondly, if full powers of Prince Ching and Li Hung Chang are recognized by the United States as sufficient; and, thirdly, if the United States is prepared to charge its representatives to enter forthwith upon preliminary negotiations with the plenipotentiaries of the Chinese Emperor. The following memorandum in reply has been sent to the Russian chargé to-day:

1. The Government of the United States has not any present intention to withdraw its legation from Peking.

2. The Government of the United States accepts the plenipotentiary authority of Earl Li Hung Chang and Prince Ching as prima facie sufficient for the preliminary negotiations looking toward the return of the Imperial Chinese Government and to the resumption of its authority at Peking, and toward the negotiation of a complete settlement by the duly appointed plenipotentiaries of the powers and of China.

3. To these ends, the United States minister in Peking will be authorized to enter into relations with Earl Li and Prince Ching as the immediate representatives of the Chinese Emperor.

Part 3. On September 18 the German chargé communicated by note the Imperial German circular proposing that, as prerequisite to any negotiation, the Chinese Government deliver the real responsible authors of crimes against international law recently perpetrated in China. To this the following note has been handed German chargé to-day:<sup>1</sup>

You will communicate all foregoing to minister for foreign affairs, inviting information of the replies of his Government in the three cases.

HILL, *Acting.*

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*Mr. Herdviska to Mr. Hay.*

No. 135.]

UNITED STATES LEGATION,  
Vienna, September 24, 1900.

SIR: I have the honor to inform you that on the morning of the 22d instant I received your open cablegram of the 21st instant, reading as follows:<sup>2</sup>

\* \* \* \* \*

Immediately upon the receipt of the above cablegram I called at the foreign office, taking with me the original and a copy thereof. In the absence of Count Goluchowski and Count Lützen, I saw the Chevalier de Tavera, formerly Austro-Hungarian minister at Washington, who

<sup>1</sup>Printed, p. 341.

<sup>2</sup>Printed ante.

is now the "referent" or reporter upon Chinese affairs at the foreign office. I read to him the cablegram, of which I handed him the copy, adding that I should be glad if he could give me the information respecting the replies sent by the Austro-Hungarian Government to the three communications mentioned in the cablegram. He said he was not in a position to do this until he had seen the foreign minister, Count Goluchowski. He promised, however, to let me have an answer to-day, the 24th instant.

On my calling at the foreign office at 2 o'clock to-day he gave me a verbal answer. I said I should be much obliged if he would dictate to me this answer in order to avoid all possibility of doubt as to the exact terms of his communication. He thereupon dictated to me, in English, the following particulars, which I took down in pencil:

1. The Austro-Hungarian Government has accepted the German proposition without reserve.
2. The foreign office has answered the Russian proposition to the effect that the withdrawal of the Austro-Hungarian legation has practically been executed by the departure of the Austro-Hungarian chargé d'affaires from Peking.
3. With regard to the proposal of the Chinese Government to enter into negotiations with Austro-Hungary the foreign office has given no answer, because it is of opinion that it ought to be established first whether the plenipotentiaries are able to give sufficient guaranties that any arrangement concluded by them will be executed by their Government.

I have the honor to be, sir,

CHARLES V. HERDLISKA, *Chargé.*

*Mr. Hay to Mr. Herdliska.*

[Circular telegram.]<sup>1</sup>

DEPARTMENT OF STATE,  
Washington, October 22, 1900.

French Government advises us that all powers acquiesce in French proposed terms, with some reservations, which, like ours, are open to discussion and need not embarrass negotiations. France urges that the powers evince readiness to negotiate by communicating to Chinese plenipotentiaries the propositions whereon we are agreed, leaving others for discussion during negotiations. Minister Conger has been instructed to confer with colleagues with view to doing this. We have assured the French Government of our anxiety to have negotiations begun as soon as we and other powers are satisfied of Emperor's ability and power to deal justly and sternly with responsible offenders. President has also answered an appeal of Chinese Emperor in this sense.

Answering last French communique, we say this Government believes that the happy influence upon determinations of Chinese Emperor and Government, which France expects to result from the course she urges, would be enhanced if powers included in their initial declaration a collective manifestation of their determination to preserve territorial integrity and administrative entirety of China and secure for Chinese nation and themselves the benefits of open and equal commercial intercourse between China and the world.

Convey this to the foreign office.

HAY.

<sup>1</sup>The above telegram also sent to the United States representatives at Berlin, Paris, London, Rome, St. Petersburg, Tokio.

*Mr. Herdliska to Mr. Hay.*

No. 141.]

UNITED STATES LEGATION,  
*Vienna, October 24, 1900.*

SIR: I have the honor to inform you that on yesterday morning, the 23d instant, I received your open cablegram of the 22d instant, reading as follows:<sup>1</sup>

\* \* \* \* \*

At my audience with Count Szeesen—in the absence of Count Goluchowski, in charge of the foreign office—last evening, I read your telegram to him, handing him at the same time a copy.

In expressing the thanks of the foreign office for the communication, which, he assured me, would be received with unusual interest and satisfaction by the Imperial and Royal Government, Count Szeesen informed me that he had that very day sent a telegram to Berlin expressing to the German Government, through the Austro-Hungarian embassy in Berlin, Austria-Hungary's unreserved approval of and adhesion to the principles recorded in the German-English agreement; and as the American proposition, as expressed in the cable presented, was entirely in line with the German-English agreement, Austria-Hungary in accepting that agreement as a matter of course also approved of the American proposition.

I have the honor to be, etc.,

CHARLES V. HERDLISKA, *Chargé.*

*Mr. Hengelmüller to Mr. Adee.*

AUSTRO-HUNGARIAN LEGATION,  
*Bar Harbor, August 11, 1900.*

MY DEAR MR. ADEE: I have received your note of the 9th instant, by which you transmitted to me copies of your correspondence with Mr. Wu with regard to the adoption of measures for the safety and relief of the foreign ministers in Peking.

My Government, which has been informed of this exchange of communications by the representative of the United States in Vienna, has desired me to express to you its best thanks for this information and to add that its views on the matter agree entirely with those of the Federal Government.

Believe me, my dear Mr. Adee, very truly, yours,

HENGELMÜLLER.

BELGIUM.

*Count de Lichtervelde to Mr. Hay.*

[Translation.]

LEGATION OF BELGIUM,  
*Long Branch, N. J., August 16, 1900.*

MR. SECRETARY OF STATE: Under instructions of the Government of the King my august sovereign, I have the honor to bring to your

<sup>1</sup> Printed ante.

knowledge the organization of a committee in Brussels for the purpose of getting up a body of Belgian volunteers with the intent of cooperating in the military action of the allied powers in China.

That body will be organized at once. It is expected to be able to embark at Antwerp in the second half of the month of September. It will be about six hundred men strong, and will be supplied with the equipment and accessory services that may be required. It will consist of carefully picked Belgians, and chiefly of officers and soldiers of the national army, furloughed for the purpose.

It will carry the Belgian flag.

The Government of the King has approved of the scheme.

Under the circumstances which will govern the mission of that body, we can not, and the powers in interest undoubtedly will not, see anything therein that could possibly be contrary to the position occupied by Belgium in the law of nations.

The Government of the King hopes that the Government of the United States will consent to combine the military action of the body of Belgian volunteers, which will be taken in accordance with international law and usage, with that of the allied forces now operating in China.

The Belgian body would, of course, be placed under the direct command of the leaders upon whom the direction of military operations may devolve.

The Government of the King is entirely confident that the scheme will favorably be received by the Cabinet of Washington. In view of the urgency of the matter, it would set especial value upon knowing the views of the powers at as early a date as possible.

I seize with eagerness the opportunity now offered me, Mr. Secretary of State, to present to your excellency the assurances of my highest consideration.

LICHTERVELDE.

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*Mr. Adee to Count G. de Lichtervelde.*

No. 239.]

DEPARTMENT OF STATE,  
Washington, August 22, 1900.

SIR: I have the honor to acknowledge the receipt of your note of the 16th instant, informing me, by instruction of your Government, of the organization of a Belgian volunteer contingent of some 600 men, to cooperate with the military action of the powers of China, and expressing the hope—

that the Government of the United States will consent to combine the military action of the body of Belgian volunteers, which will be taken in accordance with international law and usage, with that of the allied forces now operating in China.

As the relief of the legation in Peking, which is the primary object of the joint operations now in progress in the province of Chih-li, seems to be progressing to a successful issue, to achieve which further cooperation may not be necessary, the contingency of the joint action of the proposed Belgian force may be deemed to relate to the future course of the powers interested in restoring order and conserving the territorial and administrative entity of the Chinese Empire in such wise as to safeguard the interests and commerce of the nations in

China. Concerning the manner of attaining these ends, it does not appear at this time that united military action for the future can be definitely agreed upon.

The purpose and general policy of the United States in regard to the restoration of order and responsible government in China were fully set forth in the circular communication made to the interested powers by the Secretary of State on the 3d of July last,<sup>1</sup> a copy of which I inclose for your more convenient reference. In this policy the powers have generally acquiesced. For the furtherance of these purposes the Government of the United States will be grateful to have the Belgian volunteers cooperate, in the event of any necessity for such cooperation existing at the time of their arrival in China.

As regards the statement you make that the Belgian corps "would, of course, be placed under the direct command of the leaders upon whom the direction of military operations may devolve," the views of the Government of the United States as to conducting joint operations under one superior command are expressed in our reply to the German inquiry concerning the selection of Field Marshal Count von Waldersee as chief commander of the foreign forces operating in Chih-li. In my telegraphed reply of August 10, I instructed the United States chargé d'affaires in Berlin as follows:

The general commanding the forces in China has already been authorized to agree with other commanders as to a common official direction of the various forces in their combined operations, preserving the integrity of his American division as a separate organization.

As a considerable time must elapse before Count Waldersee can reach China, and conditions are rapidly changing, it would seem desirable to leave questions of method to be determined in view of the conditions which may then exist. The suggestion of His Majesty the German Emperor, that one or more military officers of each nationality should be attached to the headquarters of Count Waldersee to maintain communication with the national contingent, meets the approval of this Government.

Accept, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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*Count de Lichtervelde to Mr. Hay.*

[Translation.]

LEGATION OF BELGIUM,  
*Long Branch, September 16, 1900.*

MR. SECRETARY OF STATE: The minister of Belgium in China and the personnel of the legation have been rescued, thanks to the cooperation of the American expeditionary corps which participated in the campaign entered into for the release of the missions confined in Peking.

The Government of my august sovereign the King received the tidings of this release with joy, and I felicitate myself upon being charged by the minister of foreign affairs to express to the Government our gratitude for the service rendered to our legation.

I eagerly embrace the opportunity, etc.,

LICHTERVELDE.



*Mr. Hill to Count de Lichtervelde.*

No. 243.]

DEPARTMENT OF STATE,  
Washington, September 20, 1900.

SIR: I have the honor to acknowledge the receipt of your note of the 16th instant expressing the gratitude of your Government for the service rendered by United States troops to the legation of Belgium in China.

This Government is gratified that in the discharge of its duty towards the American legation and citizens in Peking, it has, concurrently with the other powers, been enabled to be of assistance to the officers of a friendly government.

Accept, etc.,

DAVID J. HILL,  
*Acting Secretary.*

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FRANCE.

*Mr. Hay to Mr. Porter.*

[Circular telegram.]<sup>1</sup>

DEPARTMENT OF STATE,  
Washington, June 22, 1900.

The Chinese minister has communicated telegrams to me from the viceroys of Nanking and of Liang Hu, who say that the five provinces under their control are at peace and that they are both determined and perfectly able to preserve order and to prevent any outrages upon foreigners within their jurisdiction. He begs that the United States for their own part will telegraph to the American admiral not to send any military or naval forces into the Yangtse Kiang so long as no disturbance of order takes place in those provinces, and that we will consult with other powers and request them to pursue the same course of action. I have replied that the Government of the United States has no disposition to send either military or naval forces into any Chinese provinces where the Government shows its ability and its determination to preserve order and to protect foreigners in their lives and rights, and my belief that these intentions are shared by the other powers. You will please communicate to the minister of foreign affairs the purport of the above conversation.

HAY.

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*Mr. Porter to Mr. Hay.*

No. 680.]

EMBASSY OF THE UNITED STATES,  
Paris, June 27, 1900.

SIR: I have to acknowledge the receipt of your cable of the 22d acquainting me with your conversation with the Chinese minister at Washington and instructing me to convey its substance to the minister of foreign affairs. This was done on the 23d and under date of the 25th I received a reply from Mr. Delcassé, \* \* \* a copy of which is herewith inclosed.

I have the honor to be, etc.,

HORACE PORTER.

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<sup>1</sup>The above telegram also sent to United States representatives at Berlin, London, St. Petersburg, and Tokio.

[Inclosure.—Translation.]

*M. Delcassé to Mr. Porter.*

PARIS, June 25, 1900.

MR. AMBASSADOR: By a note dated the 23d of this month your excellency was good enough to make known to me, by direction of your Government, the substance of the declaration which the Chinese minister at Washington had recently addressed to the Secretary of State of the Union relative to the measures taken for the security of Europeans in the valley of the Yang-tse Kiang River. The Chinese representative expressed on this occasion the hope that the Government of the United States would consent to counsel the other powers to abstain from sending ships or military forces into this region.

In reply to this communication, for which I thank you, I can only, at this time, make mention of the resolution taken by the Government of the Republic to allow the greatest latitude to the commanders of the forces in the Far East to judge on the suitability or the necessity of sending ships of war to one part or another of the coast of China. A decision in regard to this matter would require a quantity of local information which seems to us impossible to weigh properly at such a distance.

\* \* \*

DELCASSÉ.

*Mr. Hay to Mr. Porter.*[Circular telegram.]<sup>1</sup>

DEPARTMENT OF STATE,  
Washington, July 2, 1900.

(Mr. Hay instructs Mr. Porter to inform the minister for foreign affairs that this Government has given orders to its forces not to attack central and southern Chinese provinces so long as the local authorities maintain order and protect foreigners. Mr. Hay has communicated his purposes to other powers.)

*Mr. Porter to Mr. Hay.*

No. 687.]

EMBASSY OF THE UNITED STATES,  
Paris, July 6, 1900.

SIR: Your two cables concerning our attitude in China were received on the 2d<sup>2</sup> and 4th<sup>3</sup> (dated 2d and 3d) instant and communicated without delay to the minister of foreign affairs, who appreciates these communications and is thankful for being kept informed of our intentions.

I have the honor to be, etc.,

HORACE PORTER.

*Mr. Porter to Mr. Hay.*

No. 690.]

EMBASSY OF THE UNITED STATES,  
Paris, July 12, 1900.

SIR: In presenting to Mr. Delcassé your cables defining our attitude in China I found that he considered the situation about as we did. He expressed himself in like manner in the Chamber of Deputies, and

<sup>1</sup> Same telegram sent to the United States representatives at Berlin, London, Rome, St. Petersburg, and Tokio.

<sup>2</sup> Printed, ante.

<sup>3</sup> Printed, p. 299.

I send you herewith a translation of statements he made in that body on the 3d and 8th instant, by which you will see that his definition of the policy of France in China substantially agrees with us.

I have the honor to be, etc.,

HORACE PORTER.

[Inclosure.]

*Statements made by Mr. Delcassé in the French Chamber, July 3.*

M. Delcassé said: "I have in my previous declarations, particularly last month, clearly explained the tendencies of our policy in China. The chamber will remember that during the past two years I have repeatedly stated that France, as mistress of Indo-China, has no interest in provoking or desiring the break up of China which is, perhaps without sufficient reflection, spoken of. What I can affirm is that France has no wish for war with China, but she cannot evade the duty of protecting her citizens and of obtaining for her merchants the guaranties obtained by others. It is for this and this alone that the Government has taken the measures necessitating these credits. France is certainly anxious for the maintenance of the equilibrium in the Far East. She will see that it is not broken to her detriment, but she cherishes no secret designs. I know not, moreover, who could have particular objects. What I see is that a common peril demands a common aim, and this is comprehended by all the powers. This is the reassuring feature of the situation, the difficulties of which it would be as childish to deny as it would be to be disturbed by them. I descend the Tribune after repeating the assurance that France, whose efforts are already employed in facilitating the rapprochement of the powers, will continue to neglect nothing for maintaining and strengthening those sentiments of internal and humane solidarity which would prevent them, if necessary, from thinking of what might divide them."

*July 8, 1900.*—"With reference to what is taking place in northern China, we are asked why we have not declared war against China, and why China's representative in Paris has not received his passports. But against whom are we to declare war? As far as can be concluded from the information from divers sources, either the Imperial Government has already been swept away, or it is the prisoner of the insurrection, which seems to be, indeed, forcing upon it the decrees which it sends to the provinces, if it does not actually concoct them itself. But thus far it does not appear that the governors of the provinces, notably the southern and central viceroys, are disposed to obey decrees, the origin of which they suspect, and the authors of which they are inclined to regard as rebels, and the chamber has already seen, without my having to go into the matter in detail, that the consequences of an official declaration of war would be to make throughout China a union against the Occident, and thereby to oblige the Occident to redouble the efforts which the situation of the province of Peking renders already considerable. Nor need I observe that such an act as an official declaration of war against China can not be the isolated act of any one power, but that all the powers, having the same object, should as far as possible maintain agreement as to the means to be employed to obtain this end, and that France, in particular, whose interests in north China are mainly general and common with those of the other powers, had no special reason for taking an initiative which might make it the object of suspicion as cherishing special aims which it absolutely rejects. This, however, does not prevent us from acting in Pe-chi-li with the other powers with all the decision and vigor required by a situation of which it is impossible and of which it would be culpable to hide from oneself the gravity and difficulty.

*Mr Hay to Mr. Porter.*

[Circular telegram.<sup>1</sup>]

DEPARTMENT OF STATE,  
*Washington, July 20, 1900.*

I have to-day received through governor of Shantung and Chinese minister a cipher message from Minister Conger which left Peking 18th

<sup>1</sup> Same telegram sent to the United States representatives at Berlin, London, Paris, St. Petersburg, and Tokio.

by flying courier, whence it appears he was in British legation which was under continuous fire of shot and shell and gravely imperiled.

Communicate this to minister for foreign affairs and invite any suggestions he may desire to make as to utilizing service of friendly Chinese officials to obtain further information and effect communication with legations.

HAY.

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*Mr. Vignaud to Mr. Hay.*

No. 708.]

EMBASSY OF THE UNITED STATES,  
*Paris, July 31, 1900.*

SIR: The minister of foreign affairs did not fail to acknowledge with thanks the information given to him from time to time under your telegraphic instructions concerning the affairs of China. Under date of the 27th instant he sends, in his turn, copy of a telegram received by the President of the French Republic from the Emperor of China, which is herewith inclosed with a translation of the same. In transmitting this document Mr. Delcassé simply remarks that it is worded in terms almost identical to the one received by our President.

I have the honor to be, etc.,

HENRY VIGNAUD,  
*Chargé d'Affaires.*

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[Inclosure—Translation.—Telegram received the 20th July from total of Shanghai by the Chinese minister at Paris.]

*Imperial letter addressed to France and transmitted by cable by the governor of Shantung the 23d day of the Chinese moon (19th of July, 1900).*

*His Majesty the Emperor of China to His Excellency the President of the French Republic, greeting:*

China has been bound in friendship for many years with your honorable country. All the affairs concerning the frontiers of Kuang Si and of the Yunnan have been discussed and are on the way to a satisfactory settlement. There are no grievances between us. Recently the population and the Christians becoming hostile to one another, certain rebels among the population have profited by the occasion to give themselves up to depredations; whence it has resulted that foreign nations have suspected that the Court has given proof of its sympathy for the people and its jealousy toward the Christians. Since, the attack upon and the capture of the Taku forts have taken place; after which military action and misfortunes have succeeded, rendering the situation still more complicated and serious. Since we consider that in the international relations of China your honorable nation has the most cordial bearing toward China, and that since China is to-day so pressed by circumstances as to be at the point of calling down upon herself the anger of the whole world, it could not be otherwise than that we should count upon your honorable country alone to arrange the difficulties and to unravel complications. We lay bare to you our most private sentiments, and with absolute frankness we address you this letter in the sole hope that you will find means, Mr. President of the Republic, to arrange things, and that you will take the initiative to change the actual situation. We pray you at the same time to have the kindness to address to us a kindly reply, which reply it is impossible that we should not await with the most extreme anxiety.

The 23d day of the sixth moon of the twenty-sixth year Kuang hsü (July 19, 1900). We pray you to transmit the proceeding in obedience to the Imperial decree, and to reply to me by cable.

*Mr. Hay to Mr. Porter.*

[Circular telegram.]<sup>1</sup>

DEPARTMENT OF STATE,  
*Washington, August 1, 1900.*

In reply to a suggestion of Li Hung Chang that the ministers might be sent under safe escort to Tientsin, provided the powers would engage not to march on Peking, the Secretary of State replied on the 30th of July:

This Government will not enter into any arrangement regarding disposition or treatment of legations without first having free communication with Minister Conger. Responsibility for their protection rests upon Chinese Government. Power to deliver at Tientsin presupposes power to protect and to open communication. This is insisted upon.

This message was delivered by Mr. Goodnow on the 31st to Viceroy Li, who then inquired whether—

If free communication were established between ministers and their Governments, it could be arranged that the powers should not advance on Peking pending negotiations.

To this inquiry the following reply was sent on the 1st of August:

I do not think it expedient to submit the proposition of Earl Li to the other powers. Free communication with our representatives in Peking is demanded as a matter of absolute right, and not as a favor. Since the Chinese Government admits that it possesses the power to give communication, it puts itself in an unfriendly attitude by denying it. No negotiations seem advisable until the Chinese Government shall have put the diplomatic representatives of the powers in full and free communication with their respective Governments and removed all danger to their lives and liberty. We would urge Earl Li earnestly to advise the Imperial authorities of China to place themselves in friendly communication and cooperation with the relief expedition. They are assuming a heavy responsibility in acting otherwise.

You will communicate this information to the minister of foreign affairs.

HAY.

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*Mr. Porter to Mr. Hay.*

No. 711.]

EMBASSY OF THE UNITED STATES,  
*Paris August 7, 1900.*

SIR: Your cable received on the 2d instant,<sup>2</sup> transmitting the substance of the suggestion made by Li Hung Chang, was communicated to the minister of foreign affairs, who acknowledged receipt of this information by a short note, copy herewith inclosed.

I have the honor to be, etc.,

HORACE PORTER.

[Inclosure.—Translation.]

*Mr. Delcassé to Mr. Vignaud.*

PARIS, August 4, 1900.

MR. CHARGÉ D'AFFAIRES: You have been kind enough to communicate to me, under date of yesterday, the contents of a telegram which you have received from the Federal secretary of state for foreign affairs, which treats of an exchange of com-

<sup>1</sup> Same telegram sent to United States representatives at Berlin, London, Rome, St. Petersburg, and Tokio.

<sup>2</sup> Printed ante.

munications between your Government and the viceroy of the two Kuang, relative to the situation of the foreign representatives at Peking.

In thanking you for having transmitted to me this document, I am pleased to testify to the commonality of views existing between the Government of the United States and that of the French Republic.

Accept, Mr. Chargé d'Affaires, the assurance of my highest consideration.

DELCASSÉ.

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*Mr. Porter to Mr. Hay.*

No. 720.]

EMBASSY OF THE UNITED STATES.

*Paris, August 22, 1900.*

SIR: On the 19th instant M. Delcassé delivered at Foix, in the south of France, a political speech which has attracted much attention.

\* \* \* He outlined the policy of the Republic in the Far East in the following terms:

"We should not exaggerate, but it would be dangerous to conceal the gravity of the problem which events in China have raised for the powers. To solve it, the primary condition is to discover what their intentions are, to desire solely what can not possibly compromise the entente which is necessary, and to desire this up to the very last. The voice of the conscience of the world indicated to them that the first object to be aimed at was the deliverance of the ministers, who were daily being subjected to outrages which have no precedent in history; and this is, indeed, the main object of the common military action of the powers. At the present moment this object is or is about to be secured. The presence of the international troops will serve, secondly, to obtain compensation for the past and guaranties for the future. Whatever the special views of the several powers on this point, I suppose that they will regulate their demands according to the possibilities of China, and, above all, that they will carefully avoid formulating exclusive demands which would destroy the present unity, arouse distrust, and perhaps engender most unfortunate misunderstandings. This is the policy which has been adopted from the outset by the Government, with the approval of Parliament. To this policy it has remained faithful either when it has been called upon to take energetic action on its own account, which, moreover, was crowned with success, or when it made to the powers proposals which obtained their unanimous adhesion. I need not tell you that it will not abandon this policy in the future. \* \* \*

His views are the same as those expressed in several conversations I had with him.

I have the honor to be, your obedient servant,

HORACE PORTER.

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*Mr. Porter to the Secretary of State.*

[Telegram—Paraphrase.]

PARIS, *September, 5, 1900.*

(Mr. Porter advises the Department of verbal statement made to him by the minister for foreign affairs to the following effect:

The minister understands that Russia will withdraw forces from Peking, holding them at Tientsin. France intends to take similar action, believing that negotiations for amicable settlement will thus be hastened and that the Chinese Government, now a fugitive, will return to Peking. The three objects of France were to rescue her legation and citizens, secure indemnity for the past, and obtain guaranty for the future. The first having been effected, France expects to keep troops at Tientsin till the other two objects are accomplished. The hope is expressed by the minister for foreign affairs that all the powers interested may act in concert in this movement.)

*Mr. Porter to the Secretary of State.*

[Telegram—Paraphrase.]

UNITED STATES EMBASSY TO FRANCE,  
*Paris, September 12, 1900.*

(Mr. Porter states that in conversation to-day the minister for foreign affairs, reiterating in substance what is communicated in Mr. Porter's telegram of the 5th, says that he has instructed the French minister and military commander in China to consult the representatives of the other powers there in an endeavor to bring about a concert of action in retiring from Peking and to negotiate with such as agree to retire with the view of withdrawing to Tientsin or some other eligible point as early as possible and in such manner as may be found most practicable. The minister informs Mr. Porter he is anxious that peace negotiations should begin as soon as possible.)

*Mr. Adee to Mr. Porter.*

No. 833.]

DEPARTMENT OF STATE,  
*Washington, September 14, 1900.*

SIR: Your No. 720, of the 22d ultimo, has been received, and the Department is pleased with the frank declaration of Mr. Delcassé that the policy of his Government is to preserve the unity of the Chinese Empire and restore order therein, and to do nothing that will disturb that entente between the powers which is so necessary at this crisis.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Thiébaud, Chargé d'Affaires, to Mr. Hay.*

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,  
*Washington, July 2, 1900.*

MR. SECRETARY OF STATE: I had the honor in the course of the conversation I had with you this afternoon, to lay before you certain considerations suggested to my Government by the events in China. I deem it my duty to specify the points touched upon in the telegram of this day's date, the essential parts of which were orally communicated to you.

His Excellency, Mr. Delcassé, first calls to mind that from the very beginning of the Chinese crisis the powers came into accord for the purpose of insuring the safety of their representatives and their nationals in Peking and throughout the Empire; of maintaining the territorial statu quo, and, lastly, of preventing, by demanding substantial guarantees, a recurrence of the unfortunate events that have already given cause for lament. The fate of the foreign legations being the foremost consideration, each Government sent to Peking, as rapidly as distance permitted, the detachment which formed the

relief column with which Admiral Seymour vainly endeavored to reach Peking and which he had to bring back to Tientsin. This first failure demonstrates the necessity for a greater effort; indeed, the unavoidable result of a second reverse would be to embolden the Chinese who stand on the way to Peking and to increase their numbers. My Government is therefore of opinion that it matters little whether the powers have equal forces in the Gulf of Pechili; the interest of all lies in reaching as promptly as possible an end which is of too humane a character to allow any apprehension of inexplicable jealousies. The main point seems to be that these various forces shall not act separately, but be united and move in a single direction. In order to do so, a concert of the powers, with a view to sending identical instructions to the commanding officers of their respective forces in the Pechili and requesting them to state the full amount of forces requisite for the fulfillment of their missions, would be urgent.

I shall thank you kindly to enable me to communicate to my Government, as early as possible, your views concerning the foregoing considerations.

Be pleased to accept, etc.,

THIÉBAUT.

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*Mr. Hay to Mr. Thiébaud.*

No. 331.]

DEPARTMENT OF STATE,  
Washington, July 3, 1900.

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, in which you present more fully the considerations you expressed to me in the course of our conversation yesterday afternoon respecting the policy of the powers in the treatment of the existing crisis in China and the steps to be taken by them to insure the safety of their national representatives and citizens in Peking and throughout the Empire, to maintain the territorial status quo, and, through substantial guaranties, to prevent a recurrence of the recent deplorable events—concluding by communicating M. Delcassé's view that foreigners in Peking should not act separately but under a united direction, and that to this end an understanding of the powers with a view to sending identical instructions to the commanders of their respective forces in Petchili, and requesting them to state the full amount of the forces requisite for the fulfillment of their mission, appears to be urgent.

My conversation with you will have enabled you to see that the policy and attitude of this Government, as already determined by the President, are substantially in the line of the views entertained by the Government of the French Republic. Following the precedents enunciated by the United States as early as 1857, this Government aims at the conservation of peace and amity with the Chinese nation, the furtherance of lawful commerce, and the protection of the lives and interests of American citizens in every part of China by all the means guaranteed under extraterritorial treaty rights and by the law of nations, to which ends we are prepared to uphold the efforts of the Chinese authorities in the provinces to use their powers to protect foreign life and property against the attacks of subversive anarchy, and are resolved to hold to the uttermost accountability the responsible authors of any



wrong done to our citizens. To attain these objects the Government of the United States is now, as heretofore, ready to act concurrently with the other powers in opening up communication with Peking and rescuing the imperiled Americans and foreigners there, to afford all possible protection everywhere in China to American life and property, to guard all legitimate American interests in the Empire, and to aid in preventing a spread of the disorders to other provinces, and in securing future immunity from a recurrence of such disasters—seeking to these ends a solution which may bring about permanent peace and safety to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire.

I am communicating these views to all the governments represented diplomatically at Peking, substantially as herein outlined; and it gives me much pleasure to advise you of their purport, in view of their virtual accord with the policy independently formulated by the Government of the French Republic.

Meanwhile, to the end of reaching the common understanding which M. Delcassé advocates, instructions have been telegraphed to the commander of the United States naval forces in Chinese waters to confer with his colleagues and report as to the force necessary to accomplish the ends now purposed and the proportionate force to be appropriately employed by the United States for their attainment in the general interest of the powers concerned.

Accept, sir, etc.,

JOHN HAY.

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[Memorandum.]

EMBASSY OF THE FRENCH REPUBLIC,  
*Washington, July 20, 1900.*

Referring to a recent conversation, the chargé d'affaires of France has the honor to state that he has been invited to make known to the Government of the United States that the Government of the Republic is disposed to concert with the powers in the precautions to be taken to prevent the shipment of arms which should be destined for China.

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[Memorandum.]

DEPARTMENT OF STATE,  
*Washington, July 20, 1900.*

Referring to a recent conversation and to the memorandum of the chargé d'affaires of France, the Secretary of State has the honor to inform M. Thiébaud that he has requested his colleagues of the Treasury and of the Navy, and also the Attorney-General, to give orders to the officers in their several departments to exercise the utmost vigilance to prevent the dispatch or the landing in China of arms destined for improper use in that country, and had given direct orders to the consuls of the United States in China to do all in their power in the same direction.

[Memorandum.]

DEPARTMENT OF STATE,  
Washington, August 14, 1900.

*In response to the oral inquiries of the French chargé d'affaires, made of the Acting Secretary of State on the 14th instant, having reference to the proposal of the Russian Government to send an international detachment under a white flag as far as the city walls of Peking to effect a peaceful bringing back of the foreign envoys now in Peking.*

The views of the United States upon this proposal have been expressed, in anticipation, in the third paragraph of the official memorandum handed to Minister Wu on August 12, as a reply to his communication of the Imperial edict of August 8, appointing Earl Li Hung Chang envoy plenipotentiary to negotiate with the powers now cooperating in China for the relief of the legations in Peking. It was therein said:

We are ready to enter into an agreement between the powers and the Chinese Government for cessation of hostile demonstration, on condition that a sufficient body of the forces composing the relief expedition shall be permitted to enter Peking unopposed and to escort the foreign ministers and residents back to Tientsin, this movement being provided for and secured by such arrangements and dispositions of troops as shall be considered satisfactory by the generals commanding the forces composing the relief expedition.

This memorandum was cabled in full on the evening of the 12th instant to the representatives of the United States at the capitals of the several powers now cooperating in the movement of relief, to be by them communicated to the governments to which they are respectively accredited. The paragraph above quoted appears to embrace the point presented in the Russian proposal, inasmuch as the approach of an international detachment to Peking, under a white flag, and the delivery and reception of the foreigners there would necessarily depend upon some prior understanding with the Chinese Government and the adoption of such adequate arrangements and dispositions as may be satisfactory to the commanding generals for the realization of the desired end. Whether such a peaceful detachment should enter Peking or receive the foreign legations and their inmates outside the city walls of Peking would appear to be a detail to be arranged between the military commanders and the Chinese authorities, having in view that, if the latter alternative is adopted, the foreigners would have to pass through some 2 miles of the dense Chinese city before reaching the outer gate. It may be that some intermediate course, such as receiving the ministers and others at the gate of the inner Tartar city, will prove practicable.

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*Mr. Thiébaud to Mr. Adee.*

[Translation.]

FRENCH EMBASSY,  
Washington, August 30, 1900.

MR. SECRETARY OF STATE: You were pleased to communicate to me [copy of the] answer, under date of August 22, by the Government of the United States to the telegrams of the 19th and 21st of August<sup>1</sup> by

which the viceroy, Li Hung Chang, proposed the immediate cessation of hostilities and the designation of an American plenipotentiary to negotiate with him. I have the honor to inform you that His Excellency Mr. Delcassé has, for his part, been informed by the minister of China at Paris of analogous propositions to which he has returned, through the consul-general of France at Shanghai, the following response:

“The Government of the Republic appreciates the sentiment which has inspired these overtures of the viceroy, Li Hung Chang; however, the Chinese Government now finds itself in a situation whose uncertainty would for the time being render difficult the verification of the full powers of the viceroy; on the other part the Government of the Republic could not lend itself to negotiations so long as its communications with the minister of France in China shall not have been completely and regularly reestablished.”

I embrace this occasion to renew to you, Mr. Secretary of State, the assurances of my highest consideration.

THIÉBAUT.

*The French chargé d'affaires to the Secretary of State.*

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,  
*Washington, October 4, 1900.*

MR. SECRETARY OF STATE: By order of my Government, I have the honor to bring to your excellency's knowledge the following communication:

In sending their forces to China, the powers had as their first object the rescue of their legations. Thanks to the united action and the valor of their troops, this end has been attained. The thing now to be done is to obtain from the Chinese Government, which has given to Prince Ching and Li Hung Chang full powers to negotiate and treat in its name, appropriate reparation for the past and substantial guaranties for the future.

Animated by the spirit which has inspired the declarations heretofore made by the several Governments, the Government of the Republic believes that it sums up their own sentiments in the following points, which it submits as bases of the negotiations to be entered upon immediately after the usual verification of the full powers:

First. The punishment of the principal guilty parties who may be designated by the representatives of the powers at Peking.

Second. The continuance of the interdiction against the importation of arms.

Third. Equitable indemnities for the Governments, corporations, and private individuals.

Fourth. The organization in Peking of a permanent guard for the legations.

Fifth. The dismantling of the forts at Taku.

Sixth. The military occupation of two or three points on the road from Tientsin to Peking, which road will thus always be open to the legations to pass to the sea or to the forces which may go from the sea to the capital.

If presented collectively by the representatives of the powers and backed up by the presence of the international troops, it seems to the

Government of the Republic impossible that these conditions, so legitimate in themselves, should not speedily be accepted by the Chinese Government.

Be pleased to accept, Mr. Secretary of State, the renewed assurances of my highest consideration.

THIÉBAUT.

*The Secretary of State to the French chargé d'affaires.*

[Memorandum.]

DEPARTMENT OF STATE,  
Washington, October 10, 1900.

The Government of the United States agrees with that of France in recognizing as the object to be obtained from the Government of China appropriate reparation for the past and substantial guaranties for the future.

The President is glad to perceive in the bases of negotiation put forward in the memorandum of October 4 the spirit that has animated the declarations heretofore made by all the powers interested, and would be pleased to see the negotiations begun immediately upon the usual verification of credentials.

It may be convenient to enumerate the clauses of the memorandum and to add some observations dictated by the attitude of the United States in the present circumstances.

1. The punishment of the guilty parties who may be designated by the representatives of the powers at Peking.

The Chinese Government has already indicated its intention to punish a number of those responsible for the recent disorders. The representatives of the powers at Peking may suggest additions to that list when negotiations are entered upon.

2. The continuance of the interdiction against the importation of arms. It is not understood that this interdiction is to be permanent, and the duration of it and the details of its regulation seem a proper subject of discussion by the negotiators.

3. Equitable indemnities for the Governments, corporations, and private individuals.

This is an object desired by all the powers. The Russian Government has suggested that in case of protracted divergence of views, this matter might be commended to the consideration of the International Court of Arbitration of The Hague. The President thinks this suggestion worthy the attention of the powers.

4. The organization in Peking of a permanent guard for the legations. The Government of the United States is unable to make any permanent engagement of this nature without the authorization of the legislative branch, but in the present emergency we have stationed in Peking an adequate legation guard.

5. The dismantling of the forts at Taku.

The President reserves the expression of his opinion as to this measure, pending the receipt of further information in regard to the situation in China.

6. The military occupation of two or three points on the road from Tientsin to Peking.

The same observation which has been made in reference to No. 4 applies also to this proposition. The President is unable to commit

the United States to a permanent participation in such occupation, but he thinks it desirable that the powers shall obtain from the Chinese Government the assurance of their right to guard their legations in Peking and to have the means of unrestricted access to them whenever required.

The President believes that the Governments of France and the other powers will see in the reserves we have here made no obstacle to the initiation of negotiations on the lines suggested, and he hopes it will be found practicable to begin such negotiations at an early day.

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*The French chargé d'affaires to the Secretary of State.*

EMBASSY OF THE FRENCH REPUBLIC,  
Washington, October 17, 1900.

The Government of the Republic has highly appreciated the response which the Government of the United States has made to its note of the 4th of October; it has been especially gratifying to it to observe the sentiments of sympathy for France which have evidently inspired that reply.

All the interested powers have adhered to the essential principle of the French note. In so far as concerns the points which have called forth comments on the part of certain cabinets, they could, it would seem, be discussed among the powers or between their diplomatic representatives at Peking in the course of the negotiations, and receive such modifications as might be judged necessary in order to more surely and speedily attain the common end.

The essential thing now is to show the Chinese Government, which has declared itself ready to negotiate, that the powers are animated by the same spirit; that they are decided to respect the integrity of China and the independence of its Government; but that they are none the less resolved to obtain the satisfaction to which they have a right.

In this regard it would seem that if the proposition which has been accepted as the basis of negotiations were communicated to the Chinese plenipotentiaries by the ministers of the powers at Peking, or in their name by their dean, this step would be of a nature to have a happy influence upon the determinations of the Emperor of China and of his Government.

It goes without saying that this collective step would in nowise interfere with the examination of the points in the French proposition to which the reservations made by certain governments relate.

The minister for foreign affairs would be particularly happy to learn that this is also the opinion of the President of the United States and of the honorable Secretary of State, and that they have thought it opportune to send to the minister of the United States in Peking instructions in this sense.

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*The Secretary of State to the French chargé d'affaires.*

DEPARTMENT OF STATE,  
Washington, October 19, 1900.

The Government of the United States is gratified to learn that all the interested powers have adhered to the essential principle of the

French note of October 4, and trusts that such reservations as they have suggested will, like those mentioned in the reply of the United States, prove no embarrassment to the progress of the negotiation, in the course of which they can be frankly discussed with a view to a common agreement.

Holding, as it does in accord with the French Government, that the essential thing now is to prove to the Chinese Government that the powers are ready to meet it in the path of peaceful negotiation, and that they are united in their repeatedly declared decision to respect the integrity of China and the independence of its Government, while equally united in the resolve to obtain rightful satisfaction for the great wrongs they and their nationals have suffered, this Government has instructed its minister in Peking to concur in presenting to the Chinese plenipotentiaries the points upon which we are agreed as the initial step toward negotiations and toward the reestablishment of the effective power and authority of the Imperial Government.

The Government of the United States believes that the happy influence upon the determinations of the Chinese Emperor and of his Government, which the Government of the French Republic anticipates as the result of this step, would be still further induced if the powers were to include as part of their initial declaration a collective manifestation of their determination to preserve the territorial integrity and the administrative entirety of China, and to secure, for the Chinese nation and for themselves, the benefits of open and equal commercial intercourse between the Chinese Empire and the world at large.

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*Mr. Thiébaud to Mr. Hay.*

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,  
Washington, October 26, 1900.

MR. SECRETARY OF STATE: The minister of foreign affairs has advised me that he has received from the ambassador of the United States at Paris communication of telegram which you addressed him on the 22d<sup>1</sup> of this month, and of which you have been good enough to send me a copy for my personal information.

It seems to result from this communication of General Porter, as also from your memorandum of the 19th of October and the communication which you have given me in the course of recent interviews, that the minister of the United States at Peking has only been authorized, in concert with his colleagues, to begin negotiations by communicating to the Chinese plenipotentiaries such of the points of the French proposition in regard to which no reserve has been formulated. Since then I have had the honor to submit to you by communication—to which it has been agreed verbally between us that your excellency would send no answer, your above-mentioned memorandum of the 19th of October having virtually done so in advance—a new reduction of our proposition which may serve as a text for an identical note which each representative of the powers should deliver to the Chinese plenipotentiaries. It differs, as you may have observed, from the original

<sup>1</sup> Circular telegram, printed p. 307.

proposition which formed the object of my note of the 4th of October, in which my Government was careful to introduce the indications intended to give satisfaction to the reserves which have been formulated especially by the Government of the United States. On the other hand, I informed you yesterday that his excellency Mr. Delcassé was disposed to give to the sixth point an interpretation which was preferred by Lord Salisbury, and of which I left you the terms in writing, and I announced to you that the minister of Her Majesty would in consequence inform her representatives at Peking that he had accepted the sixth point of the proposition. You will think it useful, doubtless, to inform Mr. Conger of this. The minister of foreign affairs is persuaded also that the Government of the United States will be, like the Government of the Republic, sensible to the advantage which there would be if the representatives of all the powers could present to the Chinese plenipotentiaries an identical note reproducing the sixth point of the French note in the amended form which I have recalled to you. Such a proceeding would have in fact, among other advantages, that of showing in an imposing manner that the Governments offended by China are animated by the same spirit. It is evident that the delivery of this identical note would not in any manner prevent the final examination of the points upon which the observations of certain cabinets are founded, as my Government has formerly remarked to you in the memorandum which I delivered to you the 17th of October, and the assurance of which I have several times reiterated to you.

Concerning the suggestions made in the last paragraph of your memorandum of the 19th of October, your excellency has long been aware that the sentiments of my Government are fully in accord with those of the Federal Government. France has in fact pronounced several times already for the principle of the open door in China, and very recently again in submitting to the powers its project of an identical note for the principle of the integrity of the Empire and the independence of the Chinese Government.

I am therefore authorized to inform you that my Government sees no objection to these two principles being, as you have suggested, proclaimed once more in conditions to be hereafter determined but which should not involve any delay for the opening of negotiations.

Pray accept, Mr. Secretary of State, assurances of my highest consideration.

THIÉBAUT.

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*Mr. Hay to Mr. Thiébaud.*

DEPARTMENT OF STATE,  
Washington, October 29, 1900.

SIR: I have received your note of the 26th of October, and it gives me great pleasure to be once more assured that the Government of the French Republic entertains the same opinion held by that of the United States as to keeping in view the first arrangements to be made in China for securing of guaranties of impartial trade and preserving the integrity of the Chinese Empire.

After a careful consideration of your note, this Government finds itself unable to add anything to what is contained in my notes of

October 10 and October 19. We consider the French propositions, subject, so far as we are concerned, to the reserves imposed upon us by our own circumstances, to be an adequate basis for a beginning of negotiations; and we perceive in those reserves, at this time precisely as at the time when they were formulated, no obstacle to a prompt initiation of negotiations. Our minister in Peking has been so informed, and a proof that no obstacle to the desired procedure exists is found in the fact that this Government is in receipt of dispatches from Peking indicating that the ministers of the powers have already begun the task of formulating their demands to be presented to the Chinese plenipotentiaries.

I avail myself of the opportunity to offer to you the renewed assurance of my high consideration.

JOHN HAY.

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GERMANY.

*Mr. White to Mr. Hay.*

No. 1291.]

EMBASSY OF THE UNITED STATES,  
*Berlin, July 5, 1900.*

SIR: I have the honor to append hereto a copy of the telegram<sup>1</sup> in regard to the policy of the United States in China, which was received yesterday morning, and which was at once communicated to Baron von Richthofen (Count Bülow being with the Emperor at Wilhelms-haven) in the form of a memorandum.

I am, sir, etc.,

AND. D. WHITE.

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*Mr. Hay to Mr. White.*

No. 1067.]

DEPARTMENT OF STATE,  
*Washington, July 6, 1900.*

SIR: I confirm on the overleaf the President's telegram of yesterday to His Majesty the German Emperor, relative to the murder of the German minister at Peking.

The regret at Baron von Ketteler's untimely end is keenly felt in this city, where his long residence is most agreeably recalled by those with whom he held official and social relations.

I am, sir, etc.,

JOHN HAY.

[Inclosure.]

*The President to the German Emperor.*

[Telegram.—Translation.]

WASHINGTON, *July 5, 1900.*

His Imperial and Royal Majesty WILLIAM II, *Berlin:*

The confirmation of the murder of Your Majesty's minister in Peking leads me to tender to Your Majesty and to the family of Baron von Ketteler my sorrowful condolences and those of the American people.

WM. MCKINLEY.



*The German Emperor to the President.*

[Telegram.—Translation.]

RHAINSBURG, *July 6, 1900.*

The President of the United States, Mr. MCKINLEY:

For Your Excellency's warm words of condolence in the murder of my representative in Peking I express my most sincere thanks. I recognize therein the common impulse of interests which binds the civilized nations together.

WILHELM, R. I.

*Mr. White to Mr. Hay.*

No. 1297.]

EMBASSY OF THE UNITED STATES,  
*Berlin, July 9, 1900.*

SIR: I have the honor to inform you of the receipt to-day of a note from Count von Bülow, the Imperial German secretary of state for foreign affairs, in which he communicates to me the text of the telegram which His Majesty the Emperor and King was moved to send to the chief of the cruiser squadron, the governor of Kiauchou in Tsingtau, the governor-general of Shantung, and the viceroys of Nanking and Wuchang, as follows:

I promise upon my imperial word to pay 1,000 taels to any person who brings about the delivery alive, to any Imperial German or other foreign official, of any foreigner of whatever nationality who is now shut up in Peking. I also undertake to bear the expense of transmitting this message to Peking in any way.

While adding that the German consular officials in China have been directed to pay the promised rewards,

I am, sir, etc.,

AND. D. WHITE.

*Mr. White to Mr. Hay.*

No. 1301.]

EMBASSY OF THE UNITED STATES,  
*Berlin, July 13, 1900.*

SIR: I have the honor to inform you that it is stated semiofficially in last night's issue (No. 161) of the North German Gazette that after conference with the foreign affairs committee of the Bundesrath (which under the constitution consists of representatives of the Kingdoms of Bavaria, Saxony, and Wurttemberg, and two others, and which had a special sitting in this city on the 11th instant) Count von Bülow, the Imperial German secretary of state for foreign affairs, communicated to the several federated governments a statement in regard to affairs in China.

In this statement, after referring to the feelings inspired by recent occurrences throughout the civilized world, and mentioning Germany's commercial and other interests in China, and the murder of her minister, Baron von Ketteler, Count von Bülow goes on to say that "the first official information in regard to a rebellious action in the province of Tschili" was in the middle of last January. He then refers to the previous actions of the so-called "Boxers" in other provinces and to the actions of the local viceroys, as well as to the fact that Germany had no material interests at stake in Tschili except at Peking and in

Tientsin, where no trouble was anticipated, but that, "nevertheless, on January 27 the German minister felt moved to make representations." Count von Bülow then refers to the similar notes which were sent to the Tsungli Yamen by the German, French, English, and American, and later also by the Italian, ministers, and mentions the growth of the "Boxer" movement, which is ascribed to the lack of good will and notorious sluggishness of the Chinese Central Government. He also refers to the subsequent demand for detachments of troops to guard the legations, to the arrival of the German force in Peking on June 3, and to the later arrival of United States, French, Russian, Austrian, British, Japanese, and Italian forces, making about 450 men in all. He then reviews the action of the Chinese Government with regard to these forces, and says that Baron von Ketteler was until June 10 in accord with his colleagues in thinking that sufficient precautions had been taken to insure their personal safety. Count von Bülow states that "the last report which was received from Baron von Ketteler was dated June 12," and contained information in regard to Prince Tuan having been made a member of the Tsungli Yamen and an expression of apprehension that the Chinese regular troops might now attack the foreigners, and that since June 13 all reliable communication with Peking has been broken, and although there can no longer be any doubt as to the murder of Baron von Ketteler, no authentic information has as yet been received as to the fate of the rest of the diplomatic corps.

Count von Bülow then refers to Admiral Seymour's attempt to reach Peking, to the military situation at Taku and Tientsin, and to the operations at those places, to the measures taken by the Chinese to prevent the march of the foreign troops to Peking, and to the number and character of the troops and war vessels which the various interested countries are sending to China, adding—

The military measures taken by us should put us in a position to participate in an appropriate manner as regards Germany's political importance in the military actions in China, which all the powers consider necessary. Events in China threaten the so successful German mission work in the Far East, the prosperous German trade in East Asia, and finally the important industrial undertakings in the province Shantung. These ideal and material interests must be protected. The end for which we are striving is the restoration of safety to the persons, property, and activity of German subjects in China, the rescue of foreigners shut up in Peking, the revival and assurance of order under an organized Chinese Government, and expiation and indemnity for the acts committed. We desire no partition of China; we are striving for no special advantages. The Imperial Government is fully convinced that the maintenance of the understanding among the powers is the preliminary requirement for the restoration of peace and order in China, and will, for its part, continue to consider this as of the first importance.

I am, sir, etc.,

AND. D. WHITE.

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*Mr. White to Mr. Hay.*

No. 1307.]

EMBASSY OF THE UNITED STATES,  
*Berlin, July 19, 1900.*

SIR: I have the honor to acknowledge the receipt late last night of your telegram relative to destruction of Tientsin.

In this connection I have to inform you that it is announced in the North German Gazette of to-day's date (No. 166), that—

The secretary of state of the foreign office, Count von Bülow, found himself compelled to notify the Chinese legation here that until further notice he could no

longer permit it to send off telegrams in cipher or code, and that ordinary telegrams are to be submitted to him before their transmission in order to be passed upon by him before permission to send them is given.

I am, sir, etc.,

AND. D. WHITE.

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*Mr. White to Mr. Hay.*

No. 1311.]

EMBASSY OF THE UNITED STATES,  
*Berlin, July 21, 1900.*

SIR: I have the honor to inform you that immediately upon the receipt this morning of your telegram<sup>1</sup> announcing the receipt, through the governor of Shantung and Chinese minister in Washington, of a cipher message from Minister Conger in Pekin; I called at the foreign office and communicated its contents to Mr. von Derenthall, Count von Bülow being indisposed. His reply was substantially as contained in my telegram to you of to-day's date, which I have the honor to confirm (paraphrase):

(Finding information from China so contradictory and unsatisfactory, minister of foreign affairs has little hope of securing anything definite or trustworthy at present, but will continue to endeavor to do so, and will immediately inform the United States in case of success.)

I am, etc.,

AND. D. WHITE.

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*Mr. Jackson, chargé d'affaires to Mr. Hay.*

[Telegram.—Paraphrase.]

BERLIN, *July 25, 1900.*

(Mr. Jackson reports that Count von Bülow informs him that, with reference to a telegram similar to that received by the President, and purporting to be from the Emperor of China to the German Emperor, submitted by the Chinese legation here, the foreign office, having no power of proving the authenticity of the telegram, can not attach any importance to it unless its genuineness shall be confirmed by the German legation at Pekin or some diplomatic representative there.)

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*Mr. Jackson to Mr. Hay.*

No. 1318.]

EMBASSY OF THE UNITED STATES,  
*Berlin, July 26, 1900.*

SIR: Referring to Mr. White's dispatch (1311) of the 21st instant, I have the honor to inform you of the receipt to-day of a memorandum from the Imperial foreign office, a translation of which will be found on the overleaf, and to confirm my cipher telegram to you, of to-day's date, as follows (paraphrase):

(Mr. Jackson, referring to Mr. White's telegram of the 21st, states that the German Government expresses itself in complete accord with the views in Mr. Hay's telegram of July 20, to utilize services of friendly Chinese authorities, and will gladly

participate in any measures undertaken to bring about the desired end. The minister informs Mr. Jackson that steps which were taken several days ago to communicate with the German legation at Peking have not yet been successful, and no great hopes are entertained that it will be possible to find trustworthy Chinese intermediaries.)

I have the honor to be, etc.,

JOHN B. JACKSON,  
*Chargé d'Affaires.*

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[Inclosure.—Translation.]

“*Pro memoria*” from the German foreign office July 25, 1900, referring to a memorandum left at the foreign office by Mr. White on July 21.

The Imperial Government is in complete accord with the view expressed in the telegram from the Secretary of State of the United States of America, that it is very desirable to make use of the services of friendly Chinese officials in order to obtain further information from the besieged legations in Peking and to effect communication with them. The Imperial Government will gladly participate in any measure undertaken to bring about this end, but it can not pretend to entertain any great hope that it will be possible, in view of the existing notoriously difficult situation to find any really trustworthy Chinese intermediaries. Nevertheless, steps were taken by the Imperial Government several days ago analogous to those taken by Mr. Hay, which have not been successful as yet.

The foreign office will not fail to inform the embassy of the result without delay.

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*Mr. Jackson to Mr. Hay.*

No. 1320.]

EMBASSY OF THE UNITED STATES,  
*Berlin, July 26, 1900.*

SIR: I have the honor to inform you that on the receipt, on the 20th instant, of your instruction No. 1067, of July 6, 1900, the embassy communicated to the Imperial foreign office the text of the telegram addressed by the President to His Majesty the German Emperor relative to the murder of Baron von Ketteler, the German minister at Peking, quoting in its note the last paragraph of the instruction above mentioned. To-day a note has been received in reply, in which the foreign office expresses its most sincere thanks for the information and adds that the President's telegram had been answered by the Emperor himself.

I have the honor to be, etc.,

JOHN B. JACKSON.

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*Mr. Jackson to Mr. Hay.*

[Telegram.—Paraphrase.]

EMBASSY OF THE UNITED STATES,  
*Berlin, August 7, 1901.*

(Mr. Jackson, chargé, reports the willingness of Japan and Russia to put their forces under the chief command of Field Marshal Count Waldersee in Chihli. Says the German Government would like to know views entertained by United States Government in regard to chief in command, and in what way it would be inclined to join the American forces in Chihli to the army operating under Waldersee.)

*Mr. Jackson to Mr. Hay.*

No. 1338.]

EMBASSY OF THE UNITED STATES,  
*Berlin, August 7, 1900.*

SIR: I have the honor to confirm, on the overleaf, the text of my cipher telegram of to-day's date, and to append hereto a translation of a communication which has just been handed to me by Mr. von Derenthall at the foreign office.

Mr. von Derenthall sent for me in order to hand to me the communication in question, similar communications being given to the representatives of the other powers interested in affairs in China. I was told that the German embassy had been instructed to confer with you in this matter.

Count Waldersee's reputation is too well known in the United States to make it necessary for me to say much about it. He was Count Moltke's chief assistant up to the time of his death, at the great general staff. He then commanded the Ninth Army Corps for several years, commanding also an "armie" on several occasions during the Imperial autumn maneuvers, and he is now one of the five "armie" inspectors, with the rank of general field marshal. His wife is an American, a daughter of the late Mr. David Lee, of New York.

I have the honor to be, etc.,

JOHN B. JACKSON,  
*Chargé d'Affaires.*

[Inclosure.—Translation.]

*Communication handed Mr. Jackson by Mr. von Derenthall, at the German foreign office, August 7, 1900.*

His Majesty the Emperor of Russia has declared to our Most Gracious Lord that he would be especially pleased to put the Russian troops operating in the province of Tschili under the command of Field Marshal Count Waldersee. His Majesty the German Emperor is ready to take upon himself the task resulting from this, as he has reason to think that besides Russia there are other governments which consider a German commander in chief as expedient; for example, the Japanese Government has let it be understood that it would prefer a German chief command to that of another power more deeply interested in eastern Asiatic affairs. The Government of His Majesty the German Emperor would be grateful for information as to what views are entertained by the Government of the United States in regard to the "chief command," and in which way it would be inclined to join the American forces in the province of Tschili to the army operating under Field Marshal Count Waldersee.

*Mr. Adee to Mr. Jackson.*

[Telegram partly paraphrased.]

DEPARTMENT OF STATE,  
*Washington, August 10, 1900.*

(Mr. Jackson is instructed to deliver the following message to the foreign office in the form of a memorandum dated August 10:)

The Government of the United States will be much gratified to secure the command of so distinguished and experienced an officer as Count Waldersee for any combined military operations in which the American troops take part after the arrival of that officer in China to

attain the purposes declared by this Government in the circular note delivered to the powers under date of July 3.

The general commanding the American forces in China has already been authorized to agree with other commanders as to a common official direction of the various forces in their combined operations, preserving the integrity of his American division as a separate organization. A copy of this communication will be transmitted to him.

As a considerable time must elapse before Count Waldersee can reach China and conditions are rapidly changing, it would seem desirable to leave questions of method to be determined in view of the conditions which may then exist. The suggestion of His Majesty the German Emperor that one or more military officers of each nationality should be attached to the headquarters of Count Waldersee to maintain communications with the national contingent meets the approval of this Government.

ADEE, *Acting.*

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*The German Emperor to President McKinley.*

[Telegram.]

HAMBURG SCHLOSS, *August 11, 1900.*

I received with pleasure the decision of the United States that American and German soldiers shall fight together for the common cause of civilization under one commander in chief. The brave army of your country which have shown of late so many warlike qualities, united with Europe, will be irresistible. Field Marshal Count Waldersee, who will have the honor of leading your forces, is not a stranger to America. His wife is an American by birth. I beg your excellency to accept my heartfelt thanks for the confidence the United States place in the leadership of Count Waldersee.

WILHELM II.

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*The President to the German Emperor.*

[Telegram.]

EXECUTIVE MANSION, *August 12, 1900.*

I am gratified to receive Your Majesty's message of good will in relation to the selection of Count Waldersee, and, like you, I see in our common duty an additional recognition of the kindly ties and mutual interests that exist between this country and Germany.

WILLIAM MCKINLEY.

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*Mr. Jackson to Mr. Hay.*

No. 1363.]

EMBASSY OF THE UNITED STATES,  
*Berlin, August 16, 1900.*

SIR: I have the honor to confirm the text of the telegram sent you this afternoon, paraphrased as follows:

Count Waldersee leaves Berlin Sunday. He called at the embassy to-day and asked Mr. Jackson to present his best compliments to the President, and to say that he will consider it a great honor to have gallant American soldiers under his command.

After having tried to find me at my residence, Count Waldersee (accompanied by the countess and by his brother, the vice-admiral) called at the chancery of the embassy this afternoon. Count Waldersee first expressed his pleasure at the way his nomination as commander in chief of the combined forces had been received in the United States, and requested me to present his best compliments to the President. He then spoke in the highest terms of the American troops, saying that he knew their capabilities and that he would consider it a great honor to have such gallant soldiers under his command.

I have the honor to be, etc.,

JOHN B. JACKSON,  
*Chargé d'Affaires.*

*Mr. Jackson to Mr. Hay.*

No. 1364.]

EMBASSY OF THE UNITED STATES,  
*Berlin, August 18, 1900.*

SIR: I have the honor to inform you of the receipt to-day of a communication, dated August 17, stating that "the foreign office has given the Imperial [Chinese] legation here the following communication in reply to the several communications which have been submitted by it." The communication referred to is also dated the 17th instant, and reads (translated) as follows:

The Imperial Government, as already known, considers it the most immediate and peremptory duty of the Imperial Chinese Government to release the foreigners besieged in Peking without delay. Until this obligation is complied with the Imperial Government does not feel able to enter upon negotiations of any kind with the Chinese Government or with any representative of the same. The rescue of the besieged has been confided to the allied troops now marching on Peking. The commanders of these troops have been authorized to adopt measures appropriate to this end. Consequently negotiations in regard to the rescue, and especially as to whether or not and under what conditions it may be found necessary for the allied troops to enter Peking, can only be conducted with the commanders of the allied troops.

I have the honor to be, etc.,

JOHN B. JACKSON,  
*Chargé d'Affaires.*

*Mr. Adee to Mr. Jackson.*

No. 1091.]

DEPARTMENT OF STATE,  
*Washington, August 20, 1900.*

SIR: I have to acknowledge the receipt of your telegram of the 18th instant, as follows:<sup>1</sup>

The German reply to Chinese proposals appears to be substantially on lines coincident with those traced in my replies of August 12 and 16 to Minister Wu, of which additional copies are inclosed. The emergency having arisen and been decided by the commanders at Peking August 15, it may be assumed that they have acted under similar instructions from their Governments.

I am, sir, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Jackson to Mr. Hay.*

No. 1367.]

EMBASSY OF THE UNITED STATES,  
*Berlin, August 23, 1900.*

SIR: I have the honor to acknowledge the receipt this morning of the Department's telegram, as follows:<sup>1</sup>

\* \* \* \* \*

and to confirm the reply sent you this afternoon paraphrased as follows:

(The foreign office informs Mr. Jackson that it has received similar communications. As the German Government does not know whose representative Li Hung Chang is, or whose authority he has, it could not enter into negotiations with him. Verbal reply has been made to this effect.)

As soon as practicable after receiving the Department's telegram I called at the foreign office and communicated its text to Mr. von Derenthall, who is still in charge. As anticipated, similar communications to those referred to had been presented by the Chinese legation in this city, and in general during the past few weeks communications similar to those submitted in Washington have been presented here. At first the German Government, while consenting to receive such communications, consistently declined to make any reply. When, however, it had been made possible for the German representatives in Peking to telegraph to the German Government, that Government made the formal written reply reported in my dispatch No. 1364, of the 18th instant. Since that time no further written communication has been sent to the Chinese legation here.

Mr. von Derenthall told me this morning that when Mr. Kinginthal, the secretary of the Chinese legation, who has been in Berlin for many years, informed him of the telegrams from Li Hung Chang referred to above he told him that, as the German Government did not know whose authority Li Hung Chang had or whose representative he was in making the proposition mentioned, the German Government could not enter into negotiation with him. No further reply has been made.

I have, etc.,

J. B. JACKSON,  
*Chargé d'Affaires.*

*Mr. Jackson to the Secretary of State.*

[Telegram.—Paraphrased.]

BERLIN, *September 4, 1900.*

(Mr. Jackson reports the substance of the German answer to the Russian proposal with regard to withdrawing international troops from Peking, which the foreign office has communicated to him, as follows:)

The Imperial Government will support any course of action which appears conducive to the speedy and permanent restoration of order in the Chinese Empire. Nevertheless, doubt is entertained by the Imperial Government as to whether, for the present at least, withdrawing the international troops from Peking will actually have the anticipated and desired result. As repeatedly shown the Imperial Government considers harmonious action by the powers with regard to the Chinese problem as of the very greatest importance. But the Imperial Government is not without apprehension that an early evacuation of the Chinese capital would be construed by



the Chinese as a sign of weakness and consequently new atrocities be brought about thereby. Moreover the Imperial Government hardly thinks it compatible with the defense by the powers of the cause of civilization to leave the Chinese Christians to the awful fate which undoubtedly awaits them in case the international troops are withdrawn. In view of the German commercial and missionary interests the Imperial Government would only feel at liberty to assume responsibility for a result of a withdrawal of its troops from Peking in case for military reasons such a measure should be of imperative necessity. The Imperial Government has, however, no objection to the legations leaving Peking.

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*Mr. Jackson to Mr. Hay.*

EMBASSY OF THE UNITED STATES,  
*Berlin, September 4, 1900.*

SIR: I have the honor to inclose herewith a translation of a memorandum sent me from the foreign office this morning by Baron Richthofen, the acting assistant secretary of state for foreign affairs, and to append hereto a copy of my telegram,<sup>1</sup> reciting the contents of the same as sent you this afternoon, in regard to the proposed withdrawal of the international troops from Peking.

I have the honor to be, sir, your obedient servant,

JOHN B. JACKSON.

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[Inclosure.—Translation.]

*Baron Richthofen to Mr. Jackson.*

*Memorandum.*

The Imperial Government has received from the Imperial Russian Government a communication similar to that which was recited in the memorandum from the embassy of the United States of the 30th ultimo in regard to the withdrawal of the troops and the legations from Peking.

Any course of action which appears conducive to the speedy and permanent restoration of order in the Chinese Empire, from whatever side it may be proposed, will be acquiesced in and supported by the Imperial Government. Nevertheless, the Imperial Government, for the present at least, entertains doubt as to whether the proposed withdrawal of the international troops from Peking will actually have the anticipated and desired result. The Imperial Government is not without apprehension that an early evacuation of the Chinese capital would be construed by the Chinese as a sign of weakness, and consequently, instead of being conducive to tranquillity, might rather serve the purpose of increasing the courage of the parties hostile to foreigners and bringing about new atrocities as well as an extension of the anarchistic conditions. The Imperial Government has also difficulty in thinking it compatible with the defense by the powers of the cause of civilization and humanity in China to leave the defenseless Chinese Christians to the awful fate which undoubtedly awaits them in the case of the retiring of the international troops.

The Imperial Government, as it has repeatedly shown, considers that harmonious action of the powers with regard to the Chinese problem is of the greatest importance. It feels, however, in view of the German commercial and missionary interests in China, that it could only assume the responsibility for the results of a withdrawal of its troops from Peking in case military reasons should make such a measure of imperative necessity.

On the other hand, the Imperial Government has no objection whatever to the personnel of the Imperial legation, as well as that of the other legations, leaving Peking, as in the absence of any recognized Chinese Government there seems to be, under existing conditions, no field whatever for any further diplomatic activity there.

The Russian suggestion has been answered by the Imperial Government in the foregoing sense.

BERLIN, September 4, 1900.

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<sup>1</sup>Printed ante.

*Mr. Jackson to Mr. Hay.*

No. 1407.]

EMBASSY OF THE UNITED STATES,  
*Berlin, September 22, 1900.*

SIR: I have the honor to acknowledge the receipt this morning of the Department's telegram in regard to Chinese matters, the text of which is appended hereto,<sup>1</sup> and to inform you that I at once communicated the contents of the same (in toto) to Baron von Richthofen, Count Bülow still being absent from Berlin.

After my interview I sent you a telegram, paraphrased as follows:

(Department's telegram of yesterday has been communicated to the foreign office. In regard to point one of Russian memorandum, Germany has already replied in principle, indicating that she has no objection to withdrawing her legation to Tientsin. As far as known no legation has yet left Peking. Points two and three of the Russian memorandum, are covered by German circular of the 17th; which may also be regarded as answer to Chinese propositions.)

I have the honor to be, etc.,

JOHN B. JACKSON.

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*Mr. Jackson to Mr. Hay.*

No. 1414.]

EMBASSY OF THE UNITED STATES,  
*Berlin, September 27, 1900.*

SIR: Referring to previous correspondence, in particular to my dispatch \* \* \* 1407, of the 22d instant, I have the honor to transmit herewith a copy of a memorandum which was read to me at the foreign office by Baron Richthofen this afternoon. \* \* \* As it is, however, almost entirely a repetition of what I have already reported, I do not think it necessary to communicate with you in regard to it by cable.

I have, etc.,

JNO. B. JACKSON.

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[Inclosure — Translation.]

BERLIN, September 25, 1900.

*Memorial in reply to the memorandum of the chargé d'affaires of the United States of America, dated 22d instant.*

To Part I: Under date of the 8th instant the foreign office addressed the following note to the Imperial Chinese legation at Berlin:

“In note of the 4th instant the Imperial Chinese legation sent a communication to the foreign office, which in brief contains the following:

“That the Imperial Chinese legation had received from the Imperial Chinese legation in London a telegram from the viceroy, Li Hung Chang, stating that the latter had received from Provincial Treasurer Pin at Paoting-Fu a telegram concerning a written communication from the members of the council-of-state, and that in said communication mention was made of an edict of the Emperor of China expressing the hope (expectation) that Li Hung Chang would without delay begin and conclude peace negotiations with the powers.”

“The foreign office has to reply to the above, as follows:

“The Imperial Government can negotiate only with the supreme power in China. Hitherto the Imperial Government has only been aware of the supreme power in China being vested in the Emperor, Tsai-tien, and the Empress Dowager temporarily

appointed to represent him as regent. Where and in whom the legally constituted authority of governing the Chinese Empire is vested at the present time is a matter which first of all must be satisfactorily demonstrated to the Imperial Government. Acting on the presumption that the Emperor and Empress Dowager still wield the supreme power, His Majesty's Government can negotiate only with such Chinese commissioners as are in possession of satisfactory written authority conferred by the Emperor and Empress Dowager. Proof of such authority is not furnished either by the note of the Imperial Chinese legation or by earlier communications from said legation. At the proper time the Chinese commissioners will have to submit their credentials in China to Mr. Mumm von Schwarzenstein, ambassador of His Majesty the Emperor, and it will be his duty to test the same and then await the decision of the Imperial Government whether those who present themselves as commissioners shall, from their credentials as well as from their personality, be recognized as empowered representatives. The Imperial ambassador and the Imperial Government will herein consult the other allied powers.

“Meanwhile the Imperial Chinese Government is earnestly and emphatically counseled, in its own interest, to do all that is possible, without delay and without awaiting the outcome of negotiations, to smooth the way to pacification and order, and more particularly to devote its energies to causing a cessation of hostile acts on the part of China.”

Replying to later communications from the Chinese legation at Berlin touching the question of recognition of Prince Tsching and of Governor-General Li Hung Chang as plenipotentiaries of the Chinese Government, the foreign office has always made reference to the above-mentioned note.

To Part II: Of three Russian inquiries, the first was answered by the Imperial Government to the effect that the Imperial Government continued to adhere to its previous declaration, viz, to remove its embassy from Peking at whatever time and in whatever proportion this was done by the other powers.

In answer to the second and third inquiries of Russia, the German circular quoted in Part III was referred to, in which the Imperial Government declared its participation in negotiations with those empowered by the Chinese Government as impracticable (even if proper credentials were presented) until the preliminary question of punishment of the Chinese criminals had been settled.

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*Mr. Jackson to Mr. Hay.*

No. 1434.]

EMBASSY OF THE UNITED STATES,  
*Berlin, October 23, 1900.*

SIR: I have the honor to acknowledge the receipt this morning of your telegram<sup>1</sup> containing the American answer to certain French proposals with regard to the peace negotiations with China, and to inform you that I at once communicated the same to Baron von Richthofen, at the foreign office. \* \* \*

I have the honor to be, etc.,

JOHN B. JACKSON.

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*Mr. Hay to Mr. White.*

No. 1136.]

DEPARTMENT OF STATE,  
*Washington, November 28, 1900.*

SIR: The Department is in receipt of a dispatch, No. 399, of September 1 last, from the United States minister at China, inclosing the hospital record of such United States marines and soldiers as were treated in hospital during the recent siege of the foreign representatives in the British legation in Peking, together with a general summary of casualties.

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<sup>1</sup>Printed p. 307.

In his transmitting dispatch the minister says:

These have been kindly furnished me by Dr. Gustav Velde, Stabsarzt of the Seventh Regiment of Infantry, the official surgeon of the German legation, who was in charge of the hospital at the time and rendered such unselfish, impartial, intelligent, and successful service as to merit the most grateful recognition of all.

For his constant care and tender devotion to the sick and wounded of our detachment, I have on their behalf and my own offered him by letter expressions of high appreciation and profound gratitude.

You will request the German Government to convey to Dr. Velde the sincere appreciation and deep gratitude of the Government of the United States for the services rendered by him on the occasion mentioned.

I am, sir, etc.,

JOHN HAY.

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*Mr. von Hölleben to Mr. Hay.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
Washington, July 30, 1900.

MR. SECRETARY: In compliance with instructions, I have the honor respectfully to communicate to your excellency the following:

The Imperial Government has found itself impelled to give notice to the Chinese legation at Berlin that the latter will not, until further orders, be permitted to forward telegrams in cipher or conventional language, and that open telegrams shall have to be submitted to the secretary of state of the foreign office before being sent in order to obtain permission for their transmittal.

Accept, Mr. Secretary of State, the renewed assurance of my most distinguished consideration.

HÖLLEBEN.

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*Memorandum left at the Department of State by the German ambassador.*

GERMAN EMBASSY, July 31, 1900.

The Imperial German governor in Tsing-tau has been instructed by telegraph to care, after respective communication with the Chinese governor-general, with all energy for the protection of the Christian missionaries of all nations, and, moreover, one of His Majesty's war ships will go, for the protection of the foreign interests, to the surroundings of Tschifu. The Imperial German Government is ready to take, if necessary, still other adequate measures.

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*Mr. Hay to Mr. von Hölleben.*

No. 444.]

DEPARTMENT OF STATE,  
Washington, August 3, 1900.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 30th ultimo by which you inform me that the Imperial Government has found itself compelled to give notice to the Chinese legation at Berlin that the latter will not, until further orders, be per-

mitted to forward telegrams in cipher or conventional language, and that open telegrams will have to be submitted to the secretary of state of the foreign office before being sent, in order to obtain permission for their transmission.

Accept, excellency, etc.,

JOHN HAY.

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*Mr. Adee to Count von Hacke.*

DEPARTMENT OF STATE,  
Washington, August 11, 1900.

MY DEAR COUNT VON HACKE: Referring to my conversation with you yesterday morning, I send you for your information copy of a memorandum<sup>1</sup> dated the 10th instant in response to the inquiries made through Mr. Jackson, the United States chargé d'affaires in Berlin, as to the view of this Government touching the selection of Count Waldersee to command the cooperating military forces in China. This memorandum was telegraphed last night to Mr. Jackson, the chargé d'affaires in Berlin, for communication to the Imperial German minister for foreign affairs.

Very cordially, yours,

ALVEY A. ADEE,  
*Acting Secretary.*

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*Memorandum handed to Mr. Adee by Baron von Sternburg, German Chargé d'Affaires.*

GERMAN EMBASSY, August 13, 1900.

The Russian Government proposes to send an international detachment under a white flag as far as the city walls of Peking to effect a peaceful bringing back of the foreign envoys now in Peking.

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DEPARTMENT OF STATE,  
Washington, August 13, 1900.

*Memorandum in response to the memorandum of the Imperial German embassy, handed by Baron von Sternburg to the Acting Secretary of State on the 13th instant having reference to the proposal of the Russian Government to send an international detachment under a white flag as far as the city walls of Peking to effect a peaceful bringing back of the foreign envoys now in Peking.*

The views of the Government of the United States upon this proposal have been expressed, in anticipation, in the third paragraph of the official memorandum handed to Minister Wu yesterday as a reply to his communication of the Imperial edict of August 8 appointing Earl Li Hung Chang envoy plenipotentiary to negotiate with the powers now cooperating in China for the relief of the legations in Peking. It was therein said:

“We are ready to enter into an agreement with the powers and the Chinese Government for a cessation of hostile demonstrations on con-

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<sup>1</sup> Printed ante.

dition that a sufficient body of the forces composing the relief expedition shall be permitted to enter Peking unmolested and to escort the ministers and residents back to Tientsin, this movement being provided for and secured by such arrangements and dispositions of troops as shall be considered satisfactory by the generals commanding the forces composing the relief expedition."

The memorandum was cabled in full last evening to the representatives of the United States at the capitals of the several powers now cooperating in the movement of relief, to be by them communicated to the Governments to which they are respectively accredited. The paragraph above quoted appears to embrace the point presented in the Russian proposal, inasmuch as the approach of an international detachment to Peking under a white flag and the delivery and reception of the foreigners there would necessarily depend upon some prior understanding with the Chinese Government and the adoption of such adequate arrangements and dispositions as may be satisfactory to the commanding generals for the realization of the desired end. Whether such a peaceful detachment should enter Peking or receive the foreign legations and their inmates outside the city walls of Peking would appear to be a detail to be arranged between the military commanders and the Chinese authorities, having in view that if the latter alternative is adopted the foreigners would have to pass through some miles of the dense Chinese city before reaching the outer gate. It may be that some intermediate course, such as receiving the ministers and others at the gate of the inner Tartar city, will prove practicable.

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*Memorandum left at the Department of State by Baron von Sternburg.*

GERMAN EMBASSY, *August 23, 1900.*

The Chinese minister in Berlin has been informed that the German Government can not enter into any negotiations with Li Hung Chang because it is not clear from whom he has received his credentials and what credentials he holds as to negotiations with the powers.

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*Baron von Sternburg to Mr. Hay.*

[Translation.]

IMPERIAL GERMAN EMBASSY,

*Washington, September 1, 1900.*

MR. SECRETARY OF STATE: I am instructed by my high Government to inform your excellency that Field Marshal Count Waldersee set out on the 20th of last month on his journey to China, in order to assume upon his arrival in the Chinese province of Chili the functions relative to military operations in Chili conferred upon him by order of His Majesty the Emperor and King by virtue of and according to the declarations made to that effect by the powers. My Government expresses at the same time its expectation that pending the arrival of the field marshal the commanders of the military forces of the Government will be furnished with suitable instructions.

Similar communications have been made to the other Governments concerned.

Accept, etc.,

STERNBURG.

*The Imperial German chargé d'affaires to the Secretary of State.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
Washington, September 18, 1900.

MR. SECRETARY: By direction of the Imperial chancellor I have the honor to respectfully communicate to your excellency the following:

The Government of His Majesty the Emperor considers as a preliminary condition for entering into diplomatic negotiations with the Chinese Government a surrender of such persons as are determined upon as being the first and real perpetrators of the crimes committed in Peking against international law. The number of perpetrators who served as tools is too great; a wholesale execution would be averse to the civilized conscience. Furthermore, circumstances would not allow that even the group of leaders could be completely ascertained. But the few among them whose guilt is notorious should be surrendered and punished. The representatives of the powers in Peking will be in a position to make or adduce in this investigation fully valid testimony. The number of those punished is of less importance than their character as principal instigators and leaders. The Government of His Majesty the Emperor believes that it can depend in this matter upon the concurrence of all the cabinets; for indifference toward the idea of a just expiation would be equivalent to indifference toward a repetition of the crime.

The Government of His Majesty the Emperor therefore proposes to the interested cabinets that they request their representatives in Peking to designate the principal Chinese personages whose guilt in the instigation or execution of the crimes is beyond a doubt.

A similar communication is forwarded to the other interested cabinets.

Requesting of your excellency a reply as soon as is practicable, I embrace this occasion to tender the assurance of my most distinguished consideration.

STERNBURG.

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*Acting Secretary Hill to the Imperial German chargé d'affaires.*

DEPARTMENT OF STATE,  
Washington, September 21, 1900.

SIR: In response to your inquiry of the 18th instant as to the attitude of the Government of the United States in regard to the exemplary punishment of the notable leaders in the crimes committed in Peking against international law, I have the honor to make the following statement:

The Government of the United States has from the outset proclaimed its purpose to hold to the uttermost accountability the responsible authors of any wrongs done in China to citizens of the United States and their interests, as was stated in the Government's circular communication to the powers of July 3 last. These wrongs have been committed not alone in Peking, but in many parts of the Empire, and their punishment is believed to be an essential element of any effective settlement which shall prevent a recurrence of such outrages and bring about permanent safety and peace in China. It is thought, however, that no punitive measures can be so effective by way of reparation for

wrongs suffered and as deterrent examples for the future as the degradation and punishment of the responsible authors by the supreme Imperial authority itself; and it seems only just to China that she should be afforded in the first instance an opportunity to do this, and thus rehabilitate herself before the world. Believing thus, and without abating in anywise its deliberate purpose to exact the fullest accountability from the responsible authors of the wrongs we have suffered in China, the Government of the United States is not disposed, as a preliminary condition to entering into diplomatic negotiations with the Chinese Government, to join in a demand that said Government surrender to the powers such persons as, according to the determination of the powers themselves, may be held to be the first and real perpetrators of those wrongs. On the other hand, this Government is disposed to hold that the punishment of the high responsible authors of these wrongs, not only in Peking, but throughout China, is essentially a condition to be embraced and provided for in the negotiations for a final settlement. It is the purpose of this Government at the earliest practicable moment to name its plenipotentiaries for negotiating a settlement with China, and in the meantime to authorize its minister in Peking to enter forthwith into conference with the duly authorized representatives of the Chinese Government with a view to bringing about a preliminary agreement whereby the full exercise of the Imperial power for the preservation of order and the protection of foreign life and property throughout China pending final negotiations with the powers shall be assured.

Accept, sir, the renewed assurances of my highest consideration,

DAVID J. HILL,  
*Acting Secretary.*

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*The Imperial German chargé d'affaires to the Secretary of State.*

[Handed to the Secretary by the German chargé d'affaires, Baron von Sternburg, October 2, 1900.]

Sheng reports an Imperial edict mentioning that the punishment of various leaders has been ordered. The German Government considers this as the first step in the direction of peace and order in China, and begs to propose that the powers may instruct their diplomatic representatives to examine the following points and to express their opinions on them:

1. Is the list contained in the edict in regard to the persons to be punished satisfactory and correct?
2. Are the proposed punishments in accordance with the gravity of the crimes committed?
3. In what manner is the carrying out of these punishments to be controlled by the powers?

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*The Secretary of State to the Imperial German chargé d'affaires.*

DEPARTMENT OF STATE,  
*Washington, October 3, 1900.*

[Memorandum in response to the inquiries made of the Secretary of State, October 2, 1900.]

The Chinese minister communicated to the Secretary of State, on the 2d instant, a telegram received by him from Director-General Sheng,



conveying the purport of an Imperial edict dated September 25, 1900, by which the degradation and punishment of Prince Tuan and other high Chinese officials is decreed.

The Government of the United States is disposed to regard this measure as a proof of the desire of the Imperial Chinese Government to satisfy the reasonable demands of the foreign powers for the injury and outrage which their legations and their nationals have suffered at the hands of evil-disposed persons in China, although it has been thought well, in view of the vagueness of the edict in regard to the punishment which some of the inculpated persons are to receive, to signify to the Chinese minister the President's view that it would be most regrettable if Prince Tuan, who appears from the concurring testimony of the legations in Peking to have been one of the foremost in the proceedings complained of, should escape such full measure of exemplary punishment as the facts warrant, or if Kang Yi and Chao Shu-Chiao should receive other than their just deserts.

With a view to forming a judgment on these points, the United States minister in Peking has been instructed to report whether the edict completely names the persons deserving chastisement; whether the punishments proposed accord with the gravity of the crimes committed, and in what manner the United States and the other powers are to be assured that satisfactory punishment is inflicted.

It is hoped that Mr. Conger's replies to these interrogatories will confirm the Government of the United States in the opinion which it now shares with the Imperial German Government that the edict in question is an important initial step in the direction of peace and order in China.

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*Count Quadt to Mr. Hay.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
*Washington, D. C., October 20, 1900.*

MR. SECRETARY OF STATE: In compliance with instructions, I have the honor respectfully to bring to the knowledge of your excellency the following agreement, arrived at by the Imperial Ambassador Count von Hatzfeldt and Lord Salisbury on the 16th instant, by means of an exchange of notes.<sup>1</sup>

Accept, Mr. Secretary of State, the renewed assurance of my most distinguished consideration,

A. QUADT.

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*Mr. Hay to Count Isny.*

No. 485.]

DEPARTMENT OF STATE,  
*Washington, October 29, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 20th October informing me of the agreement arrived at by the Imperial Ambassador Count von Hatzfeldt and Lord Salisbury on the 16th

<sup>1</sup>English translation of agreement, printed under Great Britain, p. 354.

of this month, and inviting the acceptance by the United States of the principles therein laid down. These principles are:

I. It is a matter of joint and permanent international interest that the ports on the rivers and littoral of China should remain free and open to trade and to every other legitimate form of economic activity for the nationals of all countries without distinction, and the two Governments agree on their part to uphold the same for all Chinese territory, so far as they can exercise influence.

II. The Imperial German Government and Her Britannic Majesty's Government will not, on their part, make use of the present complication to obtain for themselves any territorial advantages in Chinese dominions, and will direct their policy toward maintaining undiminished the territorial condition of the Chinese Empire.

The United States have heretofore made known their adoption of both these principles. During the last year this Government invited the powers interested in China to join in an expression of views and purposes in the direction of impartial trade with that country and received satisfactory assurances to that effect from all of them. When the recent troubles were at their height this Government, on the 3d of July, once more made an announcement of its policy regarding impartial trade and the integrity of the Chinese Empire, and had the gratification of learning that all the powers held similar views. And ever since that time the most gratifying harmony has existed among all the nations concerned as to the ends to be pursued, and there has been little divergence of opinion as to the details of the course to be followed.

It is, therefore, with much satisfaction that the President directs me to inform you of the full sympathy of this Government with those of the German Emperor and Her Britannic Majesty in the principles set forth in the clauses of the agreement above cited.

The third clause of the agreement provides:

III. In case of another power making use of the complications in China in order to obtain, under any form whatever, such territorial advantages, the two contracting parties reserve to themselves to come to a preliminary understanding as to the eventual steps to be taken for the protection of their own interests in China.

As this clause refers to a reciprocal arrangement between the two high contracting powers, the Government of the United States does not regard itself as called upon to express an opinion in regard to it.

Accept, sir, etc.,

JOHN HAY.

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GREAT BRITAIN.

*Mr. Choate to Mr. Hay.*

[Telegram—Paraphrase.]

LONDON, *June 23, 1900.*

(Mr. Choate has communicated to Lord Salisbury substance of Mr. Hay's conversation with the Chinese minister as telegraphed on the 22d. Lord Salisbury had received substantially the same communication from the Chinese minister in London, and says that, while action of Great Britain must depend on what Chinese Government does and upon action of other powers, the intentions of the British Government are similar to these expressed by the United States.)

CHOATE.

*Mr. Choate to Mr. Hay.*

No. 356.]

AMERICAN EMBASSY,  
*London, July 7, 1900.*

SIR: I have the honor to report that on July 4 I received your cable instruction of which a copy is inclosed,<sup>1</sup> and immediately called at the foreign office to advise Her Majesty's minister for foreign affairs of its purport. As he was not in town I addressed him a note, and as he was so obliging as to accord me an interview on the 5th, at 7 p. m., I waited upon him, and he expressed himself most emphatically as concurring in the present policy of the United States as set forth by you.

I have the honor to be, etc.,

JOSEPH H. CHOATE.

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*Mr. Hay to Mr. Choate.*

[Circular—Telegram.<sup>2</sup>—Paraphrase.]

DEPARTMENT OF STATE,  
*July 18, 1900.*

(In view of request of Viceroys presented to the President yesterday by the Chinese minister that Tientsin be not destroyed, the President has instructed the United States officers in China that nothing but military necessity would justify destruction of city, and hoped that no such necessity might arise.)

HAY.

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*Mr. Choate to Mr. Hay.*

No. 361 A.]

AMERICAN EMBASSY,  
*London, July 25, 1900.*

SIR: I have the honor to report that I received on the evening of the 18th<sup>3</sup> your cipher dispatch, of which I inclose a copy. On the 20th, at 10.30 p. m., I received your open cable conveying the Conger dispatch. The same evening I waited upon the permanent under secretary for foreign affairs, in the absence of Lord Salisbury at Hatfield, and communicated to him the Conger dispatch at your request for suggestion as stated in the cable. He asked leave to make a copy of the cable for immediate transmission to Lord Salisbury, which I was glad to have him do, and it was at once dispatched. \* \* \*

On Sunday, the 22d, I received your open cable,<sup>2</sup> which reached the embassy late on Saturday night, relating to the Emperor's telegram to the President, and as it seemed urgent, I sent a special messenger to Hatfield with a note for Lord Salisbury. \* \* \*

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<sup>1</sup>Circular telegram printed p. 299.

<sup>2</sup>Also sent to Berlin, Paris, and St. Petersburg.

<sup>3</sup>Printed ante.

On Tuesday, the 24th, I saw Lord Salisbury, who talked fully over the Conger message and that of the Emperor, but seemed not to be at all impressed by either, although he expressed the most cordial and earnest desire to cooperate in any way to get further intelligence and into communication with the legations, but he said very frankly he had nothing to suggest. His Government had done and would continue to do everything possible in that direction, but he could see no sufficient evidence for believing that Conger's dispatch was of so late a date as the 18th. \* \* \*

I have the honor to be, etc.,

JOSEPH H. CHOATE.

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[Inclosure.]

*Mr. Sanderson to Mr. Choate.*

FOREIGN OFFICE, *July 21, 1900.*

MY DEAR AMBASSADOR: We have a telegram from our acting consul-general at Shanghai dated 11.50 this morning. He reports a message from the governor of Shantung yesterday that trustworthy news has been received from Peking of the safety of all the ministers, and that the Government is arranging for their rescue. \* \* \*

I am told by our experts that with relays of horses laid down a courier from Peking might possibly just manage to cover the distance from thence to Teinanfu, the capital of Shantung, in two days; but it seems to me that we have no security that Mr. Conger's message was written the day the messenger left.

Believe me, etc.,

T. H. SANDERSON.

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*Mr. Choate to Mr. Hay.*

No. 372.]

AMERICAN EMBASSY,  
*London, August 4, 1900.*

SIR: I have the honor to report that, in pursuance of your cable instructions of 1st instant,<sup>1</sup> I addressed to Her Majesty's minister for foreign affairs, on the 2d instant, a note, and on the 3d instant I received from Lord Salisbury a personal note in reply, of which I inclose a copy.

I have the honor to be, etc.

JOSEPH H. CHOATE.

[Inclosure.]

*Lord Salisbury to Mr. Choate.*

FOREIGN OFFICE, *August 3, 1900.*

DEAR MR. CHOATE: I am much obliged to you for your note of yesterday informing me of what has passed between the Government of the United States and Li Hung Chang with regard to the proposal of the latter that the advance on Peking should not take place pending negotiations for the establishment of free communications between the foreign representatives and their Governments.

I need hardly assure your excellency that I entirely concur in the terms of the reply of the Secretary of State.

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<sup>1</sup>Circular telegram printed ante, p. 315.

Messages of a similar kind have reached me from the Emperor through the Chinese minister, and I have always said that no negotiations were possible until I was in a position to communicate freely with Her Majesty's minister in Peking.

Believe me, my dear ambassador, very truly, yours,

SALISBURY.

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*Mr. Choate to Mr. Hay.*

No. 381.]

AMERICAN EMBASSY,  
*London, August 11, 1900.*

SIR: I have the honor to report that upon the receipt of your instruction by cable, of August 8,<sup>1</sup> I communicated the contents thereof to Her Majesty's minister for foreign affairs by a note of August 9.

I have the honor to be, etc.,

JOSEPH H. CHOATE.

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*Mr. Choate to Mr. Hay.*

No. 383.]

AMERICAN EMBASSY,  
*London, August 14, 1900.*

SIR: Referring to my dispatch No. 381, of 11th instant, I have the honor to inclose herewith the copy of a telegram<sup>2</sup> which I received from you on the 12th instant, and which I lost no time in communicating to Her Majesty's Government.

I have the honor to be, etc.,

JOSEPH H. CHOATE.

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*Mr. Choate to Mr. Hay.*

No. 387.]

AMERICAN EMBASSY,  
*London, August 24, 1900.*

SIR: I have the honor to report that on the 23d instant I received your cable instructions of the 22d instant,<sup>3</sup> embodying telegrams from Earl Li Hung Chang, received through the Chinese minister in Washington, urging the suspension of hostilities in China and the appointment of an envoy to negotiate. Immediately upon its receipt I addressed a note to Her Majesty's minister for foreign affairs, dated the 23d instant.

I have the honor to be, etc.,

JOSEPH H. CHOATE.

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*Mr. Choate to Mr. Hay.*

[Telegram—Paraphrase.]

UNITED STATES EMBASSY,  
*London, August 27, 1900.*

(Mr. Choate is informed by foreign office that the British reply to Li Hung Chang's request to name envoy to negotiate is similar to that

<sup>1</sup> Circular telegram printed ante, p. 300.

<sup>2</sup> Circular telegram printed ante, p. 301.

<sup>3</sup> Circular telegram printed ante, p. 302.

made by the United States—that the views of Sir Claude McDonald must be had before Li Hung Chang can be answered. The British Government cares little who represents China if he is properly accredited; but is not satisfied that Li Hung Chang is plenipotentiary or authorized by competent authority to negotiate.)

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*Mr. Choate to Mr. Hay.*

[Telegram—Paraphrase.]

LONDON, *August 30, 1900.*

(Mr. Choate reports that he has carried out the Department's instructions of August 29,<sup>1</sup> and that he will cable a reply as soon as one is received from Lord Salisbury. Reports that on August 23 the foreign office received a telegram from MacDonald saying he had received no communications from his Government, except short test messages sent through Chinese minister, since June 13, although many telegrams had been sent.)

CHOATE.

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*Mr. Choate to Mr. Hay.*

[Telegram—Paraphrase.]

UNITED STATES EMBASSY,  
*London, September 3, 1900.*

(Mr. Choate reports that the British Government has sent a circular to its representatives abroad to be communicated to foreign governments, stating that no answer has yet been received to communications addressed to officials in Peking, and until further information is received from the British minister and general there, Great Britain is unable to form confident judgment on important questions raised in Russian communication.)

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*Mr. White to Mr. Hay.*

[Telegram—Paraphrase.]

UNITED STATES EMBASSY,  
*London, September 11, 1900.*

(Mr. White, chargé d'affaires, refers to the Department's instructions of the 29th,<sup>1</sup> and reports that he is advised that the British ambassador at St. Petersburg is instructed to acquaint the Russian foreign office that Her Majesty's Government have received communications from their officers in the Far East in a somewhat imperfect form, and, without forecasting the course which it will be expedient to pursue in the future, they are of opinion that the time has not yet arrived when it will be expedient to withdraw British forces from Peking.)

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<sup>1</sup> Circular telegram, printed p. 304.

*Mr. Choate to Mr. Hay.*

No. 420.]

AMERICAN EMBASSY,  
*London, November 1, 1900.*

SIR: With reference to your unnumbered instruction of the 22d ultimo,<sup>1</sup> and to previous correspondence, with regard to the answer of the United States to the French proposal respecting China, I have the honor to inclose herewith a copy of a note from Lord Salisbury, dated the 27th ultimo, together with a copy of a memorandum of the communications which have taken place between Lord Salisbury and the French ambassador here on the same subject.

I have the honor to be, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

*Lord Salisbury to Mr. Choate.*

FOREIGN OFFICE, *October 27, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 24th instant, and to express to you my thanks for the information given therein with regard to the answer returned by the Government of the United States to the French proposal respecting China.

I have the honor to inclose, for your excellency's information, a memorandum of the communications which have taken place between the French ambassador and myself on the same subject.

I have the honor to be, etc.,

SALISBURY.

[Subinclosure 1.]

*Memorandum.*

Lord Salisbury suggested that, as regards point 4 of the French proposals, it would be well to avoid words which might seem to impose upon each power the obligation of maintaining a guard. In some cases the obligation might be onerous and the guard scarcely necessary.

As regards point 6 it was pointed out that M. Delcassé appeared to suggest a chain of posts along the road from Pekin to the sea, whereas Lord Salisbury's idea had been that each power should occupy a fortified post within easy reach of the capital and the sea, to be used as occasion might require.

M. Delcassé thereupon suggested that, in order to obviate further delay, Her Majesty's Government should accept the last wording of the six points provisionally and subject to further discussion between the powers and their representatives at Pekin. In the course of these discussions M. Delcassé undertakes to accept and support an amended wording of point 6 to the following effect:

"The right for each power to occupy and fortify a point accessible to the sea where the legations can in case of need find refuge."

Lord Salisbury stated he had no objection in letting Sir C. MacDonald know that he had provisionally accepted the six points as worded in M. Delcassé's last proposal, subject to the condition that in the course of the further discussions it should be proposed that point 6 should be worded in the form given above, to which M. Delcassé had promised his support.

It is understood that M. Delcassé has now informed the other governments of the new wording, and Her Majesty's minister at Pekin has been instructed to concert with his colleagues for the presentation of notes on that basis, but to telegraph any additions or alterations that meet with general concurrence before presenting his note.

FOREIGN OFFICE, *October 27, 1900.*

<sup>1</sup> Circular instruction, printed ante, p. 307.

*Lord Pauncefote to Mr. Hay.*

No. 195.]

NEWPORT, *July 6, 1900.*

SIR: I have the honor, by direction of Her Majesty's principal secretary of state for foreign affairs, to inform you that his lordship communicated a memorandum to the Chinese minister yesterday in the following words:

The Chinese minister is requested by Her Majesty's Government to transmit by telegraph, in such a manner as will insure the message reaching the Government at Peking, notice that they will be held to be personally guilty if the members of the European legations and others in Peking suffer injury.

I have the honor to be, etc.,

PAUNCEFOTE.

*Lord Pauncefote to Mr. Hay.*

[Telegram.]

NEWPORT, R. I., *July 20, 1900.*

Rumors current here of message to you from Minister Conger. Is it true; and if so, can you communicate anything for information of my Government?

PAUNCEFOTE.

*Mr. Hill to Lord Pauncefote.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, July 20, 1900.*

Telegram in Department's cipher from Minister Conger, through Chinese minister, states that he is in British legation under continued fire from Chinese troops. Relief from general massacre must be quick to be effective. Information sent to Ambassador Choate.

DAVID J. HILL.

*Lord Pauncefote to Mr. Hay.*

No. 208.]

BRITISH EMBASSY,  
*Newport, R. I., July 24, 1900.*

SIR: I have the honor, by direction of Her Majesty's principal secretary of state for foreign affairs, to communicate to you, for the information of the United States Government, the substance of a telegram which has been received in London from Mr. Warren, Her Majesty's acting consul-general at Shanghai, dated July 22.

I have the honor to be, etc.,

PAUNCEFOTE.

[Inclosure.]

*Paraphrase of telegram of consul-general at Shanghai.*

Mr. Warren states that in reply to the memorial of various viceroys and governors praying that the foreign ministers might receive protection, submitted to the Throne by the governor of Shantung, an imperial decree was issued, dated July 18, of which the following is a translation:



"In the Confucian work Spring and Autumn, it is written that envoys shall not be killed. How then can it be supposed that the Throne's policy is to connive at allowing the populace to vent their wrath on foreign ministers? With the exception of the murder of the German minister, which offense is being vigorously investigated, the ministers have for a month past been protected by the Throne with a ceaseless energy and have fortunately suffered no harm."

Mr. Warren reports that Sheng received on July 20 a telegram from the governor of Shantung, transmitting a message in cipher from the United States minister to his Government. This message was undated, though it was alleged to have left Peking as late as the 18th. It was to the effect that Mr. Conger was in the British legation, which was under a fire of shot and shell.

Mr. Warren calls Lord Salisbury's attention to the fact that while this date of the 18th given by the Chinese to Mr. Conger's telegram coincides with the date of the above decree, the telegram does not confirm the assurances of safety contained in the decree.

Mr. Warren says that he telegraphed on the 21st to the governor of Shantung asking how a message from Peking could have reached Chinanfu in two days, and how it was that no message had arrived from our minister at Peking, to which he received a reply that the United States minister's telegram had been sent by the Tsungli Yamen by a messenger traveling 600 li (roughly 200 miles) a day, but that there was no telegraphic communication; that he could not explain why Sir C. MacDonald had not telegraphed.

The governor added that he had already received several reliable messages that the ministers were all living and unharmed, and begged Mr. Warren not to be anxious.

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*Lord Pauncefote to Mr. Hay.*

[Telegram.]

NEWPORT, R. I., August 1, 1900.

Telegram received from Lord Salisbury to-day to following effect: British minister sends message dated July 21. Legation repeatedly attacked up to July 16, since which date armistice, but cordon strictly drawn both sides. Chinese barricades are close to European, and all women and children are in British legation, with food sufficient for two weeks at most. He reports ammunition running short. Casualties 62 up to that date. The minister begs that important relief force should when near Peking advance rapidly to prevent attack by retreating Chinese on British legation. He adds that they had refused demand on the part of the Chinese to proceed to Tientsin.

The British rear-admiral states that General Alexieff was contemplating advance on Peking.

PAUNCEFOTE.

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*Lord Pauncefote to Mr. Hay.*

BRITISH EMBASSY,  
Newport, R. I., August 5, 1900.

DEAR MR. HAY: I inclose a copy of a telegram received yesterday from Lord Salisbury recording the statement of the policy of Her Majesty's Government in China made in the House of Commons on the 2d.

Mr. Choate has probably already informed you of the substance of it by cable, but I thought you might like to receive this full text of it from a more certain source than the press.

I am, etc.,

PAUNCEFOTE.

[Inclosure.]

The following statement of policy in China was made on behalf of Her Majesty's Government in the House of Commons on August 2: Great Britain will, in concert with other powers, press forward by every means the relief of the legations at Peking, and regards it as imperative to impress upon China the sanctity of envoys and the power of Europe to protect or avenge them. As regards the Yangtse district and the adjacent region, assurances have been given to the viceroys that the ships and forces of Great Britain will cooperate as far as possible with them in quieting unrest and securing order; and provision is being made for the due fulfillment of this assurance. Her Majesty's Government are opposed to any partition of China, and believe that they are in accord with other powers in this declaration. Her Majesty's Government hold that the future government of China, whether directed from Peking or decentralized, must be a government by the Chinese, and they are not prepared to substitute for this a European administration. Similarly they hold that in common interest much caution should be observed in any scheme which may be entertained for organizing Chinese troops under foreign officers. Compensation must be made by China for the effects of the existing disturbances.

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*Lord Pauncefote to Mr. Adee.*

No. 254.]

NEWPORT, *September 3, 1900.*

SIR: By direction of the Marquis of Salisbury, I have the honor to transmit herewith, for the information of your Government, a copy of a proclamation which was issued by Her Majesty the Queen on the 7th ultimo, prohibiting the exportation of arms and ammunition to China.

I have the honor to be, etc.,

PAUNCEFOTE.

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[Inclosure.]

*Extract from the London Gazette of Tuesday, August 7, 1900.*

BY THE QUEEN.

A PROCLAMATION.

VICTORIA, R.

Whereas by "The exportation of arms it shall be lawful for Her Majesty by proclamation to prohibit the exportation of all or any of the following articles, namely: Arms, ammunition, military and naval stores, and any article which Her Majesty shall judge capable of being converted into or made useful in increasing the quantity of arms, ammunition, or military or naval stores, to any country or place therein named, whenever Her Majesty shall judge such prohibition to be expedient in order to prevent such arms, ammunition, military or naval stores being used against Her Majesty's subjects or forces, or against any forces engaged or which may be engaged in military or naval operations in cooperation with Her Majesty's forces:"

And whereas we, by and with the advice of our privy council, judge it expedient to prohibit the exportation to China of arms and ammunition in order to prevent their being used as in the said act stated:

Now we, by and with the advice aforesaid, do hereby prohibit the exportation to China of arms and ammunition from and after the date hereof.

Given at our court at Osborne House, Isle of Wight, this 7th day of August, in the year of our Lord one thousand nine hundred, and in the sixty-fourth year of our reign.

God save the Queen.

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*Lord Pauncefote to Mr. Hay.*

No. 257.]

NEWPORT, *September 4, 1900.*

SIR: With reference to your note [circular] of the 30th ultimo, I have the honor, by direction of Her Majesty's principal secretary of

state for foreign affairs, to inform you that Her Majesty's Government have not yet received any answer to the communication which they have addressed to the British officials in Peking, calling for fuller information as to the state of affairs in that city.

Until a reply is received from Sir C. MacDonald and the general in command of the British forces there, Her Majesty's Government will not be able to form a confident judgment in the important question raised in the circular addressed to the Russian representatives abroad dated August 25 and communicated to the powers.

I have the honor to be, etc.,

PAUNCEFOTE.

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*Lord Pouncefote to Mr. Hill.*

BRITISH EMBASSY,  
*Newport, R. I., September 5, 1900.*

DEAR MR. HILL: I have much pleasure in sending you the accompanying copy of a letter received by me and signed by four missionaries from Manchuria, who are desirous that I should bring to the notice of your Government the great kindness they experienced at the hands of Mr. Richard T. Greener, United States commercial agent at Vladivostock, and I beg to join in their expression of gratitude to him for his humane and praiseworthy action.

I am, etc.,

PAUNCEFOTE.

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[Inclosure.]

VLADIVOSTOCK, EAST SIBERIA, *August 8, 1900.*

His Excellency Baron PAUNCEFOTE,

*Her Britannic Majesty's Ambassador and Plenipotentiary, Washington.*

SIR: May we be allowed to draw your attention to the extreme kindness which we, the undersigned British missionaries from Manchuria, have received from the commercial agent of the United States at this port, Richard T. Greener, esq.

Owing to the "I Ho Chuan" insurrection in North China, which rapidly spread into Manchuria, it became necessary for the Scotch and Irish missionaries to leave their stations in the interior and make their escape to the coast.

A party of twenty-eight, including wives and children, finding the way to the treaty post of Newchang closed, escaped into eastern Siberia. Some of this party have already sailed for Japan, but we would like to take this opportunity of saying that Mr. Greener has spared no pains and grudged no time in rendering us such assistance as lay in his power.

We came here as fugitives, without introductions or proper passports. On learning that there was no British consul we naturally turned to the representative of America, and were not disappointed, for had Mr. Greener been an official of our own Government he could not have done more for us than he did.

Such international courtesies, tending, as it seems to us, to strengthen the bonds which unite the two great branches of the Anglo-Saxon brotherhood, should not, in our opinion, be allowed to pass unnoticed. Should your excellency consider it advisable to convey our thanks to the proper authorities at Washington, we shall feel we have done at least a little to requite Mr. Greener's kindness.

We have the honor to remain your excellency's humble and obedient servant,

JAMES A. GREIG, F. R. C. S., Ed.  
WILLIAM MISKELLY, M. A.  
D. L. FISHER, M. B. C. M.  
FRED W. S. O'NEILL, M. A.

*Mr. Adee to Lord Pauncefote.*

DEPARTMENT OF STATE,  
Washington, September 17, 1900.

MY DEAR MR. AMBASSADOR: I beg to acknowledge the receipt of your note of the 5th instant, transmitting copy of a letter from Messrs. Greig, Miskelly, and others, Irish and Scotch missionaries, who escaped from China to Siberia, expressing their thanks for courtesies received from the United States commercial agent at Vladivostock. You join in this expression of gratitude.

It gives the Department pleasure to know that Mr. Greener's course, in fulfillment of his duty under his instructions, has been thus highly appreciated.

Copies of your note and its inclosure have been forwarded to him.

I am, etc.,

ALVEY A. ADEE.

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*Lord Pauncefote to Mr. Hay.*

No. 315.]

BRITISH EMBASSY,  
Newport, R. I., October 23, 1900.

SIR: In pursuance of instructions which I have received from Her Majesty's principal secretary of state for foreign affairs, I have the honor to communicate to you the text of an agreement between Great Britain and Germany relating to the present trouble in China, which was signed in London on the 16th instant by the Marquis of Salisbury and the German ambassador on behalf of their respective Governments, and to invite the acceptance by the United States of the principles recorded in that agreement.

I have, etc.,

PAUNCEFOTE.

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*Text of agreement.*

Her Britannic Majesty's Government and the Imperial German Government, being desirous to maintain their interest in China and their rights under existing treaties, have agreed to observe the following principles in regard to their mutual policy in China:

I. It is a matter of joint and permanent international interest that the ports on the rivers and littoral of China should remain free and open to trade and to every other legitimate form of economic activity for the nationals of all countries without distinction, and the two Governments agree on their part to uphold the same for all Chinese territory so far as they can exercise influence.

II. Her Britannic Majesty's Government and the Imperial German Government will not on their part make use of the present complication to obtain for themselves any territorial advantages in Chinese dominions and will direct their policy toward maintaining undiminished the territorial conditions of the Chinese Empire.

III. In case of another power making use of the complications in China in order to obtain under any form whatever such territorial advantages, the two contracting parties reserve to themselves to come to a preliminary understanding as to the eventual steps to be taken for the protection of their own interests in China.

IV. The two Governments will communicate this agreement to the other powers interested, and especially to Austro-Hungary, France, Italy, Japan, Russia, and the United States of America, and will invite them to accept the principles recorded in the agreement.

NOTE.—[A similar communication, *mutatis mutandis*, was made October 20, 1900, to the Secretary of State by the Imperial German *chargé d'affaires*.]

*Mr. Hay to Lord Pauncefote.*

No. 1967.]

DEPARTMENT OF STATE,  
Washington, October 29, 1900.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 23d of October, inclosing the text of an agreement between Great Britain and Germany relating to affairs in China, which was signed in London on the 16th instant by the Marquis of Salisbury and the German ambassador on behalf of their respective Governments, and inviting the acceptance by the United States of the principles recorded in that agreement.

These principles are:

I. It is a matter of joint and permanent international interest that the ports on the rivers and littoral of China should remain free and open to trade and to every other legitimate form of economic activity for the nationals of all countries without distinction, and the two Governments agree on their part to uphold the same for all Chinese territory so far as they can exercise influence.

II. Her Britannic Majesty's Government and the Imperial German Government will not on their part make use of the present complication to obtain for themselves any territorial advantages in Chinese dominions and will direct their policy toward maintaining undiminished the territorial condition of the Chinese Empire.

The United States have heretofore made known their adoption of both these principles. During the last year this Government invited the powers interested in China to join in an expression of views and purposes in the direction of impartial trade with that country and received satisfactory assurances to that effect from all of them. When the recent troubles were at their height this Government, on the 3d of July, once more made an announcement of its policy regarding impartial trade and the integrity of the Chinese Empire and had the gratification of learning that all the powers held similar views. And since that time the most gratifying harmony has existed among all the nations concerned as to the ends to be pursued, and there has been little divergence of opinion as to the details of the course to be followed.

It is therefore with much satisfaction that the President directs me to inform you of the full sympathy of this Government with those of Her Britannic Majesty and the German Emperor in the principles set forth in the clauses of the agreement above cited.

The third clause of the agreement provides—

III. In case of another power making use of the complications in China in order to obtain under any form whatever such territorial advantages, the two contracting parties reserve to themselves to come to a preliminary understanding as to the eventual steps to be taken for the protection of their own interests in China.

As this clause refers to a reciprocal arrangement between the two high contracting powers the Government of the United States does not regard itself as called upon to express an opinion in respect to it.

I have, etc.,

JOHN HAY.

NOTE.—[A similar note, *mutatis mutandis*, was addressed on the same day by the Secretary of State to the Imperial German *chargé d'affaires*.]

*Lord Pauncefote to Mr. Hay.*

No. 340.]

WASHINGTON, *November 12, 1900.*

SIR: I have the honor, by direction of the Marquis of Salisbury, to inform you that his lordship's department have received a letter from the war office forwarding an extract from the dispatches of Lieut. Gen. Sir Alfred Gaselee, commanding the British expeditionary force in China, in which he specially mentions the names of two officers of the United States Army, Maj. William Quinton and Capt. J. R. M. Taylor, both of the Fourteenth Infantry, who gallantly supported the British fighting line during the operations for the relief of the legations at Peking.

It is with great pleasure that I carry out the instructions of my Government in bringing to your notice the testimony of Sir Alfred Gaselee to the gallant conduct of these officers.

I have the honor, etc.,

PAUNCEFOTE.

*Mr. Hay to Lord Pauncefote.*

No. 1978.]

DEPARTMENT OF STATE,  
*Washington, November 16, 1900.*

EXCELLENCY: I have the honor to acknowledge, with thanks, the receipt of your note of the 12th instant, referring to an extract from the dispatches of Lieut. Alfred Gaselee, commanding the British expeditionary force in China, in which he specially mentions the names of two officers of the United States Army, Maj. William Quinton and Capt. J. R. M. Taylor, both of the Fourteenth Infantry, who gallantly supported the British fighting line during the operations for the relief of the legations at Peking.

The Department has taken great pleasure in communicating a copy of your note to the Secretary of War.

I have the honor to be, etc.,

JOHN HAY.

## ITALY.

*Mr. Iddings to Mr. Hay.*

[Telegram—Paraphrase.]

UNITED STATES EMBASSY,  
*Rome, July 3, 1900.*

(Mr. Iddings, chargé d'affaires, reports the receipt of the Department's circular telegram,<sup>1</sup> of July 2, and compliance with its instructions.)

<sup>1</sup> Printed, p. 312.

*Mr. Iddings to Mr. Hay.*

[Telegram—Paraphrase.]

UNITED STATES EMBASSY,  
*Rome, July 4, 1900.*

(Mr. Iddings acknowledges the Department's circular telegram of July 3<sup>1</sup> and reports compliance with instructions. The minister for foreign affairs says course of Italy depends largely upon that of other powers.)

*Mr. Iddings to Mr. Hay.*

[Telegram—Partly paraphrased.]

UNITED STATES EMBASSY,  
*Rome, July 22, 1900.*

(Mr. Iddings reports the thanks of the minister for foreign affairs for the communication of the dispatch about Conger.<sup>2</sup>)

The Italian Government says in reply:)

Since there appears to be open to your Government a way to Peking, it is important that those who govern there should be seriously warned of all the consequences to which they expose themselves when they prevent the foreign ministers, if they are still living, from communicating freely with their governments, since that is still the only guaranty which we can have of their real situation. So far as we are concerned, I should be very grateful to the Federal Government if they would procure for us authentic news of our legations.

*Mr. Iddings to Mr. Hay.*

[Telegram—Paraphrase.]

ROME, August 25, 1900.

(Mr. Iddings reports that the Italian Government has not replied to the indirect communications of cables it has received from Earl Li Hung Chang, dated August 19 and 21. His authority to negotiate not being yet defined, they consider his suggestions premature. They think the basis of negotiations should first be settled between the powers.)

*Mr. Iddings to Mr. Hay.*

No. 664.]

EMBASSY OF THE UNITED STATES,  
*Rome, Italy, September 18, 1900.*

SIR: I have the honor to inclose herewith a copy, in translation, of the informal memorandum received by me from the Italian foreign office on September 14, 1900, which is a response to my communication of August 30 informing this Government of your reply of August 29 to the Russian proposals of August 28 as to the withdrawal of the Russian legation and Russian troops from Peking. I confirm also, in inclosure 2,<sup>3</sup> my cipher telegram to you of September 15, transmitting to the Department the above memorandum.

I am, etc.,

LEWIS MORRIS IDDINGS.

<sup>1</sup> Printed, p. 299.

<sup>2</sup> Printed, p. 313.

<sup>3</sup> Not printed.

[Inclosure.—Informal memorandum from the Italian foreign office in reply to Mr. Iddings's note of August 30, 1900, received on September 14.—Translation.]

The Italian Government returns thanks for the communication made to it.

The Italian Government associated itself in the work, in common with the other powers in China, with those same intentions which obtained the adhesion of all the other governments, which it has the satisfaction of seeing reaffirmed in the memorandum of the United States. The Italian Government desires that the proper moment for opening peace negotiations with the Chinese Government may be hastened, which negotiations should give to the powers, together with just compensation for damages sustained by their citizens, the necessary guaranties for the safety of foreigners and their free and peaceful competition in commerce.

The Italian Government believes, as the United States believes, that under the present circumstances the purposes which all the powers have in view would be better subserved by prolonging still for some time the international occupation of Pekin under such conditions as the said powers might define. The Royal Government is not able to conceal its apprehension that a sudden and not sufficiently explained withdrawal of troops from Pekin may be interpreted by the Chinese Government and people as a sign of weakness, and might revive the fanaticism of the rebels.

The Italian Government has always attached special importance to the maintenance of harmony among the powers, considering harmony as a necessary guaranty to prevent later complications and for obtaining a real and lasting solution of the problem of restoring order in China.

With this judgment the Italian Government, while waiting to learn the decision of (the) powers, has expressed the opinion that the commanders of the forces in China should be consulted upon the situation of the troops in Pekin, because it appears to this Government that military considerations may form a necessary element to be regarded in connection with any later decision.

In the actual state of the case this Government is firmly convinced that an eventual diversity of views as to the most opportune moment for ceasing to occupy Pekin would not imply a difference as to the ends which the governments are following in common accord in the Chinese Empire, and expresses the desire that those governments which have accepted in principle the withdrawal of the troops should not hurry the execution of the same, in order to give a chance for a later understanding among the powers.

ROME, September 12, 1900.

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*Mr. Iddings to Mr. Hay.*

[Telegram—Paraphrase.]

ROME, October 6, 1900.

(Mr. Iddings acknowledges the Department's telegram of September 22<sup>1</sup> and reports the reply of the Italian minister for foreign affairs as follows:

To part 1. The Italian Government has, on the whole, no objections to offer to the selection of Li Hung Chang and Prince Ching as plenipotentiaries. Up to the present time, however, the necessary factors to enable one to judge either as to the substantial sufficiency or as to the formal regularity of their full powers are lacking. The Italian Government deems it opportune that on these points verification and information shall be first awaited.

To part 2. It was replied to the three inquiries of the progress of the negotiations: First, that the Italian Government is disposed to consent to the withdrawal of its legation to Tientsin when the other powers interested give similar instructions to their representatives. To the second point the reply was in the sense of the Italian response to part 1 in this communication. To the third point the answer was that, negotiations being in progress between the various cabinets with a view to obtaining guarantees, the Italian Government expresses its confidence and desire that an agreement on this point may be reached, so that the negotiations for peace may proceed without delay.



To part 3. The Italian Government has replied to the proposal of the German Government, giving its consent, on the whole, and declaring that it is disposed to send instructions to the Italian minister in Peking to place himself in this respect in line with his colleagues as soon as they received analogous instructions from their own governments.)

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*Mr. Iddings to Mr. Hay.*

No. 683.]

EMBASSY OF THE UNITED STATES,  
*Rome, Italy, November 7, 1900.*

SIR: Referring to your cablegram of October 22<sup>1</sup> last, the contents of which, as directed, I immediately communicated to the Italian Government, I beg leave now to inclose (with translation) a copy of a note in reply, received yesterday from the minister for foreign affairs. The minister expresses his satisfaction that the views of the Government at Washington, as communicated to the French Government, coincide with the principles which guide the present policy of the Royal Government at Rome in Chinese matters.

I telegraphed to you yesterday the point of this reply from the minister for foreign affairs. The text of that dispatch will be found in the last paragraph of the translation of the minister's note.

I have, etc.,

LEWIS MORRIS IDDINGS.

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[Inclosure—Translation.]

*Marquis Venosta to Mr. Iddings.*

ROME, *November 4, 1900.*

MR. CHARGÉ D'AFFAIRES: I have the honor to acknowledge the receipt of your note of October 23 in which you communicated to me the text of a telegram which had been addressed to you by your Government concerning matters in China.

In it were recapitulated the replies of the Cabinet at Washington to that at Paris concerning the necessity of hastening negotiations with the Chinese plenipotentiaries and the opinion which your Government also communicated to the Government of the French Republic that great and salutary influence would be exercised over the Chinese Emperor and his Government if the powers should make, collectively, a declaration of their determination to preserve the territorial and administrative entirety of China, and to insure for the Chinese nation and themselves the benefits of free trade between China and the rest of the world.

In thanking you for this communication, I am glad to say that the views set forth in it coincide with the principles which guide the policy of the Royal Government itself in the present Chinese question.

Pray accept, etc.,

VISCONTI-VENOSTA.

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*Baron Fava to Mr. Hay.*

[Telegram—Translation.]

ITALIAN EMBASSY,  
*Washington, June 15, 1900.*

MY DEAR MR. HAY: His Excellency the Marquis Visconti-Venosta telegraphs me under date of the 13th instant that the minister of the King at Peking and the commander of our naval forces in China have

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<sup>1</sup> Circular telegram, p. 307.

received orders to act in concert with the representatives and commanders of the other powers toward all measures that may be demanded by the situation. We desire that Italy may join in the action of the other powers in all that may tend to the end of solidarity and mutual security.

I have believed it my duty to inform you of the foregoing and I do not doubt that, on your part, you will appreciate the entire friendliness of my note.

Believe, etc.,

FAVA.

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*Baron Fava to Mr. Adee.*

[Telegram—Translation.]

ITALIAN EMBASSY,  
*August 13, 1900.*

My Government telegraphs me to ascertain the views of the Federal Government concerning the telegrams sent to their respective Governments by the ministers at Pekin, and how the Japanese proposition of an armistice for the release of the legations was received by the United States. I beg you to write me very courteously this evening on the subject, so as to enable me to answer without delay. Thanks.

FAVA.

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*Mr. Adee to Baron Fava.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, August 13, 1900.*

Your telegraphic inquiries respecting the views of this Government upon the telegrams sent to their respective Governments by the ministers at Pekin, and upon the Japanese proposal for a cessation of hostilities to allow of a pacific rescue of the foreign inmates of the beleaguered legations, are virtually answered affirmatively by the memorandum delivered yesterday evening to our chargé in Rome for communication to the Italian Government.<sup>1</sup> I will mail you an official text of the communications exchanged yesterday with Minister Wu, and you will get it to-morrow morning.

ALVEY A. ADEE,  
*Acting Secretary.*

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[Telegram from Marquis Venosta to Baron Fava.—Translation.]

ITALIAN EMBASSY,  
*October 19, 1900.*

(Copy left with Mr. Adee by Baron Fava.)

The minister of the King at Pekin communicates the response made by the diplomatic corps to the three points of the German circular:

First. Other culprits besides those designated ought to be punished.

Second. The indicated penalties are insufficient.

Third. The presence of delegates of the legations could alone assure the execution.

Be pleased to telegraph the views of the Secretary of State.

VISCONTI-VENOSTA.

*Memorandum in response to the Italian ambassador's communication of a telegram dated October 19 received by him from the Italian minister for foreign affairs.*

DEPARTMENT OF STATE,

Washington, October 19, 1900.

Minister Conger has not yet answered our inquiry in the categorical form indicated in the telegram of the Marquis Visconti-Venosta.

Upon his general response, this Government is instructing him that while the list of the culpable persons given in the Chinese edict of September 25 may be taken as a basis, the foreign ministers in Peking may designate additional names to the negotiations.

*Baron Fava to Mr. Hay.*

[Memorandum—Translation.]

WASHINGTON, October 25, 1900.

The Royal Government of Italy having accepted the first propositions made by M. Delcassé, and the powers being in accord as to principal points of the proposition, the minister of the King at Peking has been authorized to send to the Chinese plenipotentiaries an identic note as soon as his colleagues shall have received from their respective governments similar authorization.

JAPAN.

*Mr. Buck to the Department of State.*

[Telegram—Paraphrase.]

UNITED STATES LEGATION,

Tokyo, Japan, June 23, 1900.

(Mr. Buck reports that in view of the very critical situation of the combined forces at Taku and Tientsin, the Japanese Government, desiring to conform its course to that of other powers specially interested, requests information as to what immediate measures they will take to meet the situation. Representatives in Japan of interested powers have been requested to obtain official information as indicated above.)

*Mr. Buck to Mr. Hay.*

No. 442.]

UNITED STATES LEGATION,  
*Tokyo, Japan, June 26, 1900.*

SIR: I have the honor to append hereto translation of my cipher telegram to the Department, of date June 23.

This telegram was substantially a copy of a memorandum note received by me on that date from the minister of foreign affairs of the Japanese Government, which note was occasioned by a special conference of the representatives here of the powers having military and naval forces at Taku with the minister for foreign affairs, called by the latter to learn, so far as possible, what would be the immediate course taken respecting sending additional forces into China and to obtain the opinions of the representatives upon the necessities of the situation in general.

No one of the said representatives, of course, could speak advisedly for his Government, hence the memorandum note referred to from the minister for foreign affairs, and my telegram.

I have the honor to be, etc.,

A. E. BUCK.

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*Mr. Buck to Mr. Hay.*

[Telegram—Paraphrase.]

TOKYO, *July 6, 1900.*

(Mr. Buck reports that altogether about 22,000 men have been ordered to China by the Japanese Government.)

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*Mr. Buck to Mr. Hay.*

No 456.]

LEGATION OF THE UNITED STATES,  
*Tokyo, Japan, July 22, 1900.*

SIR: I have the honor to confirm your telegram [reporting tidings from Conger] received last night, as follows:<sup>1</sup>

Upon the communication of the above to Viscount Aoki to-day he expresses himself as believing that through a Chinese minister and En Sei Kwai, military governor of Shantung, is the likeliest method of successfully communicating with Peking. It is the one his Government essays. Continuing, the minister for foreign affairs suggested that a solemn warning telegraphed by the President himself to the Emperor of China would be exceedingly efficacious, he evidently placing great reliance upon such pressure, which he thought "would do more good than 20,000 troops."

Further to epitomize Viscount Aoki's remarks, he says he is able, somehow or other, to discern a slight change for the better in the posture of Chinese affairs. He thinks this is probably to some extent

due to the message of the Japanese Emperor sent to the Emperor of China about the 13th instant—although he is yet uninformed whether that message reached its destination—and to the fall of Tientsin.

\* \* \* \* \*

I have the honor to be, etc.,

A. E. BUCK.

*Mr. Buck to Mr. Hay.*

No. 464.]

LEGATION OF THE UNITED STATES,  
*Tokyo, Japan, August 6, 1900.*

SIR: I have the honor to confirm your telegraphic instruction received on the morning of the 3d instant [dated August 1], as follows:<sup>1</sup>

\* \* \* \* \*

The minister for foreign affairs was very glad to receive the above information, which he said he would communicate to the Emperor. He also informed me that Japan had twice received, through Li Hung Chang, proposals for an armistice, which were replied to in a tone similar, in effect, to that of our Government's replies indicated above. Japan's intention to continue to act in accord with the other powers was also pointed out in the answers of the Japanese Government.

I have the honor to be, etc.,

A. E. BUCK.

*Mr. Buck to Mr. Hay.*

No. 470.]

LEGATION OF THE UNITED STATES,  
*Tokyo, Japan, August 16, 1900.*

SIR: I have the honor to confirm your telegraphic instruction dated the 12th instant,<sup>2</sup> received the following day, copy of which is herewith inclosed, stating the attitude of the United States Government in view of the appointment of Li Hung Chang as Chinese plenipotentiary.

The contents of the telegram were communicated to the minister for foreign affairs, who stated that his Government had received a similar communication from the Chinese minister here.

I have the honor to be, etc.,

A. E. BUCK.

*Mr. Buck to Mr. Hay.*

[Telegram—Paraphrase.]

TOKYO, August 25, 1900.

(Mr. Buck reports that Department's telegram<sup>3</sup> of August 22 has been communicated to Japanese minister for foreign affairs, who has received through the Chinese minister to Japan a similar communica-

<sup>1</sup> Printed ante, p. 315.

<sup>2</sup> Printed ante, p. 301.

<sup>3</sup> Printed ante, p. 302.

tion from Li Hung Chang, and who says that his reply was substantially the same as that of the Department; and, in addition, that the Chinese Government, instead of suppressing the insurrection, have quite recently executed several of the Tsungli Yamen who were in opposition to the insurrection and have imprisoned others, making no efforts to protect foreigners, but have, on the contrary, given every assistance to the insurrectionists.)

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*Mr. Buck to Mr. Hay.*

LEGATION OF THE UNITED STATES,  
*Tokyo, Japan, September 6, 1900.*

SIR: I have the honor to confirm the Department's telegraphic instruction of the 29th ultimo, received the 31st, copy of which is herewith inclosed.<sup>1</sup>

The matter was immediately communicated to the Japanese minister for foreign affairs, who expressed his gratification at its receipt, with the statement that a response would be made at an early date. In an interview with him to-day I learn that as yet no determination upon the subject has been arrived at by the Japanese Government, though the minister himself expressed views in accord with those of our Government set out in the telegram.

I have the honor to be, etc.,

A. E. BUCK.

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*Mr. Buck to Mr. Hay.*

[Telegram—Partly paraphrased.]

TOKYO, *September 7, 1900.*

(Mr. Buck reports that Department's telegram of the 29th ultimo was communicated on the 31st to the Japanese minister for foreign affairs, who gives him, for the Department's information, a copy of the reply made to-day by the Japanese Government to the Russian minister, who had on the 31st made to him a communication similar to that made to the Department by the Russian minister in Washington, as follows:)

Before arriving at a decision in reference to the question of the withdrawal of the entire forces of Japan from Peking, the Imperial Government intend to withdraw such portions of her troops as are numerically in excess of the requisite strength or have become unnecessary (for) tactical reasons for the establishment of peace and order in the province of Chili. The Imperial Government consider it advisable that the powers should continue for some time yet to exert joint military pressure upon that province; nevertheless it is believed in the present situation the step contemplated by the Imperial Government will be productive of no evil result, since the geographical proximity of Japan to the seat of military operations makes it relatively easy for her to dispatch at any time such forces as situation may require. The Imperial Government, agreeing to the eventual temporary withdrawal from Peking of the personnel of the Imperial legation, declare their readiness to cooperate in any further action which may be decided upon by the powers for the furtherance of their common interest.

BUCK.

*Mr. Adee to Mr. Buck.*

No. 315.]

DEPARTMENT OF STATE,  
Washington, September 15, 1900.

SIR: Mr. John Fowler, the United States consul at Chefoo, sends to the Department, under date of the 9th ultimo, a report of his efforts to rescue the foreigners in the interior of China. In concluding, he says:

I went to bed at 2 a. m. (on June 19) with a promise that I would have the Japanese steamship *Kwangko*. This was effected by the extreme kindness of my Japanese colleague, Mr. R. Tayui, to whom I am under deep obligations, and I would especially request most earnestly that you make known to his Government the great kindness he exhibited in assisting me and our people in getting this ship. Mr. Tayui has also been of great service to our Navy in connection with getting a tug for the *Oregon*.

You will express to the Japanese Government the deep appreciation of the Government of the United States for the aid lent by Mr. Tayui on the two occasions mentioned by Mr. Fowler.

I am, sir, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Buck to Mr. Hay.*

[Telegram—Paraphrase.]

TOKYO, September 22, 1900.

(Mr. Buck reports that he has received, this date, from the Japanese minister for foreign affairs, a copy of his reply in answer to a note of the 19th from the German chargé d'affaires, in which it is stated that the Imperial Government agrees with the German Government that the punishment of the real leaders and instigators of the crimes recently committed in Peking must take place in order to render it possible for the powers to resume diplomatic relations with China. The Imperial Government is therefore prepared to instruct its representative in Peking to cooperate with those of the powers in ascertaining and pointing out the individuals responsible for the recent outrage. Grave difficulties are anticipated, however, in giving practical effect to the proposal of the German Government to insist upon the delivery of the responsible persons, and the Japanese Government entertains the opinion that further exchange between the powers of views upon this point will become necessary.)

*Mr. Buck to Mr. Hay.*

[Telegram—Partly paraphrased.]

TOKYO, September 25, 1900.

(Mr. Buck reports that on the night of the 24th instant, in response to Department's telegram<sup>1</sup> communicated to the minister for foreign affairs, he submits, respecting the Russian proposal, the following:)

I. The Imperial Government has not given order to their representatives in Peking to remove to Tientsin, as, according to news lately received from Peking, Prince Ching had already entered into communication with the representatives of the powers and Li Hung Chang is already on his way to Peking to join the prince.

II. The full powers of the Chinese plenipotentiaries must be examined by the plenipotentiaries of the powers at the opening of the negotiations. The Imperial Government therefore considers that in order to conclude whether their full powers are satisfactory they will have to await the result of such examination.

III. In the opinion of the Imperial Government the third question depends upon the result of the above-mentioned examination, and will naturally be disposed of when the preceding questions shall have been settled.

Reply already telegraphed regarding German proposition.

Respecting the reply made to the Chinese minister to Japan, in response to the telegram from Prince Ching, the minister of foreign affairs, after referring to the fact of others in addition to Prince Ching and Li Hung Chang having also been appointed plenipotentiaries conjointly to negotiate peace, says:

In the telegram of Prince Ching, which is transcribed in your note under acknowledgement, nothing is stated in reference to the plenipotentiary authority conferred upon those four gentlemen. If, therefore, Earl Li and the three other gentlemen have been appointed plenipotentiaries, I trust that your excellency will be good enough to make further communication to me when all the plenipotentiaries find themselves in a position conjointly to enter into negotiations.

BUCK.

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*Mr. Buck to Mr. Hay.*

LEGATION OF THE UNITED STATES,  
*Tokyo, Japan, October 16, 1900.*

SIR: I have the honor to inclose herewith copies of Japan's answers to the last proposals of France and Germany respecting the course to be pursued by the powers in China, they having now been unofficially communicated to me.

Without instructions to obtain and telegraph these answers I have not felt authorized to incur the expense in doing so.

I have the honor to be, etc.,

A. E. BUCK.

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[Inclosure 1.]

The Government of His Majesty the Emperor have taken into careful consideration the programme elaborated by the Government of France in view of the contemplated negotiations with China. They cordially share the sentiments which inspired the project, and they unite with the Government of the Republic in the conviction that collective action on the part of the powers offers the best guaranty of a successful issue to those negotiations.

Accordingly, the Imperial Government are happy to be able at once to give their approval, generally speaking, of the proposals themselves. At the same time they are fully persuaded that they will most effectually contribute to that common understanding and accord among the powers, which is so desirable, if they frankly invite attention to those points which, in their opinion, call for reexamination.

The Imperial Government fear that some difficulty would be experienced in completely reconciling the permanent interdiction of the importation of arms (if such interdiction is contemplated) with the treaty obligations resting on China of protecting the lives and property of foreigners, not to mention the obvious duty devolving on her of restoring and maintaining peace, order, and good government. Such a prohibition, if it did nothing more, might, at least, furnish China an excuse for failure to fulfill those obligations and that duty.

Finally, while the Imperial Government fully recognizes the necessity of giving adequate protection to the several legations in Peking, they are, nevertheless, apprehensive that an attempt to organize a body of troops composed of soldiers of different nationalities, speaking different languages, would, from a practical point of view, prove very difficult of realization. Consequently they are of opinion that the difficulty would be solved by the establishment of separate legation guards in such strength as might be agreed upon by the powers.

Токуо, October 12, 1900.



[Inclosure 2.]

With reference to the proposal of the Imperial German Government, which is contained in the telegram sent from Berlin on October 1, 1900, a copy of which was handed by the Imperial German chargé d'affaires to His Imperial Japanese Majesty's minister for foreign affairs, the Imperial Japanese Government are informed by their minister in Peking that the foreign representatives there have held a meeting, at which categorical answers were made to the three questions which the Imperial German Government suggested should be presented to them for examination.

Those answers are of course already known to the Imperial German Government, and it therefore only remains for the Imperial Government of Japan to assure that of Germany that the action of the foreign ministers in holding the conference and in making the answers which they did, has the cordial support and approval of the Imperial Japanese Government, and they venture to hope that the Imperial Government of Germany will be pleased to accept that assurance as a full and satisfactory response to the proposal elaborated by them.

The Imperial Japanese Government take the liberty to add the suggestion that the sphere of usefulness of the foreign representatives in Peking would be greatly enlarged if all the questions which are to serve as the bases of negotiations with China were to be presented to them for collective examination. Entertaining that view, the Imperial Japanese Government think the course suggested by the Imperial German Government is a step in the right direction, and they hope that that method may be given a wider application in the solution of the difficulties in China.

TOKYO, October 12, 1900.

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*Memorandum left at the Department of State by the Japanese Chargé d'Affaires.*

[Telegram from Viscount Aoki.]

JAPANESE LEGATION, June 25, 1900.

In view of the fact that Tientsin has been besieged since the 17th instant, and that, notwithstanding the advance of the forces of the powers on that city, there is as yet little hope of communication with the beleaguered settlement, the commander of the Japanese fleet at Taku has sent an urgent appeal for further reenforcement, and I have to-day (the 23d) handed to the representatives at Tokyo of the United States, Great Britain, Russia, Germany, France, Italy, and Austria-Hungary a memorandum expressing the desire of the Imperial Government to act in concert with the powers and requesting information on the measures they propose to take in view of the critical situation in China and the serious position of their combined forces at Taku. You will therefore approach the United States Government and ask what measures they are taking or intend to take at the present juncture.

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*Mr. Hay to Mr. Nabeshima.*

DEPARTMENT OF STATE,  
Washington, June 27, 1900.

DEAR MR. NABESHIMA: In regard to the suggestion of the dispatch of Japanese reenforcements in China, I have pleasure in saying that this Government, speaking for itself, sees no objection to such a proceeding, though the President thinks it advisable that the assent of the other powers be obtained.

I am, very sincerely, yours,

JOHN HAY.

*Mr. Nabeshima to Mr. Hay.*

LEGATION OF JAPAN,  
Washington, July 6, 1900.

MY DEAR MR. HAY: In reference to our conversation this morning, I beg to inform you that I have just received a telegram from Viscount Aoki, announcing the decision of the Imperial Government to dispatch at once one mixed division, which will make the total strength of Japanese forces in China about 22,000.

Yours, very truly,

NABESHIMA.

*Copy of telegram to Mr. Nabeshima from Viscount Aoki.*

[Presented at the State Department by the Japanese minister July 6, 1900.]

JAPANESE LEGATION, July 6, 1900.

In view of the critical state of affairs in North China, which is doubtless well known to the United States Government, the Imperial Government are convinced that the present trouble is much more deeply rooted and far-reaching than might appear at first sight. While, therefore, the Imperial Government are perfectly prepared to take their full share in the concert of the powers, and have indeed decided to dispatch at once further reinforcements in order to meet the emergency, yet, considering the absolute necessity of the dispatch of far larger forces than those already landed or on their way to China for an advance on Peking, or even for the efficient holding of the bases at Tientsin and Taku, and also having in view the almost insurmountable difficulties offered by nature and climate at certain seasons of the year, the Imperial Government deem it highly advisable that the powers concerned should, at this juncture, exchange their views on the measures that they should take in common to avert the impending danger and to meet all future eventualities.

You will, therefore, ascertain the views of the United States Government on the matter.

*Copy of telegram received from the minister for foreign affairs, dated the 18th instant.*

[Left at the Department of State.]

JAPANESE LEGATION, July 18, 1900.

According to reports so far received two legations appeared to hold out up to the 9th instant.

On the 11th the Chinese minister at Tokyo presented a message from the Emperor of China, in which, after expressing deep regret for the murder of Sugiyama, the chancellor of the Japanese legation at Peking, and describing the present situation in his country, he appealed to His Imperial Majesty to use his good offices with a view to effecting an amicable settlement of the affair. His Majesty urged, in reply on the 13th, the immediate relief of the foreign representatives and the speedy suppression of the disturbances, and added that if this was done other matters could in due time be amicably settled, and that Japan would make every effort in China's interests.

*Telegram received from Viscount Aoki August 11, 1900.*

[Left by the Japanese minister with the Acting Secretary of State.]

JAPANESE LEGATION, *August 11, 1900.*

Received telegram from Li Hung Chang dated Shanghai, August 9, and handed to me by the Chinese minister to-day (August 10). Li informs me that on August 7 imperial decree was issued in which present trouble is partly attributed to misapprehension on the part of foreign powers and partly to misdeeds of local authorities of China, and by which Li is appointed envoy plenipotentiary to negotiate armistice and peace. Li requests Chinese minister to approach me for securing armistice in order to have way open for negotiations of peace.

You will ascertain the attitude of United States Government on the matter, as they have no doubt received the same request from Li.

*Telegram received from Viscount Aoki August 11, 1900.*

[Left by the Japanese minister with the Acting Secretary of State.]

JAPANESE LEGATION, *August 11, 1900.*

If we may judge from the great anxiety shown by the Chinese Government that the foreign representatives should temporarily retire to Tientsin and the combined forces should suspend their advance, it is to be feared that the further advance of the forces will very probably result in the massacre of the foreigners in Pekin and the flight of the Emperor and the Empress dowager into the interior, which would leave the capital in a state of anarchy. In view of these eventualities, therefore, the Imperial Government propose that the powers concerned should as a temporary measure, pending further negotiations, notify the Chinese Government that they would grant armistice for a certain term on condition that Government should first order their troops and the rebels to retire from the city to a distance, to be determined by the commanders of the combined forces, and permit the requisite body of the forces to enter Pekin unmolested for the purpose of escorting back the foreign ministers and residents to Tientsin.

You will approach the United States Government and ascertain their views on the above proposal.

*The Acting Secretary of State to the Japanese minister, August 12, 1900.*

DEPARTMENT OF STATE,  
*Washington, August 12, 1900.*

The Chinese minister in this capital has to-day officially communicated the appointment of Viceroy Li Hung Chang as envoy plenipotentiary to propose a cessation of hostile demonstrations and negotiate with the powers.

We consider that the delivery of the foreign ministers and other foreigners under their protection in Pekin from the dangers which now surround them should be regarded as a condition precedent to any general negotiations with the Chinese Government.

That it is much better to accomplish such delivery peaceably than forcibly, and that a just appreciation of the real position of China

would necessarily lead the Chinese Government to assent to the former course.

That, after the safety of the ministers and other inmates of the legations has been secured, every reasonable effort should be made to dispose of the questions remaining between China and the several powers by negotiation, and that a general cessation of hostile demonstrations for that purpose should be allowed.

We accordingly agree fully with the proposition of Viscount Aoki that the powers should notify the Chinese Government that they will grant a cessation of hostile demonstrations for a certain term, on condition that a sufficient body of the forces composing the relief expedition shall be permitted to enter Peking unmolested and to escort the foreign ministers and residents back to Tientsin, this movement being provided for and secured by such arrangements and dispositions of troops as shall be considered satisfactory by the generals commanding the forces composing the relief expedition.

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*The Japanese minister to the Secretary of State.*

[Handed to Mr. Adee by Mr. Takahira October 20, 1900.]

JAPANESE LEGATION, *October 20, 1900.*

Reaffirming their complete adhesion to the concert which so happily unites the interested powers in the presence of the crisis in the Chinese Empire, the imperial Japanese Government desire to suggest that all demands and proposals which are to form the bases of negotiation with China should, prior to the opening of such negotiations, be submitted for collective examination and elaboration to the representatives of the powers at Peking. The imperial Government are convinced that as all demands and proposals would thus receive the united support of the powers concerned, the actual negotiation would by this means be greatly simplified.

You are hereby instructed to approach the United States Government and ascertain their views in regard to the above suggestion.

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*Memorandum.*

DEPARTMENT OF STATE,  
*Washington, October 22, 1900.*

So far as the action of the Government of the United States is concerned, the suggestion of the Japanese Government has been virtually anticipated by referring to Minister Conger the recent proposals of the French Government and instructing him to confer with his colleagues with a view to presenting forthwith to the Chinese plenipotentiaries the bases upon which we are all agreed, without prejudice to the later inclusion of the points reserved by the United States and other powers subject to discussion in the course of the negotiations.

The Government of the United States thinks that the knowledge and experience gained by the several foreign ministers on the spot will be practically helpful toward an agreement upon the essential points which may hopefully be adopted by the powers as the bases of formal negotiations, and we would welcome any action by them tending to an early accord whereby such negotiations may be opened without delay.

## RUSSIA.

*Mr. Hay to Mr. Tower.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, June 21, 1900.*

(Mr. Hay states that he has been informed by the Russian chargé d'affaires that his Government intends to send from Port Arthur to Peking a force of 4,000 men to rescue and protect Europeans and other foreigners whose lives are in danger, and that this action is taken with no hostile intention toward China.)

Instructs Mr. Tower to inform the Russian minister for foreign affairs that a strong regiment has been ordered by the President to proceed from Manila to China for a similar purpose, and that the President is pleased to know that the intentions of this Government and those of His Majesty the Emperor are so entirely in accord.)

*Mr. Tower to Mr. Hay.*

No. 250.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, June 23, 1900.*

SIR: I have the honor to acknowledge the receipt on the 21st of June of your cipher telegram, which being deciphered read as follows.<sup>1</sup>

In accordance with your instructions I have communicated to the Count Lamsdorff, Gérant of the Imperial Russian ministry for foreign affairs, a copy of your telegraphic dispatch.

I have, etc.,

CHARLEMAGNE TOWER.

*Mr. Peirce to Mr. Hay.*

[Telegram—Paraphrase.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, August 27, 1900.*

(Mr. Peirce reports that the Russian Government approve Li Hung Chang's appointment, but that he should be required to exhibit quite satisfactory full powers from a de facto government before beginning negotiations.)

*Mr. Peirce to Mr. Aqee.*

No. 302.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, August 30, 1900.*

SIR: Confirming my telegram of to-day,<sup>2</sup> I have the honor to inform you that yesterday afternoon, being the official reception day of Count Lamsdorff, I had an interview with his excellency at a late hour, during which he communicated to me the substance of the telegraphic circular which he had sent out on Sunday to the powers. \* \* \*

<sup>1</sup> Printed ante.

<sup>2</sup> Not printed.

He then informed me of the circular dispatch to the powers relating to the withdrawal of the allied troops from Peking. In regard to this he used the following arguments:

The prime purposes for which we sent the relief expedition to Peking and for which our forces are now in China were the rescue of our ministers and those under their protection, and to aid the Chinese Government in restoring order in China. That the ministers and their dependents have now been rescued, but that the continued occupation of Peking obstructs the Chinese Government in restoring order, if it has the power to do so, by depriving it of its capital and keeping it in a state of alarm and at the same time discrediting it with the Chinese people.

He then went on to say that Russia, in common with the other powers, had not declared war upon China, but, on the contrary, had been insistent that war does not exist; that the continued occupation of the capital of the Chinese Empire by the military forces of the powers after the rescue of the legations would constitute an act of war.

As a matter of policy he believed that negotiations would be much simpler if the Chinese Government be permitted to return to the capital by a withdrawal of the forces to Tientsin and that the temper of the Chinese would be more conciliatory than if terms were dictated during a military occupation of Peking.

Count Lamsdorff then volunteered the statement, in the most positive terms, that while Russia is at present, for certain necessary military purposes, occupying certain points within the Chinese dominions, this is a temporary measure and that Russia has no intention whatever of seeking to acquire or of retaining "a single inch of territory in either China or Manchuria." I quote his own phrase.

Count Lamsdorff then said that the Emperor had expressed the earnest hope that the Government of the United States would respond favorably to the proposition of Russia to withdraw from Peking.

I have, etc.,

HERBERT H. D. PEIRCE,  
*Chargé d'Affaires ad interim.*

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*Mr. Peirce to Acting Secretary of State.*

[Telegram—Paraphrase.]

ST. PETERSBURG, *August 31, 1900.*

(Mr. Peirce reports that the Department's telegram<sup>1</sup> of the 29th, received last night, was communicated to Count Lamsdorff in an interview this morning. At his request Mr. Peirce submits the following for the Department's consideration:

The Government of Russia is gratified to be informed that the Government of the United States will consent to withdraw troops from Peking; but Count Lamsdorff regrets that the Russian chargé d'affaires has not clearly defined the views and purposes of Russia. The Government of Russia has no intention to withdraw Russian minister or Russian forces from China, but from Peking. They are about to retire and remain at Tientsin and await further developments. Their motives for this action are that Russia, in common with other powers, has declared that war not existing, that the entry into Peking was for the purpose of rescuing legations and that one of the reasons for the presence of Russian

<sup>1</sup> Printed, p. 304.

forces in China is to aid the Chinese Government to restore order. In view of these declarations the Government of Russia considers that to remain in Peking after the declared purpose of the relief is accomplished would not be in accordance with the assurances to which it is pledged, and, far from aiding the Chinese Government to restore order, it would tend to discredit the Government of China with the Chinese people and paralyze, temporarily at least, its functions. It would be of necessity a military occupation, itself a belligerent act, and it would involve difficulties in maintaining order and grave responsibilities. Furthermore, it is believed that it would greatly increase the difficulties in negotiating with the Chinese Government which, if the capital is occupied, will find a new and inaccessible seat further in the interior. Russia believes, on the other hand, that if the ministers and forces retire to Tientsin the Chinese Government will reestablish itself in Peking, and that then it will be much more practicable to negotiate, and that the terms thus agreed to would have greater validity than if wrested compulsorily from them in the progress of the negotiations. If the Chinese Government refuses to accede to the just demands of the powers it would be the policy of Russia to present an ultimatum, to be enforced, if necessary, by a declaration of war. But it is believed that peace will quickly follow the withdrawal from Peking.)

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*Mr. Adee to Mr. Peirce.*

[Telegram—Paraphrased.]

DEPARTMENT OF STATE,  
Washington, September 1, 1900.

(Mr. Adee acknowledges Mr. Peirce's telegram of August 31 and states that this Government framed reply of the 29th on the understanding that the Russian proposal related to withdrawal from Peking.)

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*Mr. Peirce to Mr. Adee.*

No. 303.]

EMBASSY OF THE UNITED STATES,  
St. Petersburg, September 1, 1900.

SIR: I have the honor to acknowledge the receipt of your telegram dated August 29, 1900.<sup>1</sup>

Immediately upon receipt of your telegram I addressed a note to Count Lamsdorff asking for a special interview, which he accorded me yesterday at half past 11 o'clock.

I read to him carefully the text of your telegram, leaving a copy with him as a memorandum. The Count listened with very great interest, and when I had finished he expressed satisfaction that the Government of the United States will consent to withdraw from Peking, but regret that apparently the Russian chargé d'affaires had not made the purposes and views of the Russian Government clearly understood by you. He asked me, therefore, to telegraph you the substance of his remarks, which I believe I have faithfully done, so far as the reasonable limits of telegraphic communication permit.

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<sup>1</sup> Printed ante, p. 304.

I will, however, repeat his remarks in extenso.

In your telegram you quoted the Russian chargé d'affaires as having said: "Russia has directed the Russian minister to retire with his official personnel from China, and that the Russian troops will likewise be withdrawn." Count Lamsdorff was especially desirous that this impression be corrected. He said that there is no intention of withdrawing either the Russian minister or the Russian troops from China, but that they are about to retire from Peking and remain at Tientsin awaiting developments.

In explaining to me the motives which actuate the Russian Government in arriving at this decision, which he is anxious that you should fully understand, he said that Russia, in common with the other powers, has made certain declarations regarding the Chinese troubles to which the Russian Government feels strictly bound to adhere.

These are that war in China is not existent, and that the object of the military relief expedition to Peking and its entry into the city was to rescue the legations and those under their protection, and that one of the purposes of the presence of Russian forces in China is to aid the Chinese Government to restore order.

That, the declared object of the relief expedition being accomplished, it is the strict duty of Russia to withdraw her forces from Peking, since their remaining there would be of the nature of a military occupation of the capital of the country, constituting an act of war, and that, far from aiding the Chinese Government to restore order, such an act would paralyze the functions of the Government, at least temporarily, and diminish its power in the restoration of order by discrediting it with the Chinese people.

He therefore deems that good faith and the dignity of Russia require the withdrawal of the Russian forces from Peking.

In addition to these arguments he considers that as a matter of policy, in the interest of a speedy return to peaceful conditions in China and the negotiation of terms satisfactory to the powers, he believes that the withdrawal of all the forces from Peking to Tientsin would be advantageous.

The whereabouts of the Chinese Government is at present unknown, but he believes that it exists as a potentially *de facto* Government, and that, if it is prevented by foreign occupation of its capital from returning there, it will establish a new seat of Government in some inaccessible place in the interior, where it will be extremely difficult to deal with it. On the other hand, that, if Peking is evacuated by the forces of the powers, that Government will return and reestablish itself there, where it is practically within reach of negotiations from Tientsin.

He considers also that terms negotiated from Tientsin would have more valid force than would terms wrested from China under the compulsion of the presence of armed forces within the capital.

Moreover, he regards the occupation of Peking as fraught with grave responsibilities in the preservation of order and the protection of life and property, which he regards it as unnecessary and superfluous to incur.

He stated that it is the purpose of the Russian Government to retain its minister and forces at Tientsin, the former to negotiate with the plenipotentiary of the Chinese Government whenever the time for such negotiations shall arrive, and in the event of the refusal of the Chinese Government to accede to the just demands of the powers, it



would be the policy of Russia to present an ultimatum to China and, if necessary, to enforce it by a declaration of war. He believes, however, that the Chinese Government will quickly put itself in negotiation with the powers upon the evacuation of Peking and will promptly accede to all reasonable demands.

He reiterated the earnest desire of Russia to act concurrently and in unison with the other powers regarding China, and I have received the impression that he especially desires the cooperation of the United States.

Respectfully submitting the above report of my interview with Count Lamsdorff,

I have, etc.,

HERBERT H. D. PEIRCE,  
*Charge d'Affaires ad interim.*

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*Mr. Peirce to Mr. Hay.*

[Telegram—Paraphrase.]

ST. PETERSBURG, *September 24, 1900.*

(Mr. Pierce acknowledges receipt of Department's telegram<sup>1</sup> of the 21st instant and reports having communicated its contents to Count Lamsdorff and having left a copy with him as a memorandum.)

Count Lamsdorff paid careful attention to Mr. Pierce's reading of the telegram and stated that its meaning was perfectly clear to him. He promised to at once transmit it to the Emperor, who is now absent in the Crimea, and request an official reply. He stated informally that the view taken by the United States that *prima facie* plenipotentiary authority of Li Hung Chang and Prince Ching is for the present sufficient is also entertained by the Russian Government. He appeared to regret that the United States legation will not be withdrawn to Tientsin, but gave no definite expression of regret, although observing that he considers Tientsin a better place for conducting the negotiations than Peking. The Russian minister to China will within a few days depart from Peking for Tientsin, if he has not already done so.

The views of the Russian Government in regard to the circular note of the German Government appear to be in complete accord with those of the Government of the United States.)

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*Mr. Peirce to Mr. Hill.*

No. 325.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, September 26, 1900.*

SIR: I have the honor to acknowledge the receipt of your telegram of September 21, 1900,<sup>1</sup> a copy of which, together with my reply thereto of September 24, I append.

Immediately upon the receipt of your telegram I requested a special audience with Count Lamsdorff for the purpose of communicating it to him. Count Lamsdorff sent me word that he would receive me on Sunday, the 23d instant, at 2 o'clock in the afternoon.

Accordingly, at the appointed time I presented myself at the ministry and read to Count Lamsdorff, who understands and reads English, a

<sup>1</sup> Circular telegram, printed p. 305.

copy of your telegram, leaving with him the copy as a memorandum of the interview. After reading the telegram I asked his excellency whether he had fully understood it or whether there was any point in the English version which he desired to have me make clear to him in French. He replied that it was perfectly clear, and that he believed he had fully understood it. I then said that, in instructing me to communicate the telegram, you had charged me to invite information from the Imperial Government in the three cases, and expressed the hope that he would communicate to me on the subject. He said that he would at once communicate the substance of the telegram to the Emperor, who is now in the Crimea, and ask for his instructions to that end.

I then asked whether his excellency had anything to say at that time which I could communicate to you as informal. He replied that his Government regards the plenipotentiary authority of Earl Li and Prince Ching as *prima facie*, and, for the present, sufficient upon which to open negotiations. It might develop later that their full powers are insufficient, but that, as at present advised, he sees no reason to call them in question.

He appeared to regret that the United States minister is not at present to be withdrawn from Peking to Tientsin; but this regret was rather made evident by his manner of referring to the question than to any definite expression on his part, though he said that, in his opinion, Tientsin is a better place from which to conduct negotiations than Peking. He states that if the Russian minister had not already left Peking he would do so shortly.

In regard to the German circular to the powers, Count Lamsdorff's opinion, as he stated it to me, appears to be in accord with that of the Government of the United States.

He considers that the authors of the crimes against international law in China had better be punished by the Chinese themselves, and that such punishment was essentially a subject to be determined in the negotiations, and should not be regarded as a necessary preliminary to such negotiations. \* \* \*

Submitting the above report of my interview with Count Lamsdorff, I have the honor to be, sir,

Your obedient servant,

HERBERT H. D. PEIRCE,  
*Chargé d'Affaires ad interim.*

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*Mr. Peirce to Mr. Hay.*

[Telegram—Paraphrase.]

ST. PETERSBURG, *September 27, 1900.*

(Mr. Peirce reports that he has to-day been informed by the Russian minister for foreign affairs that the Russian Government has replied to the German Government that Russia is in accord with the principles of the German circular in so far as that the responsible authors of the crimes recently perpetrated in China against international law must be punished as a guaranty for the future, and that those guilty authors should be specified by the powers for punishment, but that Russia considers that the Chinese Government should inflict such punishment, and that it should not be demanded as a necessary preliminary to the negotiations, but should be made a condition therein.)

*Mr. Peirce to Mr. Hay.*

No. 347.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, October 22, 1900.*

SIR: I have the honor to inclose herewith a cutting from the Journal de St. Petersburg of this date, stating officially that Mr. de Giers, the Russian minister to China, has returned to Peking for the purpose of entering as promptly as possible, in concert with the representatives of the other powers, into negotiations with Li Hung Chang and Prince Tsin, the plenipotentiaries of the Chinese Government.

I have, etc.,

HERBERT H. D. PEIRCE.

[Inclosure.—Translation.]

[Journal of St. Petersburg, Monday, October 9 (22), 1900. Official section. St. Petersburg, October 8.]

Official communications have heretofore made known the motives which influenced the Imperial Government in recalling the Russian minister from Peking to Tientsin, together with the personnel of the legation.

Having no other object than the earliest reestablishment of regular intercourse with China, the Russian Government then announced that "as soon as the legally constituted central power in China shall appoint representatives duly furnished with full powers to conduct negotiations with the powers, Russia, in harmony with other foreign powers, will not delay on its part to appoint for this purpose negotiators and shall order them to the place selected for the future pour-parlers."

By an edict of the (Chinese) Emperor the dignitaries Li Hung Chang and Prince Tsin, who are in Peking, have been appointed representatives of the Chinese Government, and have been furnished with full powers to enter into direct negotiations with the foreign representatives.

Therefore, by direction of His Majesty the Emperor, the minister of Russia in China has been invited to return now to the Chinese capital in order to also enter as promptly as possible, in concert with the representatives of the powers, into negotiation with the Chinese plenipotentiaries.

By a telegram, dated October 2, actual Counselor of State de Giers has announced his departure for Peking.

*Mr. Adee to Mr. De Wollant.*

DEPARTMENT OF STATE,  
*Washington, August 13, 1900.*

MY DEAR MR. CHARGÉ D'AFFAIRES: Referring to our conversation this afternoon, touching the Russian proposal for the dispatch of an international detachment of the forces now cooperating in China to Peking, under a white flag, there to receive the beleaguered ministers and the inmates of the legations, I have the pleasure to hand you a memorandum setting forth the views of this Government upon the matter as I orally expressed them to you.

I am, etc.,

ALVEY A. ADEE.

DEPARTMENT OF STATE,  
*Washington, August 13, 1900.*

*Memorandum in response to the oral inquiries of the Imperial Russian chargé d'affaires, made of the Acting Secretary of State on the 13th instant, having reference to the proposal of the Russian Government to send an international detachment under a white flag as far as the walls of Peking to effect a peaceful bringing back of the foreign envoys now in Peking.*

The views of the Government of the United States upon this proposal have been expressed, in anticipation, in the third paragraph of the official memorandum handed

to Minister Wu yesterday as a reply to his communication of the Imperial edict of August 8 appointing Earl Li Hung Chang envoy plenipotentiary to negotiate with the powers now cooperating in China for the relief of the legations in Pekin. It was therein said:

"We are ready to enter into an agreement between the powers and the Chinese Government for a cessation of hostile demonstrations on condition that a sufficient body of the forces composing the relief expedition shall be permitted to enter Pekin unmolested and to escort the foreign ministers and residents back to Tientsin, this movement being provided for and secured by such arrangements and dispositions of troops as shall be considered satisfactory by the generals commanding the forces composing the relief expedition."

This memorandum was cabled in full last evening to the representatives of the United States at the capitals of the several powers now cooperating in the movement of relief, to be by them communicated to the governments to which they are respectively accredited. The paragraph above quoted appears to embrace the point presented in the Russian proposal, inasmuch as the approach of an international detachment to Pekin under a white flag and the delivery and reception of the foreigners there would necessarily depend upon some prior understanding with the Chinese Government and the adoption of such adequate arrangements and dispositions as may be satisfactory to the commanding generals for the realization of the desired end. Whether such a peaceful detachment should enter Pekin or receive the foreign legations and their inmates outside the city walls of Pekin would appear to be a detail to be arranged between the military commanders and the Chinese authorities, having in view that, if the latter alternative is adopted, the foreigners will have to pass through some two miles of the dense Chinese city before reaching the outer gate. It may be that some intermediate course, such as receiving the ministers and others at the gates of the inner Tartar city, will prove practicable.

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*Memorandum in response to the Russian chargé's oral communication made on August 28, 1900, to the Acting Secretary of State touching the purposes of Russia in China.*

DEPARTMENT OF STATE,  
August 29, 1900.

The Government of the United States receives with much satisfaction the reiterated statement that Russia has no designs of territorial acquisition in China, and that, equally with the other powers now operating in China, Russia has sought the safety of her legation in Pekin and to help the Chinese Government to repress the existing troubles. The same purposes have moved and will continue to control the Government of the United States, and the frank declarations of Russia in this regard are in accord with those made to the United States by the other powers. All the powers, therefore, having disclaimed any purpose to acquire any part of China, and now that adherence thereto has been renewed since relief has reached Pekin, it ought not to be difficult by concurrent action through negotiations to reach an amicable settlement with China by which the treaty rights of all the powers will be secured for the future, the open door assured, the interests and property of foreign citizens conserved, and full reparation made for wrongs and injuries suffered by them.

So far as we are advised, the greater part of China is at peace and earnestly desires to protect the life and property of all foreigners, and in several of the provinces active and successful efforts to suppress the Boxers have been taken by the viceroys, to whom we have extended encouragement through our consuls and naval officers. This present good relation should be promoted for the peace of China.

While we agree that the immediate object for which the military forces of the powers have been cooperating, viz, the relief of the ministers at Pekin, has been accomplished, there still remain the other purposes which all the powers have in common, which are referred to in the communication of the Russian chargé and which were specifically enumerated in our note to the powers of July 3.

These are: To afford all possible protection everywhere in China to foreign life and property; to guard and protect all legitimate foreign interests; to aid in preventing the spread of the disorders to other provinces of the Empire and a recurrence of such disorders, and to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed by treaty and international law to friendly powers, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire.

In our opinion these purposes could best be attained by the joint occupation of

Pekin under a definite understanding between the powers until the Chinese Government shall have been reestablished and shall be in a position to enter into new treaties with adequate provisions for reparation and guaranties of future protection. With the establishment and recognition of such authority, the United States would wish to withdraw its military forces from Pekin and remit to the processes of peaceful negotiation our just demands.

We consider, however, that a continued occupation of Pekin would be ineffective to produce the desired result unless all the powers unite therein with entire harmony of purpose. Any power which determines to withdraw its troops from Pekin will necessarily proceed thereafter to protect its interests in China by its own method, and we think that this would make a general withdrawal expedient. As to the time and manner of withdrawal, we think that, in view of the imperfect knowledge of the military situation, resulting from the interruptions of telegraphic communication, the several military commanders at Pekin should be instructed to confer and agree together upon the withdrawal as a concerted movement, as they agreed upon the advance.

The result of these considerations is that, unless there is such a general expression by the powers in favor of continued occupation as to modify the views expressed by the Government of Russia and lead to a general agreement for continued occupation, we shall give instructions to the commander of the American forces in China to withdraw our troops from Pekin, after due conference with the other commanders as to the time and manner of withdrawal.

The Government of the United States is much gratified by the assurance given by Russia that the occupation of Niuchwang is for military purposes incidental to the military steps for the security of the Russian border provinces menaced by the Chinese, and that as soon as order shall be reestablished Russia will retire her troops from those places if the action of the other powers be not an obstacle thereto. No obstacle in this regard can arise through any action of the United States, whose policy is fixed and has been repeatedly proclaimed.

ALVEY A. ADEE,  
*Acting Secretary.*

*Memorandum handed to Mr. Adee by the Russian chargé d'affaires,  
Mr. de Wollant.*

[Translation.]

RUSSIAN EMBASSY, *September 17, 1900.*

(1) Has the Federal Government the intention to transfer the residence of the legation from Pekin to Tientsin? This step has been recognized as practical and appropriate to the end, even by the powers which find it necessary to leave troops at Pekin.

(2) Are the full powers of Prince Ching and Li Hung Chang recognized as sufficient by the Federal Government?

(3) Is the Federal Government prepared to charge its representatives to enter without delay upon the preliminary negotiations with the plenipotentiaries of the Emperor of China?

*Memorandum.*

DEPARTMENT OF STATE,  
*Washington, September 21, 1900.*

(1) The Government of the United States has not any present intention to withdraw its legation from Pekin.

(2) The Government of the United States accepts the plenipotentiary authority of Earl Li Hung Chang and Prince Ching as prima facie sufficient for the preliminary negotiations looking toward the return of the Imperial Chinese Government and to the resumption of its author-

ity at Peking, and toward the negotiation of a complete settlement by the duly appointed plenipotentiaries of the powers and of China.

(3) To these ends the United States minister in Peking will be authorized to enter into relations with Earl Li and Prince Ching as the immediate representatives of the Chinese Emperor.

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*Mr. de Wollant to Mr. Adee.*

[Translation.]

RUSSIAN EMBASSY, *Cape May, September 23 (5), 1900.*

MR. ACTING SECRETARY: I have the honor to transmit herewith a translation of the "communiqué" of August 12 (25), concerning the views of the Imperial Government on events in China.

I seize this occasion, etc.,

G. DE WOLLANT.

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[From the *Messenger Officiel*, 20th August-2d September, 1900—Translation.]

*Circular telegram of the acting minister of the ministry of foreign affairs, dated 12-25 August, 1900, substance of which was orally communicated to the Department, August 28, 1900.*

"The immediate ends aimed at by the Imperial Government since the beginning of the disturbances that have broken out in China were as follows:

"First. To safeguard the legation of Russia at Peking and to insure the safety of Russian subjects against the criminal intentions of the Chinese insurgents, and

"Second. To extend help to the Government at Peking in its struggle with the insurrectionist movement with a view to the earliest possible restoration of the legal order of things in the Middle Empire.

"When all the interested States subsequently determined to send troops to China to the same ends, the Imperial Government proposed that the following fundamental principles be adopted for the guidance of the action taken in consequence of the events that were taking place in that country:

"First. The maintenance of harmony among the powers.

"Second. The integrity of the former rule of government in the Chinese Empire.

"Third. The setting aside of all that might lead to a dismemberment of China; and, lastly,

"Fourth. The restoration at Peking, through common efforts, of the legally instituted central government which would be competent to insure by itself order and tranquillity in the country.

"Nearly all the powers agreed in these several points.

"With this as its only object, the Imperial Government has remained, and proposes in the future to remain, unalterably true to the above-mentioned programme of action.

"While the progress of events, such as the attack on our troops at Niuchwang by the insurgents, as well as a series of aggressive actions of the Chinese against our territory on the border—notably the entirely unprovoked bombardment of Blagovestchensk—constrained Russia to occupy Niuchwang and march the Russian troops into Manchuria, these temporary measures, exclusively acquired by the necessity of providing against the aggressive acts of the Chinese insurgents, can not be taken as implying selfish views of any character which are entirely foreign to the policy of the Imperial Government.

"As soon as lasting order shall have been reestablished in Manchuria, and when the necessary measures shall have been taken to safeguard the railway, the construction of which has been guaranteed by a formal agreement with China in connection with the concession granted to the Eastern Railway Chinese Company, Russia will not fail to withdraw her troops from within the boundaries of the adjacent empire, provided, however, that the action of other powers shall not stand in the way.

"It goes without saying, the interests of foreign States, as well as those of international companies, either in the open port of Niuchwang presently occupied by Russia

or on the railway lines rebuilt by the Russian troops, remain inviolable and will be fully protected.

"The first and main object that the Imperial Government had set up for itself has been attained by the occupation of Peking, which, owing to the new turn taken by events, has become an accomplished fact sooner than was anticipated; that is to say, the representatives of the powers, together with all the foreigners besieged in the Chinese capital, are released. The second object, namely, that of extending assistance to the legal government of China for the restoration of order and regular relations with the powers, seems to be difficult of execution at this time by reason of the departure of the Bogdokhan [Emperor], the Empress Regent, and the tsungli yamen from Peking. Under these circumstances, the Imperial Government sees no cogent reason why the foreign legations, accredited to a government that is absent, should continue to reside in the Chinese capital, and it therefore intends to recall its representative, Actual Counselor of State de Giers, and all the personnel of the legation to Tientsin. They will be escorted by the Russian troops, whose presence at Peking is now without a purpose, considering the intention formed and repeatedly declared by Russia not to overstep the bounds of the previously mapped out programme. But, as soon as the central power legally instituted in China shall have resumed the reins of the Government and appointed representatives duly vested with full powers to conduct negotiations with the powers, Russia, in accord with the other foreign States, will lose no time in appointing negotiators on her part and will send them to such place as may be selected for future negotiations.

"While charging you to bring the foregoing statement to the knowledge of the Government to which you are accredited, we cherish the hope that it will fully concur in our views."

In consequence of the communication to the foreign governments of the circular whose text is above given, Actual Counselor of State de Giers and Lieutenant-General Lénévitch have been ordered to prepare without delay for the execution of His Majesty the Emperor's wishes regarding the transfer to Tientsin of the whole personnel of the Russian legation, as well as of the Russian subjects and troops. They will, of course, have to take into account the local conditions bearing on the subject.

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*Mr. de Wollant to Mr. Hay.*

[Translation.]

No. 297.]

WASHINGTON, *September 21 (October 4), 1900.*

MR. SECRETARY OF STATE: The chargé d'affaires of France has probably already communicated to your excellency a proposal emanating from his Government and tending to suggest the basis of the negotiations with China which ought, it seems to it, be forthwith concerted between the interested powers.

In the opinion of the Imperial Government, as well as of the Government of the French Republic, the programme upon which the several cabinets may succeed in reaching an accord should comprise:

First. The punishment of the principal authors or instigators of the outrages committed in China, and notably of Prince Tuan, the dignitaries Tung fu-siang, Kang-Yi, Li ping-heng, and the governor of Shan-Si, Wu-shien.

Second. The continued interdiction of the importation of arms into China.

Third. The granting to the governments, corporations, and private individuals of indemnities, the adjustment of which, in the events of protracted divergence, might be confided to the International Peace Bureau at The Hague.

Fourth. Guarantees for the future, as to which it would be permissible to consult the diplomatic representatives of the powers in China. My French colleague has doubtless specified in the note he has addressed to you what these guarantees might be.

The imperial ministry being entirely in accord with the (French) cabinet as to the measures suggested in that note, I have the honor, by order of my Government, to address your excellency in support of the step taken by the chargé d'affaires of France.

Be pleased to accept, etc.,

G. DE WOLLANT.

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*Mr. Hay to Mr. De Wollant.*

DEPARTMENT OF STATE,  
*Washington, October 11, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 4th instant, No. 297, in which you inform me that, the Imperial ministry being entirely in accord with the proposals of the Government of the French Republic respecting the bases of settlement to be negotiated between the powers and China, your Government lends its support to the French programme.

In reply I have the honor to communicate to you copy of the recent correspondence exchanged with the French chargé d'affaires on the subject.<sup>1</sup>

Be pleased, etc.,

JOHN HAY.

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**CONSULAR JURISDICTION AT CHINESE PORTS LEASED TO FOREIGN POWERS.**

*Mr. Adee to Mr. Conger.*

No. 205.]

DEPARTMENT OF STATE,  
*Washington, August 25, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 209, of June 5 last, reporting that you have been requested by the consul at Chefoo to instruct him as to his consular jurisdiction at Tsingtao (Kiaochow), Port Arthur, and Weihaiwei, and that you have replied that should any case arise he should assume jurisdiction in accordance with statutory provisions and the consular regulations. You add that you would be glad to be informed of any special instructions that the Department may see fit to issue concerning those places.

In reply I have to ask you to send to the Department a full and explicit report showing, as precisely as you can, what the other powers are doing in regard to those ports, particularly as to the jurisdiction of foreign consuls therein.

A copy of a memorandum on the subject, prepared in the consular bureau, is herewith inclosed for your information and guidance in the preparation of the report.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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[Inclosure.]

*Memorandum.*

Our minister to Peking, in his No. 209, of June 5, 1899, states that Consul Fowler, at Chefoo, asked for instructions as to his jurisdiction at Port Arthur, Kiaochow, and



Weihaiwei, stating that he had heard of serious trouble on two different American ships at Kiaochow. The minister replied that should any cases arise the consul should assume jurisdiction in accordance with the statute and regulations. The minister asks for any special instructions which the Department may see fit to issue respecting those places.

The places mentioned have always been within the jurisdiction of the consul at Chefoo, and the only question which now arises is whether, on account of the interest foreign nations have in the respective ports, our consular jurisdiction is in any way modified. I shall not attempt to suggest a decision on the question, but will submit for the action of the Department the following statement of facts. I have not been able to find authentic copies of the conventions referred to, but have made up this memorandum from the conventions as printed in the Chronicle and Directory for China and Japan, 1899.

## PORT ARTHUR.

This port was obtained from China by Russia in 1898, by lease, and is now being fortified as a naval stronghold. The treaty between Russia and China is as follows:

"ART. I. It being necessary for the due protection of her navy in the waters of North China that Russia should possess a station she can defend, the Emperor of China agrees to lease to Russia Port Arthur and Taliénwan, together with the adjacent seas, but on the understanding that such lease shall not prejudice China's sovereignty over this territory.

"ART. II. The limits of the territory thus leased for the reasons above stated, as well as the extent of territory north of Taliénwan necessary for the defense of that now leased and what shall be allowed to be leased, shall be strictly defined and all details necessary to the carrying out of this treaty be arranged at St. Petersburg with Hsu Tajen so soon as possible after the signature of the present treaty and embodied in a separate treaty. Once these limits have been determined, all land held by Chinese within such limits, as well as the adjacent waters, shall be held by Russia alone on lease.

"ART. III. The duration of the lease shall be twenty-five years from the day this treaty is signed, but may be extended by mutual agreement between Russia and China.

"ART. IV. The control of all military forces in the territory leased by Russia and of all naval forces in the adjacent seas, as well as of the civil officials in it, shall be vested in one high Russian official, who shall, however, be designated by some title other than governor-general (tsungtu) or governor (hsunfu). All Chinese military forces shall without exception be withdrawn from the territory, but it shall remain optional with the ordinary Chinese inhabitants either to remain or to go, and no coercion shall be used toward them in this matter. Should they remain, any Chinese charged with a criminal offense shall be handed over to the nearest Chinese official to be dealt with according to Article VIII of the Russo-Chinese treaty of 1860.

"ART. V. To the north of the territory leased shall be a zone, the extent of which shall be arranged at St. Petersburg between Hsu Tajen and the Russian foreign office. Jurisdiction over this zone shall be vested in China, but China may quarter no troops in it except with the previous consent of Russia.

"ART. VI. The two nations agree that Port Arthur shall be a naval port for the sole use of Russian and Chinese men-of-war, and be considered as an unopened port so far as the naval and mercantile vessels of other nations are concerned. As regards Taliénwan, one portion of the harbor shall be reserved exclusively for Russian and Chinese men-of-war, just like port Arthur, but the remainder shall be a commercial port, freely open to the merchant vessels of all countries.

"ART. VII. Port Arthur and Taliénwan are the points in the territory leased most important for Russian military purposes. Russia shall therefore be at liberty to erect, at her own expense, forts and build barracks and provide defenses at such places as she desires."

\* \* \* \* \*

## KIAOCHOW.

This port was occupied by Germany on November 14, 1897, and the following agreement, though not officially proclaimed, is given in the directory referred to as a correct translation from the Chinese:

"His Majesty the Emperor of China, being desirous of preserving the existing good relations with His Majesty the Emperor of Germany and of promoting an increase of German power and influence in the Far East, sanctions the acquirement, under lease, by Germany of the land extending for 100 li at high tide (at Kiaochow).

"His Majesty the Emperor of China is willing that German troops should take possession of the above-mentioned territory at any time the Emperor of Germany chooses. China retains her sovereignty over this territory, and should she at any time wish to enact laws or carry out plans within the leased area she shall be at liberty to enter into negotiations with Germany with reference thereto: *Provided always*, That such laws or plans shall not be prejudicial to German interests. Germany may engage in works for the public benefit, such as waterworks, within the territory covered by the lease without reference to China. Should China wish to march troops or establish garrisons therein, she can only do so after negotiating with and obtaining the express permission of Germany.

"II. His Majesty the Emperor of Germany, being desirous, like the rulers of certain other countries, of establishing a naval and coaling station and constructing dock-yards on the coast of China, the Emperor of China agrees to lease to him for the purpose all the land on the southern and northern sides of Kiaochow Bay for a term of ninety-nine years. Germany is to be at liberty to erect forts on this land for the defense of her possessions therein.

"III. During the continuance of the lease China shall have no voice in the government or administration of the leased territory. It will be governed and administered during the whole term of ninety-nine years solely by Germany, so that the possibility of friction between the two powers may be reduced to the smallest magnitude. The lease covers the following districts:

"\* \* \* Chinese ships of war and merchant ships, and ships of war and merchant ships of countries having treaties and in a state of amity with China shall receive equal treatment with German ships of war and merchant ships in Kiaochow Bay during the continuance of the lease. Germany is at liberty to enact any regulation she desires for the government of the territory and harbor, provided such regulations apply impartially to the ships of all nations, Germany and China included.

"IV. Germany shall be at liberty to erect whatever light-houses, beacons, and other aids to navigation she chooses within the territory leased, and along the islands and coasts approaching the entrance to the harbor. Vessels of China and vessels of other countries entering the harbor shall be liable to special duties for the repair and maintenance of all light-houses, beacons, and other aids to navigation which Germany may erect and establish. Chinese vessels shall be exempt from other special duties.

"V. Should Germany desire to give up her interest in the leased territory before the expiration of ninety-nine years, China shall take over the whole area, and pay Germany for whatever German property may at the time of surrender be there situated. In cases of such surrender taking place, Germany shall be at liberty to lease some other point along the coast. Germany shall not cede the territory leased to any other power than China. Chinese subjects shall be allowed to live in the territory leased, under the protection of the German authorities, and there carry on their avocations and business as long as they conduct themselves as peaceable and law-abiding citizens. \* \* \* Fugitive Chinese criminals taking refuge in the leased territory shall be arrested and surrendered to the Chinese authorities for trial and punishment upon application to the German authorities, but the Chinese authorities shall not be at liberty to send agents into the leased territory to make arrests. The German authorities shall not interfere with the likin stations outside but adjacent to the territory."

#### WEIHAIWEI.

This port was on July 1, 1898, leased by Great Britain from the Chinese Government for a naval station and for the better protection of British commerce in "neighboring seas." The lease is for "so long a period as Port Arthur shall remain in the occupation of Russia." The following is the pertinent portion of the convention as published in Treaty Series No. 14, 1898, London:

"The territory leased shall comprise the island of Liu Kung, and all the islands in the Bay of Weihaiwei, and a belt of land 10 English miles wide along the entire coast line of the Bay of Weihaiwei. Within the above-mentioned territory leased Great Britain shall have sole jurisdiction.

"Great Britain shall have in addition the right to erect fortifications, station troops, or take any other measures necessary for defensive purposes at any points on or near the coast of the region east of the meridian 121° 40' east of Greenwich, and to acquire on equitable compensation within that territory such sites as may be necessary for water supply, communications, and hospitals. Within that zone Chinese administration will not be interfered with, but no troops other than Chinese or British shall be allowed therein.

"It is also agreed that within the walled city of Weihaiwei Chinese officials shall continue to exercise jurisdiction, except so far as may be inconsistent with naval and military requirements for the defense of the territory leased.

"It is further agreed that Chinese vessels of war, whether neutral or otherwise, shall retain the right to use the waters herein leased to Great Britain.

"It is further understood that there will be no expropriation or expulsion of the inhabitants of the territory herein specified, and that if land is required for fortifications, public offices, or any official or public purpose it shall be bought at a fair price."

As you will see, the question is whether or not under these conventions Great Britain, Russia, and Germany have acquired such an interest in the ports referred to as to preclude our consul at Chefoo, who is accredited to China, from exercising jurisdiction. The question is one which seems to me should go to the solicitor, or in respect to which the minister should be called upon for a further and explicit report, with special reference to that which other powers are doing in connection with the ports.

*Mr. Conger to Mr. Hay.*

No. 291.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, December 11, 1899.*

SIR: Complying with Department's instructions No. 205 of August 25 last, requiring a report showing what the other powers are doing in regard to the Chinese ports leased to foreign powers, and particularly as to the jurisdiction of foreign consuls therein, I have the honor to report that I have conferred with the English, German, Russian, French, Spanish, Netherlands, and Japanese ministers upon the subject, and all of them, except the Japanese, agree that the control over all of these leased ports has, during the existence of the lease, passed as absolutely away from the Chinese Government as if the territory had been sold outright, and that they are as thoroughly under jurisdiction of the lessee governments as any portion of their home territory, and their consuls, accredited to China, would not attempt to exercise jurisdiction in any of said ports.

The Japanese claim that sovereignty is too important a matter to pass thus with a lease, and say that China can, if she wishes, surrender jurisdiction over her own people, but they do not agree that these lessee governments shall or can exercise jurisdiction over other foreigners in the leased territory. However, no case has yet arisen for them to test the matter.

The German treaty quoted in the memorandum prepared in the consular bureau for the Solicitor is authentic, and that with the Russians is substantially correct, except as to the provision in Article IV, providing for handing Chinese criminals over to the nearest Chinese official. The Russian legation informs me that that provision is not correctly translated, and that construing it in connection with Article VIII of the treaty of 1860 they have the right and do try Chinese for crimes committed against Russians; but I am unable to procure a copy of the treaty.

I trust that with these, our own, and other published treaties with China the Solicitor may be able to arrive at a satisfactory decision.

Since these ports have practically passed from the control of an uncivilized people to civilized, the paramount reasons for exercising extraterritorial jurisdiction no longer exists; besides, such jurisdiction is at best expensive, unsatisfactory, and undesirable, except as an absolute necessity.

As to general or ordinary consular jurisdiction, the Department knows better than I do the objections to consuls exercising, or attempting to exercise, jurisdiction in a country to which they are not accredited.

Awaiting with interest the decision of the solicitor,

I have, etc.,

E. H. CONGER.

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*Mr. Hay to Mr. Conger.*

No. 229.]

DEPARTMENT OF STATE,  
Washington, February 3, 1900.

SIR: I have given careful attention to your dispatch, No. 291, of December 11 last, in which, responding to instruction No. 205, of August 25, 1899, you report touching the question of the recognition and jurisdiction of foreign consular officers in the foreign leased ports and territories of China.

The inclosed memorandum, prepared by the Solicitor of this Department, will acquaint you with the view here entertained of the general subject, with the conclusion that, the intention and effect of China's foreign leases having apparently been the relinquishment by China during the term of the leases and the conferment upon the foreign power of all jurisdiction over the territory, such relinquishment and transfer of jurisdiction would seem also to involve the loss by the United States of its right to exercise extraterritorial consular jurisdiction in the territories so leased, while, as you remark, as these territories have practically passed into the control of peoples whose jurisprudence and methods are akin to our own, there would seem to be no substantial reason for claiming the continuance of such jurisdiction during the foreign occupancy or tenure of the leased territory.

As a corollary to this view, which from your statement appears to be held by all the powers, with the exception of Japan, the ordinary consular functions prescribed and defined in the intercourse of the Christian powers among themselves could obviously not be exercised within the leased territory by a consul of the United States stationed in neighboring Chinese territory without some express recognition of his official character, by exequatur or otherwise, on the part of the sovereign into whose control the territory has passed by lease for the time being. This point is not touched upon in your report, and it can only be inferred that the other Western powers will be found to entertain substantially the same view. If you find them to be of a similar opinion, you will, as by direction of the Secretary of State, inform Mr. Goodnow that, upon investigation made and consideration given to the subject, the United States consuls in districts adjacent to the foreign leased territories are to be instructed that they have no authority to exercise extraterritorial consular jurisdiction or to perform ordinary nonjudicial consular acts within the leased territory under their present Chinese exequaturs.

It remains to be determined in what manner the interests of American citizens in such leased territories are to be watched over and, in case of need, protected by the agencies common in the intercourse of civilized powers. Those interests, often situated in the interior, remain for the most part under the same Chinese surroundings as heretofore,

the superior control of the lessee power being manifested through native agencies and by way of influence rather than by direct administration. Under such circumstances, the United States can not be expected to forego the use of all the customary agencies of intercourse in behalf of its citizens and their property and commerce. It is presumed the other governments represented in China feel in the same way their responsibility to watch over their own citizens or subjects found within any leased territory not under their own national flag.

It will be well, therefore, for you to take suitable occasion to confer with your British, French, German, and Russian colleagues with a view to ascertaining their opinions as to the manner of exercising the ordinary consular powers and functions within the leased territories by the nearest and most conveniently situated United States consul in China, and also as to the ordinary guaranties and administration of justice in the respective leased territories, for it is obviously desirable that consular jurisdiction should not cease except when replaced by some sound and effective judicial resort according to civilized methods. It should not be difficult to come to some general understanding in this regard by which the most available consul in each case should present to the proper authority of the leased territory credentials establishing his competence to discharge therein consular functions on behalf of the United States, whereupon some appropriate form of recognition could issue. Some such arrangement seems much to be preferred to the present anomalous procedure whereby any matter affecting an American citizen or interest in a foreign leased territory has to find its way to Peking, there to be discussed between yourself and the diplomatic representative of the lessee government, and by the latter in turn with the territorial authority.

I am, etc.,

JOHN HAY.

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[Inclosure.]

*Memorandum of the Solicitor of the Department.*

CONSULAR JURISDICTION AT CHINESE PORTS LEASED TO FOREIGN POWERS.

The following are the existing provisions of treaty with China upon which our consular jurisdiction in that country is based:

TREATY OF 1844.

ARTICLE XXI.

Subjects of China who may be guilty of any criminal act toward citizens of the United States shall be arrested and punished by the Chinese authorities according to the laws of China; and *citizens of the United States who may commit any crime in China shall be subject to be tried and punished only by the consul or other public functionary of the United States, thereto authorized, according to the laws of the United States.* And in order to the prevention of all controversy and disaffection, justice shall be equitably and impartially administered on both sides.

ARTICLE XXIV.

If citizens of the United States have special occasion to address any communication to the Chinese local officers of government, they shall submit the same to their consul, or other officer, to determine if the language be proper and respectful, and the matter just and right; in which event he shall transmit the same to the appropriate authorities for their consideration and action in the premises. In like manner, if subjects of China have special occasion to address the consul of the United States, they shall submit the communication to the local authorities of their own Govern-

ment, to determine if the language be respectful and proper, and the matter just and right; in which case the said authorities will transmit the same to the consul or other functionary for his consideration and action in the premises. And if controversies arise between citizens of the United States and subjects of China, which can not be amicably settled otherwise, the same shall be examined and decided conformably to justice and equity by the public officers of the two nations acting in conjunction.

## ARTICLE XXV.

*All questions in regard to rights, whether of property or person, arising between citizens of the United States in China, shall be subject to the jurisdiction of, and regulated by, the authorities of their own Government. And all controversies occurring in China between citizens of the United States and the subjects of any other government shall be regulated by the treaties existing between the United States and such governments, respectively, without interference on the part of China.*

TREATY OF JUNE 18, 1858.

## ARTICLE XI.

All citizens of the United States of America in China, peaceably attending to their affairs, being placed on a common footing of amity and good will with the subjects of China, shall receive and enjoy for themselves and everything appertaining to them, the protection of the local authorities of government, who shall defend them from all insult or injury of any sort. If their dwellings or property be threatened or attacked by mobs, incendiaries, or other violent or lawless persons, the local officers, on requisition of the consul, shall immediately dispatch a military force to disperse the rioters, apprehend the guilty individuals, and punish them with the utmost rigor of the law.

Subjects of China guilty of any criminal act toward citizens of the United States shall be punished by the Chinese authorities according to the laws of China; and citizens of the United States, either on shore or in any merchant vessel, who may insult, trouble, or wound the persons or injure the property of Chinese, or commit any other improper act in China, shall be punished only by the consul or other public functionary thereto authorized according to the laws of the United States. Arrests in order to trial may be made by either the Chinese or the United States authorities.

## ARTICLE XXIV.

Where there are debts due by subjects of China to citizens of the United States, the latter may seek redress in law, and on suitable representations being made to the local authorities, through the consul, they will cause due examination in the premises and take proper steps to compel satisfaction. And if citizens of the United States be indebted to subjects of China, the latter may seek redress by representation through the consul or by suit in the consular court; but neither Government will hold itself responsible for such debts.

TREATY OF NOVEMBER 17, 1880.

## ARTICLE IV.

*When controversies arise in the Chinese Empire between citizens of the United States and subjects of His Imperial Majesty, which need to be examined and decided by the public officers of the two nations, it is agreed between the Governments of the United States and China that such cases shall be tried by the proper official of the nationality of the defendant. The properly authorized official of the plaintiff's nationality shall be freely permitted to attend the trial and shall be treated with the courtesy due to his position. He shall be granted all proper facilities for watching the proceedings in the interests of justice. If he so desires, he shall have the right to present, to examine, and to cross-examine witnesses. If he is dissatisfied with the proceedings, he shall be permitted to protest against them in detail. The law administered will be the law of the nationality of the officer trying the case.*

By the leases made by the Chinese Government of Weihaiwei, Kiaochow, and Port Arthur, to Great Britain, Germany, and Russia, respectively, the jurisdiction of China over the territories leased is relinquished during the terms of the leases.

In the case of Weihaiwei, leased to Great Britain, it is expressly provided that "within the territory leased Great Britain shall have sole jurisdiction."

In the lease of Kiaochow to Germany, it is provided that China shall have no voice in the government or administration of the leased territory, but that *it shall be*

governed and administered during the whole term of the lease by Germany; that Germany is at liberty to enact any regulation she desires for the government of the territory. Chinese subjects are allowed to live in the territory leased, under the protection of the German authorities, and there carry on their business as long as they conduct themselves as law-abiding citizens. Provision is made for the surrender to the Chinese authorities of fugitive Chinese criminals taking refuge in the leased territory. The Chinese authorities are not at liberty to send agents into the leased territory to make arrests. The lease declares that China "retains her sovereignty over this territory."

In the lease of Port Arthur to Russia it is provided that the control of all military forces, as well as of the *civil officials* in the territory, shall be vested in one high Russian official; that all Chinese military forces shall be withdrawn; that the Chinese inhabitants may remain or go, as they choose; that if they remain, any Chinese charged with a criminal offense shall be handed over to the nearest Chinese official to be dealt with. (Mr. Conger says that the Russian legation informs him that this last provision is not correctly translated, and that, construing it in connection with article 8 of the treaty of 1860, the Russian Government has the right and does try Chinese for crimes committed against Russians.) This lease is expressly declared on the understanding that it "shall not prejudice China's sovereignty over this territory."

As it is expressly stipulated in the leases that China retains *sovereignty* over the territory leased, it could doubtless be asserted that such territory is still *Chinese territory* and that the provisions of our treaties with China granting consular jurisdiction are still applicable therein. But in view of the express relinquishment of jurisdiction by China, I infer that the reservation of sovereignty is merely intended to cut off possible future claims of the lessees that the sovereignty of the territory is *permanently* vested in them. The intention and effect of these leases appear to me to have been the relinquishment by China, *during the term of the leases*, and the conferring upon the foreign power in each case of *all jurisdiction over the territory*. Such relinquishment would seem, also, to involve the loss by the United States of its right to exercise consular jurisdiction in the territories leased. And, as Mr. Conger suggests, as these territories have practically passed from the control of an uncivilized people to civilized, there would seem to be no substantial reason for continuing to exercise such jurisdiction.

All of the powers, with the exception of Japan, have acquiesced in this view, and their consuls accredited to China will not attempt to exercise jurisdiction in any of the leased territory.

OFFICE OF THE SOLICITOR (F. V.), *January 27, 1900.*

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*Mr. Conger to Mr. Hay.*

No. 344.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, March 23, 1900.*

SIR: I have received Department's instructions, No. 229, of the 3d ultimo, and upon consultation with several of my colleagues find that they agree with the opinion that a consul accredited to China can not exercise consular functions in the foreign leased territory, except upon some express recognition of his official character, by exequatur or otherwise, on the part of the sovereign into whose control the territory has passed.

They also are of the opinion that any arrangement for the recognition of the competency of the most available consul to exercise any function in said territory can not be made here, but only with the European lessee governments themselves. The leased territory in every case is small, and in practically all of them judicial procedure according to civilized methods has been established. In the territory adjacent to that leased, as in Shantung and Manchuria, the consuls will still exercise extraterritorial jurisdiction. The English minister informs me that his Government is arranging to establish consulates at Kiaochow and Talienwan.

I have, as directed, instructed Consul-General Goodnow to inform the United States consuls in China that they have no authority to exercise extraterritorial consular jurisdiction or to perform ordinary nonjudicial consular acts within the leased territory under their present exequaturs.

I have, etc.,

E. H. CONGER.

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*Mr. Hay to Mr. Conger.*

No. 265.]

DEPARTMENT OF STATE,  
*Washington, May 22, 1900.*

SIR: I have to acknowledge the receipt of your dispatch, No 344, of March 23 last, on the subject of consular jurisdiction in Chinese territory leased to foreign powers.

The United States ambassadors to Great Britain, Germany, and Russia have been instructed to make with the governments to which they are respectively accredited some arrangement for the recognition of the competency of the most available consul—the consul at Chefoo at present—to exercise consular functions in the territories those powers have acquired by lease within the Chinese Empire.

The results of the negotiations in the matter will be communicated to you as soon as conclusions have been reached.

I am, etc.,

JOHN HAY.

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**PASSPORTS OF MISSIONARIES IN CHINA.**

*Mr. Conger to Mr. Hay.*

No. 283.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, November 28, 1899.*

SIR: I have the honor to inclose herewith applications<sup>1</sup> for passport of Logan Herbert Roots and Oliver Tracey Logan, which I have declined to issue on the ground that it would be contrary to the instructions and regulations of the State Department governing the issuance of passports, since in each case the applicant has no intention of returning to the United States, and so expressly states in his application.

I also inclose copies of correspondence with the United States consul at Hankau on the subject.

I have, etc..

E. H. CONGER.

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[Inclosure 1.]

*Mr. Squiers to Mr. Wilcox.*

Con., No. 428.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, August 25, 1899.*

SIR: The legation begs to return to you the passport application of Logan H. Roots, which accompanied your dispatch, No. 47, of the 9th instant, for the reason that the applicant in his affidavit states that he expects to reside permanently in China.

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<sup>1</sup> Not printed.



Under instructions from the State Department a passport can not issue to a citizen of the United States who has no intention of returning there to reside, but who intends to live permanently abroad. While very liberal in its requirements toward those engaged in missionary work as to *when* they expect to return, a definite intention to do so at some future time is always required.

As the applicant is a young man and will probably return many times to his home in the United States, although he may remain permanently engaged in missionary work in China, the application is returned to him for his further consideration and, if possible, a modification of his statement. In case he declines to do so, the application will be referred to the State Department for its consideration.

It is also noted that you failed to affix your consular seal to the affidavit.

I am, etc.

H. G. SQUIERS,  
*Secretary of Legation.*

[Inclosure 2.]

*Mr. Wilcox to Mr. Squiers.*

No. 50.]

UNITED STATES CONSULATE,  
*Hankau, China, September 4, 1899.*

SIR: I have the honor to return herewith the duplicate application of Logan H. Roots, and would kindly request that a passport be granted him.

In answer to a letter to the Department regarding missionaries who expected to always remain in China, and who did not desire to sign the statement that they intended to return to the United States to take up the duties of citizenship, I received the following instructions:

DEPARTMENT OF STATE,  
*Washington, January 23, 1899.*

L. S. WILCOX, Esq.,  
*United States Consul, Hankau.*

SIR: The issuance of passports is not mandatory upon the Secretary of State, but permissory. Recognizing that such of our citizens who have gone to China to pursue their religious calling may not return, but continue their work indefinitely abroad, the Department is disposed to sanction their receiving passports on taking the oath of allegiance.

THOS. W. CRIDLER,  
*Third Assistant Secretary.*

I have, etc.,

L. S. WILCOX, *Consul.*

[Inclosure 3.]

*Mr. Squiers to Mr. Wilcox.*

Con. No. 444.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, September 21, 1899.*

SIR: Referring to the legation's No. 428, of August 25 last, I beg to acknowledge receipt of your dispatch No. 50, of the 4th instant, transmitting for further consideration the passport application of Logan H. Roots.

Referring to the State Department's instruction, on which you evidently base your request that a passport be issued to Mr. Roots, notwithstanding his declaration that he does not intend to return to the United States, I have to say that the issue of passports in China is, according to the regulations, entirely at the discretion of the minister, who is guided by the regulations and instructions of the Department on the subject. An instruction to you from the Department certainly would not govern, especially where, as in this case, it does not agree with the position taken in its various instructions to the legation on the same subject; and then, again, it would be necessary to know the facts presented by you in *that* particular case.

The issue of a passport to an applicant who declares that he has *no* intention of returning to the United States is contrary to the requirements of the form of application authorized by the Department, which reads: "I intend to return to the United States at a period which, owing to my occupation as missionary, can not be defined accurately." No provision is made for any other statement.

Passports have been refused by this legation to persons who, in their applications, declined to state that they intended to return to the United States; but, on the contrary, as in the case in point, stated that they did *not* intend to do so.

Two of these cases were brought to the notice of the State Department and the following form of declaration suggested, which it was thought might cover them and at the same time meet with the approval of the Department.

"It is possible that I will remain permanently in China, and will continue during the balance of my life to be engaged in missionary work, and for that reason I am unable to say that I intend to return to the United States with the purpose of residing and performing the duties of citizenship therein, though I am still a loyal citizen of the United States."

The Department declined "to approve of this formula or to suggest any other likely to satisfy the conscientious scruples which the applicants appeared to entertain."

To make the position of the Department more plain to you, I will quote from an instruction on the same subject (No. 1470, July 20, 1897).

"The Department's instructions have heretofore taken the ground that the vocation of the missionaries employed by societies established in the United States may not admit of any very positive declaration of intention to return to the United States, but some declaration of a more or less floating or indefinite character, although displaying the intent to return, is necessary."

And further, "The Department can not authorize the issuance of a passport upon any declaration tantamount to the expression of an intention *not* to return."

In view of the practice of the legation heretofore in like cases, the regulations and instructions of the State Department on the issue of passports, I do not feel warranted, in the absence of the minister, in issuing this passport without his express direction to do so.

The matter can be brought to the attention of the minister on his arrival at Hankau, sometime in October.

I trust Mr. Roots will not be inconvenienced by the delay.

I am, etc.,

H. G. SQUIERS,  
*Secretary of Legation.*

[Inclosure 4.]

*Mr. Wilcox to Mr. Conger.*

No. 55.]

UNITED STATES CONSULATE,  
*Hankau, China, November 10, 1899.*

SIR: I have the honor to return to you, as per request, the applications of Rev. L. H. Roots and O. T. Logan for passports; also my dispatch to the Department. I sent you their reply in a previous dispatch.

I have, etc.,

LEVI S. WILCOX, *Consul.*

[No. 26.]

'Hon. DAVID J. HILL,

*Assistant Secretary of State, Washington, D. C.*

"SIR: I have the honor to ask for instructions regarding paragraph No. 169, C. R., and the oath required in application for passport. A number of missionaries, loyal citizens of the United States, have requested me to write to the Department in their behalf. They say they came here for their life work and expect to live and die here; that they can not take all of the above oath, for they never expect to return to the United States to perform the duties of citizenship. They are willing to take the oath of allegiance.

"I have, etc.,

"LEVI S. WILCOX, *Consul.*"

[Inclosure 5.]

*Mr. Conger to Mr. Wilcox.*

Con. No. 486.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, November 27, 1899.*

SIR: The legation begs to return to you the passport applications of L. H. Roots and O. T. Logan which accompanied your dispatch, No. 55, of the 10th instant, and

to say that these passports can not issue for the reasons already given in legation's dispatch, No. 444, of September 21 last, and since confirmed by Department's circular instruction dated September 26, 1899, and in which it is expressly set forth that "a passport should not issue to any person who does not intend to return to the United States," as in Mr. Roots's case, or whose express intention to return is negated by circumstances attending his residence abroad. In Mr. Logan's application he has allowed the printed form, "that I intend to return to the United States with the purpose of residing and performing the duties of citizenship therein," to stand, but negated this declaration by stating below, "I expect to remain in China in this work (medical missionary) permanently."

Both of these cases have been referred to the State Department.

The passport fees, \$4.22 (Mexican), are also inclosed.

I am, etc.,

E. H. CONGER.

*Mr. Hay to Mr. Conger.*

No. 222.]

DEPARTMENT OF STATE,  
*Washington, January 18, 1900.*

SIR: I have to acknowledge the receipt of your dispatch, No. 283, of the 28th of November, inclosing passport application of Logan Herbert Roots and Oliver Tracey Logan, medical missionaries, which you have declined to grant on the ground that they do not state intention to return to the United States, but, on the contrary, expressly state their expectation to remain permanently in China, and also inclosing correspondence with the United States consul at Hankau on the subject, showing a difference of views between your legation and the consulate as to the propriety of issuing the passports in question under the Department rules.

A late instruction which is applicable to the case under discussion may be found in that paragraph of the Department's circular instruction of March 27, 1899, reading:

The status of American citizens resident in a semibarbarous country or in a country in which the United States exercises extraterritorial jurisdiction is singular. \* \* \* Their residence may be indefinitely prolonged, since obviously they can not become subjects of the native Government without grave peril to their safety. The Department's position with respect to these citizens has uniformly been to afford them the protection of a passport as long as their pursuits are legitimate and not prejudicial to the friendly relations of this Government with the Government within whose limits they are residing.

The pursuits of a missionary, properly conducted, are legitimate, and American missionaries of good standing have always enjoyed continuous protection from this Government in China. In 1894 Mr. Gresham said:

Our legations have been authorized to issue passports to missionaries in foreign lands whose residence there was continuous and practically permanent, and who could not allege any definite intention of returning to, and residing in, the United States. (The American Passport, p. 209.)

These are merely instances of instructions of the same character which have been often repeated, and which may be found upon consulting the volumes of Foreign Relations. Their substance is adequately compressed in the instruction of Mr. Cridler, the Third Assistant Secretary of State, to the consul at Hankow, dated September 4, 1899, and quoted by the consul in the correspondence you submit. Mr. Cridler said:

Recognizing that such of our citizens who have gone to China to pursue their religious calling may not return, but continue their work indefinitely abroad, the Department is disposed to sanction their receiving passports on taking the oath of allegiance.

It is true that in the Department's circular instruction of September 26, 1899, on the subject of passports and intent to return to the United States, the words quoted in the legation's letter of November 27, 1899, to the consul at Hankow occur: "A passport should not issue to any person who does not intend to return to the United States." This language, however, should be taken in connection with the rest of the same sentence: "*As explained in the Department's circular instruction of March 27, 1899, a passport should not issue to any person who does not intend to return to the United States,*" etc. That circular (March 27, 1899) fully explained the exceptional position of American citizens resident in a country like China.

It is not intended by this instruction that the legation should issue a passport to anyone who declares that he neither intends nor desires to return to this country, or even to anyone who defiantly announces that he has no intention of returning, for such a statement would be tantamount to the expression of a desire to expatriate himself and absolve himself from allegiance to the United States; but as long as the loyal attachment to this Government continues and the legitimate and proper occupation of the applicant in China precludes his entertaining a definite purpose of return, the protection of a passport should continue. Taking the applications of Messrs. Roots and Logan as they appear in the legation's dispatch, the Department is of opinion that they should receive renewed passports.

I am, etc.,

JOHN HAY.

#### PROTECTION OF CHINESE EMPLOYEES OF AMERICAN CITIZENS.

*Mr. Conger to Mr. Hay.*

No. 295.]

LEGATION OF THE UNITED STATES,  
*Pekin, China, December 20, 1899.*

SIR: I have the honor to report that I have this day received from Consul Martin, of Chinkiang, report of his action in the case of Chang Chung-hsuan and Yu Kai-ping, two employees of Mr. D. A. Emery, an American merchant, who were arrested and punished without even notifying the consul or requesting him to have them turned over to the Chinese officials, a proceeding flagrantly violating the practice in such cases which has grown up under the treaties in all the treaty ports.

The case in brief, full report of which Consul Martin has forwarded to the Department, is that the chief of police sent to the office of Mr. Emery and without any request of or reference to the consul arrested a man in his employ. Mr. Emery, on finding it out, sent another one of his employees to the police yamen with his card to demand the man's release and to tell the official that when he wanted to arrest his employees he must apply to the American consul. For thus coming into his presence on such an errand the official had the second employee seized and bamboosed, himself leaving his desk and taking a free hand in the punishment.

For this disrespectful treatment of the American consular office and the evident insult to the American merchant Mr. Martin has demanded that the officer be brought back to Chinkiang, degraded, and made to apologize to Mr. Emery.

There seems to be at present a general antiforeign sentiment spreading among the common Chinese people and a growing tendency among the minor officials to disregard or treat with contumely the rights and authority of foreign merchants and consuls. This must not be permitted if foreign officials here are to preserve their influence and power.

I have so instructed Consul Martin, and to-day wired him to insist with the viceroy upon the execution of the demand he has already made upon the governor through the taotai, and confirmed the instruction in a dispatch, copy of which I inclose.

It is possible that Mr. Martin's action may be construed as hardly within the Department's instructions, and yet it may be reasonably considered a case of such urgency as to require immediate action.

For punishment of this character to be effective and to have the influence upon the public necessary or desired must be immediate.

The Department will observe from Mr. Martin's report that the taotai and the governor both acknowledge all the facts, and agree that, as a punishment, the official should be degraded, but desire to have it done at Soockow.

To be of any effect and to preserve American self-respect it should be done at Chinkiang.

I trust, therefore, that the action will be sustained by the Department.

I have, etc.,

E. H. CONGER.

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[Inclosure.]

*Mr. Conger to Mr. Martin.*

LEGATION OF THE UNITED STATES,  
*Pekin, China, December 20, 1899.*

SIR: I have to acknowledge receipt of your dispatch No. 71 of the 1st instant, reporting the case of Chang Chung-hsuan and Yu Kai-ping, and your action therein.

In demanding the degradation of the chief of police, his return to Chinkiang, and that an apology be made to Mr. Emery, etc., you have hardly kept strictly in mind the instruction to you from the Department of May 11, 1899.

But if there is no mistake in the facts as stated, and all the facts have been given, the case may be considered so urgent as to require immediate action.

At any rate, it is a flagrant violation of the practice which has grown up under our treaties, and such treatment of foreign merchants and consuls can not be permitted to pass by unnoticed.

Therefore I have wired you as on the overleaf herewith, and trust that you will make such a forceful yet respectful presentaton of the matter to the viceroy as will bring about a compliance with your demand.

I shall not present the matter to the tsungli yamen unless you inform me that you have finally failed with the viceroy.

I am taking it for granted that you are, as you should, transmitting to the Department of State everything in connection with the case.

I am, etc.,

E. H. CONGER.

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[Subinclosure.—Telegram sent.]

*Mr. Conger to Mr. Martin.*

PEKIN, December 20, 1899.

Insist with viceroy that Yang-Sze-Chen be returned to Chinkiang, as requested.

CONGER.

*Mr. Hay to Mr. Conger.*

No. 221.]

DEPARTMENT OF STATE,  
*Washington, January 8, 1900.*

SIR: I inclose herewith a copy of a dispatch from Mr. Martin, the United States consul at Chinkiang, reporting the unlawful punishment of Chinese employees of an American citizen in his consular district by a Chinese chief of police named Yang Sze Chên, and stating that he has acquainted you with the case.

Mr. Martin's appeal to the responsible authorities for the degradation and adequate punishment of the chief of police, whose unjustifiable action has brought discredit upon the good fame of Chinese authority, appears to be so reasonable and just that it is not supposed that any representations made by you to insure Fang's chastisement, and to cause such order to be given through the provincial viceroy as will cause the local authorities to recognize the receipt of the consul to intervene whenever charges may be laid against the dependents of an American merchant would be without proper effect. Indeed, it is thought probable that any suggestion you may make in the case will have been anticipated by the voluntary action of the Chinese Government in spontaneously reprobating the offense and visiting due penalty on the offender.

If this has not been done you will express your deep regret at being obliged to reopen the matter by making a formal request for simple justice.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Martin to Mr. Hill.*

No. 49.]

UNITED STATES CONSULAR SERVICE,  
*Chinkiang, November 18, 1899.*

SIR: I have to report that on October 23, 1899, Hon. E. H. Conger, United States minister to China, arrived at this port in the gunboat *Monocacy* on his tour of inspection. After spending some time in examining the manner in which the records of this consulate are kept and consular work done, I, at his request, started with him to visit Nankin and Wuhu, both treaty ports in this consular district, in which are many American missionaries.

Mr. R. Willis, Her British Majesty's consul here, kindly took charge of United States interests during my absence. While I was away from Chinkiang, as above stated, a Chinese chief of police at this port (who, though appointed here less than sixty days ago, had gained before I left a reputation for being intensely antiforeign), went into the "hong," or place of business, of Mr. D. A. Emery, a United States citizen, and took therefrom one of his shroffs and placed a cangue on his neck. When Mr. Emery was informed he sent another of his shroffs (or clerk), a man about 25 years old, with his Chinese card to request the release of the man arrested, and to inform the chief of police if he wanted any of his employees to get them through the United States consul. On hearing this message from a foreigner the chief of police ordered the messenger to be beaten with bamboos. So outrageous was the order, his underlings (known as runners) refused to do so. He himself then stepped out from his desk, ordered him forced on his knees and bent over, his trousers taken down, and across the back of his legs about 12 inches above the knees he flogged him for some time, then again ordered his runners to proceed, which they did until 1,300 blows were thus given, causing the blood to run from both legs, and, as the blows were continued within a radius of a few inches, it literally dug the flesh out, leaving two holes. He then ordered a cangue put on his neck, and after recovering from his faint forced him to march around the city, led by a chain.

No charge was or is preferred against this shroff; his sole crime seems to have been that he would dare come to his police station with a foreigner's message and card. His action caused so much excitement among the Chinese in the Chinese city that late in the evening a crowd estimated at about 2,000 gathered around the police station and threatened to pull it down. For a time a serious riot seemed imminent, and the danger was avoided only by the taotai of the city sending for the two men thus illegally detained and ill-treated, and turning them over to the prefect.

Mr. Willis, acting in United States interests, on hearing what had occurred sent Wan Bing Chung, our interpreter, to the taotai with his card to make inquiries. He returned to Mr. Willis and reported that the taotai was extremely vexed about the matter, and had already sent a telegram to the provincial judge at Soochow, who appointed this chief of police to his position.

This outrage caused almost an entire suspension of business in Chinkiang for two days, and has alarmed the foreigners of all nationalities along the river ports contiguous to Chinkiang.

On my return to the consulate I at once investigated the matter, finding it as above stated. Inclosures Nos. 355, 356, and 357 are copies of the dispatches sent by Mr. Willis to the taotai concerning the matter.

On Saturday, November 10, the next day after my return from Wuhu, I had it made known verbally to the taotai he had better come to the consulate. Monday, November 12, he appeared. On being questioned why he allowed this man Yang Sze Chên, chief of police, to escape from the city after his dismissal from office, he said this man was a man of rank, holding the metropolitan degree, and therefore could not be confined. Moreover, from a Chinese standpoint, he had committed no crime.

Question. Do you mean to say a Chinese official can take an innocent man charged with no crime and flog him almost to death, and not be amenable to punishment?

Answer. Only removal from office for being guilty of a miscarriage of justice.

Question. Do you mean to tell me a man holding a literary degree can not be confined or punished for crime?

Answer. Not until he is degraded by taking his degree from him.

Question. This, then, is your excuse for not fulfilling your promise to Consul Willis to keep him here until this matter is settled?

Answer. Yes.

He then said, "Consul, I have no excuse for this man doing as he has done. I will do all I can to help you in this matter; do not make it too hard for me. I went beyond my authority in dismissing him from office before I received permission, he having been appointed by the provincial judge."

Question. But on receipt of your telegram the judge ordered you to dismiss him, did he not?

Answer. Yes, and he ordered me to tell him to go to Soochow, where the case would be investigated.

I then informed him I had no desire to embarrass him; I only wanted justice done; but as this man could not be punished while holding a literary degree, and that he ignored all officials in Chinkiang, I must insist on his being returned to Chinkiang and his degree taken from him, thus degrading him and rendering it impossible for him to hold office again.

Answer. I will have him brought back.

Question. Who has authority to degrade him?

Answer. The governor of the province or the viceroy.

Then I informed him I would make the demand for his degradation to the viceroy. He then requested, for his own sake, to be permitted to telegraph my demand to the viceroy and governor, which he promised to do that day. That was five days ago. He has not been returned to Chinkiang yet.

I stated the matter verbally to Hon. E. H. Conger, United States minister, during the few minutes the gunboat *Monocacy* was coaling at this port before proceeding on his voyage to Shanghai.

I have, etc.,

WM. MARTIN, *Consul.*

[Subinclosure 1.]

*Mr. Willis to Mr. Taotai Chang.*

No. 355.]

CHINKIANG, November 7, 1899.

SIR: Yesterday I received a serious complaint from the United States merchant, D. A. Emery, stating that on the 5th instant (Sunday) the Chinese chief of police, Yang Sze Chên, at this port wanted to arrest one of his shroffs, Yang Kwei Sam, with-

out the usual authority of the United States consul. The arrest was made under the plea that this shroff enticed another man's wife away from her husband.

The chief of police, accompanied by several runners, went to the said merchant's hong and ordered the arrest of Yang Kwei Sam, who happened to be away, and another shroff named Chang Chung Hsuan spoke to the chief of police of Yang's absence and, without any cause, this man Chang Chung Hsuan was then and there arrested and forthwith taken to the Pau Chia station. Without listening to any reasoning a cangue was put on him with the order that he must produce Yang Kwei Sam. While this was proceeding, D. A. Emery sent his comradore's son, named Yu Kai Ping, and his office boy, with his card to tell the chief of police to release the shroff Chang Chung Hsuan and to remind him that if he wished to arrest any of his employees to apply for them in the usual way through the consul. However, as soon as the chief of police saw that a foreigner sent his men to ask for the release of Chang Chung Hsuan, he at once stepped down from the tribunal and himself bamboosed Yu Kai Ping 1,300 times, after which a cangue was placed on his neck, and he was taken out on the West gate street for exposure.

The office boy ran away, and so escaped punishment.

The action of the chief of police is entirely unwarranted, both as regards the manner of arrest and punishment meted out to the man arrested. Neither of these two men had been guilty of any crime, and even had they been, as they were in foreign employ they should not have been seized without my consent.

The chief of police has by this action shown himself to be absolutely unfitted for his position. I would accordingly request that you will at once order his immediate dismissal from office, and that you will see that he is not allowed to leave Chinkiang pending further investigation.

Mr. Consul Martin and the American minister, Mr. Conger, are expected here in a day or two, and I prefer to leave the ultimate settlement of this case in their hands.

I am, etc.,

R. WILLIS,  
*In charge of American interests.*

[Subinclosure.]

*Mr. Willis to Mr. Taotai Chang.*

No. 356.]

CHINKIANG, November 8, 1899.

SIR: With reference to the seizure and beating of shroffs Chang Chung Hsuan and Yu Kai Ping, belonging to United States merchant Emery's hong, it is reported to me by Mr. Emery that the shroff Yu Kai Ping has been so severely beaten that his life is endangered. This case is so serious that I must request you to at once arrest the Pao Chia Chü Yang Ssu Ch'en pending settlement of the case.

I am, etc.,

R. WILLIS,  
*In charge of American interests.*

[Subinclosure.]

*Mr. Willis to Taotai Chang.*

No. 357.]

CHINKIANG, November 9, 1899.

SIR: I have just heard with very great surprise that the Pao Chia Chü Yang Ssu Chen left this port last evening. His action was so outrageous that I laid considerable stress on the necessity for his detention here pending the settlement of the case. In my letters of the 7th and 8th instant I put this on record, and at our interview yesterday afternoon you informed me more than once that you were fully aware of the importance of keeping him here, and assured me that it was impossible for him to leave the port. It is certain that he could not have done so without the connivance of the officials, and I now write to inform you that I consider you to have been guilty of breach of faith toward me, and that I hold you personally responsible for his escape.

I am, etc.,

R. WILLIS,  
*In charge of American interests.*



*Mr. Hay to Mr. Conger.*

No. 230.]

DEPARTMENT OF STATE,

*Washington, February 10, 1900.*

SIR: Referring to instruction No. 221 of the 8th ultimo in relation to the unlawful punishment of Chinese employees of an American citizen in the consular district of Chinkiang by a Chinese chief of police, I inclose herewith for your further information a copy of a second dispatch from the United States consul at Chinkiang on the subject.

This dispatch appears to bear out the justice of instruction No. 221, wherein you were directed to obtain due reprobation of the offense and punishment of the offender.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Martin to Mr. Hill.*

No. 50.]

UNITED STATES CONSULAR SERVICE,

*Chinkiang, December 14, 1899.*

SIR: In despatch No. 49, dated November 18, 1899, I had the honor to report to you the case of a Chinese chief of police in this city taking a young Chinese accountant in the employ of D. A. Emery, an American merchant at this port, and flogging him with bamboos, giving him 1,300 blows.

I now send you herein a further report of the case together with the cause that led up to it, and also the governor's answer to my demands.

I have transmitted the case to Mr. E. H. Conger, United States minister at Peking, and requested him to press my demands for a reparation of insult by sending the chief of police here to Chinkiang, and degrading him from rank.

On November 20, 1899, the acting magistrate from the district of Yang-hu, by the name of Liu, who was formerly chief of police at this port, together with the acting magistrate of this district Tan-tu, and the taotai's foreign deputy called on me. Said Acting Magistrate Liu told me he had been sent as the representative of the governor of his province to inform me that the governor, desiring to fulfill the taotai's promise to me, had put this chief of police, Yang Sze Chen, on a boat to return him to Chinkiang, but he became so ill the governor ordered him (Liu) to proceed to Chinkiang and tell me of the fact, and to say he would comply with my request and degrade Yang Sze Chen at Soochow, as he was too ill to come to Chinkiang. My answer was, I did not believe in his illness, and to say to the governor that we would send a foreign doctor to see if he was ill. He did not regard it as necessary, and said he had simply reported what he was told to. I then informed him that I would give them until Wednesday, November 29, to send me an answer whether he would be returned to Chinkiang in the near future or not; that I had never seen the man. They, the officials, had allowed him to escape before I returned. Some of them were cognizant of his going and did nothing to prevent it. That the question was a very serious one. Here was a minor official who willfully, after warning by his Chinese friends, had bid defiance to the treaty entered into by the Chinese Government and the United States Government, and entered a foreign hong, took a man against whom there is absolutely no charge and put a cangue on his neck, simply because he could not get the man he wanted; and that when D. A. Emery, his employer, heard of it, and sent his office boy and clerk with his card to this police with the message, "This man works for me, release him; if you want any of my employees at any time, secure them through my consul," he no sooner receives the message than he orders his runners to beat the messenger (the other office boy then ran away, leaving this messenger alone). At first they refused. The chief of police then stepped out from his desk and beat him himself, afterwards making the runners continue until 1,300 blows were given to this young man, who was guilty of nothing but delivering his master's message, the only master he had ever worked for, and that in his office, ever since he was a small boy. The two officials of this city admitted what I said was true. The acting magistrate of this district, Tan-tu, then exclaimed, "I will go to Soochow and make a full report of the consul's statement to the governor."

Wednesday, the 29th of November, Taotai Ch'ang of this city, Liu acting magistrate of Yang-hu, and the taotai's deputy again called on me.

The taotai informed me the acting magistrate whom he sent to report my demand to the governor informed him the governor would degrade Yang Sze Chen at Soochow, but would not return him to Chinkiang, and urged me not to write to the Department about it, but simply inform the minister the case was settled.

My answer was he must be returned to Chinkiang and degraded. He can not be punished at all, you say, until he is degraded. Bring him here, degrade him, and let him apologize, and that would end the matter. He answered he was powerless to do it, and for two and one-half hours begged me to call it settled, as the flogged men had been returned to their homes with an escort, and that they did not consider the man, Yang Sze Chen, had committed a crime. This I firmly refused, and said I must transmit the case to you, and we would see if a small police officer could bid defiance to our treaty rights and be protected by his superiors; that they knew the case was just and lenient. I was asking for no indemnity, but simply punishment. Then, to my astonishment, on the morning of December 1, 1899, I received the following from Consul-General Goodnow:

*"Viceroy Liu to Consul-General Goodnow.*

*"NANKIN, November 27, 1899.*

"Re trouble in Chinkiang and Consul Martin.

"I am in receipt of your dispatch with a letter from St. John's College, thanking me for the loan of old rifles.

"Yesterday I received a telegram from the taotai of Chinkiang informing me about the case of an official, 'Yang,' in charge of the native police, and I find that this Mr. Yang cangued and bamboozed a person holding official rank, also a merchant, which was not the right thing to do, and for which he (Mr. Yang) desires to be blamed, and he will be dealt with according to Chinese law.

"Chang-cong-hman and Yu-Chih-ping being Chinese subjects, the local officials must deal justly with them and give them protection.

"An American merchant, Emery, for the sake of a little gain makes them out to be (or acknowledges them as) his employees, and induced Mr. Martin, the consul, to act as figurehead to recover damages, etc.

"Such proceedings will do injury to business, for which reason I informed you about this matter, and would ask you to request Consul Martin not to believe a one-sided story, and that this matter should be justly settled."

This statement of the viceroy is a tissue of errors. With "the man of rank" we have nothing to do. (By the way, he was a silk merchant.)

The two men we speak of were Chang-cong-hman, a shroff of D. A. Emery, whom he dragged away because he could not produce a man the police asked for, and the office accountant, Yu-chih-ping, who was flogged almost to death for bringing a foreigner's card and asking for the release of Chang-cong-hman. I have sent the above to our minister at Peking with the following:

"Mr. Conger, this is a clear, just case. All I have above said is the absolute facts, not denied to me by a single official here.

"This young man who was so unmercilessly flogged I have visited. His wounds I have seen. A doctor of the China Inland Mission Hospital attends him. Twenty-six days have elapsed since the flogging. While he is getting better, he is still unable to attend to business.

"It seems to me absolutely necessary for our standing here that the lenient demand I have made be complied with to the letter. That is, Yang Sze Chen be brought to Chinkiang, degraded, and thus rendered ineligible to hold office, and he be made to apologize to the master of the boy he whipped.

"I hope you will secure the fulfillment of this, my most urgent request.

"If Yang Sze Chen is not punished here at Chinkiang they will feel they can ignore my request or demand at will. Even if they degrade him at Soochow, it will be for bamboozing a man of rank, a case with which we have nothing to do, thus making it a Chinese case, so it will appear they ignored the foreign consul completely."

I have, etc.,

WM. MARTIN, *Consul.*

[Subinclosure 1.]

*Mr. Martin to Mr. Conger.*

CHINKIANG, December 4, 1899.

SIR: I have just received the following from the taotai of this city:

*"Chinkiang Customs Taotai Ch'ang to Hon. Wm. Martin, United States Consul.*

"SIR: In the matter of a communication regarding the Chinkiang chief of police, Yang's canging and beating the United States merchant's employees, Chang Chung Hsuan, and the other.

"I have the honor to inform you that I received a telegram from the provincial judge ordering Yang's return to Soochow. Then I telegraphed to him requesting Yang's return to Chinkiang in company with an officer, but he has not come.

"As you insisted that Yang must be returned to Chinkiang before any settlement of the matter can be talked of, I again deputed the Tan-tu magistrate, Mr. Wong, to proceed to Soochow to report this case to the governor and ask for instructions. I also complied with your request and reported the same to the governor. All these are recorded.

"I have now received instructions from the governor as follows:

"'Yang had gone beyond his authority in the canging and whipping case; his action was reckless, but those who were canged and beaten are Chinese subjects, and as a Chinese official erroneously punished them the matter should therefore be treated according to Chinese law.

"'As Yang is now in the capital (Soochow), it is not necessary to return him to Chinkiang. He can be degraded at the capital (Soochow) as at Chinkiang.

"'The governor will unite with the viceroy in memorializing upon the Throne for his degradation.

"'Trusting the consul might be forthwith informed,' I have the honor to transmit the above.

"The paragraph which says 'As you insisted on the return of Yang before any settlement of the matter can be talked of' is not correct.

"I told them to say to the governor I insisted on his return to Chinkiang, his degradation here, and his apology to the boy's master.

"The other paragraph, which says, 'Those who were canged and beaten are Chinese subjects, and as a Chinese official erroneously punished them the matter should therefore be treated according to Chinese law.'

"You see he absolutely ignores the insult of entering an American hong, and proposes to do so to the end.

"I have, etc.,

"WM. MARTIN, *Consul.*"

This dispatch, together with dispatch No. 49, constitutes a complete record of the case.

Respectfully, etc.,

WM. MARTIN.

*Mr. Hay to Mr. Conger.*

No. 237.]

DEPARTMENT OF STATE,

*February 26, 1900.*

SIR: I have received your No. 295 of December 20, 1899, relative to the cases of Chang Chung-hsuan and Yu Kai-ping, two employees of Mr. D. A. Emery, an American merchant at Chinkiang, who were arrested and punished without notice to the consul or a request to him to have them turned over to the Chinese officials.

Mr. Martin, the consul, presented the facts as you report them in his dispatches Nos. 49 and 50, of November 18 and December 14, 1899.

Copies of these dispatches were sent to you by instruction No. 221 of January 8, 1900. It instructed you, in case action in accordance with Mr. Martin's request had not already been taken by the Chinese Government, to demand adequate retribution of the offending official.

I have pleasure, therefore, in approving your telegram and instruc-

tion to Mr. Martin of December 20, 1899, in demanding the degradation of the chief of police, his return to Chinkiang, and that an apology be made to Mr. Emery.

I observe that it is your intention not to present the circumstance to the tsungli yamen unless Mr. Martin should report the failure of the viceroy to carry out his demand.

It is confidently hoped that before this instruction reaches you the regretted incident shall have been satisfactorily disposed of by the Chinese authorities, but in case it has not, the Department's instruction No. 221 will have given you plenary instructions in the premises.

I am, etc.,

JOHN HAY.

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**EXCLUSION LAWS. EXTENSION TO PHILIPPINE ISLANDS.<sup>1</sup>**

*Mr. Wu Ting-fang to Mr. Hay.*

No. 180.]

CHINESE LEGATION,  
Washington, May 7, 1900.

SIR: I have the honor to bring up again, by special instruction from my Government, the subject of extending the Chinese exclusion laws of the United States to the Philippine Islands for the consideration of your Government.

Minister Conger has undoubtedly informed the Department by this time that the tsungli yamen, in a note addressed to him, expresses the deep anxiety of the Chinese Government as to the steps to be taken by the United States in this direction, with the request that the same be communicated to the United States Government. A reply having been received by Minister Conger conveying the information that the Congress of the United States has not yet taken any legislative action in the matter, and suggesting that the views and wishes of the Chinese Government be laid before the Congress of the United States, the tsungli yamen has accordingly given me instructions to this effect.

As the views of my Government and the status of the immigration question affecting the Chinese as applied to the Philippines have been fully set forth in my correspondence with your Department on the subject, I will not here repeat them, but content myself with simply referring to them for your further consideration. It is the earnest wish and hope of my Government that this question be dealt with by the Government of the United States in a just, fair, and liberal spirit, having in view the continuance and enlargement of the existing friendly relations between the two countries. The Imperial Government feels that the reasons for the adoption of an exclusion policy by the United States respecting Chinese laborers do not hold good in the Philippines, but that on the contrary, even from the testimony of many American and European travelers and observers, the presence of Chinese is indispensable to the proper development of those islands.

I feel confident that if Congress be put in possession of all the information possible on the subject so as to enable it to consider the

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<sup>1</sup>See Foreign Relations, 1899, page 207, et seq.; also Senate Doc. No. 397, Fifty-sixth Congress, first session.

question in all its bearings, it will, in its unerring wisdom, enact such measures when the proper time comes as will be satisfactory to all concerned.

With this object in view I beg to request that you will kindly transmit to the Congress copies of my notes to your Department on this subject, viz, No. 122, of February 3, 1899; September 1, 1899; No. 148, of September 12, 1899; No. 152, of November 15, 1899, and a copy of this note.

Accept, etc.,

WU TING-FANG.

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*Mr. Hay to Mr. Wu Ting-fang.*

No. 141.]

DEPARTMENT OF STATE,  
*Washington, May 24, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 7th instant relative to the status of Chinese in the Philippine Islands, and to inform you that in accordance with the request which you therein make, a copy thereof as well as copies of your former notes of February 3, September 12, November 15, and December 14, 1889, on the same subject, have been communicated to Congress.

Accept, etc.,

JOHN HAY.

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**CONDOLENCES ON GALVESTON DISASTER.**

*Mr. Wu to Mr. Hill.*

CHINESE LEGATION,  
*Washington, September 18, 1900.*

SIR: I have honor, on behalf of the Imperial Government and people of China, to express to you, and through you to the Government and people of the United States, their deep sympathy occasioned by the dire calamity that has recently befallen the city of Galveston, Texas.

To this expression of sympathy I beg to add that of my own.

I avail, etc.,

WU TING-FANG.

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*Mr. Hill to Mr. Wu.*

No. 152.]

DEPARTMENT OF STATE,  
*Washington, September 20, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 18th instant, in which you expressed to the Government and people of the United States the deep sympathy of the Government and people of China on account of the recent disaster at Galveston.

Your note has been communicated to the President, who charges me to express his sincere appreciation of your Government's sympathetic message. In doing so, I beg to thank you also for your own expression of sympathy.

Accept, etc.

DAVID J. HILL,  
*Acting Secretary.*

## COLOMBIA.

### REQUEST OF COLOMBIAN GOVERNMENT THAT VESSELS OF INSURGENTS BE TREATED AS PIRATES.

*Señor Marquez to Mr. Hay.*

[Translation.]

LEGATION OF COLOMBIA,  
*Washington, July 25, 1900.*

MR. SECRETARY: The insurrectionary movement which broke out in Colombia and whose suppression is, fortunately for my country, near at hand, did not succeed, and has not succeeded in acquiring the status which would entitle the insurgent band to the recognition of belligerent rights on the part of my Government or any other. Indeed, neither has the movement been a general one, nor has it maintained a permanent army corps, nor has it secured supremacy except temporarily and intermittingly over a very slight portion of the territory which has just been finally occupied by the lawful authority; nor has it had command of any other kind of the moral and material conditions without which such recognition is impossible.

Although lacking said recognition as belligerents, the insurgents, after surrendering, have been treated with the benevolence of an inherently strong Government.

Yet, while such treatment has been accorded to the insurgents on land, it is not believed that it could justifiably be extended in the same manner to those who do or may operate at sea, committing serious offenses and acts of depredation on persons or property that have no connection whatever with the internal strifes of my country.

I therefore venture to repeat to the honorable Secretary that the insurgents of Colombia, being denied belligerent rights, have no right to arm vessels, to issue sea letters or wage maritime warfare, and that my Government does not authorize them to display the national flag, and that, in consequence, such vessels as they may have at their disposal are, according to the provisions of international law, subject to the same conditions as piratical vessels.

I have the honor to lay the foregoing statement before you for the reason that there are or may be some war vessels of the United States in Colombian waters, especially about the Isthmus, and that it may not be impossible that a case shall arise to which the provisions of the Navy Regulations of the United States may apply, under which vessels that are found navigating as vessels of war without holding the required commission as such must be treated as pirates.

It is not my purpose to request that ships of the American Navy should pursue, seize, or capture such vessels as may be held by the Colombian rebels, but only to point out that in their character of pirates they may be pursued, seized, or captured by any ship whatsoever and made to suffer all the consequences to which all technically piratical vessels are liable.

My Government has endeavored in every possible way to avoid the conflict that is presently being raised in the city of Panama; unfortunately, a few turbulent spirits on the Isthmus have received sufficient assistance from filibustering expeditions to enable them to make upon the garrison of said city an attack, which I feel confident will be severely punished.

With sentiments, etc.,

LUIS CUERVO MARQUEZ.

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*Mr. Hay to Señor Márquez.*

No. 27.]

DEPARTMENT OF STATE,

*Washington, August 1, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 25th ultimo, touching the right of the insurrectionary forces now at war with the Government of Colombia to recognition as belligerents, and in reply I beg to say that the present attitude of affairs in Colombia appears to render it unnecessary to discuss the claims and doctrines announced in your note further than to say that at no time has the status of the insurgent movement seemed to require this Government to examine into the question of any possible claim to belligerent rights on their part from the view point of international law and precedent.

As to your further claim, that the vessels controlled by the insurgent forces "are according to the provisions of international law, subject to the same conditions as piratical vessels," it does not appear necessary to enlarge upon the doctrine as enunciated, especially as it has heretofore been the occasion of extended correspondence between the two Governments. It will, I think, suffice to recall to your attention the note addressed by Mr. Secretary Bayard to your esteemed predecessor, Señor Becarra, under date of April 24, 1885, and especially to the following statement contained therein:

The Government of the United States can not regard as piratical vessels manned by parties in arms against the Government of the United States of Colombia, when such vessels are passing to and from ports held by such insurgents, or even when attacking ports in the possession of the National Government. In the late civil war, the United States at an early period of the struggle surrendered the position that those manning the Confederate cruisers were pirates under international law. The United States of Colombia can not, sooner or later, do otherwise than accept the same view. But, however this may be, no neutral power can acquiesce in the position now taken by the Colombian Government. Whatever be the demerits of the vessels in the power of the insurgents, or whatever may be the status of those manning them under the municipal law of Colombia, if they be brought by the act of the National Government within the operation of that law, there can be no question that such vessels, when engaged as above stated, are not, by the law of nations, pirates; nor can they be regarded as pirates by the United States. The status of purpose or of employment which the Government of Colombia seeks to create against such vessels by decreeing them to be pirates, is, of course, wholly distinct from their inherent status as floating property. On this latter point we are not as yet adequately informed. The commanders of the naval vessels of the United States on the Colombian coast have, however, been told that if conclusive proof be shown that any vessels belonging to citizens of the United States have been unlawfully taken from them, the recovery of such property by the owners, or by others acting in their behalf, to the end of its restoration to their legitimate control, is warrantable. Such a right is inherent, depending wholly upon the circumstances of the case, and can not be derived from or limited by any municipal decree of the Colombian Government like that which you now bring to my notice.

Accept, etc.

JOHN HAY.

## RECOGNITION OF NEW GOVERNMENT OF COLOMBIA.

*Mr. Hart to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,  
*Bogotá, August 5, 1900.*

(Mr. Hart reports that the Vice-President has taken possession, by a surprise, of the Government and installed a cabinet at Bogotá. The President is unaware of the movement. The Conservative party supports the Vice-President, the President being supported by the National party. The city is quiet.)

*Mr. Hart to Mr. Hay.*

No. 391.]

LEGATION OF THE UNITED STATES,  
*Bogotá, August 5, 1900.*

SIR: I have the honor to inform the Department that on the night of the 31st ultimo José Manuel Marroquin, Vice-President of the Republic of Columbia, being at the time in Bogotá, declared himself in the exercise of the executive power, named and installed a ministry, and, so far as this was possible, took possession of the Government. This act was made possible by first getting possession of the garrison in Bogotá; and this in turn was made possible by an understanding with the commanders. Such commanders as were not favorable to the movement were superseded by friends of Marroquin and held under strict surveillance while the necessary steps were being taken to get possession. There was no resistance whatever, and considering how the matter was accomplished none was reasonably to be expected.

In a manifesto issued on the 1st instant Mr. Marroquin gives as the reasons which moved him to take the step the inability of President Sanclemente to reside at the capital of the Republic and "to give the attention and consecration which the executive action demands in all countries, and especially in those ruled by a government purely presidential as Columbia is," and the call of public opinion which, for a long time, had asked for the reestablishment of the lawful normal condition. The Vice-President says also that he is reluctant to enter upon the exercise of the executive power, and does so for the good of the country. He declares that he desires to bring to a speedy end the bloody civil war which is dividing the country, and that he means to do this by his solemn promise to respect and cause to be respected the civil rights of all. If, however, his promise in this regard shall not bring about peace, he will prosecute the war with energy to put down the revolution. In conclusion, he calls on all Colombians who love their country to place themselves under the banner of constitutionality and legitimacy.

The first knowledge that President Sanclemente had of the coup d'état was when a Marroquin force arrived at Villeta, President Sanclemente's temporary residence, a day's journey from Bogotá, and made him prisoner, together with Rafael M. Palacio, his minister of government. The garrison at Villeta would have defended President



Sanclemente, but since the force sent against him was far superior to his own, President Sanclemente refused to have any bloodshed there. He was allowed to remain a prisoner in his house.

On the 3d instant President Sanclemente issued a protest to the nation, reciting what had happened, and commenting on the manifesto of Mr. Marroquin. In the protest President Sanclemente says he is authorized by the constitution and the law to reside outside the capital. He asks who had made Marroquin a judge in the matter. He says that Mr. Marroquin has violated the constitution which he had sworn to support. Speaking directly to his fellow-citizens, President Sanclemente says: "If your forefathers did not consent to be governed dictatorily by the great Bolivar, the liberator of five nations, will you consent to be so governed by Mr. Marroquin and by those who support so arbitrary an act? Will you regard with indifference that the legitimate government of the nation shall continue to be outraged? and will the army, which has given so many proofs of loyalty, so regard it?"

President Sanclemente's friends lost no time in sending couriers all over the country to advise their partisans of what had happened. Up to this moment there is no means of knowing the strength of either the Marroquin government or the Sanclemente government outside of Bogota and its near environments. There has been a general destruction of telegraph lines by the Liberal revolutionists, and where lines do exist, if they reach Bogota they are of course absolutely controlled by the Marroquin government.

I endeavored at once to advise the Department by telegraph of the coup d'état, and was told that there was no connection. To-day, however, a telegram to the Department, confirmed elsewhere, was accepted from me, with the promise to forward it at once, and with the explanation that it might suffer a delay of two or three days. At the same time I know that no friend of the Sanclemente government has been able to send or to receive a message by telegraph. \* \* \* The Nationalists say now that, as they had almost defeated the revolution, the Conservatives thought the time opportune to accomplish their end by a coup d'état. The Conservatives explain that the Liberal revolution was making headway, and that they took charge of the Government to save it from the Liberals.

At this writing the situation is very obscure and I am not able to predict its development. There has been no disturbance whatever in Bogotá; nor, so far as I am aware, has there been any collision anywhere between the forces of Sanclemente and the forces of Marroquin.

I am, etc.,

CHAS. BURDETT HART.

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*Mr. Hart to Mr. Hay.*

No. 395.]

LEGATION OF THE UNITED STATES,  
*Bogotá, August 15, 1900.*

SIR: Referring to my No. 391, of the 5th instant, I have the honor to report that there is no visible change in the situation. The Marroquin government continues to hold its own in Bogotá, but what progress, if any, it may be making in other parts of the country I have no means of knowing.

A report reaches here from the Cauca to the effect that Governor Sanclemente, nephew of the president of that name, has refused to give up to Mr. Marroquin's appointee the governorship of the department, that he has imprisoned the Marroquin appointee, and that he has 9,000 armed men ready to support the government of Sanclemente. I do not vouch for this statement, although I am assured that it has reached here by courier. It is said also that the Lower Magdalena River and the coast county adjacent thereto stand by President Sanclemente, whose friends in that region have arms, ammunition, and money.

Upon entering his office the minister of foreign affairs appointed by Vice-President Marroquin notified each member of the diplomatic corps of his appointment. At about the same time President Sanclemente's minister of foreign affairs gave notice to the diplomatic corps that the government which he represented was still in existence. President Sanclemente also sent to the diplomatic corps a copy of his protest. The diplomatic corps, after waiting for the situation to clear and seeing no change therein, sent its secretary to the house of the Marroquin minister of foreign affairs to say that his notes had been received, and that the diplomatic corps would await developments. The Marroquin minister of foreign affairs replied pleasantly that Vice-President Marroquin and himself understood and appreciated the situation. So this matter rests.

Meeting this minister of foreign affairs on the street, he joined me, and the matter of the change in government in Bogota was brought up by him. He desired to know whether the diplomatic corps had resolved to recognize his government. I replied that I could not speak for that body, but that so far as my own Government was concerned I thought it would take no action of any kind until it could determine which is the government de facto of Colombia. He asked me how long it would probably take to reach that conclusion. I answered that the conclusion would naturally depend upon circumstances and that of course I could not foretell how fast the situation would develop. The minister said that I would see very soon that there is but one government in Colombia, and that the government represented by Vice-President Marroquin. I answered that when that time came I had no doubt that my Government would see its course much more plainly than now. I know this gentleman very well, have always had very pleasant relations with him, and our conversation on this occasion was altogether of a friendly character. He is Dr. Carlos Martines Silva, lawyer, literary man, and politician, who has heretofore filled ministerial office.

Mr. Palacio, minister of government under President Sanclemente, has been brought here a prisoner. On the day of his arrival he was paraded up and down the principal streets, under guard, before being taken to prison. This was regarded as an act of needless cruelty and aroused the hostile criticism of men of all parties. It is now said that the officer who subjected Mr. Palacio to this treatment has been dismissed from the army and put in prison. Mr. Palacio has been released from confinement, but is held a prisoner within the city of Bogotá. Many of President Sanclemente's friends have been taken prisoners to keep them from conspiring against Vice-President Marroquin's government.

Liberals in Bogotá profess to have advices from the north bringing news of a Liberal victory in the department of Santander and the

advance of the Liberal forces into Boyaca. Basing their hopes on this alleged victory, Liberal partisans in Bogotá say that their armed friends will soon be here in force enough to make themselves masters of the situation. The Marroquin government denies the reported Liberal victory in the north and claims that the Liberals have been defeated there by the forces of General Pinzon. If this be true, it is difficult to say whose victory this is, for the last word received from General Pinzon was a telegram in which he said that he awaited further light on the situation before he could accept the Marroquin government. The Sanclemente followers expect General Pinzon to bring his forces to the support of the Sanclemente government.

I shall, of course, keep the Department advised of the situation to the best of my ability, but my opportunities to know satisfactorily and to communicate quickly and with certainty are not all that could be desired. The mail service continues to be suspended, and telegraphic communication is not always open and not always to be relied upon.

I am, etc.

CHAS. BURDETT HART.

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*Mr. Hart to Mr. Hay.*

No. 400.]

LEGATION OF THE UNITED STATES,  
*Bogotá, September 7, 1900.*

SIR: According to Government advices the revolution is practically at an end, having been quelled in its stronghold, the department of Santander; so that nothing remains but the guerrilla operations, chiefly confined to the department of the Tolima and to the extreme southern portion of the department of the Cauca. Many Liberals accept this Government statement as substantially correct, but others of the revolutionary party insist that their friends in Santander have not been routed, but for the more effective prosecution of the war have chosen to split up into bands of about 400 men each; that the revolution has great effective strength in the Tolima and in the southern portion of the Cauca; and, in short, that the revolution is certain to triumph.

The Government statement is supported by the fact that on the 4th instant Gen. Prospero Pinzon, commander of the Government forces in the department of Santander, entered this city with the greater part of his army, at the same time publishing a statement that the revolution in Santander was over, and that if it were not so he would have remained there to finish it. At the same time, among the prisoners brought in from Santander was Dr. Focion Soto, a man of very great importance in the revolutionary movement, and whose loss to the revolution must be seriously felt. Before the revolution Soto was living in exile in Maracaibo, Venezuela. In his hands had been accumulating the greater part of the fund destined for revolutionary purposes. \* \* \*

As between the President and Vice-President, every day seems to give strength to the Vice-President's government. So far as the public knows, and so far as I have been able to learn, the friends of the President have not been able to take any effective steps for his restoration to power, and, perhaps for this reason, many former adherents

of the President in Bogotá are outspoken in their support of the Vice-President's government. The Department will understand that in Bogotá we know very little of what is passing in other parts of the country, outside information being received largely through channels controlled by the Vice-President's government.

I am, etc.,

CHARLES BURDETT HART.

*Mr. Hill to Mr. Hart.*

[Telegram.—Paraphrase]

DEPARTMENT OF STATE,  
Washington, September 8, 1900.

(Mr. Hill directs Mr. Hart to notify the new Government of his readiness to enter into relations when it is in possession of the machinery of administration, is maintaining order, executing the laws of Colombia with the general assent of the people, and responsibly fulfilling international obligations.)

*Mr. Hill to Mr. Hart.*

No. 316.]

DEPARTMENT OF STATE,  
Washington, September 8, 1900.

SIR: I have received your dispatch reporting the occurrences of the night of July 31, when the Vice-President, Mr. Marroquin, assumed the executive power of Colombia and framed a cabinet.

At the time of your writing the situation was not sufficiently clear for you to pronounce upon the de facto status of the movement, and I am without advices from any other quarter since which would enable the formation of a judgment as to whether the claim of Señor Marroquin to be the Executive of Colombia is substantial. Under these circumstances the attitude of this Government, and of its representative in Bogotá, must be merely expectant until the ascertained facts shall appropriately determine the course of this Government in regard thereto.

The policy of the United States, announced and practiced upon occasion for more than a century, has been and is to refrain from acting upon conflicting claims to the de jure control of the executive power of a foreign state; but to base the recognition of a foreign government solely on its de facto ability to hold the reins of administrative power. When, by reason of revolution or other internal change not wrought by regular constitutional methods, a conflict of authority exists in another country whereby the titular government to which our representatives are accredited is reduced from power and authority, the rule of the United States is to defer recognition of another executive in its place until it shall appear that it is in possession of the machinery of the state, administering government with the assent of the people thereof and without substantial resistance to its authority, and that it is in a position to fulfill all the international obligations and responsibilities incumbent upon a sovereign state under treaties and international law. When its establishment upon such de

facto basis is ascertained, it is recognized by directing the United States representative formally to notify its proper minister of his readiness to enter into relations with it, and thereafter by the still more formal process of receiving and issuing new credentials for the respective diplomatic agents.

Pending such de facto entrance into relations, the agents of the United States have the right to demand of any local authority assuming to exercise power and control protection of American life and property from injury or damage and respect for all American rights secured by treaty and international law, and their so doing is to be held to be an act of necessity, without prejudice to the ulterior question of international relations as between one sovereign government and another, and equally without prejudice to our sovereign right to exact reparation from the responsible perpetrators of any wrong toward this Government, its citizens, and their interests.

Although the probability of interference with telegraphic communications in Colombia may delay your reception of a cabled message, I have embodied the essentials of this instruction in the following cipher message telegraphed to you this day:

When new government is in possession of machinery of administration, maintaining order, executing the laws in Colombia with general assent of the people, and responsibly fulfilling international obligations, you may notify readiness to enter into relations.

For your further information upon the subject-matter of this instruction I inclose a copy of a Senate document No. 40,<sup>1</sup> Fifty-fourth Congress, second session, being a "Memorandum on the method of 'recognition' of foreign governments and foreign states by the Government of the United States, 1789-1897," presented to the Senate by Mr. Hale.

I am, etc.,

DAVID J. HILL,  
*Acting Secretary.*

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*Mr. Hart to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,  
BOGOTÁ, *September 12, 1900.*

(Mr. Hart reports that it is probable the provisional government of the Vice-President will be sustained; and that the Government announces that the Liberal revolution is ended, only guerrillas remaining.)

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*Mr. Hart to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,  
BOGOTÁ, *September 17, 1900.*

(Mr. Hart reports having entered into diplomatic relations with the Government of the Vice-President; that the President has no government and no visible prospect of one, and that the guerrillas continue the Liberal revolution.)

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<sup>1</sup> Not printed.

*Mr. Hart to Mr. Hay.*

No. 407]

LEGATION OF THE UNITED STATES,  
Bogotá, September 18, 1900.

SIR: Referring to my telegram of the 17th instant, I have the honor to advise the Department that in the matter of the new government, headed by the Vice-President, I have thought it expedient to act with my colleagues in so far as was possible. The time having come when the government of the Vice-President had been in peaceful possession for a period of six weeks, so far as I could know in exercise of the functions of government in every part of the country, everywhere accepted in place of the government of the President, competent to discharge its international obligations, and the only entity capable of fulfilling these conditions, I gave notice to my colleagues of the diplomatic corps that I was prepared to enter into diplomatic relations with the existing government. The result was that on the 15th instant the German, British, Spanish, and French legations joined with me, each sending into the foreign office acknowledgment of the receipt of the minister's note, wherein we had been advised that the Vice-President of the Republic, having resumed charge of the executive power, had named him as minister for foreign affairs. On the same day I sent in other notes relating to pending business, and called at the foreign office to take up some of the most urgent.

The next day I called on the Vice-President, who expressed great satisfaction because of the step taken by the diplomatic corps, and said he was glad that the first call made upon him was by the representative of the Great Republic of the North; that he quite understood the delay in entering into relations with his government, and that it is his intention to give speedy dispatch to the business of the foreign office. \* \* \* The Papal delegate alone has not entered into relations with the government, explaining that he must await instructions from Rome.

From every point of view the coup d'état by which the Vice-President supplanted the President seems to have met with the greatest success. So far as I know the result has been accomplished without firing a shot, and the whole country seems to be looking forward to better conditions. The ministers named by the Vice-President are men of standing, whose appointment is universally well spoken of.

The Liberal revolution continues, according to the government, being confined to guerrilla warfare, and seems to be losing ground. Liberals in Bogotá are divided as to their manner of viewing the situation. Some regard the movement as hopelessly lost, while others insist that it will yet triumph.

I am, sir, etc.,

CHAS. BURDETT HART.

## DENMARK.

### EXPULSION OF MORMON MISSIONARIES.

*Mr. Swenson to Mr. Hay.*

No. 160.]

LEGATION OF THE UNITED STATES,  
*Copenhagen, March 29, 1900.*

SIR: I have the honor to transmit herewith copies of the correspondence in re Charles C. Rönnow and Thomas P. Jensen, Mormon missionaries, banished from Denmark. The case is in substance as follows: On the 1st of January, this year, the above-named missionaries, citizens of the United States, domiciled in the State of Utah, called at this legation and informed me that they had been ordered to leave the country at 11 o'clock the following morning. They related the circumstances connected with their banishment and asked me to intercede for them with the Danish authorities. Being satisfied from their representations that they had been given no opportunity to be heard in their own defense, I requested, through the foreign office, a suspension of the order, for the purpose of having the case carefully investigated. The desired extension of time having been granted, I formally laid the matter before the foreign office in a note dated January 9, 1900, inclosing the communications that I had received from the parties involved, in which Mr. Rönnow specifically denied having performed any kind of missionary work in Denmark, and in which Mr. Jensen, though pleading guilty to the charge of having labored as a Mormon missionary in this country, denied "having at any time taught anything against the good morals or the laws of the land." I requested that the case be thoroughly examined into, and that the decree of banishment be revoked should the facts be found to be as set forth in the petition, affidavits, and other documentary evidence transmitted with my note. I added that Mr. Jensen had assured me that he had not taught polygamy, which he alleged is no longer a tenet of Mormonism. I stated that as long as these missionaries did not preach or practice any doctrine violating law or morality my Government would accord them the same impartial protection that it does to other American citizens in defense of their just and lawful rights, and that it was incumbent upon me to ask that they be treated as other propagandists, and that no discrimination be shown against them for belonging to this particular sect. The foreign office forwarded my communication to the ministry of justice, with the recommendation that my request be acceded to. In reply, dated January 24, 1900, the minister of justice declined to revoke the decree of banishment, giving as his reasons that Mr. Rönnow, who had been in Denmark more than half a year and who had admitted that he has no other vocation than that of a missionary, had, in conjunction with Mr. Jensen, taken certain preliminary steps for the holding of public missionary meetings; that even if polygamy is no longer practiced in Utah,

after its admission as a State, it does not follow that it is no longer a constituent part of the Mormon creed, in which case the Danish Government must be considered justified in using the means at its disposal to combat the dissemination of this doctrine, even though the permissibility of polygamy be not openly taught; that it must be presumed that the tenets of Mormonism are still of such nature that its missionaries will continue to entice to emigration in a manner injurious to the Danish State, and that the banishment is in accordance with the previous practice of the Danish Government in dealing with this question. The minister also refers to the fact that on a number of former occasions, notably September 8, 1879, and August 24, 1881, the diplomatic representative of the United States has requested the Danish Government to adopt measures looking to the prevention of Mormon emigration from Denmark to the United States. Having been advised of this action on the part of the minister of justice, I addressed a second note to the ministry of foreign affairs, replying to the points raised by his colleague, and requesting that the case be reconsidered. In refutation of the allegations made touching polygamy and emigration, I inclose a copy of a statement signed by Andreas Petersen, president of the Scandinavian mission of the Mormon Church; Jacob Christensen, president of the Copenhagen Conference, and eight other Mormon missionaries in Copenhagen and other parts of Denmark, together with a clipping from the Deseret Semiweekly News, of Salt Lake City, Utah, containing a manifesto by Lorenzo Snow, president of the Church of Jesus Christ of Latter-Day Saints, under date of January 8, 1900. I further showed that the attitude of the United States Government toward Mormon missionaries has changed since 1879 and 1881, in proof whereof I inclosed a copy of a dispatch, with inclosure, from the Department of State to Mr. Risley, United States minister to Denmark, dated July 23, 1897.\*

Replying to my second note, the minister of justice says:

The additional information given by the American minister has not entirely removed the doubts expressed in my communication of the 24th ultimo with regard to the permissibility of polygamy being a constituent part of the Mormon creed; and as long as it is not established that the doctrine regarding the gathering of the saints no longer forms a constituent part of Mormonism, the ministry of justice must assume that the tenets of said religion of necessity will result in its missionaries encouraging emigration in a manner injurious to the Danish State, a suspicion fully confirmed by the emigration, which has continued up to the present time, via Copenhagen, to Utah of members of the Mormon Church.

The ministry of justice can not, therefore, revoke the decree of banishment.

In an interview which I had with the minister of justice, he regretted his inability to accede to my wishes in the matter, but said that, in view of the information contained in my second note, the Danish Government might hereafter change its policy in dealing with Mormon missionaries. He expressed a desire to be further enlightened on the points of polygamy and emigration. He also assured me that in case the parties banished should desire to visit the country in the future permission for that purpose would be granted them by the department of justice. Subsequently I secured permission for Mr. Jensen to remain in the country until April 12.

I will thank you to furnish me such additional information on the subject of protecting Mormon missionaries as the above report may suggest the desirability of.

I have, etc.,

L A U R I T S S . S W E N S O N .

\* For. Rels. 1897, p. 123.



[Inclosure 1.]

*Mr. Swenson to the minister of foreign affairs.*LEGATION OF THE UNITED STATES,  
*Copenhagen, January 9, 1900.*

EXCELLENCY: In the matter of the banishment from Denmark of Thomas P. Jensen and Charles C. Rönnow, missionaries of The Church of Jesus Christ of Latter-Day Saints, in whose interest I called on your excellency and on Director-General Kragh a few days ago, I now have the honor to submit their case formally for further consideration and action by the proper authorities.

From a copy of the decree of banishment of the proceedings before the police court at Rönne it appears that the above-named persons were ordered out of the country for laboring as Mormon missionaries. In requesting my intervention in their behalf Mr. Rönnow specifically denies having done any kind of missionary work in Denmark, and Mr. Jensen, though pleading guilty to the charge of having labored as a Mormon missionary, denies "having at any time taught anything against good morals or the laws of the land." As American citizens they apply to me for protection, and request that I take the necessary steps to have the decree of banishment revoked. I respectfully request that the case be thoroughly examined into, and that the decree in question be revoked if the facts are found to be as stated in the petition, affidavits, and other documentary evidence inclosed herewith.

The cases not being identical, I have this to add as to Mr. Jensen: He has represented to me that he has not preached polygamy, that no longer being a tenet of Mormonism. As long as he does not preach or practice any doctrine violating law or morality, my Government will accord him the same impartial protection that it does to other American citizens in defense of their just and lawful rights.

If these conditions have been complied with, it is incumbent on me to ask that these missionaries be treated like other propagandists, and that no discrimination be shown against them for belonging to this particular sect.

Be pleased to accept, etc.,

LAURITS S. SWENSON.

[Subinclosure 1.]

*Messrs. Jensen and Rönnow to Mr. Swenson.*COPENHAGEN, *January 4, 1900.*

DEAR SIR: We, the undersigned, Thomas P. Jensen and Charles C. Rönnow, citizens of the United States of America, have had an order of banishment from the Kingdom of Denmark served on us, though we have not been made acquainted with the nature of the "complaint" upon which said order has been issued; but assume from the order of banishment, which reads, "Mormon predikant og Amerikansk Borger, etc., udvist fra Landet," etc., that we are banished for the reason that we represent the doctrine of the Latter-Day Saints, commonly called "Mormons."

We deny having in any way broken the laws of the Kingdom; but on the contrary have always upheld and respected the laws of the land and conducted ourselves as gentlemen.

We admit Mr. Jensen has taught the gospel of Jesus Christ, but deny that he has ever at any time taught anything against "good morals" or the laws of the land, nor encouraged emigration to the United States or any other country, and, further, that Mr. Rönnow has not yet acquired sufficient knowledge of the Danish language to teach nor to do missionary work.

We herewith present affidavits from residents of Rönne certifying to the foregoing facts, and submit the same for your consideration, and pray for your assistance in having the order rescinded, and otherwise receiving the protection and consideration that we as American citizens are entitled to.

Trusting that this request will meet with your approval and kind consideration, we subscribe ourselves,

Your humble servants and fellow-citizens,

THOMAS PETER JENSEN.  
CHAS. C. RÖNNOW.

[Subinclosure 2.]

*Affidavit signed by citizens of Rönne, Bornholm, certifying that Thomas P. Jensen has taught no doctrine violating law or morality.*

We, the undersigned citizens of Rönne, Bornholm, hereby certify that we have personally known Thomas P. Jensen since April 15, 1899, during which time we have occasionally heard him preach in our homes and at private gatherings.

We have at no time heard him preach doctrines inconsistent with good morals, nor have we heard him preach polygamy or anything connected therewith. He has admonished all with whom he has come in contact to be virtuous, honest, and upright in their intercourse with one another; and he has himself shown a worthy example in this respect.

We further certify that he has, as far as we know, conducted himself as a Christian gentleman, and that he has in no way violated the laws of the land.

Rönne, Bornholm, December 22, 1899.

F. SVENDSEN, *Merchant.*

Having had special opportunity to become intimately acquainted with Thomas P. Jensen, I fully concur in the above.

Rönne, January 5, 1900.

C. V. HENRIKSEN, *Journeyman Turner.*

I have not, during the time I have known Thomas P. Jensen, heard an unfavorable report regarding him.

P. CHR. LUND, *Master Joiner.*

That there is nothing known to me about Merchant F. Svendsen or Master Joiner P. Chr. Lund that would impair the truthfulness of the above testimony is hereby attested.

OLIVARIUS.

JUSTICE COURT, RÖNNE, *January 6, 1900.*

*Affidavit signed by citizens of Rönne, Bornholm, certifying that Mr. Charles C. Rönnow has not labored as a Mormon missionary at that place.*

[Translation.]

We, the undersigned citizens of Rönne, Bornholm, hereby certify that Charles C. Rönnow, who has been visiting in Bornholm since November 5, 1899, has not during that time labored as a missionary of the Church of Jesus Christ of Latter-Day Saints, being unacquainted with the Danish language, and for that reason unable to preach the doctrines of the above sect.

We further certify that in our acquaintance with Mr. Rönnow we have found him in deed as well as in word to be a Christian gentleman, who in no way has violated the laws of the land.

Rönne, Bornholm, December 30, 1899.

Mr. Rönnow has not to my knowledge labored as a Mormon missionary in Bornholm. I furthermore have the impression that Mr. Rönnow is in every respect a cultured and respectable man.

Rönne, January 5, 1900.

F. SVENDSEN, *Merchant.*

Having become intimately acquainted with C. C. Rönnow, who a number of times has visited me at my home by invitation, I fully concur in the above.

Rönne, January 5, 1900.

C. V. HENRIKSEN, *Journeyman Turner.*

That there is nothing known to me about Consul C. F. Lund and Merchant F. Svendsen that would impair the truthfulness of their testimony is hereby attested.

OLIVARIUS.

JUSTICE COURT OF RÖNNE, *January 6, 1900.*

[Subinclosure 3—Translation.]

*Statement signed by citizens of Rönne, Bornholm, certifying that Mr. Thomas P. Jensen has taught no doctrine violating law or morality.*

We, the undersigned citizens of Rönne, Bornholm, hereby certify that we have personally known Thomas P. Jensen since April 15, 1899, during which time we have occasionally heard him preach in our homes and at private gatherings.

We have at no time heard him preach doctrines inconsistent with good morals, nor have we heard him preach polygamy or anything connected therewith. He has admonished all with whom he has come in contact to be virtuous, honest, and upright in their intercourse with one another; and he has himself shown a worthy example in this respect.

We further certify that he has, as far as we know, conducted himself as a Christian gentleman, and that he has in no way violated the laws of the land.

Rønne, Bornholm, December 22, 1899.

KRISTIAN TRITZE (not Mormon),  
*Slagtergade 7, Rønne.*

We, the undersigned, who are not members of the Church of Jesus Christ of Latter-Day Saints, can conscientiously certify to the above.  
Rønne, January 3, 1900.

CHRISTIAN VILHELM HENRIKSEN,  
*Journeyman Turner, Nørregade 28.*

KLARA HENRIKSEN (wife of above).

O. H. A. MÖLLER (not Mormon),  
*Green grocer, Klokkegade 1.*

ANDREA MÖLLER (wife of above).

H. K. HANSEN,  
*Driver of beer wagon, Bredgade 9.*

KARL ANDERSEN,  
*Stonecutter, Landemarket 21.*

KAROLINE ANDERSEN,  
*Landemarket 21.*

BENGTA ANDERSEN,  
*Lille Madsegade 100 B.*

JOHANNA KRISTINE ERTEL,  
*Larsegade 192.*

N. SVENSDEN (not Mormon),  
*Lille Madsegade 51.*

MARIE SVENSDEN (not Mormon),  
*Lille Madsegade 51.*

ADOLF MUNDT (not Mormon),  
*Otergade 50.*

CARL NILSEN (Lutheran),  
*Paradisgade 20.*

CHR. PEDERSEN (Lutheran),  
*Larsegade 25.*

MINA PEDERSEN (wife of above).

Though not having heard the above-named Mr. Jensen speak publicly, we have in private conversation with him gathered that the doctrines he preaches are in no way dangerous to society. He and the other Mormon missionaries that have visited this place during the last six years have, as far as we have known them, conducted themselves in a manner worthy of imitation.

Rønne, January 3, 1900.

F. SVENSDEN, *Merchant.*

OTTOMINE HANSEN (not Mormon),  
*Kapelstrade, Rønne.*

*Statement signed by citizens of Rønne, Bornholm, certifying that Mr. Rønnow has not labored as a Mormon missionary at that place.*

[Translation.]

We, the undersigned citizens of Rønne, Bornholm, hereby certify that Charles C. Rønnow, who has been visiting in Bornholm since November 5, 1899, has not during that time labored as a missionary of the Church of Jesus Christ of Latter-day Saints, being unacquainted with the Danish language, and for that reason unable to preach the doctrines of the above sect.

We further certify that in our acquaintance with Mr. Rønnow we have found him in deed as well as in word to be a Christian gentleman, who in no way has violated the laws of the land.

RÖNNE, BORNHOLM, *December 30, 1899.*

We, the undersigned, who are not members of the Church of Jesus Christ of Latter-day Saints, hereby certify that since his arrival on Bornholm, the 5th ultimo, Mr. Rönnow has, as far as we know, been a model of virtue and morality.

CHRISTIAN VILHELM HENRIKSEN,  
*Journeyman Turner, Nørregade 28.*

RÖNNE, *January 3, 1900.*

CLARA HENRIKSEN (wife of above).  
KARL ANDERSEN,  
*Stonecutter, Landemarket 21.*  
KAROLINE ANDERSEN (wife of above).  
M. O. H. A. MÖLLER (not Mormon),  
*Green Grocer, Klokkegade, No. 1.*  
ANDREA MÖLLER (wife of above).  
H. K. HANSEN,  
*Driver of Beer Wagon, Bredgade, No. 9.*  
KRISTIAN FRITZ,  
*Slagtergade 7.*  
BENGTA ANDERSEN,  
*Lille Madsegade 100, B.*  
N. SVENDSEN (not Mormon),  
*Lille Madsegade 51.*  
MARIE SVENDSEN (wife of above).  
JOHANNA KRISTINE ERTEL,  
*Laresgade 192.*  
ADOLPH MUNDA (not Mormon),  
*Otergade 50.*  
CARL NELSEN (Lutheran),  
*Paridesgade 20.*  
CHR. PEDERSEN (Lutheran),  
*Larsegade 25.*  
MINE PEDERSEN (wife of above).

Though not having heard the above-named Mr. Rönnow speak publicly, we have in private conversation with him gathered that the doctrines he preaches are in no way dangerous to society. He and the other Mormon missionaries that have visited this place during the last six years have, as far as we have known them, conducted themselves in a manner worthy of imitation.

Rönne, January 3, 1900.

F. SVENDSEN (merchant).  
OTTOMINE HANSEN (not Mormon),  
*Kapelstrade.*

[Inclosure 2.—Translation.]

*The minister of foreign affairs to Mr. Swenson.*

COPENHAGEN, *January 26, 1900.*

MR. MINISTER: Referring to the note which you were good enough to address to me on the 9th instant relative to Mr. Thomas P. Jensen and Mr. Charles C. Rönnow, Mormon missionaries, I have the honor to transmit herewith a copy of a letter from my colleague, the minister of justice. It appears that the decree of expulsion against the above persons is in conformity with the Danish laws and the practice heretofore followed in Denmark, and that His Majesty's Government regrets that it does not find sufficient reason for modifying this practice.

Be pleased to accept, etc.,

N. F. RAVN.

[Subinclosure. Translation.]

*The minister of justice to the minister of foreign affairs, January 24, 1900.*

In a communication of the 10th instant the ministry of foreign affairs transmitted a copy of a note from the minister of the United States at this place, dated the 9th instant, with reference to a written complaint which he had received January 4 from

Charles C. Rönnow and Thomas P. Jensen, United States citizens from the State of Utah, at present residing in Copenhagen, who, having labored in this country as missionaries of the Mormon religion, have been banished from the Kingdom, in accordance with a communication from the minister of justice dated the 21st ultimo, to the governor of the province of Bornholm, and by virtue of paragraph 13 of the law of May 15, 1875, respecting foreign travelers in this country, pursuant to paragraph 2, of which the above-named persons are forbidden to appear again in this country.

The minister of the United States requests that the case be investigated to the end that the decree of banishment may be revoked if the facts are found to be as set forth in the complaint referred to, which alleges that Mr. Rönnow has not labored in this country for the propagation of the Mormon faith, and that Mr. Jensen, who admits having performed such labor, denies having preached any doctrine in violation of morality or the laws of the land.

In addition, the minister has been assured by Mr. Jensen that he has not preached polygamy, that no longer being a tenet of Mormonism.

In referring the case to this department, the foreign office recommended that the minister's request be granted.

I beg to say in reply that inasmuch as Mr. Rönnow, who has been in this country more than half a year and who has no other vocation than that of missionary, has, in conjunction with Missionary Jensen, taken certain preliminary steps for the holding of public missionary meetings; that even if polygamy is no longer practiced in Utah, after its admission as a State, it does not necessarily follow that it is no longer a constituent part of the Mormon creed, in which case the Danish Government must be considered justified in using the means at its disposal to combat the dissemination of this doctrine, even though the permissibility of polygamy is not openly taught; that inasmuch as it must be presumed, at all events, that the tenets of Mormonism are still of such nature that its missionaries will continue to entice to emigration in a manner injurious to the Danish State; and that inasmuch as it is established that the above-named missionaries are citizens of the United States, therefore the banishment is in accordance with the previous practice of the Danish Government in dealing with this question; and the ministry does not find sufficient reason to change this precedent in deference to the representations made by the envoy of the United States.

In addition I beg to remind the ministry of foreign affairs that on a number of former occasions the diplomatic representative of the United States has requested the Danish Government to adopt measures looking to the prevention of Mormon emigration from this country to the United States. See in this connection the ministry of foreign affairs to the ministry of justice, September 8, 1879, and August 24, 1881.

HÖRRING.

[Inclosure 3.]

*Mr. Swenson to the ministry of foreign affairs.*

LEGATION OF THE UNITED STATES,  
*Copenhagen, January 29, 1900.*

EXCELLENCY: I have had the honor to receive your excellency's note of the 26th instant, inclosing a copy of a communication from your colleague, the minister of justice, in which he declines to revoke the decree of banishment against Thomas P. Jensen and Charles C. Rönnow. Though appreciating the force of his excellency's reasoning, I feel confident that additional information will give the subject an entirely different aspect, and with the view of securing a reconsideration of the matter I respectfully submit the following:

In reply to the point by the department of justice regarding polygamy and the encouragement of emigration to the United States, I beg to inclose herewith a copy of a statement signed by Andreas Petersen, president of the Scandinavian Mission of the Mormon Church; Jacob Christiansen, president of the Copenhagen Conference, and eight Mormon missionaries in Copenhagen and other parts of Denmark, together with a clipping from the Deseret Semiweekly News, of Salt Lake City, Utah, containing an official declaration by Lorenzo Snow, president of the Church of Jesus Christ of Latter-day Saints, under date of January 8, 1900.

Mr. Andreas Petersen has informed me that no money is solicited or collected in Denmark for the support of the Mormon Church or the maintenance of its missionaries in this country.

The minister's reference to my Government's action in 1879 and 1881 is not applicable to this case. The present attitude of the Government toward Mormon missionaries is indicated in a dispatch<sup>1</sup> from the Department of State to Mr. Risley, United States minister to Denmark, dated July 23, 1897, a copy of which is herewith inclosed.

The case therein referred to was not brought to the attention of the Danish Government, the banished persons having left the country before Mr. Risley's intervention was requested.

In the light of the above facts, I trust that your Government will revoke the decree of banishment against Thomas P. Jensen and Charles C. Rönnow. I beg to make grateful acknowledgment for your excellency's good offices in recommending favorable action on my previous request, and to assure you of my highest consideration and esteem.

LAURITS S. SWENSON.

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[Subinclosure 1.]

*Statement signed by Andreas Petersen and others.*

We, the undersigned, missionaries of the Church of Jesus Christ of Latter-Day Saints, hereby affirm that we have not been advised or instructed by the president of our Church, nor anyone else, to teach or encourage the practice of "plural marriage" or polygamy, nor to teach or encourage the emigration from Denmark or any other country to the United States; neither have we advised or instructed those who labor with us, or under our direction, to teach or encourage polygamy or emigration; but, to the contrary, we are instructed and do instruct those we labor with not to teach polygamy nor emigration, but to teach the people to live and abide by the "manifesto" issued by President Wilford Woodruff April, 1890, and approved by his successor, President Lorenzo Snow, and to teach them that they can live Christian lives in their own country as well as elsewhere.

And we further affirm that we have not taught the people any other doctrine than that contained in "Holy Writ."

Copenhagen, January 29, 1900.

ANDREAS PETERSEN,  
*President of the Scandinavian Mission.*

JACOB CHRISTENSEN,  
*President Copenhagen Conference.*

THOS. P. JENSEN.

OLAF JOHNSON.

C. J. PLOUMAN.

C. C. RÖNNOW.

A. J. NEILSON.

PETER HANSEN.

FREDRICK CHRISTENSEN.

ALBERT H. BERGMAN.

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[Subinclosure 2.]

*Polygamy and unlawful cohabitation.*

[Clipping from Deseret Semiweekly News.]

From the reading of the various editorials and articles of the public press it is evident that there is much misconstruction and misunderstanding as to the present attitude of our Church respecting the subjects of polygamy and unlawful cohabitation; and, believing that many good and conscientious people have been misled and much adverse criticism occasioned thereby, I feel it but just to both Mormons and non-Mormons to state that, in accordance with the manifesto of the president, Wilford Woodruff, dated September 25, 1890, the Church has positively abandoned the practice of polygamy or the solemnization of plural marriages in this and every other

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<sup>1</sup> Printed in Foreign Relations, 1897, p. 123.

State, and that no member or officer thereof has any authority whatever to perform a plural marriage or enter into such a relation.

Nor does the Church advise or encourage unlawful cohabitation on the part of any of its members. If, therefore, any member disobeys the law, either as to polygamy or unlawful cohabitation, he must bear his own burden, or, in other words, be answerable to the tribunals of the land for its own action pertaining thereto.

With a sincere desire that the position of our Church as to polygamy and unlawful cohabitation may be better understood, and with best wishes for the welfare and happiness of all, this statement is made, and is respectfully commended to the careful consideration of the public generally.

LORENZO SNOW,

*President of the Church of Jesus Christ of Latter-Day Saints.*

SALT LAKE CITY, *January 8, 1900.*

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[Inclosure 4.—Translation.]

*The Minister of Justice to the Minister of Foreign Affairs, February 19, 1900.*

In a communication dated the 24th ultimo, which was occasioned by a request from the United States minister at this place to the foreign office, touching the banishment from this country of the Mormon missionaries Charles C. Rönnow and Thomas P. Jensen, United States citizens from the State of Utah, the ministry of justice stated that it did not find sufficient reason for reversing its decision in the case in view of the representations made by the American minister.

In a communication of the 31st ultimo the ministry of foreign affairs recommends that the case be reconsidered, inclosing a copy of a note from the American minister dated the 29th ultimo, in which he renews his request for a revocation of the decree of banishment, inviting attention to the inclosed clipping from the Deseret Semi-weekly News, containing an official declaration by the president of the Mormon Church, dated the 8th ultimo; to a statement signed by Andreas Petersen, president of the Scandinavian mission of the Mormon Church, and by others; and to a dispatch from the Department of State to the former minister to Denmark.

In reply, I beg to say that the additional information given by the American minister has not entirely removed the doubts expressed in my note of the 24th ultimo with regard to the permissibility of polygamy being a constituent part of the Mormon creed, and that as long as it is not established that the doctrine regarding the gathering of the saints no longer forms a constituent part of Mormonism the ministry of justice must assume that the tenets of said religion of necessity will result in its missionaries encouraging emigration in a manner injurious to the Danish State, a suspicion fully confirmed by the emigration, which has continued up to the present time, via Copenhagen, to Utah of members of the Mormon Church.

The ministry of justice can not, therefore, revoke the decree of banishment.

HÖRRING.

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[Inclosure 5.]

*Mr. Swenson to the Minister of Foreign Affairs.*

LEGATION OF THE UNITED STATES,  
*Copenhagen, March 7, 1900.*

EXCELLENCY: Referring to your excellency's communication of the 28th ultimo, with inclosure, in regard to Thomas P. Jensen and Charles C. Rönnow, I have the honor to inclose herewith a copy of a letter from Mr. Jensen, in which he expresses a desire to be permitted to remain in the country until April 12, pledging himself not to "raise any agitation in favor of Mormonism" during that time.

I understand that he is staying with relatives in Jutland, and that he has planned to sail from Liverpool about the middle of April in company with a number of Mormon missionaries. I will thank you to bring his request to the attention of the minister of justice, to the end that the desired extension of time may be granted.

I avail myself, etc.,

LAURITS S. SWENSON

[Subinclosure.]

*Mr. Jensen to Mr. Swenson.*URBANSGADE 26, AALBORG, *March 5, 1900.*

DEAR SIR: As I am just informed that the order of banishment is to be carried out, I hasten to write you. I desire, if possible, to have the time for leaving Denmark postponed until April 12. Could this be done I would be much pleased to have it so arranged. If I am permitted to remain until that time I will then leave the country, and during the interval I promise not to raise any agitation in favor of Mormonism.

If the time can not be extended I hold myself ready to obey the order, and will be on hand whenever wanted. Thanking you for all favors,

I remain, very sincerely, yours,

THOMAS P. JENSEN.

[Inclosure 6.—Translation.]

*The Minister of Foreign Affairs to Mr. Swenson.*COPENHAGEN, *March 13, 1900.*

MR. MINISTER: In your note of the 7th instant you request my intervention for the purpose of obtaining for Mr. Thomas P. Jensen, a Mormon missionary against whom a decree of expulsion has been issued, permission to remain in Denmark until April 12.

In reply I have the honor to inform you that my colleague, the minister of justice, consents to Mr. Jensen's postponing his departure to the above date.

I avail myself, etc.,

N. F. RAVN.

[Inclosure 7.]

*Mr. Swenson to Mr. Jensen.*LEGATION OF THE UNITED STATES,  
*Copenhagen, March 14, 1900.*

SIR: The minister of foreign affairs advises me, under date of the 13th instant, that your request to be permitted to remain in Denmark until April 12 has been granted by the ministry of justice.

Respectfully, yours,

LAURITS S. SWENSON.

*Mr. Hay to Mr. Swenson.*

No. 95.]

DEPARTMENT OF STATE,  
*Washington, May 1, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 160, of March 29 last, reporting the action of the Danish Government in banishing two American citizens from Denmark on the ground that they are Mormon missionaries.

In reply I have to inform you that the Department fully approves your course in regard to the matter and has nothing to add to its instruction to Mr. Risley of July 23, 1897 (Foreign Relations 1897, p. 123), which shows the present attitude of this Government toward Mormon missionaries.

I am, etc.,

JOHN HAY.



**MILITARY SERVICE CASE OF FREDERICK ALBERT SUNDBERG.***Mr. Swenson to Mr. Hay.*

No. 169.]

LEGATION OF THE UNITED STATES,  
*Copenhagen, May 22, 1900.*

SIR: I have the honor to inclose herewith for your information copies of the correspondence between this legation and the Danish foreign office in re Frederick Albert Sundberg, a naturalized citizen of the United States, temporarily residing in Denmark.

My note to the foreign office, a copy of which is herewith inclosed, gives a full statement of the case. In complying with my request to strike Mr. Sundberg's name from the conscription rolls the minister of justice construes the provisions of the treaty of 1872, Article III, in harmony with the interpretation of the Department of State, which has always held that "more than two years' 'residence' is not to be considered as prima facie and conclusive evidence of nonintention to return, but only as presumptive evidence open to rebuttal."

Heretofore the Danish Government has acceded to similar requests on the part of our diplomatic representatives at this court out of courtesy, without reference to treaty stipulations. This is the first time that the Danish Government has given recognition to our construction of the above treaty on the subject of naturalization.

I have, etc.,

LAURITS S. SWENSON.

[Inclosure 1.]

*Mr. Swenson to the Minister of Foreign Affairs.*

No. 68.]

LEGATION OF THE UNITED STATES,  
*Copenhagen, February 17, 1900.*

EXCELLENCY: Mr. Frederick Albert Sundberg, a naturalized citizen of the United States, and the bearer of passport No. 23, issued by this legation under date of the 17th instant, has been cited to appear at the recruiting office in this city for the purpose of enrolling his name on the conscription lists. Mr. Sundberg was born in Copenhagen December 22, 1871. At the age of 16 he emigrated to the United States, of which he became a naturalized citizen in 1893. In June of the same year he accompanied to Copenhagen a sick brother, who had resided in New York City, returning thither in September. The following year he was taken sick, and on the advice of his physician went to Europe, spending a year and a half in Helsingborg and Malmo, Sweden. March 4, 1896, he came to Copenhagen, where he has since resided, being employed as a cutter in a tailoring establishment. He states that his residence here is only temporary; that it has always been his intention to return to the United States to take up his permanent residence and perform the duties of citizenship there, and that family considerations and the state of his health have protracted his stay in Denmark beyond his original intentions. From the above, as well as from statements made to me by Mr. Sundberg's employers, and from a careful examination into the circumstances surrounding the case, I am satisfied that his representations are made in good faith, and in consequence I have issued to him a passport in accordance with the established practice of my Government in such cases. 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 service.

I avail, etc.,

LAURITS S. SWENSON.

[Inclosure 2.—Translation.]

*The Minister of Foreign Affairs to Mr. Swenson.*COPENHAGEN, *May 21, 1900.*

Mr. MINISTER: Referring to your note of February 17 last, in which you requested that the name of Frederick Albert Sundberg, a naturalized citizen of the United States, be stricken from the military conscription rolls, I have to inform you that in the absence of sufficient reason for supposing that Mr. Sundberg has abandoned his intention to return to America, my colleague, the minister of justice, has, in accordance with article 3 of the convention concluded between Denmark and the United States July 20, 1872, ordered his name stricken from the rolls for the present.

I avail, etc., for the minister,

R. KRAG.

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*Mr. Hay to Mr. Swenson.*

No. 99.]

DEPARTMENT OF STATE,  
*Washington, June 5, 1900.*

SIR: Your No. 169 of the 22d ultimo has been received, and your course in obtaining the removal of the name of F. A. Sundberg, a naturalized citizen of the United States, from the conscription rolls of the Danish Government has the Department's approval.

I am, etc.,

JOHN HAY.

# DOMINICAN REPUBLIC.

## RECOGNITION OF NEW GOVERNMENT.

*Mr. Powell to Mr. Hay.*

No. 181.]

LEGATION OF THE UNITED STATES,  
*Santo Domingo City, January 17, 1900.*

SIR: I have the honor to report the result of an interview held with the minister of foreign relations, Mr. J. D. Henriquez y Carvajal, to-day, and also copies of letters referring to the same.

I have, etc.,

W. F. POWELL.

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[Inclosure 1.—Translation.]

*Mr. Henriquez y Carvajal to Mr. Powell.*

SANTO DOMINGO, *November 17, 1899.*

MR. MINISTER: The undersigned has the honor to inform you that Messrs. Don Juan Isidoro Jimenez and General Don Horacio Vasquez have been designated by the majority of the Dominican people for the performance of the high functions of President and Vice-President of the Republic during the administrative period ending February 27, 1904, and they were inaugurated on the 15th of the present month before the National Congress.

In compliance with the constitution, the President the same day appointed the following as his cabinet: Secretary of interior and police, Gen. Luis M. Hernandez Brea; secretary of foreign relations, Dr. Francisco Henriquez y Carvajal; secretary of justice and public instruction, Dr. Alvaro Logroño; secretary of fomento and public works, Mr. Francisco Leonte Vasquez; secretary of the treasury, Mr. F. Augusto Gonzalez; secretary of war and navy, Gen. Joseph Branche; secretary of post-office and telegraphs, Mr. Eugenio Deschamp.

The undersigned is pleased also to assure you that the present chief of state comes animated with the desire of strengthening each day the cordial relations of friendship that happily exist between this Republic and the nation so honorably represented by you.

With assurances, etc.,

HENRIQUEZ Y CARVAJAL.

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[Inclosure 2.]

*Mr. Powell to Mr. Henriquez y Carvajal.*

SANTO DOMINGO CITY, *January 15, 1900.*

SIR: Having arrived in your city to-day I will be glad if you will name such time that I may have the pleasure of paying my respects to you.

Accept, etc.,

W. F. POWELL.

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[Inclosure 3.—Translation.]

*Mr. Henriquez y Carvajal to Mr. Powell.*

SANTO DOMINGO, *January 16, 1900.*

MR. MINISTER: I have the honor to advise you that the secretary of state has received your attentive letter dated the 15th of the present month, in which you ask to designate the hour that you could be received.

I am pleased to communicate to you that I will have the honor to receive you to-morrow at the hour of 10 a. m. in the salons of the national palace.

I am gratified, etc.,

HENRIQUEZ Y CARVAJAL.

[Inclosure 4.]

*Address of Mr. Powell.*

MR. SECRETARY: Prior to my departure for the capital of your Republic I received a communication from you informing me of the election of Mr. Juan I. Jimenez to the Presidency of your Republic, and that of Mr. Horacio Vasquez to the Vice-Presidency, by a majority of the legislative assembly of your Republic, and that these gentlemen having taken the oath of office had each entered upon the functions of the same.

I am glad to have the pleasure, in behalf of the President of the United States, Mr. William McKinley, to congratulate His Excellency Mr. Jimenez, through yourself, of being the choice of the people of your Republic for this high and responsible position.

I trust that the cordial relations that have existed for so long a time between our respective countries will continue to exist, and be strengthened as time rolls on.

I can assure you, sir, on the part of the President, Mr. McKinley, and of the citizens of my country, of the warm feeling that exists toward the people of this Republic, and the desire on the part of one and all to see your avenues of commerce opened, your roadsteads filled with ships freighted with the rich products of your Republic. It may appear selfish on my part, sir, in making this statement to you, but I trust this prosperity may come through that close alliance with the merchants and manufacturers of the country I have the honor to represent.

I trust, Mr. Minister, that the questions that I may be called to discuss with you may be so arranged, so adjusted, that no friction will be felt on either side, and that the agreements made will be satisfactory to each.

I shall endeavor to strengthen those ties of friendship, that bond of intercourse, the foundation of which was laid by the many honorable ministers that have preceded me, during the time I have the honor to represent my country at the capital of your Republic.

Finally, allow me to wish you abundant success in the many delicate tasks that will confront you during the time you will be called to fill this responsible office.

I will be pleased, Mr. Minister, to pay my respects to His Excellency the President at such time it will be his pleasure to receive me. I will be glad if you will arrange such an audience.

[Inclosure.]

*Response of secretary of foreign relations.*

MR. CHARGÉ D'AFFAIRES: Your very kind words touch me deeply; it is the wish of His Excellency the President, Mr. Jimenez, that the cordial feelings stated by yourself as existing in your country, the United States, toward this Republic shall continue; we trust that the bonds of friendship may become stronger and stronger yearly.

We look upon the great country you represent as the one to whom we may appeal in time of need for succor and assistance. We trust also that the prosperity that exists in your country will attend us, and that our products may continue to reach your markets in the future as they have in the past. We assure you, sir, that we will ever welcome to our shores your people.

In regard to the questions that we will have to discuss, I trust that they may be amicably adjusted, and, as stated by you, without that friction that leaves uneasy feelings that full justice has not been rendered us.

Thanks for your kind words addressed to me personally; in return allow me to wish you a pleasant sojourn in our country for a long time, and that during your stay with us you will enjoy the blessings of health.

In regard to your request for an interview with the President I shall be glad to arrange such an audience for you with His Excellency Mr. Jimenez.

*Mr. Powell to Mr. Hay.*

No. 182.]

LEGATION OF THE UNITED STATES,  
*Santo Domingo City, January 18, 1900.*

SIR: I respectfully, under this cover, give the result of an interview held with the President, Mr. J. Jimenez, this morning.

After stating to him that in behalf of the President, Mr. McKinley, I congratulated him upon being called by the citizens of his Republic to the responsible position as the Chief Executive of this nation, and trusted under his wise and liberal policy the greatest prosperity to his country would be attained in all that pertained to the welfare of this Republic, and that our citizens were equally interested in their prosperity; that during the time I had the honor to represent my country at his capital I would be glad to assist in spreading that cement that united different nations and makes of them one family; that I also hoped the cordial feelings that had existed in the past between our respective countries would continue to exist and be strengthened, bringing each nation closer and closer to the other; that I would assure him of the wish of the President, Mr. McKinley, that they would look upon the people of the United States as being their warmest friends, standing ever ready to assist them.

The President in reply stated he desired to have the friendly feeling of the people of the United States, in which country he had lived many years, and had been a close observer of the manner and customs of its rulers and people, and trusted, in the exercise of his duties as the President of this Republic, to profit and put in force the results of his observations; that he had been unanimously the choice of the people of the Republic, making itself manifested in the Legislative Assembly; that it was his intention to govern the country according to its constitution and its enacted laws, unlike that of General Heureaux, through fear; that he would like to have the confidence of our citizens; that injurious reports had been circulated in the United States and sent to the President, Mr. McKinley, in reference to the bad faith of the Dominican people, in order to create a bad impression, but that it should be his aim to bring about a better state of affairs.

It was his intention that the foreign creditors should be paid as soon as possible, especially the American creditors.

He spoke of the misrule in the Santo Domingo Improvement Company and the desire of the people of the Republic to cancel the concession given them; that for years they had not lived up to the contract made with the Government, and that they were the ones that were spreading the injurious reports in the United States in regard to the Dominican people; finally, they had happily adjusted during the past week the troubles they had had with France, and that the economic (financial) question was still in an acute stage.

In reply to the statements made by him, I hoped within a few days to arrange with the minister of foreign affairs the payment of certain claims now due to American citizens, and that I trusted they would immediately meet the same.

In regard to the Santo Domingo Improvement Company, I could not discuss an abridgment of their contract or of the concession granted them, but I would send any grievance or complaint that they might make in writing to me to the President through the Department of State. Further than this I was powerless to act, and requested to be excused in speaking further upon this subject.

I congratulated him upon the amicable adjustment of the French difficulties. After some further conversation, which was merely a repetition of the President's intended policy, I took my leave.

I have, etc.,

W. F. POWELL.

*Mr. Powell to Mr. Hay.*

No. 200.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, February 9, 1900.*

SIR: Prior to my departure from Santo Domingo City I called upon President Jimenez and conveyed to him the congratulations of the President, Mr. McKinley, and of the Government of the United States upon his being called to assume the duties incumbent upon the President of that Republic, in accordance with instructions received by cable. I also stated in a few words that it was the wish of the President, Mr. McKinley, and of our Government that the warm relations that had existed in the past would be strengthened in the future during the time he held this important office, and that it was the hope of the President that within the near future a new era of prosperity would dawn upon the Republic, bringing happiness to all classes of its citizens.

The President, Mr. Jimenez, requested that I would convey to the President, Mr. McKinley, his warmest thanks for the kindly sentiments that had been extended to him by the President and the Government of the United States; that he had a high regard for his positive character, for the marked justice that he exhibited on all occasions, for the great prosperity that pervaded all business throughout the United States since his advent into the office of President; that it would be his constant care to cultivate the closest relations with his great sister Republic; that he proposed in a very short time to send his minister of foreign relations, Mr. Carvajal, on a special mission to the United States to the President, Mr. McKinley; that the Government felt itself strong now; that there was no censorship of the press of the country; that it could express its opinions freely and was free to criticise the Government on all public measures without fear, nor was there a constant espionage on the citizens of the Republic; that the spies of the Government were not present to narrate or bring every word uttered, and none need now feel the fear of imprisonment or death for criticising the policy of the Government. Concluding, he again desired me to convey to the President, Mr. McKinley, his high regard, and wished that the future prosperity of the United States would overshadow the prosperity of the past.

I have, etc.

W. F. POWELL.

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*Mr. Hay to Mr. Powell.*

No. 101.]

DEPARTMENT OF STATE,  
*Washington, March 5, 1900.*

SIR: I have to acknowledge the receipt of your No. 200, of the 9th ultimo, reporting your visit to the President of the Dominican Republic, during which you conveyed to him the congratulations of the President and Government of the United States.

Your course is approved, and the Department appreciates the friendly assurances you received from the President.

I am, etc.,

JOHN HAY.

## FRANCE.

### CONSULAR IMMUNITIES—VIOLATION OF DWELLING (AT ARCA- CHON) OF CONSUL AT BORDEAUX BY FRENCH OFFICIALS.

*Mr. Adee to Mr. Porter.*

No. 656.]

DEPARTMENT OF STATE,  
*Washington, August 9, 1899.*

SIR: I inclose for your information copy of papers, as indicated below, relative to the violation of the consular dwelling of Mr. Albion W. Tourgée, at Arcachon, in the district of Bordeaux, which, it is understood, has been informally brought to your attention.

You will observe that Consul Tourgée represents that last winter, under the advice of his physician, he decided to take hydropathic treatment at Arcachon, which is on the seashore, 30 miles from Bordeaux, but within his consular district. The medicated baths being the most important part of this treatment, it was necessary to secure a house with a bathroom. One was found, and a customary memorandum, which constitutes only a verbal lease, was exchanged in duplicate, and the rent for four months paid in advance. The agent who had charge of the renting was asked if there were any reservations, and replied that there were none except a detached wine cellar in a corner of the ground. Upon moving in, December 1 last, it was found that the door of the bathroom was locked. On being requested to deliver the key the proprietor refused to do so. The French law, Mr. Tourgée says, not permitting an action to compel specific performance on the part of the landlord, there was nothing to be done but to surrender the villa and sue for damages, or dispense with a part of the treatment and refuse to pay the second installment of rent when due. He chose the latter alternative, and so informed the landlord. The landlord, in April last, instituted proceedings to recover this installment of the rent, in the course of which he procured the issuance from the tribunal civil of Bordeaux of a "writ of search and seizure," which authorized the seizure of the furniture and movable goods belonging to Mr. Tourgée in the house occupied by him at Arcachon. Mr. Tourgée refused to permit the writ to be executed, whereupon a bailiff, with the assistance of a commissary of police, forcibly entered the consul's dwelling, the latter protesting and stating that he was consul and his dwelling inviolable. They searched the place, but, as they said, finding his effects of insufficient value to pay the rent and defray expenses, did not seize the same.

Mr. Tourgée states that the commissary, while endeavoring to enter the house, said, "I don't concern myself with conventions, consuls, or flags; I have the court's order; that is enough." And that the bailiff, pointing at the American flag hanging over the door, said, "We do not respect that flag." Mr. Tourgée also states that both he and his

daughter were forcibly pushed out of the way by the officers who entered the house.

As indicating the aggravated character of the violation of the consular dwelling, it is further stated by the consul that, "owing to the fact that my subordinate officer in the consulate is not familiar with the laws and customs of the United States essential to the administration of consular affairs, I have been compelled during my long illness to perform a large part of the work of the consulate at my residence in Arcachon. All the mail is forwarded here without being opened. The consular seal is here in my possession, and all except the mere routine work of the consulate is here performed by me and by clerks under my control. This is not only my personal residence, but the one where my official duties are transacted also."

On the same day that the writ was served Mr. Tourgée sent an official protest against the violation of his dwelling to the commissary of police, to which the latter has never replied: He also filed with the préfet of the department a detailed statement of the facts and a formal protest, and, as he then thought the issuance of the writ a mere inadvertence on the part of the judge who had signed it, suggesting that the judge should certify that it was an oversight to issue such a writ on account of the provisions of the treaty, and that the commissary and bailiff should be reprovved for excess of zeal. The préfet personally acknowledged the receipt of the papers and avowed himself in no respect responsible for the action of the judicial officers. At his instance the consul next addressed the tribunal civil of Bordeaux, stating the facts and protesting that the issuing of such a writ was a judicial violation of the treaty. M. Calvé, the president, in reply, admitted the illegality of the writ, but referred the consul to the vice-president of the tribunal, who issued the writ, and who alone, he said, could act with propriety upon the question of its disavowal. He added that the complainant's attorney had just placed in his hand a letter from the complainant expressing his willingness to have the writ declared void. (Mr. Tourgée says the fact was that the complainant, being advised that he had no hope of recovery, had filed a retraits; in other words, consented to a dismissal at his own cost.)

In accordance with M. Calvé's suggestion, the consul next addressed himself to M. Lasserre, the vice-president. This magistrate, after ten days, replied, neither admitting nor denying anything, but merely stating that it would be necessary for the consul to make a complaint to the procureur of the Republic for the department with regard to the conduct of the commissary and bailiff. The consul, considering this an effort to shift the responsibility on the mere ministerial agents, replied, stating that he had no personal complaint to make against these officers, but that he contended that the writ was issued in violation of treaty, and he suggested that the act of the judge should be officially disavowed.

The consul states that he was approached by a party, who professed to represent the préfet, with a proposition that if he would waive a written disavowal by the judge and a written reprimand to the officials, the préfet would arrange that the commissary and bailiff should come in uniform and apologize for what they had done. Mr. Tourgée, however, insisted upon a written disclaimer of the right to issue a writ, as well as a written reprimand to those executing it.

Subsequently, on June 15, the consul received a letter from the



prefêt, saying that the procureur of the Republic had made an investigation and decided that neither the commissary nor the bailiff, on the occasion of the invasion of the consul's dwelling, had used any word disrespectful to the flag of the United States or had examined the papers deposited in his dwelling. This the consul characterizes as an attempt to avoid the real issue. He accordingly made answer covering the whole matter and stating that he would report the case to his Government.

The convention of February 23, 1853, between the United States and France, relative to consular privileges, besides granting to consular officers the privileges usually accorded to their offices, "such as personal immunity except in case of crime," etc., contains the following special provisions:

"They may place on the outer door of their offices or of their dwelling houses the arms of their nation \* \* \* ; and they shall be allowed to hoist the flag of their country thereon." (Art. 2.)

"The consular offices *and dwellings* shall be inviolable. The local authorities shall not invade them under any pretext. In no case shall they examine or seize the papers there deposited." (Art. 3.)

A perusal of the "writ of search and seizure" and the "return" made thereon, copies of which are inclosed with the consul's dispatch, plainly shows that there has been a violation of the treaty in this case. Mr. Tourgée's letters of April 11 and June 30, 1899, to the prefêt (inclosures C and I of his dispatch) clearly and forcibly set forth the salient points. The case seems to the Department to be one calling for diplomatic remonstrance. You are accordingly instructed to bring the case to the attention of the French Government and to ask for a compliance with the reasonable request of Mr. Tourgée, that the acts of the judicial authorities in this case be disavowed and the responsible officials properly punished.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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[Inclosure.]

*Mr. Tourgée to Mr. Hay.*

UNITED STATES CONSULATE,  
*Bordeaux, France, July 3, 1899.*

SIR: I have the honor to report a violation of the treaty of 1853 between the United States and France, which the local authorities for more than two months have neglected to excuse or disavow.

Before stating the circumstances I beg to call attention to some of the provisions of this treaty, which seem to be quite exceptional, especially in its provisions regarding the rights and immunities of consuls in the two countries. It differs from all other French treaties, so far as I can learn, in specifically providing for the same immunity for the "dwelling" or "dwelling-house" of the consul as for the consular offices. There seems to be an inclination on the part of the French authorities either to ignore these provisions or to regard the immunities of the American consul as identical with those of other countries. I had heard of difficulties at this and neighboring consulates, resulting from attempts of the local authorities to exercise control over consular

dwellings, either by seeking to quarter troops or to exercise the right of search and seizure therein, but I had had no difference with the local authorities whatever, up to this time, beyond some natural divergence of opinion in regard to jurisdiction of the estate of a decedent American citizen.

At first, I had no doubt that the matter would be amicably adjusted so that I might report it rather as an unintended accident than a deliberate violation of treaty stipulations. I steadily refused, however, to discuss the matter except in writing, even after the ambassador at Paris, approving my action which I reported to him, directed me to continue my efforts in this direction. This I did, not only to guard against possible misconception, but also because I deemed it not proper for one holding a mere consular position to assume the relation to an international question vested only in those having plenipotential powers. The matter has long ceased to be of personal concern to me. The man who was at the bottom of the official demonstration against me has withdrawn his claim and accepted the terms I had offered for adjustment of our differences. Indeed, I was at all times willing to submit the matter to the adjudication of any court. I have not one sou of personal interest in the matter and my only contention is that the action was a deliberate violation of the treaty and a gross affront to the flag of the United States.

The convention between the United States and France of February 23, 1853 (French confirmation September 11, 1853), provides, among other things:

A. Generally, that the consular representatives of each country shall enjoy in the other (a) The privileges usually accorded to their offices, and (b) all the privileges, immunities, and exemptions that may be granted the like agents of the most-favored nation.

B. *Specially*, (a) personal immunity except in case of crimes, and (b) that they shall never be required to appear in court even as a witness.

C. That they may place on the outer door of their offices "or of their dwellings" the arms of their nation, etc., \* \* \* and they shall be allowed to hoist (French, *deployer*) the flag of their country thereon.

D. "The consular office and dwellings (French, *chancelleries et habitations*) shall be inviolable. The local authorities shall not invade them (French, *ne peuvent les envahir*) under any pretext. In no case shall they seize or examine (French, *visiter ou saisir*) the papers deposited therein;" that is, in the "offices or dwellings."

In the face of these provisions, the following occurred:

1. On the 4th day of April, 1899, M. Lasserre, the vice-president of the tribunal civil of Bordeaux, issued a writ of *saisie-gagerie*, ordering a bailiff to enter and search my dwelling and seize all personal effects belonging to me therein. A translation of said writ is attached hereto marked "A."

2. The bailiff named in said writ appeared at my dwelling on the 10th of April following—a week after its issue—and, on my refusal to permit said writ to be executed, he procured the assistance of the commissary of police of Arcachon, the commune in which my dwelling was located, forcibly pushing me out of the doorway where I stood forbidding their entrance, thrusting my daughter, who stood beside me, violently against the hatrack in the hall, and pushing me

the whole length of the hall to the stairway at the end, some 12 or 15 feet. The accompanying picture<sup>1</sup> was taken by an artist who saw the whole affair and is entirely correct.

3. The same proceeding was repeated at every door, I forbidding entrance and the commissary in each case removing me by force. Having been an invalid for more than a year I was not able to put up much of a fight, but I did not one instant cease to resist and protest while one of the posse remained in the house. At the same time my language was entirely respectful, and, in the main, theirs to me was of like character.

4. The procès-verbal, or return of the writ, marked "B," signed by both officials and each member of the posse, admits, (1) that I refused admission to the parties and claimed the house was inviolable as being the dwelling of a consul of the United States, situate in his consular district; (2) that I continued to protest against and forbid such invasion; (3) that no seizure was made. The procès-verbal says they could find nothing to seize. The statement is astounding in view of the facts. Of course, as the villa was rented furnished, no one would expect to find much furniture of the tenants in it. There were, however, rugs on which some of the party stood which are valued for insurance at more than the whole claim, which was \$272; books, typewriter, silver, a new invalid bath chair, and other personalty, not including clothing, certainly worth twice as much more; and in an unlocked jewel case in a wardrobe opened by the bailiff there were diamonds and other jewelry never appraised at less than \$3,000, or ten times the value of the claim. Why were none of these things seized?

5. It is quite impossible Frenchmen should not know the value of rare rugs, jewelry, etc. They knew they were violating the treaty, since the commissary said, while parleying at the door, "I do not concern myself with conventions, consuls, or flags; I have the court's order; that is enough." Thereupon he displayed his badge of office and ordered me to cease resistance in the name of the French Republic. The bailiff, jerking his thumb at the American flag hanging over the door, which had been referred to as my protection, said, "Nous ne respectons pas ce drapeau-là!"

These words show that they knew the character of the act in which they were engaged. Why did they not complete it by making seizure?

6. Perhaps the answer of this question may be found in the exceptional character of the writ. The writ of saisie-gagerie is a provisional execution, not very different in character from our writ of attachment. In ordinary cases it is only issued after notice has been served on the defendant to show cause why such writ should not be allowed. This notice is called a "commandement" and is the initial process in all actions, its express purpose being to prevent the defendant being taken by surprise and deprived of his opportunity for defense. It can only be dispensed with by express order of the judge granting the writ; and this order can only be allowed when the judge is satisfied that the defendant is likely to remove his person or his property out of the jurisdiction. In the case of a French citizen, only the most persistent bad character would justify the issue of such a writ without notice. In the case of a foreigner, the fact that he is a nonresident of the Republic is held to justify it if his residence is

<sup>1</sup> Not printed.

of a temporary character. The fact that I was a consul of the United States showed that I was a foreigner and was apparently held by the judge to be sufficient reason for issuing the writ secretly, ordering no "commandement" to issue, and that the writ should not be recorded. This shows conclusively that my official character was called to the attention of the judge, and he ordered the entrance and search of my dwelling to be made with full knowledge of the same. As the treaty is bound up with the codes in one volume in general use, he must also have been fully aware of its provisions. The fact that the complainant waited a week after the writ was issued before having it executed, though it required less than two hours to reach my dwelling, shows that his claim of apprehension that I would remove my property was wholly false.

7. These facts lead me to believe that the writ was not intended to effect a seizure, but to be used as a threat. The dread which foreigners, especially Americans, have of a French court is well known. The plaintiff was aware of the precarious condition of my health—so precarious that his agent insisted on a special guarantee that 300 francs in addition to the rent should be paid in case of my death on the premises. He evidently thought that, rather than risk the excitement attending such a proceeding and have my family annoyed by a brutal sheriff and his posse, I would buy my peace by paying his unjust demand. Both he and the judge knew the consul of the United States was not likely to leave the country to avoid the payment of such a petty sum, and that it was quite impossible for me to conceal any property in a country so full of officials. If a seizure was made, the writ would have to be recorded, and all of the parties might be subjected to a troublesome suit for damages. So no seizure was made, the writ not recorded, and the plaintiff filed, after a time, a statement that the claim against me would not be further pressed. I am satisfied, therefore, that this proceeding was intended not for the collection of an honest claim, but as an intimidation merely.

8. I do not refer to these things as relevant to the judge's right to issue said writ. If he had a right to issue an order commanding an officer to enter the dwelling of the consul under any pretext whatever, he had jurisdiction to do so for any reason that seemed to him good. There can not be an inquiry as to the sufficiency of such pretext. I cite these things only to show that his act was intentional and deliberate. He knew he was ordering an "invasion" of the dwelling of a consul of the United States which the treaty declares the authorities shall not "invade"—that is, enter without permission, "under any pretext."

9. The treaty provides that the local authorities shall not "examine" or seize the papers "therein deposited"—that is, in the "consular offices and dwellings." This house had been used for four months as a consular office. Having no one with me in the consulate who had sufficient familiarity with American law and business to do more than the routine work, I was compelled to do all the correspondence, dispatches, etc., myself, even when confined to my bed. Several of the rooms entered contained consular reports, books, and papers in various stages of completion. They did not "examine" these in the sense of reading them, because they were ignorant of English, but they could not make such search as they admit in the *procès-verbal* without examining the papers deposited in the house. If they did not, their *procès-verbal* is false.

10. How did it all happen? I had been ill with a distressing malady for eight months when my physician decided that the only chance to save the United States Government the expense of shipping me home in a box was to remove me to Arcachon on the seashore, some 30 miles away, as soon as I was able to endure the trip, there to take specific hydropathic treatment. The medicated baths being the principal thing on which the hope of recovery rested, it was necessary to secure a house with a bathroom, especially as part of the treatment considered very important could not be given in an ordinary room. A bathroom is not common in the houses of this section, only a few even in a health resort like Arcachon containing such convenience. One was at length found which my physician and family pronounced suitable. The agent who had charge of the renting was asked if there were any reservations, and replied there were none except a detached wine cellar in a corner of the grounds. The customary memorandum, which constitutes only a verbal lease that can not be given in evidence before a court, was exchanged in duplicate, the rent for four months paid in advance, and on December 1, 1898, I was successfully moved to the new quarters. On investigation it was found that the door of the bathroom was locked, and on being requested to deliver the key the proprietor refused to do so. As French law does not permit an action to compel specific performance on the part of the landlord, there was nothing to be done but to surrender the villa and sue for damages, or dispense with a part of the treatment and refuse to pay the second installment of rent when due. I chose the latter, and so informed the landlord.

11. It was in an attempt to collect this second installment of rent that the landlord procured the extraordinary writ of *saisie-gagerie* and made forcible entry and search of my dwelling. Fortunately I had so far recovered as to be able to meet and forbid the invaders, asserting my legal immunity. Knowing his claim to be utterly false and fraudulent, he abandoned its further prosecution and accepted my proposition for an adjustment of our differences, viz: that I should occupy the villa until May 1, as an equivalent of damages already accrued. I then left it and he entered into possession without further demur.

12. I sent my official protest against the acts of the officers and posse violating my dwelling to the commissary of police on the same day. He has never had the courtesy to acknowledge its receipt. On the 12th and 14th of April I filed with the *préfet* of the department of Gironde a detailed statement of the facts and a formal protest. At that time I supposed the issue of the writ was a mere act of inadvertence on the part of the judge who signed it, my attention not having been directed to the extraordinary character of the same. I therefore suggested that the judge should certify that it was an oversight to issue such a writ, on account of the provisions of the treaty, and that the commissary and bailiff be reprovved, in writing, for excess of zeal. The *préfet* acknowledged receipt of these papers, and avowed himself in no respect responsible for the action of judicial officers. At his instance, therefore, I next addressed the president of the tribunal civil of Bordeaux, stating the facts and protesting that the issue of such a writ was a judicial violation of the treaty. M. Calvé, the president, answered both personally and in writing, admitting the illegality of the writ by explaining that, according to the practice of said tribunal, all proceedings in regard to process issued by either of the judges must be taken before the judge issuing them; that, although the writ ran in

his name, it was issued by the vice-president, M. Lasserre, who could alone with propriety act on the question of its disavowal. This distinguished jurist is the only official who has expressed any regret for an act which he denounced as not only in violation of the treaty but a wholly unjustifiable breach of international law. His letter of May 4 fully sustains my view of the inviolability of the consular domicile. It is, however, wholly personal and not in any wise official. So far as I am concerned it is satisfactory, in that it confirms the action of the plaintiff in the writ, but it is not a disavowal of the jurisdiction exercised by the tribunal, nor an official admission that the acts of the administrative officials are not approved, which seem to me essential to the proper settlement of the question.

13. I then applied to M. Vice-President Lasserre, being determined either to obtain a written disavowal of the right to issue such a writ against a consul of the United States or an official assertion of such jurisdiction. This magistrate replied, after ten day's delay, neither admitting nor denying anything, but merely saying that it would be necessary for me to make complaint to the procureur of the Republic for this department with regard to the conduct of the commissary and bailiff. As this seemed to me an effort to shift the responsibility on the mere ministerial agents, I replied by stating that I had no personal complaint to make against these officers. I suggested that the judge had ordered an act which I believed violative of the provisions of the treaty; that if he had a right to issue such order, the officers had a right to execute it and to use necessary force in doing so. What I contended was that the writ was extrajudicial, being in violation of the treaty. I had no personal complaint to make. The huissier had been rude; but one does not expect perfect manners from this class of people. I only suggested, as my duty required me to do, that the vice-president had ordered the *huissier* (bailiff) to perform an act clearly in violation of the treaty and he had obeyed that order. While it was proper that the officers should be rebuked, it could not logically be insisted upon until the act of the judge was officially disavowed.

14. I may say that in the meantime I have been approached by a party who professed to represent the préfet, with a proposition that if I would waive a written disavowal by the judge and a written reprimand to the officials, the préfet would "arrange" that the commissary and huissier should come in uniform and apologize for what they had done, I replied that while this might be gratifying to me personally, and might read well in a newspaper, I did not think it consistent with my duty to my Government to accept such an informal reparation. What would be requisite, in my judgment, was a written disclaimer of the right to issue a writ, as well as a written reprimand of those executing it.

15. On the 15th of June, 1899, I received a letter from the préfet, saying that the procureur of the Republic had made an investigation and decided that neither the commissary nor the huissier on the occasion of their invasion of my dwelling had used any word disrespectful to the flag of the United States or had examined the papers deposited in my dwelling. This seemed to me an attempt to evade the real issue and let matters drag along as had been done in similar cases until they died from inanition.

I therefore made answer covering the whole ground, lest it should

be claimed that I had abandoned any part of it, and declining to have any further connection with the matter.

I send a copy of this dispatch, with inclosures, to the honorable ambassador at Paris by the same mail.

Pending this controversy the Cour d'Appel of Limoges has decided the very questions raised in this case, fully and intelligently. The case is reported in *La Loi* of May 26, 1899. I inclosed the syllabus of the same to the préfet, to M. Calvé, the president of the tribunal, and to M. Lasserre, the vice-president. I inclose herewith a translation of said syllabus, marked "J."

In conclusion, the admitted facts are:

I. The vice-president of the tribunal civil of Bordeaux issued a writ ordering a search of the consul's dwelling and the seizure of all the goods and chattels found therein.

II. He ordered this writ to be executed without issuing the ordinary "commandement," or order to show cause.

III. He ordered the writ to be executed without being entered on the record for the express purpose of preventing the consul from obtaining knowledge of suit brought against him.

IV. The huissier, being refused leave to execute the writ because the consul's dwelling was inviolable under the treaty, obtained the assistance of a commissary of police and a posse and made a forcible entrance against the consul's protest and prohibition.

V. It is not denied that the consul was forcibly removed from the door in which he stood, with the treaty in his hand, appealing to the flag above him for protection in the immunity it guaranteed.

The denied facts are:

I. That the words used by the officers at the time of forcing an entrance to the consular dwelling were disparaging to the flag of the United States.

*Comment.*

Their acts certainly were—

II. That the officers violated the treaty by "examining" the books and papers "deposited" in the consular dwelling.

*Comment.*

They made return that they searched the dwelling. This could not have been done without examining these papers.

I have made this statement minute in detail to avoid the necessity of copying the various protests made to different officials, which are of necessity merely repetitions of each other.

So far as I am personally concerned the letter of M. Calvé, the president of the tribunal civil of Bordeaux, is entirely satisfactory. It not only confirms my view as to the inviolability of my domicile, but also my previous information that the plaintiff had abandoned any further prosecution of the writ. There has been, however, no official disavowal of the jurisdiction exercised by the vice-president, no reproof of the subordinate officials, nor any apology for the action of the judge or the officers, which seem to me to be essential to a proper amende for acts derogatory to the flag and dignity of the United States. I can not ask for an action on the part of the procureur,

because I have no longer any personal interest in the matter and am not officially authorized to do so. It is now a question whether the Government will require reparation for a gross affront to its flag by the action of the judicial and administrative officials of France or pass it by unnoticed. So far as I am concerned the incident is closed with this report. I inclose copies of the papers necessary to a full understanding of the case, to wit: "A," copy of the writ of saisie-gagerie in translation; "B," translation of the procès verbal or return made upon said writ; "C," translation of protest made to the préfet of the department of the Gironde; "D," copy of letter of acknowledgment of préfet; "E," copy of statement sent to the president of the tribunal civil of Bordeaux, in support of my contention that the writ was a judicial violation of the treaty; "F," extracts from reply of president of tribunal; "G," letter of vice-president who issued writ; "H," letter of préfet announcing result of inquiry made by the procureur of the Republic; "I," reply to this letter of the préfet; "J," syllabus of case decided by the cour d'appel of Limoges, translated. (Especially attention is called to this as showing the identity of the claims I have made throughout.)

Very respectfully,

ALBION W. TOURGÉE.

[Inclosure A.—Translation.]

*Copy of writ of search and seizure.*

*To Monsieur le President du Tribunal of First Instance of Bordeaux.*

MONSIEUR LE PRESIDENT: Mr. Felix Breton, liquoriste, living in Bordeaux, Cours Victor Hugo, No. 15, having as his attorney, Mr. Ferrand, has the honor to set forth to you that he verbally leased to Mr. Albion W. Tourgée, United States consul, living in Bordeaux, Cours du Jardin, Public No. 52, the "Villa Trocadéro," of which he is the owner, situated in the Ville d'Hiver, for the sum of 2,400 francs—1,000 francs being payable on the 1st of December, 1898, and 1,400 on the 1st of April, the current month—for a period of eight months, commencing the 1st of December last and ending 31st of July next; that four months of this rental, due 1st of April current, remains unpaid; that under these circumstances the exponent desires to have issued a writ of seizure against his tenant on his furniture and other movable goods on the premises let, but that it is to be feared, that if given notice by means of writ, the said Albion W. Tourgée might cause his property to be removed, hence the reason why the exponent requests M. le President to be so good as to authorize the issuing at once without previous notice of a writ of seizure against the said Albion W. Tourgée on his furniture and movable effects belonging to him, and which may be found in the "Villa Trocadéro," situated in Arcachon in the Ville d'Hiver, which was let to him verbally by the exponent and this as security for the payment of 1,400 francs.

First. The sum of four months rent demandable in advance on the 1st of April current.

Second. The sum of 400 francs approximate estimate of interest and expenses to order (considering the urgency) a provisional execution of your writ at once, *even before its registration.*

We, Emmanuel Lasserre, vice-president of the civil tribunal of first instance of Bordeaux, having considered the foregoing petition according to the provisions of the law,

Authorize the exponent to have executed at his immediate request, and without previous notice, a writ of seizure on the furniture and movable goods belonging to Mr. Albion W. Tourgée, which are to be found in the house let to him verbally, situated at Arcachon, Ville d'Hiver, styled by the name of "Villa Trocadéro," this for the security of the payment of the sums referred to in the preceding petitions ordered by virtue of the urgency, the provisional execution of the present writ at once *even before its registration.*

Bordeaux, this 4th day of April, 1899.

EMMANUEL LASSERRE.



[Inclosure B.—Translation.]

*Procès verbal or return made on writ of seizure.*

On the 10th of April, 1899, and at the request of Felix Breton, liquoriste, residing in Bordeaux, Cours Victor Hugo, No. 15, for whom a domicile has been elected at our offices and also at the offices of the Mairie of the Commune of Arcachon:

We, the undersigned René Rousse, bailiff at the circuit of Bordeaux, residing at 7 Rue Ravez, serve a notice on and leave a copy with Mr. Albion W. Tourgée, United States consul, now residing in Arcachon in the villa of the petitioner, situated in Arcachon, Ville d'Hiver: "Villa Trocadéro," of the writ granted at the foregoing request.

In order that he should not ignore it.

In addition to and by virtue of said request and ordonnance:

We certify, that we, accompanied by our witnesses hereafter named, proceeded to Arcachon, Ville d'Hiver, "Villa Trocadéro," the present residence of Mr. Albion W. Tourgée, and arriving there we commanded him in the name of the law and of justice, instantly to pay the petitioner or us bailiff, bearer of documents and duly entrusted with the commission:

1. The sum of 1,400 francs, amount of four months rent, payable in advance from 1st of April, for the place he occupies and holds of the petitioner pursuant to a verbal lease of his villa situated in Arcachon, Ville d'Hiver, at the rental of 2,400 francs for eight months. The said rent payable in advance 1st of December and 1st of April, 1899.

2. The cost of these presents.

Having declared to him, that failing this, he would be immediately constrained by the writ of seizure of all his furniture, effects, and movable goods in accordance with law.

This done, and addressing him personally, he replied that he would not pay the sum claimed of him as he did not agree with our petitioner, and besides he refused us permission to enter his house. This is the reason why we proceeded to the commissary of police at Arcachon, and after having explained the object of our visit, requested him to assist us, to which he complied, and returning in the company of this magistrate, we again knocked at the principal door, and, having entered the dwelling of the petitioner, the said Mr. Albion W. Tourgée forbade him a second time to enter the said dwelling, and only allowed us to enter under a protest, that he was consul, and that his dwelling was inviolable. In view of the reply which precedes the default of payment of the sum claimed, we wished to seize and place in the hands of the law and of justice the furniture, movable goods, and wearing apparel in the said house, which were the guaranty of the proprietor. But after having made a search, we found in his apartments divers effects and personal linen, the value of which was insufficient to defray expenses and pay the rent. For this reason we have drawn up the present declaration of insolvency in the presence of Messrs. Paul Lafargue and William Sauvetre, witnesses, residing in Bordeaux, who have signed with us the copy delivered to Mr. Albion W. Tourgée, also signed by the commissary of police of Arcachon as well as by Mr. Etchard, whose presence we deemed necessary in order to make the search and discriminate between the objects belonging to the debtor.

Costs, francs 25.65. The sheet employed, francs 1.20.

P. LAFARGUE.  
E. BERTHE.  
R. ROUSSE.  
WILLIAM SAUVÈTRE.  
ETCHARD.

[Inclosure C.—Translation.]

*Mr. Tourgee to Préfet of the Department of Gironde.*

CONSULATE OF THE UNITED STATES,  
*Bordeaux, April 11th, 1899.*

MONSIEUR LE PRÉFET: I beg to lay the following facts before you for consideration and to enter my protest against them as a gross violation of my consular rights and privileges as defined by the common law of nations, and also by special treaties between the Republic of France and the United States of America:

1. It is well known to you that by designation of my Government and by the exe-

quatur of the Republic of France, for nearly two years within the departments hereinafter named, to wit:

Gironde, Ariège, Basse-Pyrenees, Hautes-Pyrenées, Gers, Haute-Garon, Landes, Lot-et-Garonne, Tarn-et-Garonne and Tarn, I have exercised the functions and been guaranteed the rights and privileges of a consul of the United States in the Republic of France.

2. During the period I have scrupulously obeyed all laws of the country to which I am accredited; faithfully discharged my duties as such consul without interference with the customs or interests of the French people; have contracted no debts which I am not able many times over to discharge; have had no controversies with citizens of the Republic of France which I have not from first to last expressed a willingness to submit to the arbitration of the tribunals of the Republic; and in all things have conducted myself as a peaceable and well-disposed resident of said district.

3. Beyond this, my reports to my Government and by my writings which have appeared in the most prominent journals of the United States, having an established reputation as an author and economist, I have stipulated and encouraged a more extended trade and closer relations between the people I represent and the citizens of the Republic to which I am accredited, having urged from the first the extension of reciprocal relations by special convention particularly favoring the staple exports of the port of Bordeaux.

4. While scrupulous and accurate in the discharge of my duties I have shown no favor and taken no advantage of my position to make profit out of the necessities or to interfere with the interests of any class or individual. There has been no favoritism in this consulate, every shipper's business and interest having been conducted and protected with the utmost care, being regarded as a sacred trust.

Under these circumstances, I submit that the facts I am about to relate constitute an invasion of my consular rights and privileges of the utmost gravity, especially when we consider the relation which the Government and people of the United States are expected to sustain to the great exposition of next year at Paris.

Owing to my health I have been compelled for some months to reside at Arcachon. For the benefits I have derived therefrom I feel extremely grateful and have urged, by articles in various journals in the United States, the merits of this resort upon the American people, to whom it was almost unknown. A difference having arisen between myself and the proprietor of a villa, which I had rented, as to whether the lease included the whole villa or only a part of it—there being no reservation in the lease and no verbal reservation of a most essential part, that part, indeed, which had constituted the chief inducement with me to rent this villa instead of another—I offered to pay the second instalment of the rent, covering the period from April to August, upon being given possession of the premises for which I had contracted, or to leave the matter to the decision of any judge or tribunal of France, being perfectly willing to deposit with any person such judge might designate, the entire amount of the rent in question or such other sum as might be deemed necessary to protect the claimant from all loss.

On yesterday, April 10, a man claiming to be a huissier of the court of première instance of Bordeaux, appeared with a writ purporting to have been issued by said tribunal against me as "consul des Etats-Unis," commanding and directing the said huissier to enter my dwelling and seize my personal effects. On my refusal to permit such search and seizure, the huissier and his witnesses departed, soon returning with the commissary of police of Arcachon. I met him and refused admission to my domicile to him and the five men in his company, explaining the facts that as a consul of the United States I was exempt from any invasion of my domicile "by local authorities under any pretext," according to the express terms of the treaty of 1853 between France and the United States. He merely replied: "We know nothing about treaties or consuls; the court has ordered the search and it must be made!" At the same time the huissier having the writ, pointing to the consular flag which was flying above my door said, with tone and gesture of the utmost contempt: "Nous ne respectons pas ce drapeau!" Thereupon the commissary assailed me violently, and with the aid of those persons in his company pushed me aside and entered the house, I protesting at every step and requiring the commissary to go in advance of the others and personally open each door before which I stood and removing me by force and conduct the search in the name of the Republic. After it was concluded I served him with written notice of protest, a copy of which will be handed you herewith.

Owing to the fact that my subordinate officer in the consulate is not familiar with the laws and customs of the United States essential to the administration of consular affairs, I have been compelled during my long illness to perform a large part of the work of the consulate at my residence in Arcachon. All the mail is forwarded here

without being opened; the consulate seal is here in my possession and all, except the mere routine work of the consulate, is here performed by me and by clerks under my control. This is not only my personal residence, but the one where my official duties are transacted also. By the treaties between the Republic of France and the United States it is expressly provided that both the offices and dwellings of consuls shall be inviolable and that the local authorities shall never invade them under any pretext.

I find myself compelled, therefore, most regretfully, to protest against this outrage, of violence against my person, and forcible invasion of my domicile, on the following grounds:

1. The issue of a writ of search and seizure against the person and domicile of one designated in the writ itself as "Consul des Etats-Unis" was judicial violation of my consular rights and privileges which it can not be claimed was unintentional, since my official character is recognized by the terms of the writ itself.

2. That the issue of such a writ without notice, summons, hearing, or opportunity to be heard, makes such violation of consular privilege peculiarly gross and inexcusable, because such a writ is held in all civilized countries the most disgraceful and humiliating judgment that can be passed on any man except condemnation for crime.

3. That such writ was granted wholly upon *ex parte* testimony and without requirement of any bond to indemnify me for loss, injury, and humiliation from the execution of said writ, apparently distinguishing against me in personal right because of the fact recited therein.

4. That the enforcement of this writ *vi et armis* by the police officer of the Republic and those in his company was in express violation of the personal immunity granted me by treaty, except in case of crime, no crime being alleged.

5. That the treaty expressly exempts the papers and property of the consulate from examination, scrutiny, or seizure by local authorities. That in this case the books and papers of the consulate were pawed over and scrutinized by the parties to whom the commissary of police gave forcible entrance and possession against my constant protest and prohibition.

6. That the declaration by parties in company with the commissary and acting under his control, that they cared nothing for the consular flag or the person of the consul, was an aggravation of the injury and affront.

I submit said protest for such action as you may see fit to take, M. le Préfet, before forwarding the same to my Government, in the sincere hope, indeed, to avoid the necessity for such representation.

I have, etc.,

ALBION W. TOURGÉE.

[Inclosure D.—Translation.]

PRÉFECTURE OF LA GIRONDE, OFFICE OF THE PRÉFET,  
*Bordeaux, April 15, 1899.*

MONSIEUR LE CONSUL: I have the honor to inform you that I have submitted your complaints of the 11th and 14th instant, in relation to the things which befell you at Arcachon on the 10th, to the minister of foreign affairs.

Receive, M. le Consul, the assurance, etc.,

LE PRÉFET.

[Inclosure E.]

*Reasons for regarding the forcible entrance of the Villa Trocadéro (April 10, 1899), and the personal violence offered to myself and family by the officers of the French Government as a violation of my consular rights and privileges.*

1. By the universal law of nations, the person of the consul and the persons of his family, he and they not being citizens of the country to which he is accredited, are exempt from arrest or restraint except for crime. If the consul is a citizen of the country in which he resides, neither his person nor his property is exempt from arrest or seizure or any of the ordinary processes of law, but only the consular office and papers.

2. This rule of international law is greatly strengthened by the fact that Article II of the treaty of 1853, between France and the United States, provides: (1) That they "shall be allowed to hoist the flag of their country on the door of their offices or of their dwelling houses;" (2) that they "shall never be compelled to appear before

the courts. When any declaration for judicial purpose" is desired of them, they "shall be invited to appear in court; their testimony shall be requested in writing."

2. By Article III of said treaty, it is provided that "the consular offices and dwellings shall be inviolable. The local authorities shall not invade them under any pretext. In no case shall they examine or seize any papers there deposited. In no case shall these offices or dwellings be used as places of asylum." If only the consular "offices" were intended to be exempted, *why* is the term "dwellings" always coupled with it in this treaty? Evidently because it is expected that the dwelling of the consul will be, as it generally is, separate and apart from the office of the consul, and the purpose of the treaty is to protect *both* from invasion by the local authorities. The "dwelling" of the consul—I do not know what term is used in the French copy of this treaty, but as every treaty is executed in two languages, one of each in the language of the contracting powers, it must be an agreed equivalent of the English word "dwelling," which is the broadest of all terms used in that language to signify the place where a man lives either for a long or short period—a habitation or mere place of lodgment. It must mean in the treaty, therefore, the place where the consul is lodging, whether temporarily or permanently. I think likely the French equivalent in the treaty is "*demeure*," that is, the place of habitation of the consul.

4. The consular "dwelling" may be near or remote from the consular office, provided it is within the limits of his district. Outside of that it ceases to be a "consular" dwelling and loses all immunity, because the consul ceases to have any authority or privilege as such when he goes beyond his specific jurisdiction. In my case, the Government of the United States designated me as consul for the ten departments of southwest France; and this designation is confirmed by the exequatur of the President of the Republic of France, which expressly designates those ten departments within which my consular function is to be recognized.

5. My Government requires that I shall keep an office, "*The consular offices*," in the city of Bordeaux. These public offices I can not remove, because they are intended for the convenience of citizens of the French Republic and others in that port who may have consular business with the United States, and must be kept open during business hours. There is no law of the United States—and I submit that there can be none of the Republic of France—requiring me to retain my dwelling place in that city. I have my "dwelling" anywhere I may choose to locate for a long or short period in said district. I may do more or less of the work of the consulate in said "dwelling" and keep there such books, papers, and records of said consulate as I may see fit, because both are inviolable by the express terms of the treaty. As a matter of fact, all the correspondence of the consulate comes to my "dwelling" at Arcachon; here is kept one of the duplicate official seals provided by the Government; here all dispatches and reports of my Government are prepared and forwarded direct; here, in short, all official work of the consulate is performed, except the mere routine matter of invoices, bills of health, etc., connected with exportation.

6. If this were not the correct construction of the provisions of the treaty declaring both "offices" and "dwellings" to be inviolable and authorizing the consul to display his flag on both, then a mob may destroy the consul's dwelling and kill him and his family without any violation of his consular rights and privileges.

7. Because of this, the issue of a writ of seizure and distraint directed against me as "Consul des Etats-Unis dwelling at Arcachon," constituted in and of itself, a violation of my consular rights, while my permanent residence is at Bordeaux my "dwelling" is at Arcachon for the time being, and the court showed itself cognizant of that fact by the wording of the writ.

8. I am often required to do consular work in different parts of my district. Can it be contended that if I hang out my flag in a house rented as a dwelling for a week or a month while thus engaged that the police officials of any country hamlet have a right to come and, in spite of my protest and resistance, overpower me with force; examine whatever papers, books, or property of any kind I may have in my possession; take what they choose and leave what they may elect not to take, and yet not be guilty of violation of consular rights and privileges?

ALBION W. TOURGÉE.

[Inclosure F.]

*Extracts from a letter of M. Calvé, president of the tribunal civil of Bordeaux, of May 4, 1899.*

After reciting the substance of my protest and the reasons why he could not take the initiative in the abrogation of a writ issued by the vice-president, he says:

"Moreover, by our law we have to refrain from expressing an opinion as to matters

which may come before us as magistrates. For that reason I do not feel at liberty to express my opinion as to the application of Article III, of the convention of 1853, to the villa you occupied at Arcachon. I may be required to pass on the question of the validity of the writ issued by my colleague."

He proceeds:

"Since writing the above a change has taken place rendering the amicable solution we are both seeking much more easy to reach. M. Ferrand, the complainant's attorney, has just placed in my hands a letter from his client expressing his willingness to have the writ declared void." (In fact, the complainant, being advised that he had no hope of recovery, had filed a retraxit; in other words, consented to a dismissal at his own cost.)

He proceeds:

"It is, therefore, no longer necessary to take account of the fact that the tribunal might have to pass upon the validity of the writ and the relation of Article III of the convention thereto. Now that I am at liberty to express an opinion on this question, I do not hesitate to say to you that your residence for several months in the villa Trocadéro unquestionably conferred upon it the immunity for which you contend as a consular dwelling under the terms of the convention. I feel confident that M., the vice-president, will concur in this opinion. His writ may therefore be considered as null, and its invalidity having resulted from another cause there can be no objection to a new decree retracting the grant of the writ of *saisie-gagerie*."

MEMORANDUM.

On application to the vice-president, as will be seen by reference to his letter marked "G," he refused to take any action looking to the annulling of the writ. This leaves me in the condition of a man politely put out of court with the only grievance of which I made complaint—the violation of the treaty—yet unacknowledged, and no regret expressed that it occurred.

A. W. T.

[Inclosure G.]

*Mr. Tourgée to Mr. Lasserre.*

CONSULATE OF THE UNITED STATES,  
*Bordeaux, May 21, 1899.*

*Monsieur le Vice-President:* I have the honor to inform you that on the 10th day of April last you authorized a writ of *saisie-gagerie* directed against me as consul of the United States.

As a natural result of such ordinance, the *Huissier Rousse*, with a company of people in attendance upon him, came to the villa Trocadéro at Arcachon, where I at that time had resided for some months, and where a great part of the business of my office was done and its records kept; and being denied admission or leave to execute said ordinance by the seizure and distraint of my property in said villa, procured the assistance of the commissary of police of Arcachon and forced an entrance to the same by the exercise of violence against the person of the consul, uttering insulting language against the consular flag which was duly displayed over the main entrance of my dwelling; examined the consular records and property against my protest, resistance, and denial of their right so to do.

I have the honor, therefore, to submit:

1. That the issue of a writ of distraint against a consul of the United States of America, without notice and upon *ex parte* evidence only, is a judicial violation of consular rights according to the common law of nations.

2. That in the treaty of February 23, 1853, between France and the United States, it is expressly provided (Article II) that such consul may place "the flag of his country" over the door of his "dwelling" and shall enjoy all the privileges and immunities of consuls of "the most favored nation."

3. By Article III of said convention, it is provided (a) that "the consular offices and dwellings shall be inviolable;" (b) that "the local authorities shall not invade them under any pretext;" (c) that "in no case shall they examine or seize papers therein deposited."

4. The like privileges and immunities are granted to the consuls of France in the United States.

Because of these facts it becomes my official duty to suggest to you—

1. That the issue of such a writ without notice or opportunity to defend and show, as I would readily have done, the fraudulent character of the claim against me was a

judicial invasion of the privileges of a consul of the United States for the consular district of Bordeaux, which district embraces the ten departments of southwest France, in either one of which I had a right to have a "dwelling," the undisturbed enjoyment of which is guaranteed to me by the exequatur of the Republic of France.

2. That the acts of the commissary of police and the huissier charged with the execution of your mandate in forcing an entrance into my dwelling, exercising violence against my person, examining the papers and records deposited therein, was the natural and logical result of such ordinance.

3. The contemptuous allusions made by the commissary of police and the huissier against the flag of the United States hanging above the door of the consular dwelling while engaged in executing said ordinance, though not a necessary result of the grant of such ordinance, were public insults to the flag of a friendly nation, made by officials representing the power and armed with the mandate of the tribunal.

Believing these violations of treaty rights to have been, so far as the action of the tribunal was concerned, the result of inadvertence rather than any unfriendly purpose, and being desirous to report it to my Government as an incident amicably adjusted in such manner as to call for no international action, \* \* \* I stated in connection with my preliminary report that I had filed a formal protest with the president of the tribunal and the prefect of the department of the Gironde. In response to this formal protest the president of the tribunal courteously informed me that the ordinance having been validated by your action, any movement looking to its revocation must proceed under your initiative.

This being the case, I beg to suggest whether the proper course is not to annul said ordinance by a decree of the tribunal of equal dignity and formality, and also to formally disavow and condemn the action of the officers charged with its execution in violating the consular dwelling, using personal violence to the consul, and examining papers and records of the consulate therein deposited.

In adopting this course, my action has been especially commended by the ambassador of the United States at Paris as being of a kind calculated not only to preserve amicable relations between the two Governments, but also to avoid giving unnecessary publicity to an act which can not be justified by any possible interpretation of international law or treaty rights. Not having plenary powers, I am not authorized to discuss the incident except in writing, and can only suggest rather than demand such reparation as would be deemed satisfactory.

Permit me to suggest, therefore, Monsieur le Vice-President, whether the formal annulment of said ordinance, the disavowal of any purpose to assert such jurisdiction, and the express condemnation of the acts of the officers engaged in its execution would not be consistent with the dignity of the tribunal and constitute such reparation as you would expect and desire a French consul in the United States to ask and an American court to cheerfully accord? Having been for many years the president-judge of a court of superior jurisdiction and being still a professor of law in one of our great universities, I think I am not assuming too much in saying that such action on the part of an American tribunal might be considered as a matter of course.

Hoping that you may find your sense of duty to accord with my suggestions and that I may receive at an early day duly certified copies of such reparative action, I beg you, Monsieur le Vice-President, to accept, etc.,

ALBION W. TOURGÉE.

MEMORANDUM.

It should be remembered that only two things were asked of the vice-president:

1. That he state that he issued the writ inadvertently and did not claim that the same was in accordance with the treaty.

2. That the tribunal certify under its seal the abrogation of said writ.

The first of these he could easily have done had he been so disposed. His letter can only be considered as a reassertion of his offensive act.

A. W. T.

*Mr. Lasserre to Mr. Tourgée.*

[Translation.]

TRIBUNAL CIVIL OF BORDEAUX,  
OFFICE OF THE PRESIDENT.  
*Bordeaux, May 21, 1899.*

MONSIEUR LE CONSUL: In reply to your letter, I have the honor to inform you that I have not the authority to carry out the measure of which you speak. The procureur of the Republic alone has authority in such matters. It is to that officer you must address yourself.

Pray accept, etc.,

EMMANUEL LASSERRE.

[Inclosure H.]

*Mr. Berniquet to Mr. Tourgée.*PRÉFECTURE OF LA GIRONDE, OFFICE OF THE PRÉFET,  
*Bordeaux, June 15, 1899.*

MONSIEUR LE CONSUL: In acknowledging the receipt of your letter of the 9th instant, I had the honor to inform you that I had transmitted to the minister of foreign affairs your complaint to me against the saisie-gagerie executed by the order of the vice-president of the tribunal civil at the request of the proprietor in the villa you had leased at Arcachon.

I have also informed the minister of foreign affairs that an inquiry has been conducted by M. le procureur of the Republic near the tribunal of Bordeaux into the conduct of the commissary of police of Arcachon, and of the huissier, M. Rousse, in the execution of the writ, and that this inquiry has shown:

1. That neither the commissary of police of Arcachon nor the constable, Rousse, uttered a single word disrespectful to the American flag displayed on the balustrade.
2. That they did not make any search nor inspection of the papers you had in the villa.

Accept, etc.,

LA PRÉFET BERNIQUET.

[Inclosure I.]

*Mr. Tourgée to Mr. Berniquet.*UNITED STATES CONSULATE,  
*Bordeaux, June 30, 1899.*

MONSIEUR LE PRÉFET: I have the honor to acknowledge your letter of the 15th of June informing me that the procureur de la République has decided that the commissary of police of Arcachon and the huissier, Rousse, did not utter any words derogatory (offensante) to the American flag on the occasion of their forcible entrance and search of my dwelling on the 10th of April, 1899, and also that they did not make any scrutiny (cherche ni inspection) of the papers deposited therein.

An ex parte investigation seldom discloses the truth. There were nine persons—and only nine—who had an opportunity to know what occurred during said invasion of my dwelling. These were:

1. The commissary, the huissier, and the three persons accompanying them. Every one of these had a direct interest to exculpate the officials under whose direction they acted.

2. The four other persons in my dwelling, some of whom saw and heard all, and some a part only of what was then and there said and done. None of these had any interest or inclination to exaggerate to the prejudice of the officers. Not one of them was examined by the procureur. The testimony of these persons was taken by me within an hour after the affair, and is directly at variance with the procureur's findings.

The findings of the procureur, however, embrace only one element of the matter in question. The words used by the officials were not reported as constituting of themselves an offense against the flag of the United States. The wind of no man's mouth disturbs the flag of the American Republic unless he speaks for a hostile nation. The words of these officials were cited by me simply as explanatory of their acts. Their words showed, as does the procès-verbal signed by them, that their acts were deliberate and intentional, made against my protest and resistance, and with full knowledge that my residence was exempt from official entry by treaty.

Let it should be claimed that I admit in any respect the truth of the procureur's finding, I here reassert my original statement that the commissary said in response to my protest:

"I have no concern with (I do not occupy myself with) conventions, consuls, or flags. We have the order of the tribunal. That is enough for me."

And that the huissier said, "Nous ne respectons pas ce drapeau-là!" His manner was insolent in the extreme and his tones unmistakable. For the commissary's manner I have always had words of commendation. He acted as if doing an unpleasant duty with regret, under the compulsion of superior authority. His words merely show that he knew the treaty made my dwelling inviolate, but he thought the order of the tribunal was paramount. His offense was not one of words, but of deeds. The huissier's manner, however, was that of a bully. His words accord with his acts. I refused to complain of his insolence, simply because I did not wish

to mix personal considerations with a matter of international comity. If any magistrate had a right to order a seizure of my goods and chattels without notice, it is a matter of no interest to my Government whether it was served by a gentleman or a boor, with courtesy or insolence. At that time I supposed, indeed, that the order was a mere inadvertence upon the part of the magistrate, who had not observed the official character of the person against whom it was directed. It was not until it became necessary to provide copies for my Government that I noted that such order was exceptional, and could only be granted when the magistrate was satisfied that the defendant was about to flee the jurisdiction of the court or remove his property therefrom. It was then that I first realized how gross an affront the vice-president of the tribunal had, with apparent deliberation, put upon the representative of a friendly power. I had no wish to take offense, but instead, promptly suggested that it be regarded as an accidental rather than an intended violation of treaty rights. So, while taking the necessary steps to report the matter to my Government, I was careful not to mingle with it any hint of personal feeling and refused to make complaint against any official beyond the bare fact of a violation of treaty stipulations. I desired to report it as the unintended result of misconception of duty on the part of the administrative officers, and on the part of the vice-president of the tribunal as a mere inadvertence. I could not believe that any judicial officer would willingly ignore the provisions of the treaty.

As the question whether in the execution of this writ the officers exceeded their powers by examining the papers in my dwelling, it depends wholly on the force given to the term "examine." I certainly did not suppose anyone would infer from my report that these officials read the consular documents in my house. As these are written in English, of which they were wholly ignorant, this was impossible. My statement that they did examine them was based on the following facts:

1. In the *procès-verbal* signed by all the parties they declare that they "examined" the whole house, and I know this to be true. Two principal rooms of the same, the salon and mirador, had been used for four months as an office where the business of the consulate had been carried on, only the routine business being done at 52 Cour du Jardin Public in Bordeaux. All letters, dispatches, and legal documents were here prepared under my direction; everything pertaining to a consulate except the verification of invoices and the issue of bills of health was done at my dwelling in Arcachon. Could anyone have searched these rooms without examining these papers?

2. I was prevented from entering the salon by the commissary until the huissier and his posse has been there for some minutes. When permitted to enter, I found the huissier seated at a table on which were consular papers in all stages of preparation.

3. One of his attendants had in his hands a set of drawings intended for a report I was making to my Government on the "Reforestation of the Dunes of La Teste." I took them from him, saying they were the property of the United States.

If these acts do not constitute an examination of the papers there deposited in violation of the treaty, it is difficult to say what would. That they did not seize these papers is most natural, since the same had no salable value.

As to the statement of the *procès-verbal* that no property was found in the villa of sufficient value to discharge the claim, it is so curiously inexact as to awaken doubt as to the bona fides of the whole proceeding.

The claim amounted to 1,400 francs, less than \$300 in American money. Two rugs, on one of which the huissier stood, and the other he could not have avoided seeing, are insured for more than that sum, and could not be bought for as much more. The silver, books, type-writing machine, and other personal property belonging to me in the house, not including clothing, was easily worth as much more. In addition to this there were in an unlocked casket in an armoire which the huissier opened, diamonds and jewels worth five times the amount of the claim, one set alone having been appraised at 15,000 francs. Why did not the huissier seize this property instead of making a false return of the execution he held? Did he apprehend unpleasant consequences should he make such seizure on an execution granted secretly, and ordered served without notice against a consul protected by such treaty? Or had he been instructed by the attorney, whose clerk was one of his witnesses, that he was to make no seizure should I refuse to submit to intimidation?

I know nothing about these things, but judging his actions by the ordinary rules of human nature, it would seem as if, knowing the precarious condition of my health, and that I was ready and able to pay, I had already informed him in writing of my readiness to do so whenever he complied with his contract, and my entire willingness to submit the whole matter to any tribunal or magistrate of the Republic Française—knowing these things and considering the fact that the writ was expressly



ordered not to be recorded, it would seem as if it was expected that rather than submit myself and family to the annoyance and humiliation of the huissier's insolence and the seizure he threatened, I would submit to the fraudulent and unjust demand he was required to make. If this was the purpose they simply mistook their man. While entirely willing to comply with any judgment that might be rendered against me by any magistrate after investigation of the facts, it was wholly out of character for me to submit to imposition though backed by an order surreptitiously obtained as this evidently was.

Lest it should be assumed that the report of the procureur, to which you refer, covers the ground on which my complaint of violation of the convention of 1853 rests, I beg to append hereto a statement of the official acts heretofore called to your attention as obnoxious to its provisions:

*Proviso.*

The treaty provides, Article III, that "the consular offices and dwellings shall be inviolate."

*Violation.*

The vice-president of the tribunal not only ordered the invasion of such a dwelling, but directed search and seizure to be made therein; that the order should not be recorded, and that the ordinary notice or commandement should not be issued, for the express purpose of concealing from me the pendency of said action. Instead of recognizing the consul as entitled to immunity, he took pains to deprive him of ordinary consideration by suppressing the usual notice of *lis pendens*.

*Proviso.*

The treaty provides that "the local authorities shall in no case enter the dwelling of the consul under any pretext."

*Violation.*

The vice-president of the tribunal civil of Bordeaux ordered a bailiff and his posse to enter my dwelling, which had also been used for four months as an office for the transaction of consular business, on a pretext not only false but on its face evidently absurd, to wit, that a consul of the United States who did not owe a sou to any man in France, was about to flee the jurisdiction of the court to avoid the payment of a sum amounting to less than the official emoluments of his office for a single month. This order was either intentional or inadvertently issued. As he does not admit its inadvertence, it is fair to presume it an intended defiance of the provision of the treaty.

*Proviso.*

The treaty is especially careful that the incumbent of the consular office shall be treated with due consideration, and even in the administration of justice shall not be summoned before the tribunal, but his testimony shall be taken at his domicile, or he shall be invited to answer any judicial inquiry in writing.

*Violation.*

Instead of making such inquiry and treating the consular officer with even reasonable consideration, the magistrate ordered the issue of a writ requiring the bailiff to invade and search the domicile, and directing the same to be carefully concealed in order that said consul should not know of the proceedings by the issue of the ordinary notice of demand made against him, but be taken by surprise and submitted to humiliation and annoyance as well as deprived of opportunity for defense.

*Proviso.*

The treaty provides that the local authorities shall in no case examine or seize any papers which may be in the office or dwelling of the consul.

*Violation.*

A judicial order to search and seize anything of value in the dwelling of the consul necessarily implies the examination of papers therein.

*Proviso.*

The treaty provides that the consul shall enjoy complete immunity, except in case of crime.

*Violation.*

In this case no crime is alleged, but the commissary of police of Arcachon, in spite of my earnest and repeated protests, effected an entrance to the consular dwelling by forcibly removing the consul from the doorway in which he stood protesting and resisting, pushing him back along the hall for the space of 3 or 4 yards in order to allow the huissier and his posse to enter the salon. He also forcibly removed the consul from before the door of each room in the house successively, permitting the huissier to enter in spite of my protest and resistance. These things are admitted by the proces-verbal, giving report of such violation of my domicile, and shown by a picture taken by an artist present at the very moment of such violent entry, a copy of which is attached to my report.

*Proviso.*

The treaty provides that the consul may display the flag of his country over the door of his habitation or offices, and that the same shall be treated with respect as an emblem of his official character and the inviolability of his habitation.

*Violation.*

At the time of the forcible entrance of my dwelling by the uniformed officials of the department, a large consular flag hung above the door reaching down so far that a man could scarcely pass under without touching its folds. The parties committing this trespass were all aware that the house was the dwelling of a consul of the United States, and their attention was then called to the fact that by the terms of his exequatur he had the right to exercise the functions of his office in each and all the departments of Gironde, Ariège, Basses-Pyrénées, Gers, Haute-Garonne, Hautes-Pyrénées, Landes, Lot-et-Garonne, Tarn-et-Garonne, and Tarn, and all officials were ordered to accord to him the rights, privileges, and immunities secured by treaty to consuls of the United States in France and to the consuls of France in the United States. In contempt and defiance of these provisions of the treaty, the said commissary refused to recognize the immunity of said flag and procured by force an entrance of the premises by continued violence against the person of the consul.

The only hint of justification of these acts has been:

1. A verbal intimation that the term "consular dwelling" used in the treaty was intended to apply only to the domicile of the consul when in connection with a specific office.

This construction is so evidently absurd as hardly to require refutation, but I call attention to the following:

(a) Very few consuls in either country occupy apartments adjoining the consular offices.

(b) In this case the consular district embraces ten departments, and my exequatur commands the same recognition and the same immunity in all of them.

(c) The distinction between "consular offices" and "dwellings" in the treaty shows a clear purpose to protect both, no matter how far apart they may be. I am required to have an office in Bordeaux, but I may have a dwelling a league or 50 leagues away from it, if it still be in the district composed of these ten departments. Last year my Government authorized and directed me to spend two or three days in each week at another point. Can anybody believe the same immunity would not have attached to my dwelling at that place?

2. The investigation conducted by the procureur of the Republic, referred to in your letter of the 15th instant, which seems to be an attempt to draw attention away from the acts violative of the treaty to the comparatively unimportant incident of the words of the officials while engaged in committing these acts.

3. According to another verbal intimation of one who claimed to speak for you, it appears that the commissary has denied the exercise of force to effect an entrance to my dwelling.

I had been ill for more than a year and was therefore physically unfitted for a very desperate resistance, even had I regarded it as fitting that I should offer extreme violence to the authorities acting in the name and clothed in the insignia of the Republic of France. I doubt if any considerable number of my countrymen could be made to believe that their consul at Bordeaux would abandon an attitude of

forcible resistance to what he deemed an unlawful invasion of his domicile. They know him too well to believe that he would yield to anything but actual force. The truth is, I was pushed back by the commissary and the others crowding against him with such force as to thrust my daughter, who stood beside me, violently against the hatrack in the hall and carry me the whole length of the hall to the space opposite the stairway. This struggle was renewed and the same force applied to remove me from the door of each room. It would have been derogatory to my position to have fought, but my duty required that I should resist encroachment on my consular rights and the immunities granted by treaty to my office and dwelling. That I did at every stage of the proceedings.

The same treaty which grants these immunities makes it my duty to report to the local authorities, judicial and administrative, every infraction of the treaties between the United States and France coming to my knowledge. This duty I have performed, carefully, moderately, and persistently, as you are already aware.

1. By written protest to the commissary of police of Arcachon, delivered to him on the very day of the outrage, of which not even an acknowledgment has been received.

2. By two reports to you, April 11 and 13, the receipt of which you briefly acknowledged without special comment, except to deny responsibility for judicial acts.

3. By letter to M. Lasserre, vice-president of the tribunal civil of Bordeaux, who signed the writ and directed it to be executed without notice and withheld from record to prevent my obtaining knowledge of it. He replied, simply by saying that it would be necessary for me to make complaint to the procureur of the Republic, which I declined to do as I had no personal complaint to make against anyone, but simply suggested, as was my official duty, that the treaty had been violated by both the judicial and administrative authorities.

These letters constitute my report of this incident to my Government. I have also included the report of a case before the cour d'appel of Limoges, construing this treaty, which decision is found in La Loi of May 26, 1899.

I also find myself compelled to state that I have received from no one responsible for the acts complained of or their official superiors any admission that such acts were violative of the treaty between the United States and France, or expressing any regret that these things should have occurred. The president of the tribunal civil of Bordeaux did, it is true, express his clear conviction of the illegality of the whole proceeding, but declared that by the practice of that court he could not take the initiative in the annulment of a writ issued by the vice-president.

With this letter my connection with this affair comes to an end. It now becomes a question whether my country will insist upon the observance of treaty rights or will permit its consular representatives in France to be annoyed by judgments rendered on false, absurd, and fraudulent claims, without hearing testimony or giving opportunity for protest or defense, and be subjected to writs of execution secretly issued without the usual notice of *lis pendens*, and by special order of the judge withheld from the record lest such consular representative should become aware that any proceeding has been taken against him. The determination of that question rests entirely with others.

I have to congratulate myself that during these two months and more of negotiation with the local authorities which the treaty imposes upon me as an official duty I have neither written nor uttered in regard to this matter a single word which I desire to modify or recall. Instead of magnifying the incident or seeking to arouse any feeling or clamor in regard to the same, I have kept it entirely from the public press of my country, and not only refused to speak of it to reporters but even secured the silence of one who was an eye witness of the whole affair. While it has been under my control there has been only persistent effort to minimize, if possible, its importance by seeking to induce the judicial authorities to declare the writ to have been inadvertently granted and the administrative authorities to reprove by written order their subordinates for excess of zeal. This would have enabled me to report it as an accidental rather than an intended violation of the treaty, thus depriving it of all international significance.

The persistent refusal of the local authorities to adopt this course leaves me no discretion but to report the whole matter to my Government as a gross violation of the treaty, for which the local authorities have for nearly three months refused to make any reparation, to express any regret, or disavow the right to repeat the same whenever opportunity may occur.

I am, etc.,

ALBION W. TOURGÉE.

[Inclosure J.—Translation.]

*Syllabus of case reported in La Loi of May 26, 1899, of a decision of the court of appeals of Limoges of the 12th of May, 1899, on the question of the inviolability of the consular dwelling.*

“Under the terms of Article III of the convention of the 15th of September, 1853, between France and the United States, the offices and dwellings of consuls are inviolable; the local authorities can not invade them under any pretext, and they shall not in any case examine or seize the papers which are there deposited.”

“The inviolability which protects at the same time the business offices of the consulate and the private dwelling of the consul extends to all his personalty, furniture, and other effects which serve the personal convenience of the consul or that of his family or household.”

“In consequence of these provisions the furniture and other movable effects (objects mobiliers) which adorn not only the offices specially designated ‘the consulate’ but also the ‘dwelling’ of the consul can not be seized under execution.”

*The French Embassy to the Department of State.*

[Memorandum.—Translation.]

FRENCH EMBASSY,  
*Washington, August 14, 1899.*

The Government of the Republic has informed the French embassy at Washington of a protest presented by Mr. Tourgée, United States consul at Bordeaux, in consequence of circumstances which may be stated as follows: Mr. Tourgée, whose official residence is at Bordeaux, where his office and his private dwelling are situated, No. 52 Public Garden avenue, has rented on an oral lease and for a period of eight months a villa situated at Arcachon. In consequence of a difficulty with the owner with regard to this lease, Mr. Tourgée is said to have refused to pay on the 1st of April last the amount due of the rent agreed upon. On the demand of the proprietor, who claimed that Mr. Tourgée owed him 1,400 francs, the president of the civil court of Bordeaux issued an order authorizing him to levy an execution against Mr. Tourgée in the city of Arcachon. When Mr. Rouse, the bailiff, appeared on the 10th of April, carrying an order, Mr. Tourgée refused to pay and refused to allow the bailiff to enter his villa, which he said was inviolable under Article III of the consular convention between France and the United States of the 23d of February, 1853. The bailiff, having been ordered to secure the execution of an order of the court, was obliged to apply for assistance to the commissary of police of Arcachon. Mr. Tourgée, who in the meantime had displayed the American flag on his balcony, persisted in his determination not to allow the bailiff to enter the villa, in spite of the advice given him by the commissary of police to go and advocate his view before the president of the court, who was to decide as referee. At last, after some particularly difficult conversation, because Mr. Tourgée does not hear well and speaks French hardly at all, the bailiff and the two witnesses entered the house, went over it, but always respecting a room which was used by the consul as his office. They then retired to the garden, where a minute of the proceedings was drawn up stating that there were no effects. The furniture of the villa, in fact, belonged to the owner, and Mr. Tourgée had only some personal effects there, the value of which was thought by the bailiff insufficient to secure the expenses of an execution.

Mr. Tourgée immediately presented a protest to the prefect of the Gironde, in which he protests, referring to Article III of the consular convention before mentioned, against this attempt to carry out the order of execution issued against him. He adds that Mr. Rouse, the bailiff, had uttered words of contempt for the American flag, and that notwithstanding his positive prohibition, he had examined his consular papers.

From the investigation to which the prosecuting attorney of the Republic at Bordeaux received orders to proceed, this part of the complaint of the United States consul can only be explained by his not speaking French. The bailiff asserts in the most positive manner, and the witnesses to the proceedings corroborate his assertion, that he did not at any time use offensive words toward the American flag, nor any word referring to it, and that no search or inspection was made of the papers which Mr. Tourgée may have had in his villa. As the United States consul at Bordeaux seems to wish to give this matter an aspect which gives an entirely false impression of it, it seems desirable that the Department of State should be informed of the incorrectness of the assertions contained in his protest presented to the prefect of the Gironde. Whatever may be his desire to tell the truth, Mr. Tourgée does not appear to have considered that the bailiff and the commissary of police of Arcachon confined themselves to securing the execution of a judicial judgment which it was at the option of the United States consul to endeavor to have revoked by the court if he thought it contrary to the provisions of the French-American consular convention.

In this connection, the Government of the Republic is desirous to know the construction given by the Federal Government to Article III of the said convention, and also the American jurisprudence in matters of the inviolability of the residences of French consuls in the United States. Does that inviolability apply only to the dwelling which the French consul occupies in the city designated by the exequatur as being that where he is permitted to reside; or, on the other hand, does it apply also to the dwelling in which such consul may reside temporarily, for his own pleasure and without any official reason, outside of such city but still within the limits of its jurisdiction?

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*The Department of State to the French Embassy.*

[Memorandum.]

DEPARTMENT OF STATE,  
Washington, October 27, 1899.

The Department of State of the United States has received the unofficial memorandum of the French embassy at Washington, dated August 14, 1899, in reference to the inviolability, under Article III of the consular convention between the United States and France of February 23, 1853, of the residence at Arcachon of Mr. Tourgée, the United States consul at Bordeaux.

The memorandum states that the Government of the Republic of France desires to know the construction given by the United States Government to Article III of the said convention, and also the American jurisprudence in matters of the inviolability of the residence of French consuls in the United States; whether that inviolability applies

only to the dwelling which the French consul occupies in the city designated by the exequatur as being that where he is permitted to reside, or whether, on the other hand, it applies also to the dwelling in which such consul may reside temporarily for his own pleasure and without any official reason, outside of such city but still within the limits of its jurisdiction.

Article III of the consular convention of February 23, 1853, between the United States and France provides that:

"The consular offices *and dwellings* shall be inviolable. The local authorities shall not invade them under any pretext."

This Department regards the inviolability of the consular dwelling thus guaranteed by the treaty as applicable to the dwelling in which the consular officer for the time being has his habitation. This dwelling may or may not be connected with or near the consular offices. There is nothing in the exequaturs granted by this Government to French or other foreign consuls in the United States requiring or indicating that they may be only permitted to reside in the city in which the consular office is located. That is not a matter with which this Government is concerned. It is deemed to be a matter to be determined by the consular officer, under the regulation of the Government which appoints him. The consul at Bordeaux is designated by this Government as consul for the ten departments of southwest France, and the exequatur granted him by the French Government expressly designates those ten departments within which his consular functions are to be recognized. Arcachon, where he had his dwelling when the acts of which he complains were committed, is located in the consular district of Bordeaux. The United States requires the consul to keep *consular offices* at Bordeaux, but it does not require him to maintain his *dwelling place* in that city, nor is it believed that there is anything in his exequatur requiring this. It is submitted that he had a perfect right to establish his dwelling at Arcachon. His object in doing so was to take certain treatment recommended by his physician which could only be taken there. While there all mail for the consulate was forwarded to him without being opened, and all except mere routine work of the consulate was performed there by himself and his clerks. Thus the place was not only his residence, but the place where his official duties were transacted also.

In the opinion of this Department the inviolability secured by the treaty clearly applied to the premises occupied by Mr. Tourgée at Arcachon.

No case has arisen in the United States involving a construction of the treaty provision by the courts.

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*Mr. Hay to Mr. Porter.*

No. 683.]

DEPARTMENT OF STATE,  
Washington, November 3, 1899.

SIR: I inclose herewith copies of memoranda<sup>1</sup> from and to the French embassy at Washington in reference to the inviolability, under section 3 of the consular convention between the United States and France of February 23, 1853, of the residence at Arcachon of Mr. Tourgée, the United States Consul at Bordeaux.

I am, etc.,

JOHN HAY.

*Mr. Porter to Mr. Hay.*

No. 560.]

EMBASSY OF THE UNITED STATES,  
*Paris, November 13, 1899.*

SIR: Referring to the question of the inviolability of the consular dwelling of Mr. Tourgée at Arcachon, I have to report that in accordance with your instruction, No. 636, of August 9, I laid the matter before Mr. Delcassé in a dispatch dated September 19, in which I followed as closely as possible your own language, as used in the above-mentioned lucid presentation of the case.

Mr. Delcassé replied to this communication under date of the 8th instant, in terms almost identical with those used by the French embassy at Washington in its memorandum of August 14, a copy of which accompanied your No. 683 of November 3, received this morning.

Mr. Delcassé draws a distinction between the consular dwelling and the personal dwelling of the consul. He contends that Mr. Tourgée should have appealed to the courts to vindicate his rights as he understood them instead of resisting an order of the court. He states that the French Government has not the power of disavowing any judicial act performed by a magistrate in his judicial capacity. He denies that the French officials used any language offensive to the United States, and finally states that as the case has been practically settled between the parties the only point remaining in question is whether the language of the treaty can be construed as meaning that the inviolability of the consular dwelling extends to the personal dwelling occupied temporarily by a consul for his convenience. To this construction the minister says he can not adhere before taking the advice of the legal adviser of his department, and he has requested them to examine the question.

Your memorandum of August 27, having already acquainted the French foreign office with your understanding of the meaning of the language of the treaty with regard to consular dwellings, I deemed it unnecessary to reply to Mr. Delcassé's note. The proper time for so doing will be when he communicates the opinion of the legal adviser of his department on the question in point.

I have, etc.,

HORACE PORTER.

*Mr. Hay to Mr. Porter.*

No. 757.]

DEPARTMENT OF STATE,  
*Washington, April 9, 1900.*

SIR: Referring to my instruction No. 656, of August 9, 1899, and your reply of November 13, 1899, No. 560, touching the violation of the consular dwelling of Mr. Tourgée, consul of the United States at Bordeaux, while he was temporarily at Arcachon, I have now to inquire the present status of the matter. It will be observed that the two Governments disagreed as to the meaning of the language of Article III of the consular convention concluded between the United States and France, February 23, 1853, as applied to the premises occupied by Mr. Tourgée at Arcachon, and that the French Government proposed to obtain legal advice on the subject.

It is to this feature of the case to which I now advert.

I am, etc.,

JOHN HAY.

*Mr. Porter to Mr. Hay.*

No. 667.]

EMBASSY OF THE UNITED STATES,  
*Paris, May 19, 1900.*

SIR: Referring to previous correspondence touching the violation of the consular dwelling of Mr. Tourgée, our consul at Bordeaux, and particularly to your No. 757, of April 9, asking what is the present status of the matter, I have to report that on April 24 I addressed a note to Mr. Delcassé, recalling the question to him and inquiring whether the French Republic was now prepared to adhere to the construction given by my Government to the clause of the treaty of 1853 concerning the inviolability of consular dwellings.

A reply came under date of the 15th instant in which Mr. Delcassé states that, after having consulted his legal counsels and in conformity with the opinion expressed by them, the Government of the French Republic considers that, by stipulating in article 3 of the treaty of 1853 that chancelleries and consular dwellings are inviolable, France intended to attribute the great privilege of inviolability only to the offices and to the dwellings of the consuls in the place of their official residence—that is to say, in the city where, according to the terms of their exequatur, they are admitted to discharge their functions.

The minister then goes on to state that the fact that the exequatur extends the jurisdiction of a consul beyond the limits of the city which is his official residence has only for object of determining where he is competent to act officially. Mr. Delcassé insists particularly on this consideration, that, if the treaty was read as we read it, American consuls in France and French consuls in the United States would be vested with privileges which belong only to the diplomatic representatives of the two countries.

I inclose a copy and a translation of Mr. Delcassé's note, together with a copy of mine of April 24, to which he replies.

I have, etc.,

HORACE PORTER.

[Inclosure 1.]

*Mr. Porter to Mr. Delcassé.*EMBASSY OF THE UNITED STATES,  
*Paris, April 24, 1900.*

SIR: I am in receipt of a dispatch from my Government asking what is the present status of the case submitted to your excellency in my communication of September 19, 1899; touching the violation of the consular dwelling of Mr. Tourgée, consul of the United States at Bordeaux while he was temporarily stopping at Arcachon. Your excellency will remember that our two Governments disagree as to the meaning of the language of Article III of the consular convention of February 23, 1853, as applied to the premises occupied by Mr. Tourgée at Arcachon, and that in your note to me of November 8, 1899, I was informed that it was your intention to obtain legal advice on the subject.

In view of the time which has elapsed since writing my letter of September 19, 1899, above mentioned, I shall feel obliged if you will kindly inform me at your earliest convenience whether the French Government is now prepared to adhere to the construction given to the clause in question of the treaty by my Government.

I avail, etc.,

HORACE PORTER.



[Inclosure 2.—Translation.]

MR. DELCASSÉ TO MR. PORTER.

MR. AMBASSADOR: In your letter of April 24, last, you did me the honor to refer me to the question of the interpretation of Article 3 of the Franco-American consular convention of February 23, 1853, which was brought up in the course of the communication of your excellency of September 19, last.

Your excellency will remember that in my reply of November 8, I had to show that a difference of opinion existed between the Government of the Republic and the Government of the United States concerning the purport of one of the dispositions of Article 3.

So, according to the communication of your excellency of September 19, last, the American Government thought that by inserting in the consular convention of February 23, 1853, the stipulation which we are discussing, the high contracting parties had decided that the inviolability of the chancelleries and consular dwellings applied to whatever habitation the consul happened to be occupying for the moment and for his pleasure, and without official motive, in another town than the one indicated in his exequatur, as the one where the consul is admitted to reside in his official capacity. For my part, I informed your excellency in my reply of November 8, last, that the interpretation given by your Government to this stipulation of the Franco-American consular convention, differed from the principles which had been admitted by the Government of the Republic in the different consular conventions signed by France, and that it was not possible for me to adhere to this interpretation without taking the advice of competent counsel in regard to the import which, in their opinion, should be attributed to the disposition in question, of article 3 of the Franco-American Convention of February 23, 1853.

After having caused the examination of which we are speaking to be undertaken, I have now the honor to inform Your Excellency that the Government of the Republic, conformably to the advice given by the jurists who were consulted, considers that by stipulating in article 3 of the above-mentioned convention of February 23, 1853, that "the chancelleries and consular residences are inviolable," France did not understand that she attributed the great privilege of inviolability, except to the consular officers and to the consular residences in their several official posts; that is to say, in the city where they are recognized to reside according to the terms of their exequatur for the performance of their official duties. The fact that the exequatur states that the jurisdiction of the consul shall extend over a wider radius than the limits of the city, only has reference to a question of the right for consular intervention, and for the acts which this agent might be called upon to perform, from the moment when the exequatur determines the place where the consulate is established and consequently the official residence of the consul. Also if inviolability has been accorded to the consular residence, it is only because it might be sometimes difficult to make a distinction between the consular office and residence in the city where the consul exercises his functions, from the point of view of the immunity granted by article 3 of the convention of February 23, 1853. By this stipulation it was desired that since that time all misunderstandings and frictions should be avoided.

But to desire that this inviolability be extended to all houses which a consul of the United States might inhabit in France, in his consular district and in a city other than that in which he has his chancellery, and where he is expected to reside according to his exequatur, would be to place a consular agent, in so far as his privileges are concerned, on a ground of absolute equality with foreign ambassadors and ministers, clothed with a diplomatic character, and accredited to the Government of the French Republic, or to the Government of the United States; this would be, in a certain way, to decide that the American consuls in France and the French consuls in the United States, are to be given the position of "public ministers," by the stipulation of article 3 of the consular convention between France and the United States. The courts of France have never admitted that this quality can be recognized in foreign consuls who are admitted to exercise their functions in the territory of the Republic, and they have always interpreted, in the narrowest and strictest sense, the extent of the privileges which may result from the stipulations of the consular conventions. I believe I am right in stating, moreover, that the jurisprudence of the American courts is, in this respect, the same as that of the French courts, and, taking as authorities on international law, such writers as Wheaton and Lawrence, they likewise refuse to recognize in foreign consuls in the United States the character of "public ministers."

Basing itself upon the conditions aforementioned the Government of the Republic finds itself under the unavoidable necessity of not being able to concur in the inter-

pretation which, according to the note of your excellency of the 19th of September, 1899, the Government of the United States gives to the clause of article 3 of the Franco-American convention of February 23, 1853. I am pleased by the thought that after the examination of these considerations the Secretary of State of the Union will see their value, and will on his part adhere to the import attributed by the French Government to the stipulation in question. It is in this hope that I pray your excellency to have the kindness to transmit this present communication to your Government.

I beg, etc.,

DELCASSÉ.

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*Mr. Hay to Mr. Porter.*

No. 808.]

DEPARTMENT OF STATE,  
*Washington, July 9, 1900..*

SIR: YOUR No. 667, of the 19th of May last, with inclosures, relating to the construction of Article III of the consular convention of February 23, 1853, has been received.

It is to be regretted that the French Government is unable to concur in the construction placed by this Government upon Article III of the convention as far as regards the inviolability of the consular dwelling and office when they happen temporarily to be located at a place within the consul's district other than the one which is principally occupied by him. The construction placed by France upon the article in question seems to this Government not to be consistent either with the letter or with the obvious intendment of the convention. The construction adopted by this Government would secure diplomatic privileges to a consul only to a degree limited by the convention and would not entitle him to all the privileges pertaining to diplomatic representatives. But the differences between the respective interpretations by the two Governments of the article in question are so radical that it would not seem profitable further to prolong the discussion. This Government therefore contents itself with expressing its regret that it is unable to acquiesce in the view of the French Government or in the soundness of the argument by which that view is supported. The Government of France will not, of course, expect a more liberal interpretation of the convention in favor of its consuls, should such a case arise, than it accords in favor of the consuls of the United States.

I am, etc.,

JOHN HAY.

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**LAFAYETTE STATUE.—UNVEILING AT PARIS, JULY 4, 1900.**

*Mr. Hay to Mr. Porter.*

No. 789.]

DEPARTMENT OF STATE,  
*Washington, June 12, 1900.*

SIR: The President being requested by the joint resolution approved June 6, 1900, respecting the unveiling of the statue of Lafayette at Paris, July 4, 1900, to transmit a copy thereof to the Government of France, I inclose herewith, by the President's direction, a copy for that purpose.

I am, sir, etc.,

JOHN HAY.

[Inclosure.]

[PUBLIC RESOLUTION—No. 35.]

Joint Resolution Respecting the unveiling of the statue of Lafayette, at Paris, France, July fourth, nineteen hundred.

Whereas the school children of the United States have, by their contributions of the sum of fifty thousand dollars, provided a statue of Lafayette, which, with the approval of the French Government, is to be unveiled at Paris, France, on the fourth day of July, nineteen hundred; and

Whereas the United States, by an act of Congress approved March third, eighteen hundred and ninety-nine, appropriated the sum of fifty thousand silver dollars of the United States for the purpose of aiding in defraying the cost of a pedestal to said statue: Therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the people of the United States anticipate and appreciate this ceremony with feelings of the greatest satisfaction, and that they regard the statue as expressing the honor and gratitude with which they cherish the memory of Lafayette and those of his countrymen who, by their arms and counsel, assisted in securing the independence of the United States.

*Resolved further,* That the President of the United States is hereby requested to transmit a copy of these resolutions to the Government of France.

Approved, June 6, 1900.

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*Mr. Thiébaud to Mr. Hay.*

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC  
IN THE UNITED STATES,  
*Washington, July 2, 1900.*

MR. SECRETARY OF STATE: As you are aware, the statue of Lafayette, which the Congress at Washington and the children of the American schools have presented to France, will be inaugurated at Paris on the 4th of this month.

On the eve of this ceremony the minister of foreign affairs directs me to express to the American Government the gratitude felt by the Government of the Republic in receiving this monument, destined to perpetuate souvenirs of glory to which France and the United States have been and will remain equally attached.

I am happy to be the interpreter to your excellency of these sentiments, and I avail myself of this occasion to renew, etc.

THIÉBAUD.

No. 685.]

*Mr. Porter to Mr. Hay.*

EMBASSY OF THE UNITED STATES,  
*Paris, July 5, 1900.*

SIR: Your instruction No. 789, of June 12, directing me to transmit to the French Government a copy of the joint resolution approved June 6, 1900, respecting the unveiling of the statue of Lafayette at Paris on July 4 was complied with upon its receipt, and under date of the 2d instant it was acknowledged by M. Delcassé in a note, of which a copy and a translation are herewith inclosed.

A day or two after, M. Destournelles, a well-known deputy, for-

merly a member of the diplomatic corps, called at my house to confer with me with regard to the wording of a resolution which M. Bourgeois, late prime minister, and himself, intended to introduce in the Chamber in response to ours. The form of the resolution being agreed upon, it was understood that M. Bourgeois would introduce it in the Chamber before the inauguration of the statue. He did so on the 2d instant, and began by reading the joint resolution of the 6th, and then said:

Thus, gentlemen, the monument erected to the memory of Lafayette, which is to be inaugurated at Paris on the Fourth of July next, is due to a double subscription, one coming from the children of the schools of the United States, the other coming from Congress. To this homage rendered to the Frenchmen who fought for the independence of America the Senate and the House of Representatives of the United States have added, in the name of the American nation, another evidence of faithful and unanimous remembrance. We are certain that the Chamber of Deputies will respond with dignity to this manifestation. Therefore, gentlemen, in the name of my honorable colleague, M. Destournelles, and in mine, I have the honor to propose the following resolution, for which I ask urgency:

The Chamber of Deputies expresses to the American nation the gratitude of France for the gift of a monument which will perpetuate between the two Republics memories which are equally dear to both.

The reading of this resolution was hailed with loud applause, after which M. Delcassé, minister for foreign affairs, said that the French Government had already sent to Washington the expression of its gratitude and associated itself with the resolution. The Government, he added, was only too happy to see the national representation of the country manifest its convictions that this monument, which is intended to recall to the people of France and of the United States remembrances equally dear and glorious, will also in the future be a token of fruitful understanding for the mutual interests of both countries, interests which are in perfect harmony on so many points, and which happily are not irreconcilable.

The resolution was carried unanimously. The president of the Chamber said he was happy to see this unanimity of sentiment, and that he would transmit the resolution through the diplomatic channel.

MM. Chaumié, D'Aunay, Morellet, and Maxime Lecomte introduced in the Senate the following resolutions:

The Senate expresses to the American nation the gratitude of France for the gift of a monument which will perpetuate between the two Republics memories which are equally dear to both.

The keeper of the seals and minister of justice, M. Monies, said he was happy to see two French Chambers associate themselves with the sentiments of gratitude expressed by the French Government to the United States. The memories, a hundred years old, which we are about to commemorate, he added, are the living ties which united the French and the American people."

The resolution was carried unanimously.

The statue was inaugurated yesterday on a square of the Place du Carrousel, which is hereafter to bear the name of Square Lafayette, in the presence of M. Loubet, President of the French Republic; the presidents of the Senate and of the Chamber of Deputies, MM. Fallières and Deschanel; the minister of foreign affairs, M. Delcassé, and of other members of the cabinet and high officials of the French Government. The ceremony was a brilliant one, the number of persons present being estimated at between 5,000 and 6,000, the majority being Americans. I had the honor of presiding at the ceremony, making the opening address. Commissioner-General Ferdinand W. Peck,

president of the Lafayette Memorial Committee, formally presented the statue to France, and the President of the Republic accepted it in the following terms:

Gentlemen: This magnificent monument consecrates the old friendship and union of two great nations.

In a spirit of generous impulse the Government of the United States, the House of Representatives and the Senate, have approved of the ceremony which brings us together here before the image of a common ancestor, but the initiative of this celebration comes from the youth of the schools nourished by the splendid examples of history and by the most noble traditions. I am happy to join in the cordial thanks which the Chambers have already sent to the people of the United States, thanks which I now renew in the name of all France.

The spectacle of these two Republics imbued at this moment with the same emotion and animated by the same thoughts is not less a lesson than a cause for celebration. It shows that among nations as among individuals the cold and calculating policy of egoism is often more counter to the general welfare than the generous impulses of the heart.

When Lafayette crossed the ocean to aid a distant people in winning their independence, he was not the victim of heroic Quixotism; he aided a deep political principle; he went to initiate the friendship of two peoples which should be founded upon the common rock of patriotism and liberty.

This friendship, born under the brotherhood of arms, has developed and strengthened itself throughout the century which is drawing to a close; the generations which follow us will not let it grow weak; they will enforce and cause to multiply the amicable relations and the intercourse between the two shores of the Atlantic, and will thus give a precious guarantee of the peace of the world and the progress of humanity.

After various other speeches the ceremony was closed by Archbishop Ireland, whose oration, delivered in French, was prefaced by the reading of a letter the President had addressed him on this occasion.

I inclose herewith an extract from the Daily Messenger of this day, giving a full account of this imposing ceremony, the most memorable one ever held abroad for the celebration of our Day of Independence.

I have, etc.,

HORACE PORTER.

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[Inclosure 1.]

*M. Delcassé to Mr. Porter.*

[Translation.]

PARIS, July 2, 1900.

MR. AMBASSADOR: Conformably with the instructions of the President of the United States of America, your excellency has been kind enough to transmit to me the text of a resolution voted by Congress relative to the inauguration of the statue of Lafayette, which is to take place in Paris the Fourth of July next.

I hasten to acknowledge the receipt of it to your excellency, and to thank you for sending it to me, and I have not failed to cause it to be placed before the President of the Republic.

The President is extremely appreciative of this attention. He has charged me to convey to you the expression of his lively thanks and to beg that you will be good enough to transmit to His Excellency, President McKinley, and to the American Congress the profound gratitude of the President of the Republic.

Please receive, etc.,

DELCASSÉ.

[Inclosure 2.]

[Extract from Daily Messenger, Paris, July 5, 1900.]

LAFAYETTE'S STATUE—THE GIFT OF AMERICAN CHILDREN TO THE REPUBLIC OF FRANCE—THE UNVEILING YESTERDAY—GRANDIOSE CEREMONY—GREATEST GATHERING OF AMERICANS EVER HELD IN FRANCE—SOME INTERESTING SPEECHES—PRESIDENT LOUBET PRESENT—HIS ADDRESS—MAGNIFICENT COMPANY.

Yesterday morning at 10 o'clock the unveiling of the monument to General Lafayette, presented to the French Republic by the school youth of the United States through the Lafayette Memorial Commission, took place on the Square Lafayette, Carrousal du Louvre, the ceremony proving one of the greatest functions which has ever marked the celebration of the American Fourth of July abroad. Nothing was lacking to make the occasion notable. The President of the French Republic was present. The President of the United States sent a message of congratulation, and there were present a greater number of American officials and dignitaries than have ever before assembled outside the confines of the United States.

The statue is erected in the courtyard of the Louvre in one of the charming green spots which nestle between the two main wings of the great museum. In this charming enceinte tribunes had been erected around the statue, at present in plaster while awaiting the permanent bronze, sufficient to seat several thousand persons. The statue itself was covered with a huge tricolor flag at the beginning of the ceremony, later to be uncovered by two little boys chosen for the occasion. A huge wreath of white roses was, on behalf of the Daughters of the American Revolution, placed at the bottom of the statue by the charming little daughter of Maj. Ben. Truman, of California.

At 10 o'clock the guests swarmed in. Brilliant toilettes and uniforms began to fill the stands. In the buttonholes of the frock coats were borne miniature "Stars and Stripes."

And "still they came"—the spectators. The crowded stands could contain no more, and many specially interested in the ceremony were compelled to take their places around the square, where they were joined by numerous sightseers, attracted by the presence of the Republican Guard and the American soldiers. On the surrounding roofs of the Louvre one noticed a number of privileged visitors comfortably seated in the shadow of the great chimney stacks, for the sun shone brilliantly.

Half past 10. There was a rattle of drums; Sousa's band struck up "The Marseillaise." It was the President of the Republic arriving. He was accompanied by M. Delcassé, minister for foreign affairs, General Bailloud, and M. Combarieu.

Amid cries of "Vive Loubet!" "Vive la République!" "Viva la France!" General Porter, the United States ambassador, received the President and conducted him to the seat reserved for him. The enthusiasm of the spectators was tremendous. Loud hurrahs rent the air. Scarcely had the notes of "The Marseillaise" died away than the strains of "The Star Spangled Banner" were heard. The scene then "beggared description." On every side men waved their hats and flags in the air.

The distinguished visitors had soon taken up their places on the special stand reserved for them. The President of the Republic was seated between Gen. Horace Porter and Mr. Ferdinand W. Peck, United States Commissioner-General to the exhibition. There were by their side M. Fallières, president of the Senate; M. Deschanel, president of the Chamber of Deputies; M. Delcassé, minister of foreign affairs; M. Georges Leygues, minister of education, M. Caillaux, minister of finances; General André, minister of war; M. Millerand, minister of commerce; M. Baudin, minister of public works; General Brugère, Col. Meaux Saint-Marc; M. de Selves, prefect of police; M. Bourgeois, and several other members of Parliament. Among the literary notabilities present we noticed M. Brunetière, M. Jules Claretie, and M. Gaston Deschamps.

The American colony was present in force, with Mr. Gowdy, consul-general, and all the members of the embassy and the consulate.

Lafayette's family was represented by MM. G. de Sahune Lafayette, councilor-general of Meurthe-et-Moselle, Lieut. Gilbert de Pusy, Comte de Beaumont, Comte de Braza, Marquis de Chambrun, deputy of the Loire, and M. Pierre de Rémusat, former deputy.

The unveiling ceremony at once began. At the foot of the monument sat two children; on one side Gustave Hennocque, great-grandson of Lafayette, on the other, the son of Mr. Thompson, secretary of the Lafayette Statue Committee, both dressed in white with a wide tricolored ribbon.

General Porter said: "In the name of the school children of the United States, whose generous contributions made possible the erection of the imposing statue which

is about to be unveiled, and in the name of our Government, which added so liberal a donation to the fund, I extend to all here present a cordial welcome upon this day, the anniversary of our country's birth, within sight of yonder memorable concourse of the nations, in the presence of this vast assemblage of the representatives and citizens of the Old World and the New, and in memory of a struggle in which French and American blood moistened the same soil in battles fought for a common cause, it is a fitting occasion upon which to solemnly dedicate a monument in honor of a hero of two continents, the immortal Lafayette. This statue is a gift from the land of his adoption to the land of his birth. Its purpose is to recall the record of his imperishable deeds, to testify that his name is not a dead memory, but a living reality; to quicken our sense of appreciation and emphasize the fidelity of our affection. A recital of his deeds inspires us with the grandeur of events and the majesty of achievement. He needs no eulogist. His services attest his worth. He honored the age in which he lived, and future generations will be illumined by the brightness of his fame."

In French the ambassador said: "I extend a cordial greeting to all who have gathered with us to-day to take part in an event of international importance. Americans do not fail to appreciate profoundly this evidence of sympathy, especially on the part of the high officials of the French Republic and the eminent representatives of foreign powers whose presence here honors the occasion and adds distinction to the ceremonies. We assemble here upon the anniversary of the birthday of the American union to inaugurate a statue which the school children of the United States present to the country which generously cast its strength with us in battling for our national independence. This monument is the tribute paid by grateful hearts to the memory of a man who had the rare good fortune to be the hero of two countries and who was the highest personification of the great principle of liberty secured by law, a man who, in America as well as in France, at all times and in all places, was ever ready to make the most heroic sacrifices whenever liberty needed aid or weakness called for help, the friend and pupil of Washington, the chivalrous Lafayette.

"During the sanguinary struggle which resulted in securing liberty to the American colonies, there were some who gave to the cause their sympathies, others a part of their means, but Lafayette shed his blood; he gave a part of himself. Living, he was honored by the affection of his American comrades; dead, he is enshrined in the hearts of their posterity. In erecting this statue to this great representative soldier America has, at the same time, raised a monument to the memory of every Frenchman who fought for the cause of our national independence. May the presentation of this gift and the good wishes which accompany it strengthen between the two great sister Republics the bonds of friendship which have so long united them and which nothing should be permitted to weaken."

Ferdinand W. Peck, the American commissioner-general to the exhibition, and honorary president of the Lafayette Memorial Commission, then was introduced by General Porter. Mr. Peck's speech was as follows:

"Mr. Ambassador, Mr. President of the Republic, distinguished guests, ladies and gentlemen: France, a great nation across the sea salutes thee to-day. Her children, bowed in gratitude, pay the homage for the heroic deeds of thy countryman, who came with sword and treasure to succor a struggling people. On this, the Independence Day of the United States of America, our youth plant a tribute upon thy soil to the memory of our knight of liberty, our champion of freedom, the immortal son of France, the rescuer of the oppressed—your Lafayette, our Lafayette. The spirit of liberty moved him to leave home, comforts, fortune; moved him to cross boisterous seas during weeks of peril in order to battle beside our ancestry for that freedom which underlies the development of the great Western empire, an empire which has since contributed so much in men, in thought, in achievement to advance the civilization of the world during the century now about to close.

"That love for freedom, that friendship, that sacrifice, that patience, that heroism which brought General Lafayette to the shores of the new continent to stand side by side with our Washington when a nation was in the throes of its birth, when our forefathers saw no light through an almost hopeless gloom, will give an undying incentive to patriotism and live in grateful memory so long as our institutions shall endure. He came that we might live; he prayed for the perpetuity of the nation for which he fought. These are his words: 'May this immense temple of freedom ever stand as a lesson to oppressors, an example to the oppressed, and a sanctuary for the rights of mankind; and may these happy United States attain that complete splendor and prosperity which shall illustrate the blessings of our government and for ages to come rejoice the departed souls of its founders.' The prayer, by the grace of God, has proven a prophetic invocation.

"In thus eulogizing thy son, we do not forget, O France, thy generous gift in our hour

of need. We do not forget that out of thy treasury came timely support to our impoverished young country when our struggle of the Revolution was done. We do not forget these words you uttered: 'Keep one-third of what we have loaned you as a gift of friendship, and when with the years there comes prosperity you can pay the rest without interest.' For this our country to-day pays thee homage with tears of gratitude. We also thank thee for the hallowed ground where a nation's children lovingly place this offering; for the beautiful site in thy historic Garden of the Tuileries, made sacred by a thousand memories of thy past. Here, surrounded by great palaces filled with the works of the grandest masters, will stand forever this memorial. But we thank thee above all for Lafayette. From thy soil he came with his banner of freedom to lift the yoke of oppression which our forefathers endured in the eighteenth century. When in our struggling colonies the altar fires of liberty were burning low our hero fanned with his enthusiasm the slumbering embers into an undying flame; and after this noble work was done he caught up a spark that, when carried back to his country, burned into the stones of Paris that trinity of words so dear to the French heart, 'Liberté, Egalité, Fraternité.'

"And now, in behalf of our great Republic, the representatives of which in Congress assembled supplemented the gift of our youth in placing here this tribute to the memory of a nation's defender, and in behalf of the Lafayette Memorial Commission organized to execute the thought of our children, it is our duty and our great privilege to present to thee, France, this monument to the memory of our knight, whose noble deeds a nation will never forget. His ashes lie in a tomb which needs no fragrant floral offerings, for

'The actions of the just  
Smell sweet to Heaven and blossom in the dust.'

"In this hour we gather around the shrine of the richest, purest sentiment. It stirs the soul and moistens the eye to think of the thousands of little hearts from whose impulse came the sacred fund that has builded this tribute to the intrepid apostle of freedom. Legends of liberty learned at the knees of American mothers have found their holiest expression in this gift, and the puritan boys and girls, who read the story of freedom as they read the story of Christ, have been watching and waiting with us for this sublime moment.

"May the lovers of liberty from the uttermost parts of the earth seek this sanctuary as an inspiration for the oppressed and a promise of the redemption of mankind throughout all the ages to come."

President Loubet was greeted heartily when he rose to accept the monument on behalf of France. The President said:

"Gentlemen: This magnificent monument consecrates the century-old friendship and the union of the two great nations.

"Moved by a generous impulse, the Government of the United States, the House of Representatives, and the Senate have associated themselves with the ceremony which brings us together before the image of this common ancestor; but the credit of originating this festival is due to school children fed with the noblest traditions and the best examples of history. I am happy to join in the cordial thanks which the Chambers have already sent to the people of the United States, and which I repeat in the name of the whole of France.

"The spectacle of these two Republics, penetrated at this moment by the same emotion and animated by the same thoughts, is not less a lesson than a fête. It shows that with nations, as with individuals, the calculations of selfishness are often more hurtful to one's interests than generous impulses to the heart.

"When Lafayette crossed the sea to help a distant people to win its independence he was not the victim of a Quixotic folly; he had a deep political design. He went to found the friendship of two peoples on the common religion of patriotism and liberty.

"This friendship, born in the comradeship of arms, has developed and grown stronger during the century which is ending. The generations which succeed us will not suffer it to grow weak; they will rather endeavor to multiply friendly relations and intercourse between the two sides of the Atlantic, and by so doing give a precious pledge of peace to the world and of progress to humanity."

Robert J. Thompson, the secretary of the Lafayette Memorial Commission, spoke on behalf of the school children of the United States. He said:

"It is my great privilege and honor to speak here a few words for the millions of builders of this memorial—for the children of America who, assembled in their various study rooms, gave in a single day the funds necessary to insure the success of this monument, long deferred, but inevitable from the very logic of history.

"On that day a tribute was paid to Lafayette unparalleled in the annals of civilization. From the great universities and colleges of the cities to the remote schools of the forests and plains, in every dwelling of education in our broad land, songs of



gratitude and praise were offered up, a memorial to the youthful and generous friend of our fathers, finding lodgment, we doubt not, as ideals in the minds of those who in the future years must shape the destiny of their country.

"There were schools for the blind and the deaf, schools for the Indians of Oklahoma and Alaska, schools for the negroes of the sunny South, little children of the city kindergartens, and millions from the regular common schools—all sent up their mites that one who had in fact offered up his life, his fortune, and his sacred honor that the Declaration of Independence might become a thing of reality and life should be singled out more than a century later as the ideal patriot whose country was the world and whose religion was human freedom.

"Nations, like men, live largely in hopes for the future and retrospection of the past. We are a puissant people to-day, but looking backward to those days when, springing from the womb of the Revolution, we began the search for progress, we observe a nation of scarcely 3,000,000 people. To-day we are passing into the twentieth century, having in a little more than a hundred years multiplied our population twenty-five fold.

"Let us look forward a century, when, if it please God, our children's children may gather again around this spot. It is but a day in the evolution of man, yet the United States, more youthful still than her sister nations of the world, shall number over a billion of people. A thousand million free and independent souls enjoying the heritage of the blessings of this man's arms and sacrifice. We must in the logic of events look forward to that. A thousand million people filling the plains and valleys of Columbia as the teeming millions now cover Europe and Asia.

"The impressions of youth are the strongest; they stand out in after years like beckoning friends, drawing us onward to deeds of greatness or disaster. And it is by this fact that the children of America will profit greater in this affair than can be measured. The inspiration of one high ideal implanted in the mind of a boy may change the map of the world, advance the civilization of man by gigantic strides, or preserve to him, if need be, the rights and institutions of liberty purchased in the past by the blood and brain of the fathers.

"Let the boys and girls of America build for that portentous day, for come it will. To participate in the shaping for the future of this great structure shall be the pride of the twentieth-century youth of America. And they will be true to the trust we leave them, that this great Government may stand, as viewed with prophetic eye by Lafayette, forever as a lesson to oppressors, an example for the oppressed, and a sanctuary for the rights of mankind."

Mrs. Daniel Manning, president of the General National Society of Daughters of the American Revolution, was introduced by General Porter, and delivered a speech, from which we make the following extracts:

"We have come together in this city of romantic and historic interest to honor the memory of the illustrious Lafayette, and sunny France extends a gracious welcome to every guest. In one hand the brightness of the South, in the other the treasures of the North. This beautiful city with all its irresistible splendor is fortune's favored spot—between extremes, yet where they meet in happy harmony.

"We are here to-day to render our homage to Lafayette, our admiration for his character, our gratitude for his help, and our attachment for the principles of civil and religious liberty which he encountered ocean, exile, and war to establish. The bells are ringing to-day throughout America to celebrate the birth of our Republic, and the names of Lafayette and Washington, for Lafayette's name is indissolubly linked in the heart of every American with the Fourth of July.

"On this day, on lasting foundations, we laid the corner stone of our Republic, which your compatriot helped us to rear.

"This monument is the loving gift of the young people of America who have offered of their treasures, and the monument will not only be a monument to a hero, but the permanent memory of a great life in a thousand little minds, for one landmark of history written in stone is worth a hundred written in ink. It is with gratitude the Daughters of the American Revolution place a tablet upon this monument.

"It is not, then, as America's hero alone, nor as the hero of France alone, that we desire to perpetuate the memory of General de Lafayette, but as a hero possessing those traits that all mankind delight to honor wherever worth is valued and great ideals are the aspiration and hope of the brave and true. The fame of such a character can be measured only by the limit of a world's gratitude. With no spur of future emoluments nor incentive of personal ties, he came to espouse the cause of the American people according to the principles of the Declaration, which unfolded before his eyes the consecrated standard of human rights. He crossed the ocean and offered his sword to distant unknown fellow-men striving for liberty. And how completely his sympathy was with America is shown in a letter to his wife, when he writes: 'I hope, for my sake, you will become a good American.' His was the most tender friendship to Washington that history records, and to the boy hero was given

the grateful thanks of a free people, and the depth of that gratitude was shown when on his return to America, forty years after, everyone vied in paying him homage, as expressed in the words of a popular song—

We bow not the neck,  
We bend not the knee,  
But our hearts, Lafayette,  
We surrender to thee.

“He cast his fortunes in with us when we stood alone. He fought for us when we had no credit, and his hand helped to guard the cradle of America’s liberty. The name of Lafayette is forever inscribed in letters of gold upon the tablet of our memories and the history which commemorates the name America.

“And thus, ‘with hands across the sea,’ America joins in this tribute to her, to our, to the world’s hero—Lafayette,

The friend of America,  
The fellow-soldier of Washington,  
The patriot of two countries.”

Miss Tarquinia L. Voss, of Indianapolis, Ind., read the following dedication poem, written for the occasion by Frank Arthur Putnam:

*Dedication Ode.*

I.

To France, as to the sister of her soul,  
Columbia sends this wreath of immortelle,  
Green for the grave of her immortal son;  
Columbia rears this love-engirdled shaft,  
The tribute of her children, and a prayer  
That never in all the changing after years  
Shall night o’ertake the fame of Lafayette.

II.

Our fathers’ father knew him face to face;  
They grasped his hand in gladness when he came;  
They heard him, wise at council in the hall;  
They saw him, like a lion in the field;  
A brave heart that was stranger to despair.  
A brave heart that was bouyant in the fight;  
A true heart that in triumph or defeat  
Was steadfast to its purpose as the stars.

III.

He did not ask for honors or for gold;  
He volunteered to follow, not to lead.  
But chivalry was conscious of its kind,  
So our great Captain took him to his arms,  
And Love has twined the chaplet for his brow.  
Where History, cowed and solemn, pens his tale,  
Beneath the line that sets his titles forth,  
Be this the legend writ across the page:  
When Freedom’s feet were weary in the wilds,  
He thrust his sword between her and her foes.

IV.

Republic to Republic! Yonder sea  
That bore your standards to us in our need,  
Shall rise in mist and wander ’mid the worlds  
Ere ever the debt we owe you be forgot—  
Ere ever the debt Man owes you be repaid.  
Yea, on this day to Freedom consecrate,  
We pledge anew, beside the Hero’s bier,  
Unfaltering faith to that eternal truth  
In whose behalf he made our cause his own,  
Beneath whose banner he led our ragged hosts  
With Washington from darkness to the day.

V.

Come Britain, elder brother of our blood;  
Prophetic Slav, and German patriot, come;  
Italia, Hellas, peaks in Time’s long range,  
Swiss from the heights where Freedom’s holy fires  
Through centuries of oppression on the plain,  
Blazed beacon-like above a struggling world;  
Come, brown men from the emancipated isles,  
Our kindmen and copartners that shall be;  
Lovers of men in all the wide earth’s lands  
Columbia bids you kneel with her this day,  
And now, above the dust of Lafayette,  
In his white name beseech Almighty God  
To quicken in us the spirit that was his—  
The son of France and brother of all mankind.

Archbishop Ireland, of St. Paul, Minn., delivered the oration of the day. He spoke in French, and received great applause. His address follows:

"To-day a nation speaks her gratitude to a nation; America proclaims her remembrance of priceless favors conferred upon her by France.

"France, America salutes thee; America thanks thee. Great is her obligation; not unequal to it is her gratitude.

"We speak to France in the name of America, under commission from her Chief Magistrate, William McKinley, from her Senate and House of Representatives, from her youths who throng her schools, and from the tens of millions of her people who rejoice in the rich inheritance won in years past by the allied armies of France and America. We are bidden by America to give, in the hearing of the world, testimony of her gratitude to France.

"Once weak and poor, in sore need of sympathy and succor, to-day the peer of the mightiest, self-sufficing, asking for naught save the respect and friendship to which her merits may entitle her, the Republic of the United States of America holds in loving remembrance the nation from which in the days of her dire necessity there came to her powerful and chivalrous support.

"Noble men and noble nations forgive injuries; they never forget favors."

The archbishop then sketched at length the history of Lafayette's connection with the American revolutionary struggle. In the course of his remarks he said:

"There is a land which is, above all other lands, the land of chivalry, of noble impulse and generous sacrifice, the land of devotion to ideals. At the call of a high-born principle her sons, with souls attuned by nature to the harmonies of the true and the beautiful, leap instinctively into the arena, resolved at any cost to render such principle a reality in the life current of humanity. The pages of its history are glistening with the names of heroes and martyrs, of knightly soldiers and saintly missionaries. It is of France I speak."

The speaker also paid a magnificent tribute to Lafayette's mother, Gilbert Motier. Of Lafayette's work he said: "Wealth and rank, the favor of court and King, high distinction in the service of his own country, the endearments of wife and child—all that ambition could covet or opportunity promise, the youth of 19 summers put resolutely aside to cast his lot with a far-off people battling against fearful odds—and that at a moment when their fortunes were at their lowest ebb, and hope had well nigh abandoned their standard. When the agent of America in France sadly confessed that he was even unable to furnish a ship to carry him and other volunteers, Lafayette said: "I will buy a ship and take your men with me."

Continuing, he said: "France first stood sponsor for our nationhood. We entered into the great family of nations leaning on her arm, radiant with the reflection of her historic splendor, and strong in the protection of her titanic stature. When Franklin stood in the palace of Versailles an acknowledged envoy of America, and General de Rayneval, as the minister of France, saluted the Congress of America at Philadelphia, the young Republic thrilled with new life and leaped at once into a full sense of security and a true consciousness of her dignity."

The concluding clause of the archbishop's speech was as follows:

"And who more fittingly than Lafayette could stand forth before the world as the representative of the principles of civil and political liberty for which he and Washington fought? The passion of his soul, the inspiration of his thoughts and acts, was liberty. Liberty drew him to America; liberty put words of fire upon his lips in the States General; liberty led him to the prison of Olmutz. He understood—no one ever understood better—what true liberty is, and as he understood it so he loved it and defended it unto death. Liberty he loved as the fullness of enjoyment of one's own natural rights, with proper regard to the natural rights of others, the fullest play of one's own powers of mind and heart consistent with public welfare and public order. The enemies of liberty he hated—absolutism in its arbitrary authority and anarchy in its chaotic rioting. He stood the strenuous defender of the rights of man and of the citizen which absolutism would fain destroy, and championed them in the name of manhood, in the name of citizenship, in the name of conscience. He championed them beneath the frown of the potentate and in defiance of bribe and threat. He stood the strenuous defender of law and order, which are the conditions of liberty, and which anarchy would fain subvert. When the struggle in France for liberty degenerated into mad riot he cast aside the leadership which he had taken in the name of liberty, and which he could have retained if he bore it in the name of lawlessness, and he sought the exile which ended for him in the prison of Olmutz. He suffered persecution from the extremists on both sides. He strove for the golden mean, and for this we respect and revere his name. Absolutism and anarchy alike hate Lafayette as they alike hate liberty; the friends of liberty love Lafayette as they hate absolutism and anarchy.

“And now, Lafayette, thy task is given thee. Speak, we charge thee, the gratitude of America to France. Speak of the liberty for which America and France once fought together, and which to-day they together cherish and uphold. Speak, we charge thee, through endless years. Through endless years America’s gratitude shall last and liberty shall reign in America and France.”

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*Mr. Hay to Thiebaud.*

No. 334.]

DEPARTMENT OF STATE,  
Washington, July 6, 1900.

SIR: I have the honor to receive with great appreciation the expression of the thanks of the Government of the French Republic, as conveyed in your note of the 2d instant, on the occasion of the dedication of the statue erected to Lafayette in Paris by the Congress and the school children of the United States.

Accept, etc.,

JOHN HAY.

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*Mr. Thiebaud to Mr. Hay.*

EMBASSY OF THE FRENCH REPUBLIC  
IN THE UNITED STATES,  
Washington, July 17, 1900.

MR. SECRETARY OF STATE: I have the honor, in pursuance of instructions received from my Government, herewith to transmit to your excellency, in the name of the President of the Senate and of the President of the Chamber of Deputies, an extract from the minutes of the session in which each of those bodies unanimously adopted a resolution thanking the American nation for the gift which it has just made to France of a monument to the name of Lafayette.

In transmitting these papers to you I am happy to send to the American Government a renewed expression of the sentiments of gratitude of the President and of the Government of the Republic.

Be pleased to accept, etc.,

THIEBAUD.

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[Inclosure 1.—Translation.]

[Chamber of Deputies, seventh term, session of 1900.]

RESOLUTION CONCERNING THE GIFT, BY THE AMERICAN NATION, OF A MONUMENT TO THE MEMORY OF LAFAYETTE.

The Chamber of Deputies has adopted the following resolution:

“*Sole article.*—The Chamber of Deputies expresses to the American Nation the gratitude of France for the gift of a monument which will perpetuate between the two Republics the memories which are equally dear to them.”

Done in public session at Paris, July 2, 1900.

DESCHANEL, *President.*

(Seal of the Chamber of Deputies.)

[Inclosure 2.—Translation.]

[Senate; year 1900; ordinary session.]

*Extract from the minutes of the session of Monday, July 2, 1900.*

\* \* \* \* \*

M. Chaumié, on the occasion of the unveiling of the monument erected to the memory of Lafayette and of the Frenchmen who fought for American independence, read a draft of a resolution expressing to the American nation the gratitude of France for the gift of a monument designed to perpetuate between the two Republics the memories which are equally dear to them.

The keeper of the seals, in the name of the Government, announced his adhesion to the sentiments of gratitude of the Senate.

The President put to vote the following draft of a resolution:

“*Sole article.*—The Senate expresses to the American nation the gratitude of France for the gift of a monument which will perpetuate between the two Republics the memories which are equally dear to them.”

The resolution was adopted.

The President is happy to state that this evidence of regard was unanimously given by the French Senate to the great American nation.

\* \* \* \* \*

A correct extract.

[L. s.]

A. FALLIERES, *President.*

[Inclosure 3.—Translation.]

[Chamber of Deputies.—Office of the secretary-general of the President, Chamber of Deputies, seventh term, session of 1900.]

*Extract from the minutes of the session of Monday, July 2, 1900.*

\* \* \* \* \*

M. Leon Bourgeois read a draft of a resolution, which he asked might be declared urgent, and which is as follows:

“*Sole article.*—The Chamber of Deputies expresses to the American nation the gratitude of France for the gift of a monument which will perpetuate between the two Republics the memories which are equally dear to them.”

M. Delcassé, minister of foreign affairs, said that the Government, which had already sent an expression of its gratitude to Washington, desired to adhere to the draft of a resolution which had been submitted to the chamber.

He was most happy to see the representatives of the nation manifest their conviction that this monument, which will recall memories equally dear and glorious to the people of France and the United States, will in future be the pledge of an understanding that will promote the reciprocal interests of the two nations, which, while they are in perfect harmony on so many points, are happily in irreconcilable disagreement on none.

The resolution was declared urgent, and, having been put to the vote, was unanimously adopted.

The president said that he was happy to observe the unanimity of sentiment which the chamber had just shown by its vote.

He said that he would hasten to transmit, diplomatically, to the United States Government this resolution, in which the secular friendship that unites the two Republics is once more manifested.

A correct extract.

[L. s.]

PAUL DESCHANEL,  
*President of the Chamber of Deputies.**Mr. Hay to Mr. Thiébaud.*

No. 338.]

DEPARTMENT OF STATE,  
*Washington, July 20, 1900.*

SIR: I have the honor to acknowledge, with much appreciation, the receipt of your note of the 17th instant, transmitting extracts from the journals of the French Senate and Chamber of Deputies relative

to the resolution, unanimously passed by both those bodies, thanking the American people for the Lafayette monument presented to France.

It will give me great pleasure to forward copies of your note and of the inclosures to the Senate and the House of Representatives when Congress next convenes.

Accept, sir, etc.,

JOHN HAY.

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**PRESENTATION OF LAFAYETTE MEMORIAL COIN TO THE  
PRESIDENT OF FRANCE.**

*Mr. Hay to Mr. Porter.*

No. 722.]

DEPARTMENT OF STATE,  
*Washington, February 2, 1900.*

SIR: Mr. Robert J. Thompson, of Chicago, who is secretary of the Lafayette Memorial Commission, has been appointed by the President a special commissioner to present to the President of the French Republic the first Lafayette coin of a series of \$50,000 authorized by Congress in aid of the Lafayette memorial statue.

The President will be pleased if you will make an appointment with His Excellency President Loubet to present Mr. Thompson and to allow him the privilege of presenting this coin in a silver casket especially designed for the purpose.

I am, etc.,

JOHN HAY.

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*Mr. Porter to Mr. Hay.*

No. 638.]

EMBASSY OF THE UNITED STATES,  
*Paris, March 10, 1900.*

SIR: In compliance with your instruction No. 722, of February 2, concerning Mr. Thompson's mission to the President of the French Republic, I took pleasure in introducing that gentleman to the minister of foreign affairs and afterwards to M. Loubet, who gave him a special audience and treated him with exceptional courtesies. Mr. Thompson's report, which I inclose herewith, will show how much the French President was pleased with the testimonial and how gracefully he expressed his appreciation of the kind thought of President McKinley, which was so agreeable to him personally and so well calculated to render still stronger the ties of friendship which have so long existed between the two nations.

All the papers gave flattering accounts of the ceremony.

I have, etc.,

HORACE PORTER.

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[Inclosure.]

*Mr. Thompson to the President.*

PARIS, FRANCE, *March 8, 1900.*

TO THE PRESIDENT: Pursuant to the performance of the commission kindly intrusted to me by you, of presenting to the President of the French Republic the first Lafayette dollar, I have the honor to report to you as follows:

On the 3d instant, in company with the ambassador of the United States to France,

Gen. Horace Porter, to whom the successful execution of my mission must in large measure be credited, I was received by the President of the French Republic in special audience at the Elysee Palais. The presentation was made on this occasion in the presence of the official household of the President and the minister of foreign affairs for France, M. Delcassé.

I was highly gratified at the pleasure evidenced by the President in receiving the souvenir and the casket, and profoundly impressed by the numerous official courtesies, of a most sympathetic character, shown your special commissioner.

The President begged me to convey to you his warmest thanks for your kind thought in sending to him the first Lafayette coin, and to express his sincere sentiments of sympathy for Your Excellency and the American nation.

I have the honor, Mr. President, to inclose herewith as an addenda to this report copies of the remarks addressed by your special commissioner to the President, and his response thereto.

With great respect, I have the honor to be, very faithfully, your obedient servant,

ROBERT J. THOMPSON.

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[Subinclosure 1.]

*Remarks made by Mr. Thompson.*

MR. PRESIDENT: In the name and on behalf of His Excellency the President of the United States, I have the distinguished honor of extending to you, the high representative of the people of France, salutations and greetings of friendship.

On the 19th day of October, 1898, the anniversary of the victory of Yorktown of the French and American arms in the cause of liberty, the American school youths were invited by the President and governors of the several States of the United States to contribute their pennies toward the erection, in Paris, of a monument to a son of France, our great and venerable ally General Lafayette. The response of the children was universal, the monument a splendid success. In further aid and in honor of the work an issue of 50,000 souvenir dollars was appropriated and ordered struck by Congress.

Of these 50,000 dollars the first to issue from the Mint was especially preserved for Your Excellency by the President of the United States, and I have now the honor, Mr. President, of presenting to you this coin, a simple and sympathetic token in his name and for the people of the United States.

I voice the sentiments of my country, Mr. President, when I express the hope that this memorial dollar, stamped with the likeness of Washington and Lafayette, may remain always as it is to-day an emblem of the amity and the unity of purpose of the two great republics of the world.

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[Subinclosure 2.]

*Translation of Mr. Loubet's remarks.*

The President of the Republic replied that he was very much touched at the kind thought of Mr. McKinley and of the American people, as well as the gracious and courteous manner in which the coin had been presented to him by Mr. Thompson. He begged the special commissioner to convey to the President of the United States his warmest thanks, and to express the sentiments of sincere sympathy which animate the President and Government of the Republic for President McKinley and the American nation. He looked on the souvenir as a new pledge of the ties of reciprocal esteem and friendship which had united France and the United States for so long, and he hoped that these ties would become closer and stronger than ever. The President added that he was particularly pleased that the mission had been confided to Mr. Thompson, who was the initiator of the subscription opened in the American schools to erect the monument to General Lafayette.

## PRESENTATION OF LAFAYETTE MEMORIAL COIN TO THE FRENCH MINT.

*Mr. Porter to Mr. Hay.*

No. 611.]

EMBASSY OF THE UNITED STATES,  
*Paris, January 15, 1900.*

SIR: The director of the French mint of Paris, who has kindly furnished to Mr. Slaker, a gentleman recommended by the Department, all the information he desired, asks the good offices of this embassy to obtain for the collection of the mint one of the Lafayette memorial medals which was recently struck in the United States. Occasions frequently arise for this embassy to recommend American visitors to the officials of the Paris mint, and I should be glad to comply, if possible, with the director's request.

I have, etc.,

HORACE PORTER.

*Mr. Hay to Mr. Porter.*

No. 736.]

DEPARTMENT OF STATE,  
*Washington, February 21, 1900.*

SIR: Referring to your dispatch No. 611, of January 11 last, relative to the request of the director of the French mint for a Lafayette memorial dollar for the coin collection of the mint, I inclose herewith copy of a letter from the Acting Secretary of the Treasury, transmitting hither a specimen of the coin in question for the French Government.

You are instructed to send the memorial dollar to the Paris mint through the appropriate channel.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Spaulding to Mr. Hay.*TREASURY DEPARTMENT, *February 13, 1900.*

SIR: Referring to your letter of the 1st instant, inclosing copy of dispatch from the United States ambassador at Paris, stating that the director of the mint at Paris had expressed a wish for a Lafayette memorial dollar for the coin collection of that mint, and suggesting that same be furnished, in view of the courteous treatment extended Mr. Slaker, who visited the mints of Europe under instructions of the Department, I have the honor to inclose herewith a specimen of the coin, with the request that you will present the same, conveying to the director of the Paris mint the thanks of this Department for the courtesy extended its representative.

Respectfully,

O. L. SPAULDING,  
*Acting Secretary.**Mr. Porter to Mr. Hay.*

No. 644.]

EMBASSY OF THE UNITED STATES,  
*Paris, March 17, 1900.*

SIR: I have to acknowledge the receipt of your instruction No. 736, of February 21, transmitting a Lafayette memorial dollar given by the



Secretary of the Treasury for the collection of the French mint. The coin was sent through the proper channel to the director of that establishment, who desires this embassy to express his thanks to the United States Government for this attention, and who states that this souvenir dollar was placed in the collection of the mint with a label indicating its origin.

I have, etc.,

HORACE PORTER.

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**MONUMENT AT VENDÔME TO MARSHAL ROCHAMBEAU.**

*Mr. Porter to Mr. Hay.*

[Telegram.]

EMBASSY OF THE UNITED STATES,  
*Paris, March 28, 1900.*

Corner stone of monument to Rochambeau has been laid at Vendôme, home of family. French and American flags have been raised on the grounds. Organization committee desire me to send their friendly greetings to the President and people of America.

PORTER.

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*Mr. Hay to Mr. Porter.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, March 28, 1900.*

Express in name of President and people of United States deep appreciation of friendly international feeling, shown on occasion of dedicating at Vendôme a monument to one of the most illustrious of the noble Frenchmen whose names and memories have an enduring place in the memory of my countrymen.

JOHN HAY.

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*Mr. Porter to Mr. Hay.*

No. 649.]

EMBASSY OF THE UNITED STATES,  
*Paris, March 29, 1900.*

SIR: About a year ago a committee presided over by Mr. Luyre de Villers, a gentleman of high standing, formerly governor of Madagascar, was organized for the erection of a monument to Marshal Rochambeau, who commanded the French forces during our war of independence. The committee, having secured part of the funds necessary for the building of the monument, decided to erect it at Vendôme, the home of the Rochambeau family, where the old château bearing that name and occupied by the family for years past stands. The corner stone of the monument was laid on the 27th instant, and in the course of the ceremonies, which took place in the presence of the city authorities, the most flattering sentiments of friendly feeling for the President and people of the United States were expressed. They were conveyed to the President through the Department and properly acknowledged.

I inclose herewith copies of telegrams exchanged on this occasion.

I have, etc.,

HORACE PORTER.

[Inclosure 1.]

*Secretary of the Rochambeau Committee to Mr. Porter.*

[Telegram.]

VENDÔME,  
March 27, 1900.

The Rochambeau and commercial committees, presided over by the mayor of Vendôme, on the occasion of the laying of the capstone of the Rochambeau monument, beg your excellency to accept the expression of their respectful consideration, and to have the goodness to transmit to President McKinley the brotherly greeting which they address to the American people.

The Star Spangled Banner (pavillon étoilé) of the United States floats on the scaffolding of the monument united to the flag of France.

ROJAN,  
*Secretary of the Committee.*

[Inclosure 2.]

*Mr. Porter to the Secretary of the Rochambeau Committee.*

[Telegram.]

EMBASSY OF THE UNITED STATES,  
Paris, March 28, 1900.

I have received your telegram announcing to me the laying of the capstone of the monument to Rochambeau, and I gladly hasten to transmit to my Government the fraternal greetings which you send to President McKinley and to the American people. I congratulate you on having carried out your work to a good end and am happy that you have had the idea to float the flag of my country side by side with the national colors on the monument of a French soldier whose memory lives in all American hearts.

PORTER.

[Inclosure 3.]

*Mr. Porter to the Secretary of the Rochambeau Committee.*EMBASSY OF THE UNITED STATES,  
Paris, March 29, 1900.

SIR: The Secretary of State of my Government, to whom I lost no time in transmitting the fraternal greeting which your committee addressed to the President of the United States and to the American people, directs me, in the name of Mr. McKinley, to thank both your colleagues and yourself for this attention.

The President has been profoundly touched by the sentiments of cordial fraternity for the United States which were expressed on the occasion of the placing of a monument to one of the most illustrious of the French generals whose names and whose memories live in all American hearts.

I rejoice to be on this occasion the interpreter of the thoughts of the First Magistrate of my country—a thought which is also shared by all my countrymen, and I pray you to ask the members of the Rochambeau Committee to accept the assurances of my most distinguished sentiments.

HORACE PORTER.

*Mr. Hay to Mr. Porter.*

No. 758.]

DEPARTMENT OF STATE,  
Washington, April 10, 1900.

SIR: I have to inform you that your dispatch No. 649, of the 29th ultimo, giving an account of the laying of the corner stone of the Rochambeau monument, has been received.

The event to which you refer is a most gratifying one and illustrates the vitality of the friendship of the two peoples which has endured among the changes of over a century.

I am, etc.,

JOHN HAY.

### SAMOAN CLAIMS OF FRENCH CITIZENS—ADMISSION TO ARBITRATION.

[Memorandum left by the French chargé d'affaires December 26, 1899.]

The treaty recently concluded between the United States, Great Britain, and Germany, and which substitutes for the condominium of these three powers in the Samoan Islands a definite partition of that archipelago between the United States and Germany, stipulates besides that the question of indemnities for damages occasioned by acts of war in these islands should be regulated by an arbitral tribunal.

It would be difficult to deny that such French citizens as have been injured as the result of these troubles should have, as regards reparation, equal rights with those of the three powers which have been concerned in those regions. The Government of the Republic reserves to itself in consequence the right to ask that its nationals should be admitted to profit by the particular procedure whose exercise has been regulated by the understanding arrived at between the interested Governments. Although the Senate of the United States has not yet sanctioned this understanding, the chargé d'affaires of France has the honor to bring the preceding considerations to the attention of the honorable Secretary of State, and would be glad to receive from him the assurance that they are in harmony with the views of the Government of the United States on this question.

WASHINGTON, *December 26, 1899.*

[Memorandum.]

DEPARTMENT OF STATE,

*Washington, June 26, 1900.*

The Secretary of State presents his compliments to the French ambassador, and with reference to the memorandum left at the Department of State by the chargé d'affaires ad interim of France on December 26, 1899, expressing the wish of the French Government that the claims of its citizens sufferers in Samoa should be included in the arbitration provided for by the convention concluded November 7, 1899, between the Governments of the United States, Great Britain, and Germany, has the honor to inclose for the information of the French ambassador a copy of a memorandum<sup>1</sup> addressed to the British ambassador on the 25th instant, stating that this proposition is acceptable to the Government of the United States provided it shall be agreeable to the Governments of Great Britain and Germany.

*M. Thiébaud to Mr. Hay.*

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,  
*Washington, August 8, 1900.*

MR. SECRETARY OF STATE: With reference to a note which I had the honor to hand you on the 26th December, 1899, you were pleased on the 26th of June last to give Mr. Cambon a copy of a memorandum which you had sent the day before to the British embassy, informing them that, subject to the acquiescence of Great Britain and Germany, the Government of the United States would agree to the claims of Frenchmen who had sustained injuries during the recent events in Samoa being submitted to the arbitration of His Majesty the King of Sweden and Norway.

The representative of the Republic at London, to whom that memorandum was communicated by the department of foreign affairs with a request again to bring this matter before the foreign office, has just imparted to Mr. Delcassé the reply he has received from Lord Salisbury. By order of my Government I have the honor to inclose herewith a copy of that reply. As your excellency will see, the British premier declares that the Government of the Queen will adhere to the course above indicated if it is likewise accepted by the United States and Germany.

In the course of a conversation had with you in the last days of the month of May, Mr. Cambon informed you that the under secretary of state for foreign affairs had formally assured the French chargé d'affaires at Berlin that the Imperial Government would, for its part, endeavor to cause the French papers to be admitted to arbitration.

The reception given by the Cabinets of Washington and London to the overtures of my Government can not but fortify these inclinations of that of Berlin. I shall take care to let you know the final answer of the German foreign office as soon as communicated to me.

I seize this opportunity of renewing, etc.

THIÉBAUD.

[Inclosure.]

*The Marquis of Salisbury to M. Cambon.*

FOREIGN OFFICE, *July 17, 1900.*

YOUR EXCELLENCY: With reference to the note which I had the honor to address to your excellency on the 21st of May last in regard to the claims of French citizens arising out of the late disturbances in Samoa, I have to inform your excellency that if the Government of Germany and of the United States concur Her Majesty's Government are willing to agree that the French claims should be included in the forthcoming arbitration before the King of Sweden and Norway.

I have, etc.,

SALISBURY.

*Mr. Adee to M. Thiébaud.*

No. 344.]

DEPARTMENT OF STATE,  
*Washington, August 14, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 8th instant relating to the readiness of this Government and of that of Great Britain to submit to the arbitration of the King of Sweden

and Norway the claims of French citizens arising out of recent events in Samoa.

The Department will await the reply of the German Government upon this question which you have promised to communicate.

Accept, etc.,

ALVEY A. ADEE.

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*M. Thiébaud to Mr. Hay.*

EMBASSY OF THE FRENCH REPUBLIC,  
*Washington, November 13, 1900.*

SIR: Referring to the correspondence which has passed between the Department of State and this embassy in relation to the question of Samoan indemnities, especially to my communication of the 8th of August last and to your note (No. 344) of August 14, I have the honor to inform you that the German Government has decided, as have that of the United States and that of Her Britannic Majesty, to propose that the claims of French citizens in Samoa be submitted to His Majesty the King of Sweden and Norway for arbitration.

I am in this connection informed by my Government that His Majesty Oscar II has accepted, in principle, the office of arbitrator in this question of the Samoan indemnities, inasmuch as his consent, however, has been given only after unofficial conferences, the Sovereign has expressed a desire that an official request may be made of him by the three powers interested, such request to be accompanied by a declaration that the said powers agree in requesting the King to examine the claims of French citizens simultaneously with those of their respective subjects or citizens.

After this step has been taken the Government of the Republic, in compliance with the wish that has been expressed by His Majesty Oscar II, will, in its turn, address the Sovereign officially, just as shall have been done by the Governments of the United States, Germany, and Great Britain.

According to the information furnished to the chargé d'affaires of France at Berlin by the assistant secretary of state for foreign affairs, which information has been likewise communicated to me by my Government, the representatives of His Majesty the Emperor of Germany at London and Washington must have received instructions by this time to make application to the Governments to which they are accredited for the official step asked for by His Majesty the King of Sweden.

I have consequently been instructed to inform you that if your excellency would be pleased to instruct the United States minister at Stockholm to act in this matter with as little delay as possible, such action on your part would be highly appreciated by my Government.

As soon as my Government shall have been notified that the representatives of Germany, the United States, and Great Britain have taken the step in question, the minister of France will be instructed to address a request to the minister of foreign affairs of Sweden similar to that made by his colleagues.

As the protocols signed by the Samoan mixed commission have been filed at the Department of State, I shall be very grateful to you if you can send me a copy of them, which I will transmit to my Government, agreeably to the desire which it has expressed.

Be pleased to accept, etc.,

THIÉBAUD.

*Mr. Hay to Mr. Thiébaux.*

No. 368.]

DEPARTMENT OF STATE,  
*Washington, December 5, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 13th ultimo, and to inform you in reply that the minister of the United States at Stockholm was, by instruction No. 96, of October 23, 1900, directed to act in concert with his British and German colleagues in acquainting His Majesty the King of Sweden and Norway respecting the inclusion of claims of foreigners (which included citizens of France) not under the jurisdiction of the treaty powers parties to the convention of November 7, 1899, relative to the settlement of certain claims in Samoa by arbitration.

Accept, sir, etc.,

JOHN HAY.

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**RESCUE BY U. S. S. "CHICAGO" OF FRENCH STEAMSHIP "LA BRETAGNE."**

*Mr. Porter to Mr. Hay.*

No. 654.]

EMBASSY OF THE UNITED STATES,  
*Paris, April 3, 1900.*

SIR: I have the honor to inclose herewith the copy of a communication which I have just received from the "Société Générale de Transports Maritimes à Vapeur," concerning the towing of the disabled French steamship *Bretagne* into the port of Bahia by the United States cruiser *Chicago*.

You will observe that the company is extremely grateful for this service rendered by the *Chicago*, and desire me especially to express to the Government in Washington and to Admiral Schley their thanks and appreciation.

I have, etc.,

HORACE PORTER.

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[Inclosure.]

*Mr. Bergasse to Mr. Porter.*

MARSEILLES, *March 29, 1900.*

MR. AMBASSADOR: We have the honor to inform you that the steam packet *Bretagne*, belonging to our company, left Marseilles the 27th of February last, having on board 350 passengers and 1,000 cubic meters of merchandise for Rio Janeiro and Santos.

We have received a telegram from our agents at Bahia informing us that on the 17th instant, at about 300 miles from this latter port, our ship became disabled in consequence of the breaking of a crank-shaft, and that while the captain was attempting to replace the broken portion at sea he was met by the American cruiser *Chicago*, which was good enough to tow him into Bahia without being willing to accept the least indemnity.

It would be impossible for us to be more touched than we are by this mark of kindly disinterestedness which was shown to our company by Admiral Schley, and we beg to express to you without any delay our entire gratitude in begging that you will be kind enough to convey to the Government of the Republic of the United States and to Admiral Schley our very live appreciation of an act of generous assistance, which is moreover so much in keeping with the noble traditions of the United States Navy.

Accept, etc.,

BERGASSE.

The president of the board of directors.

*Mr. Hill to Mr. Porter.*

No. 783.]

DEPARTMENT OF STATE,  
Washington, May 25, 1900.

SIR: Referring to the Department's reply of the 19th ultimo to your dispatch No. 654, of April 3 last, concerning the towing of the disabled French steamship *Bretagne* into the port of Bahia by the United States cruiser *Chicago*, I inclose for communication to the "Société Générale de Transports Maritimes à Vapeur" at Paris a copy of a letter from the Secretary of the Navy reporting that a copy of your above-mentioned dispatch with its accompanying papers had been forwarded to Rear-Admiral W. S. Schley, U. S. N.

I am, etc.,

DAVID J. HILL  
Acting Secretary.

[Inclosure.]

M Long to Mr. Hay.

NAVY DEPARTMENT,  
Washington, April 21, 1900.

SIR: I have the honor to acknowledge the receipt of your letter of the 19th instant, inclosing for the information of this Department a copy of a dispatch from the Ambassador of the United States at Paris, inclosing a copy of a letter from the "Société Générale de Transports Maritimes à Vapeur" concerning the towing of the disabled steamship *Bretagne* into the port of Bahia by the U. S. S. *Chicago*.

A copy of the letter with its inclosure had been forwarded to Rear-Admiral W. S. Schley.

Very respectfully,

JOHN D. LONG.

*Mr. Cambon to Mr. Hay.*

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,  
Washington, June 19, 1900.

SIR: The cruiser *Chicago* of the American Navy, commanded by Rear-Admiral Schley, having met the French steamship *Bretagne* 60 miles distant from Bahia, having damaged her machinery, towed this vessel in distress as far as Bahia. The Admiral refused all claim for salvage—happy, as he stated, to please a friendly nation.

The French consul at Bahia at once called upon the consul of the United States at that city, and requested him to transmit his thanks to Admiral Schley.

My Government, informed of this courteous act of this general officer, was much touched by it, and has directed me to convey to the Government of the United States the expression of its appreciation of it.

I am happy to be the medium of fulfilling near you this agreeable mission.

Accept, etc.,

JULES CAMBON.

*Mr. Hay to Mr. Cambon.*

No. 326.]

DEPARTMENT OF STATE,  
Washington, June 21, 1900.

EXCELLENCY: I have the honor to acknowledge the receipt of your courteous note of the 19th instant, expressing the thanks of your Government for the courtesy shown by Rear-Admiral Schley, U. S. N., to the distressed French steamship *Bretagne*.

A translation of your note is to-day sent to my colleague, the Secretary of the Navy, who will, I am sure, be greatly pleased at your Government's appreciation of Admiral Schley's act.

Accept, excellency, etc.

JOHN HAY.

**ASSISTANCE RENDERED BY FRENCH CRUISER PROTET IN  
EXTINGUISHING A FIRE IN SAN FRANCISCO HARBOR.**

*Mr. Hay to Mr. Porter.*

No. 793.]

DEPARTMENT OF STATE,  
Washington, June 14, 1900.

SIR: The Department is in receipt of a letter of the 2d instant from the mayor of San Francisco, in which he states that on the evening of the 25th ultimo a fire broke out on the harbor front of that city. The French cruiser *Protet* lay in the harbor at that time, and her captain, M. Germinet, sent on shore a part of her crew, who volunteered their services and aided in extinguishing the flames.

You are now instructed to convey to the French Government the thanks of the mayor of San Francisco for this kind act of the commander and crew of the *Protet*.

I am, etc.,

JOHN HAY.

*Mr. Porter to Mr. Hay.*

No. 695.]

EMBASSY OF THE UNITED STATES,  
Paris, July 19, 1900.

SIR: Referring to your No. 793 of June 14, directing me, at the instance of the mayor of San Francisco, to express his thanks for the kind act of Captain Germinet, who ordered his crew to go ashore and help in extinguishing a fire which broke out in the harbor of the above-mentioned city, I have to report that this instruction was complied with on the 2d instant, and that on the 17th the minister for foreign affairs informed me that he had transmitted the thanks of the mayor of San Francisco to the minister of marine, who will see that they reach Captain Germinet.

I have, etc.,

HORACE PORTER.



## LOSS OF THE FRENCH TORPEDO-BOAT DESTROYER LA FRAMÉE.

*Mr. Porter to Mr. Hay.*

No. 725.]

EMBASSY OF THE UNITED STATES,  
*Paris, August 28, 1900.*

SIR: The loss of the French torpedo-boat destroyer *Framée*, which on the 12th instant went down a few moments after its collision with the battle ship *Brennus*, was considered as the most serious misfortune which has befallen the French navy for many years. The vessel was quite new and carried a crew of 54, out of which only 12 escaped. The diplomatic representatives of the leading powers expressed their sympathy to the French Government, and on my return to Paris, after an absence of twenty-four hours, I hastened to take the same course. I inclose herewith copy of my note to Mr. Delcassé, and of his reply.

I have, etc.,

HORACE PORTER.

[Inclosure 1.]

*Mr. Porter to Mr. Delcassé.*EMBASSY OF THE UNITED STATES,  
*Paris, August 15, 1900.*

MR. MINISTER: Having just returned to Paris after a short absence, I hasten to transmit to your excellency the condolence of my Government on the occasion of the loss of *La Framée*. This unlooked-for catastrophe, which has thrown into mourning the families of so many brave sailors, has moved all those who have a deep interest in France; and my Government, as well as myself and all the members of my embassy, have shared in this sorrow. I beg that you, Mr. Minister, will be good enough to convey the expression of this feeling to the President of the Republic, as well as to the minister of the marine, and to accept on this occasion the expression of the high consideration with which I have the honor to be, etc.,

HORACE PORTER.

[Inclosure 2.]

*Mr. Delcassé to Mr. Porter*

[Translation.]

PARIS, August 24, 1900.

MR. AMBASSADOR: On the 15th of this month your excellency was good enough to transmit to me the condolences of your Government, together with your own, on the occasion of the loss of the French war ship *La Framée*.

I have not failed to inform the President of the Republic concerning the action taken by your excellency, whereby he has shown himself to be much touched.

My colleague, the minister of the marine, and myself, appreciate it deeply, and, relying on the habitual kindness of your excellency, I venture to request that you will be good enough to inform your Government of the sincere thanks of the Government of the French Republic.

I have also the honor to particularly thank your excellency for the very cordial terms in which you have deemed proper to fulfill the mission which has been confided to you.

Accept, etc.,

DELCASSÉ.

*Mr. Hill to Mr. Porter.*

No. 835.]

DEPARTMENT OF STATE,  
*Washington, September 19, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 725, of the 28th ultimo, relative to the loss of the French torpedo-boat destroyer *Framée*, and to inform you in reply that the Department approves your course in expressing the sympathy of your embassy to the French Government.

I am, etc.,

DAVID J. HILL,  
*Acting Secretary.*

**COURTESIES OF FRENCH OFFICIALS AT FUNERAL OF A LANDSMAN BELONGING TO THE U. S. S. HARTFORD.**

*Mr. Hay to Mr. Porter.*

No. 839.]

DEPARTMENT OF STATE,  
*Washington, October 23, 1900.*

SIR: I inclose for your information copy of a dispatch from the consul of the United States at Havre, reporting the recent death by drowning of Howard Linwood Ridlon, and stating that the French officials promptly acceded to the request for permission to land a firing party from the *Hartford*, and that a delegation of French soldiers was sent to the funeral.

At the instance of the Secretary of the Navy, you are requested to convey to the French Government the thanks of the Navy Department, in suitable terms, for the courtesies of the former on the occasion.

I am, etc.,

JOHN HAY.

[Inclosure 1.]

*Mr. Thackara to Mr. Hill.*

No. 78.]

CONSULATE OF THE UNITED STATES,  
*Havre, France, October 3, 1900.*

SIR: I have the honor to inform the Department of the death by accidental drowning of Howard Linwood Ridlon, a landsman belonging to the U. S. S. *Hartford*, on September 27 last.

The deceased was buried with military honors in the Sainte Marie Cemetery of Havre on September 29, 1900.

The French Government officials most promptly acceded to my request for permission to land an armed firing party from the *Hartford*, and sent a delegation of soldiers to the funeral, representing the infantry, artillery, and maritime gendarme services.

In answer to my letter of thanks I have received a most courteous reply from the commandant d'armes, the highest military officer in command at Havre.

I have, etc.,

A. M. THACKARA,  
*U. S. Consul.*

[Inclosure 2.]

*Mr. Long to Mr. Hay.*NAVY DEPARTMENT,  
*Washington, October 19, 1900.*

SIR: I have the honor to acknowledge the receipt of your letter of October 17, informing the Department of the receipt by the Department of State of a dispatch from the consul at Havre, reporting the death by accidental drowning of Howard Linwood Ridlon, a landsman of the U. S. S. *Hartford*, on September 27 last, and stating that the French officials promptly acceded to the request for permission to land a firing party from the *Hartford*, and that a delegation of French soldiers was sent to the funeral.

The Department requests that its thanks be tendered to the French Government for its courtesies on this occasion.

Very respectfully,

JOHN D. LONG.

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*Mr. Porter to Mr. Hay.*

No. 748.]

EMBASSY OF THE UNITED STATES,  
*Paris, November 6, 1900.*

SIR: I have the honor of acknowledging receipt of your No. 839, of October 23, directing me, at the instance of the Secretary of the Navy, to convey to the French Government the thanks of the Navy Department for the facilities given by the authorities of Havre on the occasion of the death of a landsman belonging to the U. S. S. *Hartford*, and for the courtesies extended on that occasion.

Your instructions were complied with under date of the 5th instant.

I have, etc.,

HORACE PORTER.

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**CONDOLENCES ON MINE EXPLOSION IN UTAH.***Mr. Cambon to Mr. Hay.*

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,  
*Washington, May 3, 1900.*

SIR: The President of the French Republic has just heard of the terrible catastrophe which has taken place at Salt Lake City. He has instructed me to be his interpreter near the President of the United States of America and to assure him of the sympathy which he feels on account of this sad event.

In transmitting to me the expression of the sentiments of President Loubet, Minister Delcassé, minister of foreign affairs, likewise instructs me to convey to the American Government the expression of the profound sympathy of the Government of the Republic.

Be pleased to accept, etc.,

JULES CAMBON.

*Mr. Hay to Mr. Cambon.*

No. 300.]

DEPARTMENT OF STATE,  
*Washington, May 3, 1900.*

EXCELLENCY: The President of the United States directs me to express to you his profound sense of the friendly sympathy which has dictated the message sent by the President of the French Republic on the occasion of the terrible calamity which has taken place at Salt Lake City. He has directed me to thank His Excellency President Loubet, through our embassy in Paris, for this touching expression of kindly feeling, and his assurance of the gratitude with which the people of the United States will receive the sympathy of the Government of the Republic of France.

I am, etc.,

JOHN HAY.

*Mr. Hay to Mr. Porter.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, May 3, 1900.*

The President desires you to express through the appropriate channel his deep appreciation of the touching message of His Excellency President Loubet, on the occasion of the calamity in Utah, and his grateful sense of the sympathy of the French people.

JOHN HAY.

*Mr. Porter to Mr. Hay.*

No. 664.]

EMBASSY OF THE UNITED STATES,  
*Paris, May 7, 1900.*

SIR: Your telegram of the 3d instant directing me to express through the appropriate channels the President's appreciation of the touching message of President Loubet on the occasion of the calamity in Utah, was received on the 4th and complied with at once. I inclose herewith a copy of my letter to Mr. Delcassé, carrying out your instruction.

I have, etc.,

HORACE PORTER.

[Inclosure.]

*Mr. Porter to Mr. Delcassé.*

EMBASSY OF THE UNITED STATES,  
*Paris, May 4, 1900.*

SIR: I have just received from the Secretary of State of my Government a telegram charging me to inform the President of the Republic how much the President of the United States appreciates the affecting terms in which Mr. Loubet has expressed the feelings of grief and sympathy which the catastrophe in the mines of Utah has awakened in the hearts of all Frenchmen and in his own.

I should be much obliged if you would have the goodness to transmit this communication to the President of the Republic and to inform him, furthermore, that the diplomatic representative of the United States is equally touched by his action and is deeply grateful to him for it.

Accept, etc.,

HORACE PORTER.

*Mr. Hay to Mr. Cambon.*

No. 309.]

DEPARTMENT OF STATE,  
*Washington, May 18, 1900.*

EXCELLENCY: Referring to your excellency's note of the 3d instant, I have the honor to inclose herewith copy of a letter from the governor of Utah expressing thanks for and appreciation of the generous sympathy of the President and Government of France on account of the mine calamity in that State.

Accept, etc.,

JOHN HAY.

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[Inclosure.]

*Mr. Wells to Mr. Hay.*

STATE OF UTAH, EXECUTIVE OFFICE,  
*Salt Lake City, May 9, 1900.*

SIR: I have the honor to acknowledge the receipt of your communication of the 4th instant, inclosing a translation of the very kind expression of the ambassador of France at Washington extending the sympathy of the President and Government of the French Republic to the President of the United States on account of the coal-mine disaster at Scofield, Utah, and also inclosing copy of the reply made by direction of the President, and of a telegram dispatched by you to the ambassador of the United States at Paris.

Permit me, in behalf of the people of this State, to express to you the thanks of this Commonwealth for your prompt and gracious acknowledgment of the generous sympathy of the French Republic, and to assure you of the appreciation of the families of the victims of the lamentable disaster.

I have, etc.,

HERBERT M. WELLS,  
*Governor of Utah.*

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**CONDOLENCES ON GALVESTON DISASTER.**

*President Loubet to the President.*

[Telegram.]

RAMBOUILLET PRESIDENCE,  
*September 12, 1900.*

The news of the disaster which has just devastated the State of Texas has deeply moved me. The sentiments of traditional friendship which unite the two Republics can leave no doubt in your mind concerning the very sincere share that the President, the Government of the Republic, and the whole nation take in the calamity that has proved such a cruel ordeal for so many families in the United States. It is natural that France should participate in the sadness as well as in the joy of the American people. I take it to heart to tender to Your Excellency our most heartfelt condolences, and to send to the families of the victims the expression of our afflicted sympathy.

ÉMILE LOUBET.

*Mr. McKinley to Mr. Loubet.*

[Telegram.]

EXECUTIVE MANSION,  
Washington, September 13, 1900.

I hasten to express, in the name of the thousands who have suffered by the disaster in Texas, as well as in behalf of the whole American people, heartfelt thanks for your touching message of sympathy and condolence.

WILLIAM MCKINLEY.

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*Mr. Adee to Mr. Thiébaud.*

No. 350.]

DEPARTMENT OF STATE,  
Washington, September 18, 1900.

SIR: Upon its receipt, on the 13th instant, I repeated to the governor of Texas the touching and highly appreciated message of condolence from His Excellency the President of France on account of the disaster at Galveston.

I have the honor to inclose copy of a telegram which I have received from the governor, indicating his wish that, through you, his thanks may be conveyed to the Government of France for its expression of sympathy.

Accept, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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[Inclosure.]

*Gov. Sayers to Mr. Hill.*

[Telegram.]

AUSTIN, TEX., September 14, 1900.

Telegram received. Please extend to the Government of France, through its representative at Washington, my thanks for its expression of sympathy on account of the great calamity caused by the storm in Texas.

JOS. D. SAYERS,  
*Governor of Texas.*

## GERMANY.

### MEAT INSPECTION IN GERMANY.

*Mr. Jackson to Mr. Hay.*

No. 607.]

EMBASSY OF THE UNITED STATES,  
*Berlin, November 17, 1898.*

SIR: I have the honor to inclose herewith three copies of a recent publication<sup>1</sup> of the imperial health office in regard to the use of coloring matter in sausage meat, etc. Although this pamphlet was referred to in the Imperial Gazette of the 12th instant and copious extracts from it were published, I have been unable to obtain copies of it until to-day.

A good deal of similar literature has appeared of late in the interest of and opposed to the reported terms of the proposed imperial law for a uniform system of meat inspection, the project of which is now said to be before the several federal governments prior to its discussion in the federal council before it is submitted to the Reichstag. At first it was reported that this bill would, if it became a law, prohibit the importation of American canned meat, as each box would, in accordance with its supposed provisions, be opened and inspected at the frontier. It is now said that only sample boxes are to be opened, and that the question is being discussed as to the payment of transportation charges, etc., by the Government in case after this examination a shipment is refused admission to the country.

Agrarian papers complain that it is unfair to endeavor to excite public opinion against such a bill before its terms become known, and in one article the writer states that he expects to live to see the day when America will thank Germany for having been the cause of introducing meat-inspection regulations. Papers interested in manufactures and commerce hope that, as the proposed bill will affect all meat, although from the nature of things American meat is likely to be affected most, the United States will not answer it with retaliation.

I have, etc.,

JOHN B. JACKSON.

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*Mr. Jackson to Mr. Hay.*

No. 672.]

EMBASSY OF THE UNITED STATES,  
*Berlin, December 22, 1898.*

SIR: Referring to my dispatch No. 626, of the 26th ultimo, <sup>1</sup>I have the honor to inform you that in conversation at the foreign office yesterday I was told by Baron von Richthofen, the under secretary of

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<sup>1</sup>Not printed.

state for foreign affairs, that the draft of the meat-inspection bill had now been completed; that it would be considered by the Prussian ministry of state within a few days, and that it would then be put before the imperial federal council (Bundesrath). It is probable, therefore, that it will be introduced in the Reichstag at the present session, as indicated in the speech from the throne.

Last night's North German Gazette refers to the same subject, and contains the following semiofficial notice:

The draft of a meat-inspection law has progressed so far that it can soon be submitted to the Bundesrath. The purpose of this long-anticipated law is, as is well known, the introduction of a general obligatory meat inspection for the German Empire. It deals therefore with a matter which is purely German, and which imposes upon us a task in the accomplishment of which we alone are concerned.

In commenting upon this notice this morning's papers remark that it is evidently "directed to an American address."

I took advantage of the conversation mentioned to refer to the facility, as shown by Dr. Stiles's investigations, with which uninspected American pork products could be imported into Germany, stating that so long as this was possible American efforts to send only microscopically inspected meats to Germany were rendered futile. I called attention to the fact that the numbers on the boxes and the numbers on the inspection certificates should correspond, and urged that the customs officials should have their attention specially drawn to this matter. (In this connection I take the liberty of suggesting that the possibilities of substitution would be materially decreased if it were printed *in German* upon the certificates that they were only valid for the boxes whose stamp numbers corresponded with the numbers on the certificate.) I further called attention to the fact that American meat can readily be recognized as such by its quality and cut, and that meat offered for inspection in Germany was so recognized, and when trichinæ were found in it the case was mentioned in the list sent to the embassy every six months, although the circumstances of the case might clearly show that the meat had probably never been inspected for trichinæ in America, but had been substituted for inspected meat and had been improperly imported into Germany. Baron Richthofen seemed interested in the matter, to which his personal attention had never before been called, and promised to look into it. He said, in closing, that he hoped that everything would be arranged in a spirit of "peace and friendliness."

I have, etc.,

JOHN B. JACKSON.

P. S.—December 23, 1898. I have since learned that the notice in the North German Gazette, to which I have referred, and which has generally been considered as semiofficial, was published without the approval of the chiefs of the imperial home and foreign offices.

J. B. J.

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*Mr. Jackson to Mr. Hay.*

No. 683.]

EMBASSY OF THE UNITED STATES,  
*Berlin, December 30, 1898.*

SIR: Referring to my dispatch No. 672, of the 22d instant, I have the honor to inform you that, acting upon a suggestion of Minister



von Bülow, I called to-day on Baron Richthofen, at the foreign office, to inquire about the proposed meat inspection bill. During the short interview I had had with the secretary of state for foreign affairs on the 28th instant, he had, of his own accord, referred to this matter, had said that the draft would soon go before the Bundesrath, and stated it as being his opinion that the measure would not only not interfere with the importation of American pork products, but would probably result in increasing the quantity imported. \* \* \*

I have, etc.,

JOHN B. JACKSON.

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*Mr. White to Mr. Hay.*

[Telegram.—Paraphrase.]

EMBASSY OF THE UNITED STATES,  
*Berlin, February 17, 1899.*

(Mr. White reports that the embassy was furnished by the foreign office with advance copy of official text of meat-inspection bill, which passed Bundesrath on February 16, and probably goes to Reichstag Monday. Provision is made by bill for inspection of all meat, foreign or domestic. Foreign meat to be inspected but once. Domestic meat to be inspected before and after slaughtering. No inspection required for foreign inspected meat passing through Germany. Bundesrath to prescribe to what extent meat may only be imported in whole carcasses, in parts, or in pieces of specified size, and in natural connection with the inner organs, and also to decide at which custom-houses foreign meat may be imported. Pork is also to be inspected for trichinæ. Sound meat is to be so certified. Meat considered unsound is to be temporarily seized, police and owner informed, and to be released, when feasible, after having been rendered unfit for human consumption, or its reexportation permitted. It is to be destroyed when this is not practicable. Bundesrath is to have power to prohibit the importation of meat when its wholesomeness can not, on its importation, be positively ascertained; to make less stringent or omit the the inspection when experience shows that, owing to the manner in which the meat was prepared, no real danger is present; to omit the inspection where imported meat is not to be used for human consumption after such meat has been rendered unfit for human food. The regulations in regard to horse meat, which must be sold as such, are similar to those in regard to margarine. Foreign meat must be sold as such, Bundesrath to prescribe the manner in which this is to be made known. Reinspection of meat once inspected may only be made with a view to ascertain if it has become spoiled since its inspection. Materials which might make meat dangerous may not be used in its preparation, and the importation of foreign meats so prepared is prohibited. Bundesrath is empowered to make regulations in regard to this and in regard to the use of materials calculated to give a wholesome appearance to unsound meat; and also to make regulations as to the character of the inspection. Only such additions may be made by local authorities as affect alike all meat, of whatever origin. Bundesrath is to prescribe when the law is to take effect, if passed by Reichstag.)

*Mr. White to Mr. Hay.*

No. 744.] EMBASSY OF THE UNITED STATES OF AMERICA,  
*Berlin, February 17, 1899.*

SIR: I have the honor to append hereto a copy of my telegram<sup>1</sup> of to-day's date in regard to the German bill for the inspection of meat, which it is expected will be introduced in the Reichstag on Monday next, the 20th instant.

An advance copy of the bill in question, partially in manuscript, was furnished the embassy to-day in response to a request made by Mr. Jackson of Baron von Richthofen after he had heard that the bill had been acted upon by the Bundesrath yesterday. Dr. Stiles, it is understood, intends sending a copy of this bill direct to the Department of Agriculture at once, and I hope in a day or two to be able to forward printed copies, together with the Government's argument in favor of the bill. Its text will probably not appear in the German papers for several days.

The striking feature of the bill is that it practically takes the whole matter of meat inspection out of the hands of the local authorities and gives power to the Bundesrath, where "no strong Agrarian element is present" (dispatch No. 683, of December 30, 1898), to prescribe the character of the inspection itself, the detailed regulations for carrying it into effect, and the regulations in regard to prohibiting the importation of certain classes of meat products. It is to be anticipated that there will be a considerable struggle in the Reichstag before the measure becomes a law, if it ever does, the Agrarians being prepared to make a strong argument upon the fact that in accordance with its terms domestic meat is to be subjected to two inspections, while foreign meat must be inspected only once. Should the bill become a law it is hardly possible that it could be put into effect much before January 1, 1900.

One point that is specially worthy of attention is that in regard to the powers of the Bundesrath to omit or modify the inspection when it is shown that the treatment which foreign meat has received is such as to practically "cure" it and render it safe from a sanitary point of view.

I have, etc.,

AND. D. WHITE.

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*Mr. White to Mr. Hay.*

No. 805.] EMBASSY OF THE UNITED STATES,  
*Berlin, March 27, 1899.*

SIR: I have the honor to inform you that just as Mr. Jackson was leaving Count Posadowsky's office this morning the secretary of state referred to recent American legislation in regard to the examination, for sanitary reasons, of articles imported into the United States, complaining that such an examination was a "discrimination," as domestic articles were not to be subjected to a similar examination. Mr. Jackson at once replied that there could be no discrimination where all foreign products were treated alike, and called attention to the con-

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<sup>1</sup> Printed ante.

stitutional difficulties connected with the carrying out of a sanitary examination of domestic products throughout the United States. Count Posadowsky then referred to the bill for the general inspection of meat which was recently introduced into the Reichstag, saying that in the Bundesrath when the bill was under consideration the South German delegates objected strongly to the obligatory trichinae inspection being forced upon them, no such inspection existing heretofore in South Germany, the necessity for it not being apparent, as raw pork is not eaten in that part of the country. He added that the provisions in regard to the trichinae inspection throughout Germany had been retained in the bill, because it was thought that America would object to an inspection of its products if German products were not similarly treated. Mr. Jackson then said that America had a right to have her products treated in the same manner as those from any other State, but that in his opinion she could not complain if they were not treated in exactly the same way as were domestic products. He at the same time called particular attention to the fact that he was speaking personally and not officially. \* \* \*

I am, etc.,

ANDREW D. WHITE.

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*Mr. White to Mr. Hay.*

No 831.]

EMBASSY OF THE UNITED STATES,

*Berlin, April 22, 1899.*

SIR: On Tuesday, April 18, 1899, the Reichstag began the discussion of the general meat inspection bill.

A motion having been made by a Bavarian representative to refer it to a committee of twenty-one, a debate ensued which lasted two days, and in this considerable opposition was manifested to the bill, especially by the Agrarians. There was also some evidence of hostility from somewhat unexpected sources, but it was clearly based on misunderstandings which will be removed in the committee to which it was finally referred.

It is probable that the bill will not be reported until about a month from this date. Just what its fate will be is uncertain, and while we have hopes of its passage at this session, it will not surprise me to see it go over until the next.

One of the most troublesome features in the case for us has been, and will be for some time to come, the argument put into the mouths of our opponents by recent charges against American meat supplies to our troops in the West Indies, but I feel confident that the bill will finally pass in fair form.

Most valuable service has been rendered by Mr. Stiles, our scientific attaché, who, in discussing the various questions raised by such ministers as Count Posadowski and Baron Hammerstein, as well as with various German experts and dealers, has done very much to get the bill into good shape.

To my regret he has been suddenly called to America by the dying condition of his wife's father, but as he fully expects to be here when the bill comes again before Parliament, no injury is likely to result from his absence.

I defer any detailed report of the speeches until the matter is more

fully developed, but inclose herewith two printed copies of the proceedings in the Reichstag<sup>1</sup> with the statement that it was Dr. Stiles's special request that one of them be forwarded without delay to the Secretary of Agriculture.

I am, etc.,

ANDREW D. WHITE.

*Mr. White to Mr. Hay.*

[Telegram.—Paraphrase.]

EMBASSY OF THE UNITED STATES.

*Berlin, May 9, 1899.*

(Mr. White states that there is much reason to anticipate an unfavorable report of the committee to Parliament on the meat inspection bill, but statement that such report has been made is premature, and that the Government is exerting itself in behalf of the original bill, which is fairly satisfactory to the Government of the United States. Also that he is shortly to see Minister von Bülow with reference to the subject.)

*Mr. White to Mr. Hay.*

No. 841.]

EMBASSY OF THE UNITED STATES,

*Berlin, May 10, 1899.*

SIR: I yesterday forwarded to you the telegram<sup>2</sup> annexed, and now inclose a leading article from the "Vossische Zeitung" of last Sunday, which gives a remarkably just view of the present aspect of the meat-inspection bill.

The embassy has based much hope for the passing of the bill in acceptable form on the fact that even those members of the Government who have heretofore been little inclined to the American view have favored the project referred to the committee. In recent interviews Count Posadowski, imperial secretary of state for the interior, and Baron von Hammerstein, the Prussian minister, who has most to say in the premises, have shown themselves thoroughly favorable to this original bill, and that Minister von Bülow would be especially glad to see it pass is certain.

But new difficulties have arisen. To say nothing regarding the hostile influence of wrong ideas prevailing in Germany regarding American policy in Samoa; the statements made in our country regarding meat "embalmed," "diseased," and "spoiled," supplied to our troops during the recent war have echoed and reechoed throughout this Empire, the Agrarian organs being, of course, careful not to let the subject drop. As a result it is stated that petitions have been sent in to the commission from various constituencies demanding protection from diseases engendered by American products, and an atmosphere has been created most injurious to any calm and fair consideration of this subject.

<sup>1</sup> Not printed.

<sup>2</sup> Printed ante.

I am not without hope that in the full open session better counsels may prevail, but must confess that I shall not be surprised to see the whole subject go over until the next session.

I am, etc.,

ANDREW D. WHITE.

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[Inclosure.]

*Clipping from Vossische Zeitung, May 7, 1899.*

The Reichstag commission for the meat-inspection law passed a law yesterday which almost entirely prohibits the importation of meat. The importation of lard and bacon is permissible, but naturally only in accordance with the sanitary police control. The importation of "manufactured" meats, i. e., sausage, meat in cans, and hams, is entirely prohibited. The importation of fresh meat is permitted under certain conditions, namely, that the slaughtered cattle are not cut into pieces, and that, in particular, the intestines remain in their natural connection with the carcass. At the custom-house an examination is to be made by veterinary surgeons which is to extend to the examination for trichina. Even a restricted importation seems to be regarded as a provisional favor, for the law as passed by the commission does not grant the absolute introduction, but only gives to the Bundesrath the power to permit the introduction for a certain period.

Fresh-slaughtered meat may be brought across the boundary for examination. That fresh-slaughtered meat can not be brought from America without cutting it into pieces or without removing the intestines, without having the same spoilt, is clear. In connection with the prohibition against the introduction of meat in cans, it follows that the importation of meat from America is made impossible.

At the present moment we can not state whether meat extract and cibils (liquid meat extract) have received the attention of the commission and whether certain reservations have been made in this direction. In case this has not been done, we must believe that these articles, which, from a hygienic standpoint, give no reason for apprehension, and which have no competition in this country, would also fall under the head of the prohibited manufactures of meat.

In order to complete this picture, we must bring to mind that the importation of live cattle has been made difficult in many ways through the laws on diseases, that the prohibitory laws are enforced far beyond the necessity of sanitary requirements, and that the importation of meat has thus far only been a small equivalent for the importation of live cattle.

As we are informed, Count Posadowsky opposed the adopted measure as framed by the commission emphatically and earnestly, and defended the Government bill, which did full justice to hygienic necessities and would leave to commercial traffic the necessary freedom. He also intimated that the propositions could not, under any circumstances, be adopted by the Government.

The resolutions of the commission are atrocious. We consider the possibility that the Government will give them their consent as being excluded. It is impossible to provide the German consumer of meat with that article without a sufficient importation of cattle or meat. It is already impossible to do so. The population of Germany, we are happy to say, is considerably on the increase. Besides this, the wealth of the population is also increasing, and it is therefore the governing desire to increase the average consumption of meat per capita of the population. German agriculture is entirely unable to increase its meat production, as is demanded by these two reasons which affect consumption.

But, even if no consideration be paid to this necessity of consumption, foreign politics would forbid the Government to comply with the resolutions of the commission. The prohibition which goes beyond the necessity of health and order, in the case of an article of commerce, would constitute an act of commercial hostility. Whenever a state has adopted all measures which are dictated by experience and common sense for the preservation of health, it may be expected that this will be acknowledged by friendly nations, and that no such difficulty will be placed in the way of that state as if such regulations had not been adopted for safety. A prohibition of American dried meat would be met by severe reprisals.

It is true that we have very brave people, who are of the opinion that Germany must, in order to carry out its will, not only begin a commercial war, but also an actual war on land and sea, with the entire world. A government, however well acquainted with its responsibilities, can not share these views.

Much as the Government has done to meet the views of the Agrarians on different occasions, much as it has placed its own interests in the background with the alcohol tax, the margarine law, and the "Börsen" law, it will, however, be convinced that it can not acquiesce in paragraph 14 as it has come forth from the discussion of the commission.

The Reichstag can not force the Government to adopt this regulation, but the meat bill is weighed down with it, and if the Government does not consent that paragraph 14 be adopted, the compulsory inspection of meat is done away with. How desirable it is to carry out this meat inspection was demonstrated some time ago, and the Agrarians answered that they were the ones who had begun to cry for meat-inspection laws.

How matters actually lie now becomes clear. The Agrarians called for the meat inspection, because they had the intention to use the meat inspection as a lever to exclude, as far as possible, foreign meats. And if they do not succeed in the exclusion of foreign meats, they are not in the least interested in the carrying out of the meat inspection, the burden of which they have already thrown from their shoulders, as they exclude all animals "house slaughtered" (slaughtered on the estate or farm of the producer), as they term it, from the meat inspection.

In opposition to these movements we wish to state our aim. We wish to see that, in so far as possible, no consumer is to receive meat which might endanger his health and the health of his family, and, furthermore, that whenever he receives meat which for some reason or other is of inferior quality, he be placed in a position to make himself acquainted with the grade of its inferiority.

We shall support such controlling regulations as seem fitted to reach this end. But we declare ourselves opposed to any controlling measure which, using sanitary police considerations as a pretense, actually has only the purpose to prohibit foreign goods which are wholesome. We oppose every regulation which prevents the consumer from purchasing edibles to which he is accustomed, and which he knows to be wholesome, as is, for instance, the case with canned meat coming from good American firms.

We desire to retain control by the sanitary police, but we do not wish to have the sanitary police control discredited by using it for protective-tariff purposes.

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*Mr. Jackson to Mr. Hay.*

No. 917.]

EMBASSY OF THE UNITED STATES,  
*Berlin, June 23, 1899.*

SIR:

\* \* \* \* \*

On the afternoon of the 22d, in accordance with an Imperial decree (dated on board the *Hohenzollern*, Kiel, June 21, 1899), the Reichstag adjourned until November 14 next, \* \* \* having held 99 sittings during the first part of its first session (lasting more than six months) of the tenth legislative period since the establishment of the Empire.

Among the measures of interest to us, which have thus gone over till the autumn, is the bill for the general microscopic inspection of meat (*Fleisch-Beschau-Gesetz*), in regard to which, so far as I have been able to ascertain, no committee report has been printed for distribution among the members of the Reichstag.

I have, etc.,

JOHN B. JACKSON.

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*Mr. Jackson to Mr. Hay.*

No. 946.]

EMBASSY OF THE UNITED STATES,  
*Berlin, July 8, 1899.*

SIR: As already reported, the discussion of the bill for the general uniform inspection of meat throughout Germany has gone over to the autumn, when the committee of the Reichstag, to which the matter

has been referred, will resume its consideration. Newspaper reports of the work of this committee have been sent by Dr. Stiles to the Department of Agriculture from time to time, but neither he nor I have been able to ascertain that there has been any official publication or report in regard to this work.

Since the introduction of the bill in question, in February last, the embassy has refrained from taking any formal action upon various complaints made to it by dealers and others in regard to petty discriminations by local officials against American meat products, as it was thought that such action would be detrimental. It is understood, moreover, that in several instances dealers who have made complaints to local authorities have been informed that no changes would be made in the local regulations until after the general inspection bill was passed.

Since the adjournment of the Reichstag for the summer, however, the situation is slightly altered. I am still of the opinion, nevertheless, and Dr. Stiles agrees with me, that nothing would be gained by bringing such complaints to the formal attention of the German foreign office, and I shall refrain from doing so unless I am instructed to the contrary, or a particularly flagrant case of discrimination should occur.

I have, etc.,

JOHN B. JACKSON.

*Mr. Jackson to Mr. Hay.*

No. 948.] EMBASSY OF THE UNITED STATES OF AMERICA,  
*Berlin, July 11, 1899.*

SIR: I have the honor to inform you that during the past few days there have been published in the official part of the "Reichs-Anzeiger," proclamations by the local governors (Regierungs-Präsidenten) of the Prussian districts on the Belgian frontier (at Schleswic, in the paper of the 6th instant, at Gumbinnen, in that of the 8th, and at Luneburg and Dusseldorf, in last night's paper), prohibiting the importation of fresh meat from Belgium into Prussia after the 15th instant. The publication of these notices in this way shows that the indicated action is taken with the consent, at least, of the Prussian Government. The Government is accordingly warmly supported by the Agrarian press, while the Liberal and Radical papers see only another effort to keep up the price of agricultural products in the interest of the Agrarians and to the disadvantage of the industrial classes.

In one of the proclamations (Luneburg) especial reference is made to the fact that it is possible that "Texas fever," which is prevalent in the United States, and on account of which the importation of American cattle and fresh beef into Germany has been prohibited since the autumn of 1894, may be brought into Prussia from Belgium, as American cattle are now being slaughtered in the latter country.

In this connection I beg to state that since the receipt of the Department's instructions Nos. 218 and 248, of November 15 and 30, 1897, respectively, no communication has been addressed to the German foreign office by this embassy in regard to Texas fever. The receipt of my note of November 1, 1897 (F. O. No. 166)—sent when Count von Bülow took charge at the Imperial foreign office—was duly formally acknowledged, but no reply to it has been made.

I have, etc.,

JOHN B. JACKSON.

*Mr. Jackson to Mr. Hay.*

No. 952.]

EMBASSY OF THE UNITED STATES,  
*Berlin, July 14, 1899.*

SIR: Referring to my dispatch No. 948, of the 11th instant, I have the honor to inform you that last night's *Reichs-Anzeiger* contains further proclamations—among them one from the Prussian *Regierungs-Präsident* at Danzig and from the ministry of state of the Grand Duchy of Oldenburg—in regard to prohibiting the importation of fresh beef from Belgium after the 15th instant. Several of these proclamations, including that of Oldenburg, refer to the fact that American cattle are allowed to be slaughtered in Belgium, and that consequently there is danger of meat from such cattle being imported into Germany, with the accompanying risk of introducing Texas fever, unless the importation of fresh beef from Belgium is prohibited entirely.

It is now evident, although it was so to be assumed from the beginning, that the action taken is with the knowledge of the Imperial Government. This action is, however, merely the logical sequence of the prohibition of the importation of American cattle and fresh beef into Germany, which has been in force for almost five years. American meat can not consistently be allowed to be imported through Belgium when its direct importation is prohibited. In the absence of instructions, therefore, I shall for the present at least make no representations at the foreign office in the matter, which was apparently turned over to the Department of Agriculture in November, 1897, and as I knew that Dr. Stiles had cabled directly to that Department in regard to it, I have not thought it necessary to inform you of it by telegraph.

I have, etc.,

JOHN B. JACKSON.

*Mr. Jackson to Mr. Hay.*

No. 958.]

EMBASSY OF THE UNITED STATES OF AMERICA,  
*Berlin, July 17, 1899.*

SIR: Referring to my dispatches Nos. 948 and 952, which were forwarded by open mail on the 14th instant, I have the honor to inform you that proclamations prohibiting the importation of fresh beef from Belgium after the 15th instant have now been published in the official *Reichs-Anzeiger* from seven Prussian "*Regierungs*" presidents (Aachen, Dusseldorf, Osnabruck, Luneburg, Schleswig, Danzig, and Gumbinnen), from the ministries of the Grand Duchies of Oldenburg and Mecklenburg, and from the ministry of Alsace-Lorraine. A reference to the map will show that this practically closes the whole German frontier to fresh beef coming from Belgium either by land or water, and also that although no notice of prohibition may as yet have been made by the free cities of Bremen, Hamburg, and Lubeck, such notices have been made by the presidents of the Prussian provinces by which these cities are surrounded.

These proclamations are variously worded, most of them merely referring to the legal paragraphs under which authority is given for their issue. Several, however, as already stated, including that of the Oldenburg ministry, refer to the slaughtering of American cattle in Belgium and the danger that Texas fever might be introduced into Ger-



many if the importation of meat from such cattle were permitted, and one, that of the Mecklenburg ministry, merely states that the prohibition is ordered at the instance ("auf Veranlassung") of the chancellor of the Empire.

In view of the comparative insignificance of Belgium's trade with Germany in fresh beef of her own production, and also of the present unsettled state of the country itself, it does not seem probable that any action will be taken by the Belgian Government in this matter in the immediate future. The action of the German Government has, however, a greater importance to us, in that it practically amounts to a warning to all countries which admit American beef or cattle that if they continue to do so they may expect to have the German market closed to their export of fresh beef, and this warning will have to be seriously considered by the Governments of Denmark and The Netherlands, at least.

I have, etc.,

JOHN B. JACKSON.

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*Mr. Hay to Mr. White.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, July 17, 1899.*

(Mr. Hay states that the prohibition by recent decrees of the importation of Belgian fresh beef is regarded here as a punitive measure against Belgium for having taken action apparently favorable to American trade. Such decrees are not warranted by the existence of any possible danger from Texas fever. In the first place, cattle from this country have never carried Texas fever to Europe. Second, fresh beef has never been the medium through which it was anywhere disseminated. Third, cattle from the Texas-fever district are not permitted to be exported to Europe, and the contagion is not spread by cattle from the noninfected district, even though infected with the disease. Fourth, no shipments of cattle to Belgium have been made under the new decree, and it is unlikely that any will be made until more favorable regulations are adopted.

Mr. White is directed to immediately bring the matter to the notice of the German Government.)

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*Mr. Jackson to Mr. Hay.*

[Telegram —Paraphrase.]

EMBASSY OF THE UNITED STATES.  
*Berlin, July 18, 1899.*

(Mr. Jackson reports that Mr. Hay's telegram of the 17th instant was communicated to the acting secretary of state for foreign affairs. No complaint, Baron Richthofen says, has been made by Belgium, whose Government was some time ago informed that if American cattle were admitted into Belgium prohibitory decrees would be issued. The German Government maintains that, so far as we are concerned, there is no change in the situation. So long as the direct importation of American beef is prohibited, its indirect importation could not be permitted. Mr. Jackson requested that his representations be considered as applying to the general question.)

*Mr. Jackson to Mr. Hay.*

No. 962.]

EMBASSY OF THE UNITED STATES,  
*Berlin, July 18, 1899.*

SIR: I have the honor to append hereto a copy of the text of your telegram<sup>1</sup> received this morning of a memorandum left by me with Baron Richthofen this afternoon at the foreign office, and of the text of my telegram<sup>1</sup> sent you after the interview.

On my informing Baron Richthofen of the object of my call, and after he had read my memorandum, he said that no new situation had been brought about, as far as we are concerned, by the decrees prohibiting the importation of fresh beef from Belgium. The Belgian Government has been informed some time ago, he said, that if the importation of American cattle to Belgium was permitted, the prohibition of the importation of fresh beef from Belgium into Germany would follow as a natural consequence, as, if the direct importation of American beef could not be permitted, its importation by way of Belgium could not either. The Belgian Government had answered that they would be compelled, in accordance with certain legal provisions, to admit American cattle, and the German prohibition had followed as a natural sequence. Baron Richthofen said that so long as the original prohibition is maintained no new cause for complaint can arise if Germany takes action to prevent the importation of American beef through other countries.

As three of the four points mentioned in your telegram, and repeated in my memorandum, apply to the general question I then requested him to consider that my representations had been made with reference to that question, although I held that as American beef and Texas fever had been especially mentioned in several of the proclamations, the American Government had a right to refer to the matter, which, although not concerning it directly, operated practically as a threat to all countries into which the importation of American cattle might be permitted.

Baron Richthofen promised to give me an answer to the general question at an early date.

I have, etc.,

JOHN B. JACKSON.

[Inclosure.]

[Memorandum left by Mr. Jackson with Baron von Richthofen, acting German secretary of state for foreign affairs, July 18, 1899.]

1. Texas fever has never been disseminated anywhere through the medium of fresh beef.

2. Texas fever has never been carried to Europe by cattle from the United States.

3. As yet no cattle have been shipped from the United States to Belgium under the new decree, and it is not likely that any will be so shipped until the regulations are more favorable.

4. Cattle from the noninfected district, even if infected, do not spread the contagion, and no cattle from the Texas-fever district are allowed to be exported to Europe.

No possible danger which may exist from Texas fever would therefore warrant prohibiting the importation of Belgian fresh beef because Belgium has taken action which is apparently favorable to American trade.

*Mr. White to Mr. Hay.*

No. 1170.]

EMBASSY OF THE UNITED STATES,  
*Berlin, January 25, 1900.*

SIR: I have the honor to inform you that a memorandum has recently been prepared by the Imperial health office, which shows the restrictions now in force in Germany (Empire) in regard to the importation of cattle from abroad.

In accordance with this memorandum the importation of *beef cattle* (Rindern) from Russia, Italy, Switzerland, Belgium, the Netherlands, the United States, Great Britain, and Norway and Sweden is prohibited, while similar cattle from Austro-Hungary, France, and Denmark may be imported to quarantine stations and slaughterhouses, and cattle may be imported from Austro-Hungary and France for breeding purposes. The importation of *sheep* is prohibited from Russia, Austro-Hungary, Italy, Switzerland, Belgium, the Netherlands, Great Britain, and Norway and Sweden, while sheep from the United States, France, and Denmark may be brought to quarantine stations and slaughterhouses, and sheep from France may also be imported for breeding purposes. *Hogs* may not be imported at all if coming from Austro-Hungary, Italy, Switzerland, Belgium, the Netherlands, Great Britain, Denmark, or Norway and Sweden, and hogs from Russia, France, and the United States may only be brought to quarantine stations and slaughterhouses, although French hogs may also be imported for breeding purposes.

The importation of cattle to the quarantine stations and slaughterhouses is, moreover, subject to considerable restriction, as is also the importation of cattle for breeding purposes. For instance, only a limited number of hogs may be brought into Germany from Russia, and these must be killed at the slaughterhouses at Beuthen, Kattowitz, Myslowitz, and Tarnowitz. The importation of beef cattle from Galicia into Prussia has been specially prohibited; from France live cattle may be brought to the slaughterhouses of five parishes on the border only, and only in a quantity sufficient to supply the needs of those parishes (Gemeinde) and the cities of Metz and Diedenhofen. From Denmark cattle may be brought to the public quarantine stations alone, and then, after they have passed the "tuberculine" test, to the slaughterhouses. Thin cattle (Magervieh) may be brought into the country only from April 1 to May 31, and from October 1 to December 31, after passing through quarantine or undergoing the tuberculine test. Only the Luxemburg frontier is open for the importation of cattle, conditionally upon their being accompanied by a proper health certificate.

In spite of all these precautions, however, it has not been possible to prevent the spreading of cattle diseases within the Empire. The situation in this respect on the 15th instant is shown by the statement which was recently submitted to the Reichstag.

In the memorandum above referred to it is further stated that foreign countries have prohibited the importation of German cattle in much the same way. Austro-Hungary accepts no Prussian cattle, and cattle from other parts of Germany only when accompanied by health certificates. Russia permits the importation only on the strength of a health certificate, while Switzerland, Great Britain, Denmark, Norway and Sweden prohibit the importation of all cattle, and France and

Belgium that of beef cattle and hogs, the Netherlands that of hogs, and the United States that of beef cattle. The importation to quarantine stations and slaughterhouses of sheep is permitted by Belgium and France, of beef cattle and sheep by the Netherlands, of sheep and hogs by the United States, and of beef cattle, sheep, and hogs by Canada. Only Luxemburg leaves its frontier entirely open.

I am, etc.,

AND. D. WHITE.

*Mr. White to Mr. Hay.*

No. 1196.] EMBASSY OF THE UNITED STATES OF AMERICA,  
*Berlin, February 22, 1900.*

SIR: Referring to previous correspondence, I have the honor to inform you that the Imperial bill for the general inspection of meat throughout Germany has recently had its second reading in the committee to which it was referred in April, 1899. It will be remembered that this bill was introduced in the Reichstag about a year ago, where it was read the first time and referred to a special committee, and that subsequently this committee so amended the bill as to make the provisions affecting the importation of meat from abroad even more severe than in the original draft. For various reasons, owing partially, it is said, to the wishes of the Government, the second reading in committee, which was to have taken place last November, has been deferred from time to time. The Agrarians, not only in the Reichstag but also in several of the National Diets, have continually pressed to have the matter taken up again, and on the 20th instant the special committee resumed its sessions and finished its second reading of the bill yesterday.

As now amended the bill prohibits the importation of meat from abroad, with the exception of lard and bacon (*schmalz und speck*), after December 31, 1903, the date when, unless they are previously renewed, the principal German commercial treaties terminate and Germany will again have a "free hand" in commercial matters. The importation of pickled or similarly prepared meat, with the exception of pigs, hams and bacon, of meat in hermetically sealed tins or similar cases, of sausages and of other mixtures or preparations of chopped (*verkleinert*) meat is to be prohibited at once; and the importation of other meats (until 1904) is to be permitted under certain specified conditions. Fresh meat is to be admitted (until 1904) only in whole carcasses, which, in the case of beef cattle, excepting calves, and hogs may be cut into halves. To the carcasses, however, the "Brust und Bauchfell," the lungs, the heart, the kidneys, and in the case of cows the udder as well as such other organs as may be prescribed by the Bundesrath, must remain attached in the natural connection. Prepared meat may only be admitted when it has been shown that, owing to the manner of preparation, etc., no sanitary danger can exist (*wenn nach seiner Gewinnung und Zubereitung Gefahren für die menschliche Gesundheit ausgeschlossen sind*), or when it can readily be inspected and its sanitary injuriousness competently proven.

The amended bill also, while still prescribing the inspection of the animal before being slaughtered and the meat afterwards, of all beef cattle, hogs, sheep, goats, horses, and dogs, whose flesh is to be used

for human consumption, as well as of such other animals as the Bundesrath may prescribe, is less stringent than the original draft, with respect to the cases where animals must be slaughtered immediately, owing to accidents or for other causes, in order to prevent their meat deteriorating, and where animals are to be consumed in the household of their owner. The powers of the Bundesrath are also considerably reduced, much being left to be settled by the authorities in the various States in accordance with local requirements and customs. For instance, the microscopic inspection for trichinæ is not to be obligatory throughout the Empire, this having never before been considered necessary in the South German States, the matter being left open for action by the diets of the separate States. To these diets are also left all questions relating to the cost of the inspection, etc., as well as the decision upon all points in regard to which the Bundesrath is not especially declared to be competent or does not make use of the powers conferred upon it.

As in the original bill, meat coming from abroad, with certain exceptions in the case of meat coming into frontier districts for local consumption, must be officially inspected, under control of the customs authorities.

The official text of the committee's report has not yet been made public, and probably will not be until after the bill has had its third reading. It is, moreover, impossible to foretell what will be the action of the Government in regard to the amended bill. It is said, however, that the amended bill was passed almost unanimously by the committee, although the representative of the Government declared that it could not be accepted in its present form.

The Agrarian press is jubilant at what, it is to be hoped, is only a temporary success. This press is still bitter in its attacks upon Prince Hohenlohe, quoting his words in the Prussian Diet in 1898 (when he declared that foreign meat must be submitted to an inspection at least equally stringent to that prescribed for domestic meat), and comparing it with what is understood to be his present attitude in the matter.

I am, etc.,

AND. D. WHITE.

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*Mr. Hay to Mr. White.*

No. 1017.]

DEPARTMENT OF STATE,  
Washington, March 8, 1900.

SIR: I inclose for your information and consideration copy of a letter from the Secretary of Agriculture inviting attention to the changes in the German meat inspection bill which, according to press reports, are likely to be adopted, and which, according to Mr. Wilson's views, would lead to the prohibition of certain American meat products, especially canned goods and sausages.

In regard to the Secretary's suggestion as to the propriety of making representations to the German Government on the subject in its unsettled condition, the Department leaves the matter to you for the exercise of your tact and discretion.

It is presumed that this instruction will cross a report from you on the subject of the amendments made in the pending meat inspection bill. Such further views as may be suggested by the letter of the Secretary of Agriculture are awaited.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Wilson to Mr. Hay.*DEPARTMENT OF AGRICULTURE,  
*Washington, February 27, 1900.*

SIR: I have the honor to invite your attention to the changes in the German meat inspection bill which, according to press reports, are likely to be adopted, and which would lead to the prohibition of certain American meat products, especially canned goods and sausages.

If it appears to you that any representations on the part of this Government can be properly made at this time, I would respectfully suggest that the unfavorable effect of such measures upon American trade be pointed out to the German Government, and that the harmful effects of such prohibitions upon the trade of the two countries be properly emphasized.

There have already been some precedents made by Germany in the exclusion of American meats which, in my opinion, are not warranted by sanitary considerations. The proposed prohibition of canned goods and sausages is plainly not a sanitary measure, but a compliance with the demands of the Agrarians for lessened competition in the meat trade. If this principle of excluding certain products of other countries upon such grounds is established by the German Government, we shall soon have similar demands from all classes in various countries who find the importation of foreign-made articles injurious to home production. Such injurious trade has heretofore been regulated sufficiently, I believe, by revenue taxation bearing alike upon the same products from all countries. It would seem that the selection of certain articles and their absolute prohibition, unless for clear sanitary reasons, is likely to be a very troublesome policy, and one which may bring unexpected results. American wine growers may ask for a prohibition of German wines; American brewers may ask for a prohibition of German malt liquors; American mill operators may ask for the prohibition of German woollens and silks, and so on.

It is difficult to say what such a course might lead to, and I sincerely hope that the German Government will give due consideration to any representations which you may decide proper to make.

I have, etc.,

JAMES WILSON,  
*Secretary.*

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*Mr. White to Mr. Hay.*

[Telegram.—Paraphrase.]

EMBASSY OF THE UNITED STATES,  
*Berlin, March 10, 1900.*

(Mr. White reports the passage, by large majority, of meat-inspection bill in exceedingly severe form, and that the Government opposition appeared not to be very earnest. The bill will now go to the Imperial Council, where it will probably be somewhat modified.)

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*Mr. White to Mr. Hay.*

No. 1206.]

EMBASSY OF THE UNITED STATES,  
*Berlin, March 10, 1900.*

SIR: Referring to previous correspondence, I have the honor to report that paragraphs 1, 2, and 14 *a-d* of the committee's recommendation passed its second reading last evening in the Reichstag: paragraph 1, referring to inspection before and after slaughtering, unanimsly; paragraph 2, referring to freedom from inspection of animals slaughtered for houseold consumption of the owner, by 209

votes to 75, and paragraph 14*a*, prohibiting imports of meats after December 31, 1903, with conditional arrangements for imports until that date, and also paragraphs 14*a-d*, by a vote of 168 to 99, two members not voting.

It thus appears that the majority for the measure presented by the committee is, in the main body of the Parliament, decisive—indeed, overwhelming. If passed by the Parliament on the third reading, as it unquestionably will be, it must go to the Bundesrath.

As you are aware, the proposal made by the Government was comparatively moderate; this reported by the committee and passed by so overwhelming a vote is exceedingly drastic—so much so that the Government has caused it to be understood all along that it would be impossible to accept the recommendations of the Reichstag's committee, even if they should be passed by the Reichstag.

But there appears lately to have been some lukewarmness in Government opposition to the measure as reported and passed. During the debate which has been going on for three days and which has now been ended as above, the representatives of the Government, Count Posadowsky and the Imperial chancellor, Prince Hohenlohe, expressed themselves against the measure; but the former did so in such a way that about half the time he secured the applause of the supporters of the measure, and the other half the applause of its opponents. He simply took the ground that the original proposal of the Government for a fair inspection was better, and that the development of the cattle-raising interest should be provided for by legislation distinctly directed to that purpose; but he appealed to the majority for delay in vain. Prince Hohenlohe simply expressed an objection to the bill without going into any earnest line of argument or indicating what the course of the Government was likely to be.

During the debate the representatives of the land-owning interest gave various indications that they will support the navy bill and the other measures of the Government only on condition that the committee's report on meat inspection be adopted.

Earnestly as the minister, Count Posadowsky, deprecated any view of the whole matter save from the sanitary standpoint, it constantly came out in the debates that protection to the agricultural interest is the first object of the majority.

It has been generally understood here for some time past that the measure in the form in which it is now passed will not be accepted by the Bundesrath. Private indications which I have myself gathered have been in that direction. I still think the chances are in favor of the Bundesrath rejecting the measure as voted, and going back to the Government proposals for meat inspection; but I am not so confident of this as I was some days ago. It seems clear that to have any working majority at all, the Government must yield to this overwhelming majority against them on this question. The heart of the Emperor is set on passing the navy bill, and without the support of the main body of those demanding this meat inspection bill as now passed by the Parliament, the navy bill can not be made a law. Under these circumstances, while it is possible that the Government may insist on going back to its original proposal, it seems to me not unlikely that some compromise not quite so drastic as the law now voted may be agreed upon.

Last night, after the debate was closed, I met a very important

member of the Government who is inclined to moderate measures, and he insisted that the bill as it has passed the Reichstag must be modified—that it can not become a law; but I can not say that I regard his utterance as conclusive. I shall watch the proceedings carefully, and keep you advised as to the progress of events. As to interference here, I have thought it best to abstain carefully from any appearance of trying to influence legislation. Of course, what has been recently stated in the newspapers, namely, that I had uttered threats of retaliation here against the Government in case the law be passed, is without foundation. I have simply, when in conversation with trustworthy men of influence, stated what I conceived to be the facts of the situation, allowing them to draw their own inferences, and unless I receive instructions from the Department to the contrary, it seems to me best to continue this course. My hope is in the sober second thought, when the opposition from the manufacturing and shipping interests, the artisan class, and the mass of the people at large who are not directly interested in agricultural industry, shall be brought to bear upon the Bundesrath. Bremen and Hamburg have already spoken strongly on the subject, both in the Reichstag and through the press; other utterances are coming in, so that we may hope on the whole that the Bundesrath will either stop the measure, or essentially modify it.

I inclose three copies of the "Norddeutsche Allgemeine Zeitung," containing proceedings of the Reichstag above referred to, with partial translations.

I am, etc.,

AND. D. WHITE.

[Inclosure.—Translation.]

*The second reading of the bill for the examination of cattle and meat.*

The commission has framed sections 1, 2, and 14 as follows:

Section 1. Cattle, hogs, sheep, goats, horses, and dogs, the meat of which is to be used for human consumption, are to be officially examined before and after slaughtering. By a resolution of the Bundesrath the obligation of an examination may be extended to other animals.

Where immediate slaughtering (Nothschlachtung) becomes necessary the examination before slaughtering may be dispensed with.

Immediate slaughtering becomes necessary whenever it is to be feared that the animal might die before the arrival of the appropriate inspector, or whenever the meat might greatly lose in value on account of a development of the diseased condition of the animal, or whenever the animal must be slaughtered at once on account of accident.

Section 2. The meat of animals which is to be exclusively used in the household of the owner, and in which no symptoms of a disease are found which would make it unfit for consumption, does not need to be examined before slaughtering, and whenever there are no such symptoms after killing there is no necessity of examining the same after slaughtering.

The selling of meat which, according to paragraph 1, is not examined is prohibited.

Barracks, hospitals, schools, restaurants, prisons, poorhouses, and similar institutions, as well as the household of butchers, dealers in meat, saloon keepers, and of restaurants, are not to be regarded as private households in the sense of paragraph 1.

Section 14 reads according to the Government bill:

Meat which is brought into the customs domain is to be officially examined, with the assistance of the customs authorities, at the place of importation. Only such meat is excepted herefrom which can be shown to have been duly examined in this country, or which is intended to be carried in bond directly through the country. The importation of meat can only take place at certain specified custom-houses. The Bundesrath designates these offices, as well as those customs and duty (Steuer) offices where the examination of the meat may take place, and, furthermore, decrees to what extent the meat is still to be connected with the carcass, what parts of the



animal or sizes of pieces are permitted to be imported, and what inner organs must still be attached to such meat.

Game and fowl, as well as meat used by a person on a journey, or meat sent through the mail, are only subject to examination in so far as the Bundesrath directs. For meat used by individuals at the boundary, as well as on markets (Mess- und Marktverkehr) at the boundary, state government may permit exceptions or modifications to be made to the prescribed examination.

The commission has adopted sections 14a to 14d instead of section 14.

Section 14a. The importation into the customs domain of pickled or similarly prepared meat, with the exception of hams, bacon, and intestines, of meat in cans or similar receptacles, of sausages and other articles consisting of chopped meat, is prohibited.

Finally, the importation of meat into the customs domain is permitted until December 31, 1903, under the following conditions:

Fresh meat may only be brought into the customs domain in the whole carcass, but cattle and swine (not calves) may be imported in halves.

The pleura and peritoneum, lungs, hearts, kidneys, and, with cows, the udder must still be in their natural connection with the carcass. The Bundesrath is empowered to include other organs in this regulation.

Prepared meat can only be imported whenever the method of its preparation is known not to be dangerous to human health or whenever it can be positively proven on importation that the meat is not dangerous to human health.

After the expiration of the time mentioned in paragraph 2, the importation of meat, with the exception of lard, bacon, pure oleomargarine, and intestines, is prohibited.

Section 14b. The meat brought into the customs domain is, upon importation, to be officially examined with the assistance of the customs authorities. The meat already examined in this country, or which is intended to be carried in bond directly through the same, is to be excluded herefrom.

The importation of meat can only take place at certain custom-houses. The Bundesrath names these offices, as well as those customs and duty offices where the examination of the meat is to take place.

Section 14c. The regulations of sections 14a and 14b are applicable to game and fowl, as well as to meat carried by a person to be used on a journey, only in so far as the Bundesrath directs.

For meat brought into districts adjoining the boundary and used by individuals, or on markets at the boundary, exceptions to the regulations of sections 14a and 14b may be made by the federated governments.

Section 14d. The Bundesrath is empowered to direct prohibitions of importations and restrictions in addition to those laid down in sections 14a and 14b.

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*Mr. White to Mr. Hay.*

No. 1210.]

EMBASSY OF THE UNITED STATES,

*Berlin, March 17, 1900.*

SIR: Since my last dispatch to you upon the meat inspection bill no legislative action has been taken, but the forces on both sides have been very busy throughout the country. Against the bill have come in various protests from the great commercial interests of Hamburg and Bremen, as well as from the chambers of commerce of a multitude of other towns; also from associations of manufacturers, from dealers in produce, and from various popular meetings. The memorial from the dealers in produce is very simple and conclusive. It dwells on the valuable service rendered by canned meats in Germany during the Franco-Prussian war and at various other times, speaks of them as having become almost a necessity to the working classes, and of the certainty that if they are kept out of the country it will be extremely difficult to find any substitute for them. It also declares that these meats are universally found wholesome, and *must* be so, since in the process of canning they are exposed to a high degree of heat, which can not fail to destroy all dangerous germs.

On the other hand, various agricultural organizations have been telegraphing directly to the Emperor urging him to intervene in order to save the landed interest from extinction; but no answer has been returned from any quarter as yet to these petitions. It is also significant that His Majesty recently declared himself against any legislation devoted to building up special interests at the expense of the country at large. Meantime it is to be noted that the third reading of the bill has been deferred, which, it is now said, will not take place before Easter.

All of this looks as if the "sober second thought" referred to in my last dispatch is beginning to be effective. I still think that the probabilities are in favor of a compromise. In any case the indications are that the result of the bill will be another exemplification of the German proverb: "Nothing is eaten so hot as it is cooked."

I am, etc.,

AND: D. WHITE.

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*Mr. White to Mr. Hay.*

No. 1214.]

EMBASSY OF THE UNITED STATES,  
*Berlin, March 24, 1900.*

SIR: I have the honor to acknowledge your instruction No. 1017 of March 8, inclosing copy of a letter from the Secretary of Agriculture regarding changes in the German meat inspection bill; have noted the contents of both, and shall carefully bear them in mind.

You will have observed from my previous dispatches that the new bill, virtually prohibiting the importation of American meat products, which was so triumphantly carried through its second reading in Parliament several days ago, is not progressing so rapidly and smoothly as the Agrarians and their allies evidently expected, and as an indication of the "sober second thought," which is holding the whole matter back, and which seems likely to lead to some tolerable *modus vivendi*, I inclose an extract from the "Vossische Zeitung," giving an account of recent protests from various German chambers of commerce against the bill and showing that such expressions from these influential bodies in all parts of the Empire, and representing enormous industrial and commercial interests, are almost unanimous.

I desire to express my thanks to the Department for leaving representations to the German Government on this general subject, for the present, to my discretion. While I have not thought it best of late to worry the foreign office with pictures of the ill results of the bill, regarding which they are already indoctrinated, I have not hesitated to hint strongly, even to the Emperor himself, the natural results to German commerce of legislation prohibiting the importation of our agricultural products. I have never hesitated to press the subject, at the foreign office or elsewhere at what seemed to me the right moment, and this course, with your permission, I shall continue. I have taken some pains to avoid showing too much zeal, but many opportunities are offered in social gatherings of various sorts, so frequent at this season, to meet ministers of the Empire and of the Prussian Monarchy, members of the Imperial Parliament, and of the Prussian legislature, as well as other influential persons, and from time to time, and as the subject has come up, without ever indulging in any threats or taking

any truculent attitude whatever, I have, by a question here and an observation there—sometimes serious and sometimes humorous—sought to suggest trains of thought which would lead to a just consideration of the subject. As regards the foreign office, my conviction is that the chancellor and minister of foreign affairs are already fully aware of the dangers involved in the proposed legislation, and that with suitable statements to them from time to time they will be led to do all in their power for a proper adjustment of the whole matter.

I am, etc.,

AND. D. WHITE.

[Inclosure.—Translation.]

[“Vossische Zeitung,” evening edition, Berlin, March 20, 1900.]

To the protest meeting of the elders (Aeltesten) of the Berlin Merchants' Association against the prohibition of importing meat, several declarations of approval have lately been received. At this protest meeting, of 145 German chambers of commerce, merchants' corporations, and similar corporations of an official character, 43 were personally represented, and 86 have approved of the resolutions in writing or by telegraph. Of the remaining 16, two (Zittau and Schopfheim) have refused to participate, but at the same time have declared themselves to be indisputable opponents of the meat importation prohibition; five have left their position in doubt, as with most of them it was impossible to pass a resolution before the 18th instant; eight have decidedly refused to participate in the protest, whereby, however, Dortmund alone expressed itself positively as opposing the demonstration. The elders of the chamber of commerce of Gottingen have left the invitation entirely unanswered. This, therefore, is an almost unanimous expression of all official industrial and commercial representatives of Germany. Two free (freie) industrial corporations (of mines in Aachen and “kermanische” in Koburg) have declared their acquiescence without invitation.

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*Mr. White to Mr. Hay.*

No. 1222.]

EMBASSY OF THE UNITED STATES,  
*Berlin, April 14, 1900.*

SIR: For some time past some of the more moderate members of the Agrarian party have been endeavoring to induce the main body of their associates to agree to a compromise with the Imperial Government regarding the meat inspection bill, but apparently with not much chance of success. The argument of the minority in favor of the compromise has been that the Government could not possibly consent to the Agrarian amendments as reported by the committee. The argument of the majority against the compromise has been that the Government would be obliged to consent to the Agrarian amendments in order to secure the votes necessary to pass the bills for the increase of the fleet and other measures which the Emperor and his ministry have deeply at heart.

But all doubt regarding the definite attitude of the Government seems now removed. In the “Norddeutsche Allgemeine Zeitung” for April 12 appeared a leading article of great length, clearly “inspired,” which leaves no doubt on the subject, making it clear that the Government will not consent to the Agrarian project, leading as it does directly to exclusion of foreign meats.

As the article is very long and presents only arguments which during the progress of this extended controversy have become familiar, I will not burden you with them. The main point is that the attitude of the Government on this question is clearly taken in favor of its original proposal and against the Agrarian amendments.

But in saying that the article presents only arguments with which we are familiar I ought to add that it omits entirely one class of such arguments. For while it speaks at length of the injustice done the industrial interests of Germany by increasing the price of food for the working classes, and indeed by making an adequate supply of such food impossible, it very discreetly says nothing of the possible danger of reprisals likely to affect German industry and commerce. All such considerations which, in the resolutions of so many German chambers of commerce and in the discussions upon the subject by the German press, have occupied a leading place this article ignores and insists simply on the sanitary aspect of the whole question, declaring that all considerations of protection in agricultural industry must be left to later legislation having such protection as its special object.

The article takes pains to show that the original bill, as presented by the Government, while based on sanitary considerations alone, will inure to the benefit of the agricultural interest, and that the wisest course of the Agrarians and their allies is to pass it.

It seems universally understood that this is the ultimatum of the Government in the matter.

As to the relation of this embassy to the subject, of late I have thought it best, while watching carefully the progress of popular feeling and official opinion, to confine my efforts simply to what has been strictly necessary in preventing direct injury to our interests, to carefully shun any exhibition of anxiety, and above all to avoid any appearance of interfering in any internal question of the Empire.

A few days since one of the oldest and most respected members of the diplomatic corps, whose government is especially anxious regarding the amended bill, having interests which would be greatly injured by its passage, called upon me, evidently to find out what line we are taking in the matter. I told him frankly that we are observing at present a waiting policy; that earlier we had taken the greatest pains to give the members of the Imperial Government the fullest information on every point concerned and to show our desire to meet every honest wish for the sanitary protection of the German people by promoting a proper and thorough inspection law for the entire Empire; that we had also done what we could toward the enlightenment of public opinion on the subject, but that now the embassy is confining its efforts within narrow limits, feeling that the German Government must naturally, in the public interest, promote the very same sort of bill which we desire. He then told me that he also had arrived at the conclusion that this was the only mode of procedure at present; that under instructions from his government he had formerly done everything in his power to enlighten the Imperial Government and public opinion; but that he felt that the matter must now be left to take its course until we reach the crisis.

I need hardly say that the embassy will be prompt and ready at any moment to make any point which it shall seem wise to make, as, for example, in my remark during a recent conversation with the Emperor regarding tampering with the great commercial interests between the two countries, and in my sending to Count von Bülow at the foreign office the report regarding German exports to America for the last quarter, furnished me by our consul-general, and calling the minister's careful attention to the fact that they show an increase in German exports to us of more than 26,000,000 marks over the corresponding

period of last year. I especially directed his attention to this in order to impress upon him a due sense of that great and growing commercial interest with which the Agrarians are trifling. It is clear that considerations of foreign commerce, though discreetly avoided in the "inspired" article above referred to, are felt to be the most important of all in regard to this question, by the Emperor, as well as by the imperial chancellor and the secretary of state for foreign affairs.

I am, etc.,

AND. D. WHITE.

*Mr. White to Mr. Hay.*

No. 1241.]

EMBASSY OF THE UNITED STATES,  
*Berlin, May 3, 1900.*

SIR: Referring to previous correspondence (dispatch No. 1222, of April 14, 1900), I have the honor to inform you that it is now reported that a "compromise" has been made between the German Government and the leaders of the principal parties in the Reichstag in regard to the meat-inspection bill, which makes it seem probable that if the bill is amended on its third reading in the manner indicated it will be accepted by the Bundesrath. This "compromise" relates especially to section 14a, which in the proposed form would read as follows:

The importation of meat in air-tight sealed boxes or similar vessels, of sausages and other preparations of meat in small pieces (verkleinertem) into Germany (Zoll-Inland) is prohibited. In other respects the importation of meat into Germany, until December 31, 1903, will be governed by the following regulations.

1. Fresh meat may be imported only in whole carcasses, which, in the case of beef cattle, with the exception of calves and hogs, may be cut into halves. To these carcasses must be attached in the natural manner, the "Brust- und Bauchfell," the lungs, heart, and kidneys, and in the case of cows, the udder. The Bundesrath is empowered to include other organs also.

2. Prepared meat may be imported only when it has been shown by practical experience that the manner in which it is prepared is such as to exclude danger to the health of a human consumer, or when it can, at the time of its importation, be examined in such a way as to show conclusively that it is not injurious. This is considered an impossibility (unausfuhrbar) in the case of shipments of pickled meat (Pockel-Fleisch) where the weight of the single pieces is less than 4 kilograms. This provision does not apply to hams, fat, or intestines.

Meat which has been treated for the purpose of making it remain good (Haltbarmachung), but which retains to a considerable degree the character of fresh meat, or which, through treatment, might regain that character, is not to be considered as prepared (zubereitetes) meat. Such meat comes within the provision of No. 1.

For the time after December 31, 1903, new regulations in regard to the importation of meat are to be enacted. In case, however, that this is not done the prescriptions in No. 2 remain in force until altered.

I am, etc.,

AND. D. WHITE.

*Mr. White to Mr. Hay.*

No. 1250.]

EMBASSY OF THE UNITED STATES,  
*Berlin, May 19, 1900.*

SIR:

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The third reading of the meat-inspection bill was on the order of the day for the 17th instant, but was not reached. The "compromise,"

advocated by numerous members of the Conservative, Center, and "Reichs" parties (dispatch No. 1241 of May 3, 1900), is that—

Section 14a of the meat-inspection law be modified so that the importation of meat in air-tight sealed boxes or similar vessels, of sausages and other preparations of meat in small pieces, is prohibited. Further, that until December 31, 1903, the importation of fresh meat only in whole or half carcasses, and of prepared meat only when danger to the consumer's health is excluded, is to be permitted. In the latter case it is to be held that as far as pickled meat is concerned the pieces must be of more than 4 kilograms in weight. After December 31, 1903, the question of the importation of meat is to be regulated anew, or these provisions are to remain in force.

It is understood that this compromise will be accepted by the Government in the event of its acceptance by the Reichstag. Recently representatives of New Zealand meat interests have been in Berlin, and a hearing was granted them at the foreign office. They were given to understand, however, that their protests had come too late, and that the compromise was the result of a bargain for votes in favor of the navy bill.

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I am, etc.,

AND. D. WHITE.

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*Mr. White to Mr. Hay.*

No. 1253.]

EMBASSY OF THE UNITED STATES,  
*Berlin, May 22, 1900.*

SIR: Referring to previous dispatches, I have the honor to transmit herewith three copies of the bill for the general inspection of meat as agreed to, upon its third reading yesterday, and passed by the Reichstag to-day. As was anticipated, the so-called "compromise" was accepted, it having been declared by Count Posadowsky, on Monday, that it represented the extreme length to which the Government was willing to go in the direction of complying with the wishes of the Agrarians. In his speech Count Posadowsky called attention to the fact that the Government considered the bill as merely a sanitary measure, and not one intended to "protect" the German producer. The opponents of the bill called attention to the fact that for years American tinned meats had formed a part of the rations of the German soldier without any sickness being caused thereby, and stated that the poorer classes used these meats because they could not afford to buy fresh meat, and consequently they would in future be obliged to go without meat at all, as they certainly would not be able to buy meat at the advanced prices anticipated by the Agrarians as a result of the passage of the bill. It is now practically certain that the bill as passed will be accepted by the Bundesrath and duly promulgated. The date when the provisions of the bill are to go into effect, however, is to be fixed by Imperial proclamation (section 30) although preparations for carrying out its provisions are to be made as soon as it is promulgated.

I am, etc.,

AND. D. WHITE.

[Inclosure.—Translation.]

[No. 837. Reichstag. Tenth legislative period. First session, 1898-1900.]

*An act relative to the inspection of animals used for food and of meat.*

[In pursuance of the resolutions adopted by the Reichstag in third conference.]

We, William, by the grace of God, German Emperor, King of Prussia, etc., decree in the name of the Empire, the assent of the Federal Council and of the Reichstag having been obtained, as follows:

1. Neat cattle, swine, sheep, goats, horses, and dogs, the meat of which is intended to be used as human food, shall be subjected to an official inspection both before and after slaughter. In pursuance of a resolution of the Federal Council (Bundesrath) compulsory inspection may be extended to other animals.

When an animal is slaughtered in a case of emergency the previous inspection may be omitted.

The following are to be considered as cases of emergency: When there is reason to fear that the animal may die before the arrival of the proper inspector, or that the value of the flesh may be materially diminished owing to aggravation of the diseased condition, or when in consequence of an accident the animal must be killed immediately.

2. In case of animals whose flesh is to be used exclusively in the owner's own household the inspection previous to slaughter may be omitted in cases in which the animals do not present any signs of disease showing the unfitness of their flesh for food. The inspection after slaughter may likewise be omitted in cases in which such indications of disease do not appear during the killing.

Traffic in meat, the inspection of which has been omitted on the ground of paragraph 1, is forbidden.

As "own household," in the sense of paragraph 1, are not to be considered the households of barracks, hospitals, educational institutions, eating houses, prisons, almshouses, and similar institutions, nor the households of butchers, dealers in meats, nor keepers of houses where food and drink are served.

3. The federated governments are authorized to order the inspection at places where and times when a contagious animal disease prevails of all food animals that have been exposed to infection.

4. Meats, in the sense of this law, are fresh or preserved edible parts of warm-blooded animals. As "parts" are also considered fats and sausages prepared from warm-blooded animals; other products, however, only when so ordered by the Bundesrath.

5. Inspection districts are to be formed for making inspections, and at least one inspector and one deputy shall be appointed for each of such districts.

The inspection districts shall be formed and the inspectors shall be appointed by the federated governmental authorities. Special inspectors may be appointed by the military authorities for duty in military packing houses.

Officially recognized veterinarians, or other persons who have given evidence that they possess sufficient knowledge, shall be appointed as inspectors.

6. If the inspections show that disease exists, or that there is ground for suspecting the existence of a disease of which notice is required to be given, action is to be taken in accordance with the regulations in force that govern the case.

7. If the inspection made previous to slaughter does not furnish any ground for preventing the same, the inspector shall permit it to take place, any special precautions being taken that, in his judgment, are proper.

The slaughter of the animal presented for inspection shall not take place before permission is given, and then only with the proviso that the special precautionary measures are adopted.

If the slaughter does not take place two days at the latest after permission is given, it shall be allowable only after a reinspection and a second permission.

8. If the inspection after slaughter shows no ground for the condemnation of the meat, the inspector shall declare it fit for human food.

Before the inspection, parts of the slaughtered animal shall not be removed.

9. If the inspection shows that the meat is unfit for human food, the inspector shall seize it, inform the owner of this fact, and immediately give notice to the police authorities.

Meat that has been shown by the inspection to be unwholesome shall not be sold for human food.

The use of this meat for other purposes may be permitted by the police authorities,

provided that there are no sanitary reasons to prevent. The police authorities shall determine what precautionary measures are to be adopted in order to prevent the use of such meat as human food.

This meat shall not be offered for sale without permission from the police, and then only provided that the precautionary measures prescribed by the police authorities are adopted.

The meat shall be disposed of by the police authorities in such a way that it can do no harm, in case its use for other purposes is not permissible.

10. If the inspection shows that the meat is fit for human food only on certain conditions, the inspector shall seize it provisionally, shall inform the owner of this fact, and shall at once notify the police authorities. The latter shall determine under what precautionary measures the meat can be rendered fit for human food.

Meat which has thus been recognized as fit for food, only on certain conditions, shall not be offered for sale as human food before it has been made fit for such food by the precautionary measures prescribed by the police authorities.

If the meat is not thus rendered fit for food, the provisions of section 9, paragraphs 3 to 5, are to be observed.

11. Traffic in meat thus made fit for human food (sec. 10, par. 1) can take place only under a designation showing this condition to exist.

Traffic in and use of such meat by dealers in meat and eating-house keepers are allowed only upon permission from the police authorities; this permission shall be revocable at any time. Such meat shall be delivered to the above-mentioned tradesmen only in case such a permit has been granted to them. In the places of business of these persons it must be made especially evident, by means of an intelligible notice in a conspicuous place, that meat of the quality designated in paragraph 1 is sold or used.

Dealers in human food shall not offer for sale or sell this quality of meat in the same rooms in which wholesome meat (sec. 8) is offered for sale or sold.

12. The importation past the customs line of meat in hermetically sealed cans or in other similar packages, of sausages and other mixtures made from chopped meat, is prohibited.

The following provisions relative to the importation of meat past the customs line shall be in force until December 31, 1903:

(1) Fresh meat may be imported past the customs line only in entire carcasses, but the carcasses of beef (not including calves) and of swine may be cut into halves.

The pleura and the peritoneum, the lungs, heart, kidneys, and, in the case of cows, the udder also, must be attached in a natural position.

The Bundesrath is authorized to extend this provision to other organs.

(2) Prepared meat may be imported only when, from the method of its manipulation and preparation, danger to human health is, as shown by experience, excluded, or when, at the time of its importation, its harmlessness to man's health can be determined in a reliable manner. This determination is considered impossible, especially in salted meat (pokelfleisch) when the weight of single pieces is less than 4 kilograms (8.8 pounds); this provision does not apply to hams, bacon, and casings.

Meat which has been subjected to a preserving process, but which has practically retained the properties of fresh meat, or which, by proper treatment, can recover those properties, is not to be considered as prepared meat. Such meat comes under the provisions of No. 1.

After December 1, 1903, the conditions governing the importation of meat are to be determined anew by law. If no new law is enacted by the time mentioned, the regulations established by paragraph 2 of this section shall remain in force until further measures are adopted.

13. Meat passing the customs line shall be subject, upon its importation, to an official inspection made with the cooperation of the customs authorities. An exception shall be made in the case of meat that shall be shown to have already been inspected in the inland (inside of the customs line) as required by the regulations, and of meat intended for shipment in direct transit.

The importation of meat shall take place only through certain custom-houses. The Bundesrath shall determine these custom-houses and also the customs and revenue offices where the inspection of meat may take place.

14. The provisions of sections 12 and 13 shall be applicable to game and poultry and to meat taken to be eaten on journeys only so far as the Bundesrath may determine.

Exceptions to the regulations of sections 12 and 13 may be made by order of the federated governments in the case of meat introduced in the minor frontier trade and in the fair and market trade of frontier districts.

15. The Bundesrath is authorized to prohibit and restrict importation otherwise than as provided in sections 12 and 13.

16. The provisions of section 8, paragraph 1, and of sections 9 to 11, apply also to



meat passing inside of the customs line. Instead of the innocuous removal (see sec. 9, par. 5), or of the precautionary measures ordered by the police, the reexportation of meat may, however, be permitted (corresponding precautionary measures being adopted), provided that this be done without prejudice to sanitary considerations.

17. Meat which is not intended for human food, but which can be so used, may be imported without inspection after it has been rendered unfit for such food.

18. The inspection (sec. 1) of horses must be made by officially recognized veterinarians.

The sale of horse meat, as well as the importation of such meat inside of the customs line, shall take place only under a designation which, in the German language, makes the meat recognizable as horse meat.

Dealers in meat and keepers of eating houses shall be permitted to sell and use horse meat only with the sanction of the police authorities; their permits shall be revocable at any time. Horse meat may be delivered to the above-named tradesmen only in case such a permit has been granted to them.

In the business places of these persons it must be made specially evident, by means of an intelligible notice in a conspicuous place, that horse meat is sold or used.

Dealers in meat shall not offer for sale or sell horse meat in the same rooms where the meat of other animals is offered for sale or sold.

The Bundesrath is authorized to order that the above regulations be enforced in the case of asses, mules, dogs, and other animals that are more rarely slaughtered for food.

19. The inspector shall plainly indicate upon the meat the result of the inspection. Meat imported from abroad is, in addition, to be clearly indicated as imported meat.

The Bundesrath shall determine the kind of mark to be used.

20. Meat that has been subjected, within the Empire, to the official inspection required by sections 8 to 16 shall be subjected to an official reinspection only for the purpose of determining whether it has spoiled in the meantime or whether it has suffered any other change in its condition rendering it injurious to health.

Enactments of the federated governments according to which, in the case of communities with public slaughterhouses, the sale of fresh meat may be subjected to restrictions, especially to compulsory inspection within the community, shall remain intact, with the proviso that their enforcement shall not be made dependent upon the origin of the meat.

21. In the industrial preparation of meat no materials or processes shall be used that can render the articles injurious to health. It is forbidden to import such prepared meat from foreign countries or to offer it for sale, to sell it, or otherwise to bring it into traffic.

The Bundesrath shall determine the materials and methods to which these regulations shall be applicable.

The Bundesrath shall decide how far the regulations of paragraph 1 are applicable also to special materials and processes calculated to disguise unwholesome meat or meat of an inferior quality.

22. The Bundesrath is authorized:

(1) To issue regulations for ascertaining whether persons possess sufficient knowledge (sec. 5) to act as meat inspectors.

(2) To establish general principles, according to which the inspection of animals and meat is to be made and for the further treatment of animals and meat in case of condemnation.

(3) To make the necessary arrangements for carrying out the provisions of section 12, and for determining the fees for the inspection of meat brought inside the customs line.

23. The question as to who is to bear the expense of the official inspection (sec. 1) shall be regulated by the law of each federated government. In further matters, the necessary regulations for enforcing the law shall be issued by the government of each federated State, provided that the Bundesrath has not been declared competent, or in case the Bundesrath does not exercise the authority conferred upon it by section 22.

24. Regulations adopted by the federated Governments for trichina inspection and for the sale and use of meat that, although fit for human food, is considerably diminished in value as such food, and regulations adopted by said Governments relative to—

(1) Animals to be subjected to inspection;

(2) Inspections by officially recognized veterinarians;

(3) The sale of condemned meat or of the flesh of the animals mentioned in section 18;

Also other requirements not specified in this law shall be permissible provided that their enforcement can not be made dependent upon the origin of the animals or of the meat.

25. The Bundesrath shall determine how far the provisions of this law apply to meat introduced from outside the customs line.

26. The imprisonment not exceeding six months and a fine not exceeding 1,500 marks, or either of these penalties, shall be imposed upon:

(1) Any person who shall knowingly act in contravention of section 9, paragraphs 2, 4; section 10, paragraphs 2, 3; section 12, paragraph 1; or section 21, paragraph 3.

(2) Any person who shall knowingly place on the market as human food meat that has been imported contrary to the regulations of section 12, paragraph 1, or meat that has been rendered unfit for human food according to section 17.

(3) Any person who shall fraudulently affix or counterfeit the marks provided for in section 19, or who shall knowingly offer for sale or sell meat on which the marks have been fraudulently affixed, counterfeited, or removed.

27. A fine not exceeding 150 marks, or the penalty of imprisonment shall be imposed upon:

(1) Any person who, through carelessness, shall commit one of the acts mentioned in section 26, numbers 1 and 2.

(2) Any person who shall slaughter an animal before it has been subjected to the inspection provided for in this law, or to an inspection as provided by section 1, paragraph 1, sentence 2; section 3; section 18, paragraph 5; or section 24.

(3) Any person who shall place on the market meat before it has been subjected to the inspection provided for in this law, or by section 1, paragraph 1, sentence 2; section 3; section 14, paragraph 1; section 18, paragraph 5; or section 24.

(4) Any persons who shall act in contravention of section 2, paragraph 2; section 7, paragraph 2, 3; section 8, paragraph 2; section 11; section 12, paragraph 2; section 13, paragraph 2; or section 18, paragraph 2 to 4; also any person who shall contravene orders issued on the basis of section 15; or section 18, paragraph 5; or the legal regulations of the federated Governments concerning the sale and use of meat, issued on the basis of section 24.

28. In the cases provided for in section 26, numbers 1 and 2; and in section 27, number 1, the confiscation of the meat shall be ordered in addition to the penalty.

In a case of confiscation it is immaterial whether the object seized belongs to the condemned person or not.

If the prosecution or condemnation of a given person is not possible, the seizure may be ordered unconditionally.

29. The provisions of the law of May 14, 1879 (page 145, Reichs-Gesetzblatt), regarding the traffic in foods and articles of use, shall remain unchanged. The provisions of section 16 of the said law shall also be applicable to infractions of the present law.

30. The provisions of this law which relate to the adoption of the arrangements necessary for the execution of the law for the inspection of animals and of meat shall take effect on the day of the promulgation of this law.

The time when the law is to take effect, either in whole or in part, shall be fixed by an imperial order with the approval of the Bundesrath.

In witness whereof, etc.,

Done, etc.

BERLIN, May 22, 1900.

Resolution adopted:

The Reichstag deems it advisable for public insurance of animals used for food to be established by local laws, supplementary to the law for the inspection of animals and of meat. It thinks that this should be done with the aid of an appropriation from the State, and that measures should be adopted for utilizing the refuse portions of slaughtered animals.

**MILITARY SERVICE CASES OF HERMAN F. DIETMANN, ALFRED KNUDSEN, JOSEPH RINEHART, GEORGE ROSEBROCK, JOHN M. MUNSCHE, AND HUGO WAGNER.**

*Mr. Jackson to Mr. Hay.*

No. 1142.]

EMBASSY OF THE UNITED STATES,  
*Berlin, December 30, 1899.*

SIR: Referring to my dispatch, No. 928, of June 30 last, I have the honor to append hereto a memorandum report of certain military

cases, more particularly mentioned below, which have not as yet been referred to in previous correspondence, or in regard to which the action taken by the embassy has not been fully reported heretofore.

I have, etc.,

JOHN B. JACKSON.

[Inclosure.]

1. Herman F. Dietmann (see dispatch, No. 534, of August 29, 1898) requested the embassy, under date of June 22, 1899, to use its good offices to the end that the permission already granted him to remain in Prussia until July 1, 1899, might be extended until September 15. After preliminary correspondence with Mr. Dietmann, the embassy intervened in his behalf (F. O., No. 523), on June 27, and under date of August 2, a reply from the foreign office stated that the desired extension had been granted.

2. Alfred Knudsen presented his case in person at the embassy on July 19, 1899, and intervention (F. O., No. 536) was at once made in his behalf, and permission requested for him, in accordance with his wish, to be allowed to return to his former home at Wyk a. Föhr, and to remain there for one week at some time before September 1. Knudsen was born at Wyk in 1867, and when about 14 years of age emigrated with his mother and sister to the United States, where he became naturalized as a citizen at Chicago, in 1892. He returned on a visit to Germany in June in order to see his relatives. On July 3 he received an order to leave Prussian territory within three days, and with this order he had immediately complied.

No answer being received from the foreign office, and the time before Knudsen's intended return to the United States growing short, intervention was renewed (F. O., No. 557) on August 16, and on the 19th a verbal communication was received (which was confirmed by the foreign office's note of August 22) to the effect that the desired visit would be permitted.

After Knudsen had returned to the United States the embassy received a request from him to effect the return of certain money paid by him as a military fine on June 26, and the embassy's intervention to this end (F. O., No. 594) is still pending.

3. Joseph Rinehart's case (see dispatch, No. 972, of August 3, 1899) was brought to the attention of the foreign office (F. O., No. 559) on August 19, after correspondence first with the consulate-general at Frankfort, and then with Mr. Rinehart himself. Upon Mr. Rinehart's informing the embassy that he had again been threatened with expulsion, intervention was renewed (F. O., No. 579) on September 19, and eventually, under date of October 16, a reply was received from the foreign office to the effect that permission had been granted to remain in Prussia until November 15, as had been requested.

4. George Rosebrock's case was brought to the attention of the embassy by Acting Consul Murphy (Bremen) on November 3, 1899, and intervention was at once made. Rosebrock, who had in his possession the certificate of his American naturalization and a United States passport, had been ordered to leave Prussian territory under date of October 17. He had emigrated to the United States, with his parents, when about 16 years of age, and had returned to Prussia with an intention to remain a few months only. On December 17, the foreign office informed the embassy that Rosebrock would be allowed to remain in Prussia until January 1, 1900, but no longer.

5. John Martin Munsch (see dispatch, No. 1118, of December 18, 1899), an American citizen of *Alsatian* origin, was, as stated in a note from the foreign office, dated December 27, sentenced in 1887, on account of evasion of military duty, to pay a fine of 600 marks, or to be imprisoned for forty days. He was arrested at Gebweiler on October 24, and as he did not pay the fine he was compelled to serve his time. Should he wish to remain in Alsace, permission to do so temporarily would probably be granted him upon his application to the local imperial authorities.

6. The foreign office has communicated with the royal Prussian authorities in regard to the embassy's wish to support the petition made by the family of Hugo Wagner (dispatch, No. 1117, December 18, 1899), as requested by the embassy (F. O., No. 634), on December 22.

J. B. J.

**MILITARY-SERVICE CASES OF JOSEPH GRESSER, RUDOLPH TEUTSCH, JENS CORNELIUS ANDERSEN, AUGUST DALESCH, GEORGE VON STADEN, SIEGFRIED ZEHDEN, SIEGMUND WOLLENBERG, FREDERICK H. KRUSE, AND JULIUS BURGER.**

*Mr. White to Mr. Hay.*

No. 1237.]

EMBASSY OF THE UNITED STATES,  
*Berlin, April 30, 1900.*

SIR: Referring to Mr. Jackson's dispatch, No. 1142, of December 30, 1899, I have the honor to append hereto a memorandum report of certain military cases, more particularly mentioned below, which have not as yet been referred to in the embassy's correspondence with the Department, and I am, etc.

AND. D. WHITE.

[Inclosure.]

1. Joseph Gresser was born in Uissigheim, Baden, March 16, 1866, and when about 17 years old emigrated to the United States, where he subsequently became naturalized as a citizen in Indiana. Upon his not presenting himself for military service at the proper time, certain property coming to him by inheritance was attached. The embassy was informed of this fact (by his attorney, Carl Burger, of Karlsruhe), on November 16, 1899, and intervention was at once made (F. O., No. 612) in his behalf. Attention was again called to the case (F. O., No. 640) on December 27. To the embassy's notes the foreign office replied under date of January 12, 1900, in a note in which it was stated that the attachment complained of had been removed, and certain money paid to Gresser's father on account had been ordered to be refunded.

2. Rudolph Teutsch's case was brought to the attention of the embassy by the United States consul at Cologne, in September, 1899. After considerable correspondence it was ascertained that Teutsch was born at Venningen, Rheinpfalz, on September 20, 1865, that when about 18 years old he had emigrated to the United States, where he had become naturalized as a citizen in 1889, and that he had returned to Germany in June, 1897; also, that he had been ordered to leave Prussia by the police at Cologne in September, 1899, but the order had not been put into execution. Upon the representations of the consul, intervention was made in Teutsch's behalf (F. O., No. 595) on October 17, 1899, and after correspondence in regard to the reasons for Teutsch's wishing to be allowed to remain longer in Prussia, the foreign office replied, in a note dated January 16, 1900, that he would be permitted to remain until the 1st of the next April.

3. Jens Cornelius Andersen informed the embassy, under date of November 11, 1899, that upon returning to his home in the province of Schleswig-Holstein, after an absence of about nine years, he had applied for permission to remain two months. He had, however, without formal order of expulsion, been given to understand that permission would not be granted him. Andersen had in his possession a passport (No. 12347) issued to him by the Department of State on October 5, 1899. He had returned to Germany for the purpose of visiting his aged mother and expected to be back in the United States, for business reasons, by the end of January. Intervention was made in his behalf (F. O., No. 614) on November 18, and the case was referred to again on December 27. Under date of January 16, 1900, the foreign office informed the embassy that Andersen, who appears not to have been molested in the meantime, had left Germany of his own accord.

4. August Dalesch, a naturalized American citizen, was arrested at Greifenhagen on January 23, 1900. Upon his case being investigated by Consul Kehl, of Stettin, it was ascertained that Dalesch had deserted from the German navy in 1893. Under the circumstances the embassy declined to intervene. Attention was paid to the case, however, by Consul Kehl, and under date of March 13 he informed the embassy that Dalesch had been released from imprisonment, but had been ordered to report for military service. In December Dalesch had broken his arm and it is said that he will never have the full use of it again. It is therefore probable that he was not found fit to serve, as nothing further has been heard of the case.

5. George Von Staden, a naturalized American citizen of German origin, informed the embassy, under date of August 22, 1899, that his papers had been taken from him by the local military authorities at Bremervörde. Intervention was at once made in his behalf (F. O., No. 594), and a few days later, September 1, Staden informed the embassy that his papers had been returned. The foreign office informed the embassy of the same fact under date of February 9, 1900.

6. Siegfried Zehden called at the embassy on December 27, 1899, and stated that he had been ordered by the local Berlin police to leave Prussia by the 15th of that month and that subsequently permission had been granted him to remain two weeks longer. He was born in Berlin in 1858, and had emigrated in 1877, becoming naturalized as an American citizen in New York, October 27, 1882. He had made a short visit to Germany in 1883, and had been residing in Berlin since September, 1899. He desired to be allowed to remain for three or four months longer. Intervention was at once (F. O., No. 639) made in his behalf. Under date of February 22, the foreign office replied to the embassy's note in this case, stating that Zehden and his family had gone to Prague on January 4, and that consequently further consideration of his request was useless. Efforts subsequently made by the embassy to communicate with Zehden at his Berlin address and in Prague were without result.

7. Siegmund Wollenberg called at the embassy on December 23, 1899, and stated that he was born in Posen in 1839; that after performing military service he emigrated in 1864, and that, as shown by the certificate in his possession, he was naturalized as an American citizen in New York in 1883. In 1890 he had returned to Germany and had since resided in Prussia, without molestation, until a few days before, when he was ordered to leave by the 29th of December. Wollenberg said that it would be impossible for him to comply with this order without serious loss and inconvenience for himself and his family, but declared his readiness to return to the United States in the spring. Intervention was at once made in his behalf (F. O., No. 635). On March 3, 1900, the foreign office informed the embassy that, to their regret, the Prussian authorities did not feel at liberty to allow Wollenberg to remain in Prussia until May 1, as he had been punished for fraud (betrug), but that out of consideration for the embassy's request he would be permitted to remain until the 1st of April.

8. Frederick H. Kruse emigrated to the United States when about 14 years old and resided there continuously for more than ten years. In November, 1899, after naturalization in New York, he returned to Germany for the purpose of spending a few months with his mother. He was at first ordered to leave Prussia at once, but subsequently, under date of December 7, permission was granted him to remain for six weeks from the 30th of November. The case was brought to the attention of the embassy by the American consulate at Bremen, and on December 30, 1899, intervention was made to the end that Kruse might be allowed to remain in Prussia until the spring (F. O., No. 643). As the consul at Bremen reported that Kruse had subsequently received a notice to leave Prussia before January 11; that he had complied with the same by moving to Bremen, and that nevertheless his mother continued to be annoyed on his account, the case was again referred to in a note dated January 20, 1900 (F. O., No. 654). Under date of March 5 the foreign office replied that to their regret the Prussian authorities did not feel at liberty to permit him to remain longer in the country as an exception had already been made in his case in allowing him to remain as long as he had.

9. Julius Burger's case was brought to the attention of the embassy by the consul at Nuremberg on December 22, 1899. Burger was born at Trunstadt, Bavaria, March 3, 1875, and had emigrated to the United States when about 18 years old, having there become naturalized as a citizen, at New York, December 29, 1898. He returned to Germany on a visit in December, and on the 14th of that month had been compelled to pay a fine of 200 marks to the local authorities at Nuremberg, against his protest as an American citizen, and in order to avoid arrest and imprisonment on account of his not having performed military service. Intervention was at once made in his behalf (F. O., No. 632), and under date of March 16, 1900, the foreign office replied in a note in which it was stated that the repayment of the money collected from Burger had been ordered.

**MILITARY-SERVICE CASES OF PETER F. HINRICHSEN, MAX ABEL, F. P. AND E. F. WAGGERSHAUSER, ALBERT GANSLÉN (GÄNSSLÉN), AND PHILIP ENOCH.**

*Mr. White to Mr. Hay.*

No. 1284.]

EMBASSY OF THE UNITED STATES,  
*Berlin, June 30, 1900.*

SIR: Referring to the embassy's dispatch No. 1237 of April 30 last, I have the honor to append hereto a memorandum report of certain military cases, more particularly mentioned below, which have not as yet been referred to in the embassy's correspondence with the Department, and I am, etc.,

AND. D. WHITE.

[Inclosure.]

1. Peter F. Hinrichsen first communicated with the embassy in regard to possible trouble growing out of unfulfilled military obligations in January, 1900, and after certain correspondence intervention was made in his behalf (F. O., No. 671) on March 1. After a residence in the United States for about seventeen years, during which he had become naturalized as an American citizen (as shown by passport No. 13794, dated Washington, November 29, 1899, in his possession), Hinrichsen had returned, last autumn, to his former home at Wrixum auf Föhr. Soon after his arrival he was notified by the local authorities that he must leave the country by March 15. Toward the end of February he informed the embassy that he was not in a condition to travel at that season of the year, and, his statement being supported by physician's certificate, the embassy then made intervention to the end that he might be allowed to remain in Prussia until May 15, 1900. The attention of the foreign office was again called to the case (F. O., No. 692) on May 1—Hinrichsen having apparently not been molested in the meantime—and under date of May 2 the foreign office replied that the desired permission had been granted.

2. Max Abel informed the embassy, under date of August 31, 1899, that he had been in Germany—at or near his former home—for about a year, and that he wished to be allowed to remain for a year longer. After correspondence—from which it appeared that Abel was born in Germany in 1875 and had emigrated in 1891 to the United States, where he became naturalized as a citizen at Chicago on October 16, 1896; and further, that he desired to remain in Germany in order to attend the wedding of a brother in June, 1900, and on account of other private business until October, 1900—intervention was made in his behalf (F. O., No. 574) on September 11, 1899, as he had been given to understand that it would be impossible for him to remain longer in Prussia unless he renounced his American naturalization and declared his willingness to perform military service. The embassy again invited attention to the case on December 27, 1899 (F. O., No. 640), and May 1, 1900 (F. O., No. 692). On May 20 a note was received from the foreign office in which it was stated that Abel, from whom no further complaint had reached the embassy, had already left for America.

3. Frederick Paul Waggershauser and Eugene Frank Waggershauser were born in Württemberg in 1878 and 1879, respectively, and accompanied their father to the United States, where both eventually became naturalized citizens. Their case was brought to the attention of the embassy by their attorney, and on October 26, 1899, intervention (F. O., No. 600) was made to the end that no military fines be collected from property coming to them by inheritance on account of their not having performed military service. Their case was again referred to in the embassy's notes to the foreign office of December 27, 1899, and May 1, 1900. On May 20 a note was received in reply, in which the foreign office stated that proceedings had been stopped and the names of the brothers stricken from the German military lists.

4. Albert Ganslén (Gänsslén) informed the embassy, in December, 1899, that an attachment had been placed upon certain property in Württemberg on account of his not having performed military service. After correspondence with him, the embassy made intervention (F. O., No. 668) in his behalf on February 19, 1900, with result that it was informed by the foreign office, under date of May 23, that the attachment had been removed.

5. Philip Enoch brought his case to the attention of the embassy in March, 1900, and on the 31st of that month intervention (F. O., No. 680) was made in his behalf, to the end that he might be allowed to remain in Prussia until August, 1901. Enoch was born in Russia in 1864, and had emigrated to the United States in 1885. He became naturalized as a citizen in 1890, and then returned to Europe and settled in East Prussia in 1897. He had been ordered to leave Prussia by June, 1900, but claimed that it would greatly endanger the health of his wife, who was soon to be confined, and that owing to investments he had made it would mean his financial ruin if he were compelled to leave Prussia at the time set. The case was again referred to in the embassy's note of May 1, and under date of June 10 a reply was received, in which the foreign office stated that Enoch would be allowed to remain in Prussia until October 1, 1900, but that permission for him to remain until August, 1901, could not be granted.

J. B. J.

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**MILITARY-SERVICE CASES OF LAWRENCE M. METZGER, FRANCIS XAVIER HOSSENLOPP, ALBERT GANSLER (GÄNSSLER), ANTON ESSER, OTTO GRAUL, FRITZ HILLENS, HIERONIMUS BAYER, SIMON MOELLER, WILHELM RITTERHOFF, AND ALFRED KNUDSEN.**

*Mr. Jackson to Mr. Hay.*

No. 1416.]

EMBASSY OF THE UNITED STATES,  
*Berlin, September 29, 1900.*

SIR: Referring to the embassy's dispatch No. 1284, of June 30 last, I have the honor to transmit herewith a memorandum report of certain military cases, mentioned particularly below, in regard to which action has been taken during the quarter ending to-morrow, and I am, etc.,

JOHN B. JACKSON.

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[Inclosure.]

1. Lawrence M. Metzger, writing from his home in Grafton, Ohio, informed the embassy in March, 1900, of his wish to visit his former home in Alsace. After considerable correspondence, in which the embassy informed him as to how the necessary request for permission to do so was to be made, a note (F. O., No. 721) was addressed to the foreign office on June 5 in support of the petition which Metzger had sent to the local ministry at Strassburg. On June 30 the embassy was informed by the foreign office that the desired permission had been granted and that Metzger would be allowed to sojourn for three weeks at his former home at some time before the 1st of September, action against him on account of his evasion of military service being suspended during that period. Metzger then made the desired visit, and after having done so, and having thanked the embassy for its action in his behalf, he requested its further offices to the end that it secure the cancellation of the order of fine which had been made in his case. The embassy addressed the foreign office on this subject on August 1 (F. O., No. 774), but has as yet received no reply.

2. Francis Xavier Hossenlopp informed the embassy that he wished to be allowed to visit his former home in Alsace in a letter dated Brooklyn, N. Y., May 1, 1900, in which he inclosed a note of introduction from Senator Platt and a letter from the Secretary of State dated April 10. After certain correspondence the embassy, on June 11, addressed a note (F. O., No. 726), and under date of July 3 a reply was received from the foreign office in which it was stated that permission had been granted Hossenlopp to visit his former home for four weeks at some time before September 1, and that during that time proceedings against him on account of his not having performed military service would be suspended.

3. Under date of July 11, 1900, the foreign office informed the embassy that the name of Albert Gansler (Gänssler)—see case No. 4 in the report accompanying the embassy's dispatch No. 1284, of June 30, 1900—had been taken off the German military lists.

4. Anton Esser brought his case to the attention of the embassy through the United States consulate at Cologne in May, 1900. Esser was born at Essen in 1875, and had been taken by his father to the United States in 1881, the father subsequently becoming naturalized as a citizen. In June, 1899, he had returned to Germany on a visit, with an intention to remain about two years. On April 26 he had received an order to leave Prussia within twenty-eight days. He claimed that he had been working in a factory as an apprentice, had earned no money, and must wait until his relatives sent him funds with which to return to the United States. On May 8 the embassy brought the case to the attention of the foreign office and requested permission for Esser to remain in Prussia until July 1 (F. O., No. 698), and under date of July 16 a reply was received in which it was stated that the permission had been granted.

5. The case of Otto Graul was brought to the attention of the embassy by Mr. Graul's father in December, 1899, and after certain correspondence the embassy addressed the foreign office in the matter (F. O., No. 660) on January 27, 1900. Mr. Graul is an American of German origin, residing in Boston, and he had been sentenced to pay a fine on account of his failure to present himself for military service. Attention was subsequently called to this case on May 1 and June 21. Under date of August 17 the embassy was informed that the fine complained of had been remitted.

6. Fritz Hillens was born in Germany in 1853, and went to the United States in 1873, becoming naturalized as a citizen there in 1879. He made visits to Germany in 1880 and 1884 without being in any way molested. On May 10 last he came to Germany again, and a few days later he was arrested as a deserter and imprisoned in the military prison at Hanover. The case was brought to the attention of the embassy by certain of Hillens's friends, and on May 21 a note was addressed to the foreign office (F. O., No. 710) in support of a petition for pardon which had been sent to His Majesty the German Emperor. Under date of August 20 a reply to the embassy's note was received in which it was stated that pardon had been granted on July 27.

7. Hieronimus Bayer was born in Württemberg in 1875, and in 1887 was taken to the United States, where he duly became naturalized as a citizen at Cleveland, Ohio, in 1896. On May 15 last, at the instance of the United States consul-general at Berlin, the embassy addressed the foreign office (F. O., No. 701) in Bayer's behalf to the end that his name might be removed from the German military list so that it might be possible for him to visit his former home exempt from military obligations and consequently not liable to be molested on account of their nonfulfillment. Attention was again called to this case on June 21 and August 24, and under date of August 25 a note was received from the foreign office in which it was stated that Bayer's name had been taken off the military lists.

8. Simon Moeller was born in Lippe in 1873. In 1892 he emigrated to the United States, becoming naturalized as a citizen in South Carolina in 1899. Soon thereafter he returned to Germany, and after remaining for about five months, during which he was married, he returned to the United States. During his visit he was, however, compelled to pay a fine of 300 marks in order to avoid arrest on account of his having failed to perform military service. On June 15, at the instance of the United States consul at Hanover, the embassy brought the case to the attention of the foreign office (F. O., No. 733), and under date of August 27 the money was refunded to Moeller.

9. Wilhelm Ritterhoff, who was born in Germany, emigrated with his father about sixteen years ago, and through his father's naturalization during his minority, in 1890, at Dayton, Ohio, he became a citizen of the United States. As he did not report for military service, he was sentenced to pay a fine, and in consequence the sum of 228.56 marks was collected by the Prussian authorities from certain money which was due him. On September 15, 1899, the embassy called the attention of the foreign office to the case (F. O., No. 578), and reference was made to it again on December 27, 1899, May 1, June 21, and September 10, 1900. Eventually, under date of September 22, 1900, a reply was received from the foreign office to the effect that the money collected had been ordered to be refunded to Ritterhoff's representative.

10. Alfred Knudsen (case No. 2 in report accompanying dispatch No. 1142, of December 30, 1899) submitted his American papers to the embassy and it forwarded the same to the foreign office, in accordance with its request, on May 2, 1900 (F. O., No. 672). Further attention was called to the case on May 1, June 21, and September 3, and eventually, under date of September 23, 1900, the money (209.52 marks) which Knudsen had been compelled to pay as a military fine was repaid by the foreign office and duly transmitted to him.



**MILITARY-SERVICE CASES OF HERMANN KARL, ADOLPH BRÜCK,  
HEINRICH BERNSMANN, AND CHRISTIAN BODRI (BODRY).**

*Mr. White to Mr. Hay.*

No. 1492.]

EMBASSY OF THE UNITED STATES,  
*Berlin, December 31, 1900.*

SIR: Referring to Mr. Jackson's dispatch No. 1416 of September 29 last, I have the honor to transmit herewith a memorandum report of certain military cases, mentioned particularly below, in regard to which action has been taken during the quarter ending to-morrow, and which have not as yet been the subject of correspondence with the Department.

I am, etc.,

AND. D. WHITE.

[Inclosure.]

1. Hermann Karl, a naturalized American citizen of Bavarian origin, was arrested in Bremen upon a charge of theft. His case was reported to the embassy by Consul Diederich, and intervention was at once made in his behalf, on November 5, 1900 (F. O., No. 828), as the consul was of the opinion that the case was liable to be complicated by the fact that Karl had not presented himself for military service before his immigration. Under date of November 24 the foreign office replied to the embassy's note, stating that all practicable expedition would be used in disposing of the original charges, and that Karl would probably not be molested on account of his evasion of military service, as steps had already been taken to cancel his sentence to pay a fine. This information was duly communicated to Mr. Diederich, from whom nothing further in regard to the case has been heard.

2. Adolph Brück was born at Fürfeld, Germany, in 1874, and emigrated in 1893 to the United States, where he duly became naturalized as a citizen in New York in 1899. In July, 1900, he came to Germany for the purpose of visiting his parents, and after remaining at Fürfeld for three days went to Austria and Bavaria. His case was brought to the attention of the embassy by his father, no correspondence having been had with Adolph himself. Adolph had returned to Fürfeld again on September 3, and had been compelled to leave on the 8th, an order to leave within forty-eight hours having been served upon him in the meantime. On September 10 (F. O., No. 803) the embassy made intervention in his behalf to the end that he might be again permitted to return to Fürfeld to remain until about the middle of October, when he intended going back to the United States. The embassy also asked for the return of the money (208.18 marks) which he had been forced to pay as a military fine to the Grand-Ducal Hessian authorities. Brück apparently returned to Fürfeld without further molestation, and under date of October 21 his father notified the embassy that he had left for the United States. Under date of November 29, however, the foreign office wrote to say that the fine in the case had been refunded (as the embassy was already aware), but that the Hessian authorities had not found it practicable to grant Brück the desired permission to visit his former home.

3. Heinrich Bernsmann appealed to the embassy for its assistance on November 15, 1900, and intervention (F. O., No. 830) was at once made in his behalf to the end that he might be permitted to remain in Prussia for four weeks longer. Bernsmann was born in Berlin in 1869 and had emigrated to the United States with his father in 1882, becoming a citizen through his father's naturalization in 1888. He visited Germany in 1899 and returned again in September, 1900, since which time he had lived in Berlin. Under date of November 12 he had received an order to leave Prussia within eight days. Under date of December 15 the foreign office notified the embassy that, in view of its intervention, permission had been granted Bernsmann (from whom nothing had been heard in the meantime) to remain in Berlin for four weeks, as desired, but that the Prussian authorities were not willing to cancel the order for his expulsion which had been issued on account of his evasion of military service.

4. Christian Bodri (Bodry), through his attorney, had been in correspondence with the Württemberg authorities with reference to the removal of an attachment

which had been put upon certain property on account of his evasion of military service. Bodri had been born in Württemberg, but is at present an American citizen, residing in New York City. The embassy eventually took his case up, on October 19, 1900 (F. O., No. 820), and under date of the 19th instant it was informed by the foreign office that the attachment complained of had been removed.

J. B. J.

**EXTRADITION BETWEEN ALSACE-LORRAINE AND THE UNITED STATES IS NOT REGULATED BY TREATY.**

*Mr. White to Mr. Hay.*

No. 1164.]

EMBASSY OF THE UNITED STATES,  
*Berlin, January 23, 1900.*

SIR: I have the honor to inform you of the receipt to-day from the Imperial foreign office of a note in which reference is made to a request recently addressed by our consul at Kehl to the authorities of Alsace-Lorraine in regard to the whereabouts of one Oskar H. Schneider. It appears that a reward has been offered by our postal authorities for the apprehension of said Schneider and that it was thought possible that he might be found in the house of his brother-in-law, in Alsace. In the note it is stated that nothing has as yet been ascertained in regard to Schneider, and a further communication is promised in case he should be found subsequently. My attention is called to the fact, however, and it is on this account that I report the matter to you, that "extradition between Alsace-Lorraine and the United States is not regulated by treaty" (Auslieferung zwischen Elsass-Lothringen und den Vereinigten Staaten von Amerika nicht vertragsmässig geregelt ist).

I am, etc.,

AND. D. WHITE.

**APPLICATION FOR PASSPORT OF BERNARD EHLERS, A CITIZEN OF THE HAWAIIAN ISLANDS.**

*Mr. White to Mr. Hay.*

No. 1169.]

EMBASSY OF THE UNITED STATES,  
*Berlin, January 25, 1900.*

SIR: Respectfully referring to Mr. Jackson's dispatch No. 649,<sup>1</sup> of December 9, 1898, and to your reply of January 10, 1899 (instruction No. 716<sup>1</sup>), in which no reference is made to the question of the issue of American passports to former Hawaiian subjects, I have the honor to request your instructions in the following case, submitted to me by our consul at Munich:

Bernard Ehlers has applied for an American passport under the following circumstances:

Ehlers's father went to Hawaii in 1849, and resided at Honolulu until 1874. Bernard Ehlers was born at Honolulu May 18, 1864, and has in his possession a certificate of Hawaiian citizenship from the extinct kingdom, as well as a passport issued by the department of foreign affairs at Honolulu, March 19, 1890. He states that he last left the Hawaiian Islands in January, 1885; that he represents American inter-

<sup>1</sup> Printed in Foreign Relations, 1899, pp. 294, 295.

ests in Europe, and needs a passport for use in traveling; and further, that he intends going to the United States to reside within one year, his permanent residence being given as at Honolulu.

I am, etc.,

AND. D. WHITE.

*Mr. Hay to Mr. White.*

No. 1010.]

DEPARTMENT OF STATE,  
*Washington, February 21, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 1169, of the 25th ultimo, requesting to be instructed whether you should issue a passport to Bernard Ehlers, who claims to be a citizen of the Hawaiian Islands.

In reply I have to inform you that a copy of your dispatch has been sent to the special agent of the United States at Honolulu with instructions to ascertain whether the government of Hawaii considers Ehlers a bona fide Hawaiian citizen.

Upon hearing from the agent, the Department will advise you further.

I am, etc.,

JOHN HAY.

*Mr. Hay to Mr. White.*

No. 1029.]

DEPARTMENT OF STATE,  
*Washington, April 2, 1900.*

SIR: Referring to your No. 1169 of January 25 last, touching the application for a passport made by Bernard Ehlers, a native of Honolulu, I inclose herewith copy of a dispatch<sup>1</sup> from the special agent of the United States at Honolulu transmitting the reply of the Hawaiian minister for foreign affairs to the inquiry made by this Department as to whether the Hawaiian government considered Ehlers a bona fide citizen of those islands.

As Mr. Ehlers's Hawaiian citizenship appears to be treated by Mr. Mott-Smith as an established fact, you may issue to Mr. Ehlers a document declaring that the bearer, Bernard Ehlers, is a citizen of the Hawaiian Islands, and as such is entitled to the protection of the United States.

As in the case of Porto Ricans (Circular of May 2, 1899), United States passports can not be issued to natives of the Hawaiian Islands until their civil and political status has been determined by Congress.

I am, etc.,

JOHN HAY.

**MARRIAGE BETWEEN ALIENS IN PRUSSIA—REQUIREMENT OF CERTIFICATE THAT NO IMPEDIMENT EXISTS.**

*Mr. von Holleben to Mr. Hay.*

IMPERIAL GERMAN EMBASSY,  
*Washington, February 6, 1900.*

SIR: According to article 43 of the Prussian law for the execution of the civil code which went into operation on the 1st ultimo, foreigners

<sup>1</sup> Not printed.

of both sexes, who desire to contract marriage in Prussia, are obliged to present a certificate from a competent magistrate of the State (country) to which they belong, to the effect that no impediment to their marriage, according to the laws of that State, is known to said magistrate. The competency of the magistrate issuing such certificates must be attested by a diplomatic or consular representative of the German Empire, and the certificates must bear such attestation.

I have the honor, in pursuance of instructions received, to request your excellency to be pleased to inform me whether there are any American magistrates that are competent to issue such certificates, and if so, who they are.

Accept, etc.,

HOLLEBEN.

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*Mr. Hay to Mr. von Holleben.*

No. 384.]

DEPARTMENT OF STATE,  
*Washington, February 21, 1900.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 6th instant, asking what authorities in the United States are competent to issue the certificates required by the Prussian law which went into effect on January 1 last, by which aliens who wish to marry in Prussia are obliged to present a certificate from a competent magistrate of the country to which they belong to the effect that no impediment to their marriage according to the laws of that State is known to the said magistrate.

In reply I beg to say that, so far as this Department is advised, there is no provision made by the laws of the Federal Government or by any of the States and Territories thereof for the issuance by any magistrate of any certificate of the kind mentioned in your note.

Accept, etc.,

JOHN HAY.

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**SAMOAN CLAIMS OF FRENCH (AND OTHER) CITIZENS. ADMISSION TO ARBITRATION.**

*Mr. Hay to Mr. von Holleben.*

DEPARTMENT OF STATE,  
*Washington, June 26, 1900.*

[Memorandum.]

The Secretary of State presents his compliments to the German ambassador, and has the honor to inclose for his information copy of a memorandum<sup>1</sup> addressed to the British ambassador under date of the 25th instant, touching the wish of the French Government that the claims of its citizens, sufferers in Samoa, be included in the arbitration provided for by the convention concluded November 7, 1899, between the Governments of the United States, Germany, and Great Britain. It will be seen that the consent of this Government is accorded on condition that the proposition meets with the approval of the Governments of Germany and Great Britain.

*Count von Quadt to Mr. Hay.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
*Washington, October 15, 1900.*

SIR: The undersigned has the honor, by direction of the Government of His Imperial and Royal Majesty, to transmit to the Secretary of State the accompanying copy of a confidential communication from the Royal Swedish-Norwegian embassy at Berlin, dated the 11th instant.

From this it appears that His Majesty the King of Sweden and Norway has declared his assent to the agreement that claims for damages from such foreign inhabitants of Samoa as are not subjects of one of the powers that signed the arbitration agreement of November 7, 1899, be included, with the consent of the latter, in the arbitration proceedings, provided the individual claimant previously make the express declaration to recognize as final the arbitrator's decision.

With reference to certain French claims for damages, an agreement was reached between the signatory powers of the arbitration agreement of November 7, 1899, to admit said claims; such admission having been sanctioned by the Imperial Government, and no objection thereto existing on the part of Great Britain and the United States, as appears from an oral declaration made at the beginning of last June by Mr. Villiers, Assistant Secretary of State, representing Lord Salisbury, to the imperial ambassador at London, and from a written communication of Secretary of State Hay to the imperial ambassador, dated June 26 last.

His Imperial and Royal Majesty's Government accordingly ventures to request the Government of the United States of America to communicate to His Majesty the King of Sweden and Norway, through its representative at Stockholm, its consent to the admission of the French claims to arbitration.

At the same time the Imperial Government remarks that no objections exist on its part to admit also the rest of the claims for damages deemed worthy of consideration by the arbiter. So far as the Imperial Government is informed, claims amounting to about \$5,000, preferred by one Norwegian, two Swedes, two Danes, and one Portuguese, will come up for consideration.

Before the Imperial Government instructs the imperial ambassador at Stockholm in regard to this matter it would be grateful for an expression, as soon as practicable, of the views of the Government of the United States of America, namely: Whether it agrees to thus extending the scope of the claims and is willing to instruct its representative at Stockholm to that effect.

The undersigned adds that the Royal Government of Great Britain has been similarly communicated with on the part of the Government of his Majesty the Emperor and King, and utilizing this occasion he renews the assurance of his most distinguished consideration.

A. QUADT.

[Inclosure.—Translation.]

LEGATION OF SWEDEN AND NORWAY, IN GERMANY.

[Confidential notes.]

Count Walwitz has applied to the Government of the King and asked for confidential information as to whether the King would be inclined to allow certain claims preferred by residents of the Samoan Islands who are not subjects or citizens of one of the signatory powers be also submitted to the King's arbitration, in addition to those of such subjects or citizens of the signatory powers.

His Majesty was pleased to declare that he consents to extend his arbitral jurisdiction to all claims that may be laid before the tribunal by a foreigner residing in the Samoan Islands with the assent of the powers parties to the Washington convention.

In order to enjoy this advantage the claimant must, however, make a formal declaration that he will accept the arbitral award as a final and absolute settlement.

His Majesty the King looks for a communication from the three signatory powers concerning the decision they may reach with regard to the claims under consideration.

BERLIN, *September 11, 1900.*

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*Mr. Hay to Count von Quadt.*

No. 483.]

DEPARTMENT OF STATE,  
*Washington, October 22, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 15th instant, touching the claims of persons not under the jurisdiction of either of the Governments parties of the convention of November 7, 1899, for the settlement of certain claims in Samoa by arbitration.

Since it has been practically agreed, you say, that the claims of French citizens shall be referred to His Majesty the King of Sweden and Norway as arbitrator, it is further stated that the Government of Germany has no objection that the few claims of the other nationalities, aggregating in amount the sum of \$5,000, shall be likewise submitted to His Majesty the King of Sweden and Norway.

While this disposition of such claims is agreeable to the Government of the United States, if concurred in by Her Britannic Majesty's Government, yet I deem it prudent to inclose for the information of His Imperial Majesty's Government a copy of a correspondence<sup>1</sup> recently exchanged between the ambassador of Great Britain and this Department on this particular subject.

It will be perceived therefrom that my note of October 13, 1900, to Lord Pauncefote, at whose instance the matter was presented to the Department, indicating a willingness to assent to the proposition embodied in your present note. After citing the pertinent provision of the convention stipulating the character of the claims to be submitted to arbitration thereunder, and showing that it limited the claims of those not natives, to those persons under the protection of either of the three Governments to that convention, I added:

The Government of the United States accordingly assents to the proposition, in case Great Britain and Germany do likewise. It believes, however, that each Government should insist upon knowing the number and character of these claims before their final submission to the arbitrator, and that the Government desiring this special privilege on behalf of its citizens or subjects should prefer its request to each of the

<sup>1</sup>Printed page 625 et seq.

signatory powers so that they may have an opportunity to know what is to be presented to the arbitrator. The claim of a national whose government is not responsible for its presentation in this way should be excluded.

This Government believes that this condition should prevail and perceives no just reason why the foreign government desiring to avail itself of this special provision should not take the steps to do so in the manner indicated.

With assurances, etc.,

JOHN HAY.

**OFFER OF USE OF HOSPITAL SHIP "MAINE" FOR WOUNDED  
GERMAN SOLDIERS AND SAILORS, AND RECIPROCAL ACTION  
BY GERMAN TRAINED NURSE ASSOCIATION.**

*Mr. Jackson to Mr. Hay.*

No. 1319.]

EMBASSY OF THE UNITED STATES,  
*Berlin, July 26, 1900.*

SIR:

\* \* \* \* \*

I have to report that at the request of Lady Randolph Churchill I notified Count Bülow informally that the American hospital ship *Maine* had sailed for Chinese waters on the 12th instant, and that if any wounded German soldiers or sailors require aid they will be welcome to her and every assistance possible will be given them.

I have, etc.,

JOHN B. JACKSON.

*Mr. Jackson to Mr. Hay.*

No. 1336.]

EMBASSY OF THE UNITED STATES,  
*Berlin, August 6, 1900.*

SIR: Referring to the last paragraph of my dispatch No. 1319, of the 26th ultimo, I have the honor to inform you of the receipt to-day of a formal note from the imperial foreign office, expressing the thanks of the German Government for the friendly offer made by Lady Randolph Churchill, the chairman of the committee of the American hospital ship *Maine*, to receive wounded German soldiers and sailors on board the *Maine*, and stating that the authorities concerned have been duly notified.

I shall communicate this information to the committee in London.

I have, etc.,

JOHN B. JACKSON.

*Mr. Jackson to Mr. Hay.*

No. 1368.]

EMBASSY OF THE UNITED STATES,  
*Berlin, August 23, 1900.*

SIR: Referring to my dispatch No. 1336, of the 6th instant, I have much pleasure in informing you of the receipt to-day of a letter from His Excellency Count Solms-Baruth, the imperial commissioner and military inspector of the Volunteer Trained Nurse Association ("der

freiwilligen Krankenpflege"), in which Count Solms states that the imperial admiralty has informed him that German soldiers and sailors will be welcomed to the American hospital ship *Maine*, and while expressing his appreciation of this noble-spirited idea he informs me that all the arrangements made by the "Krankenpflege" for the care of the sick and wounded may be at all times availed of by persons in the United States military or naval services.

While respectfully suggesting that I may be authorized, in the name of the Government, as I have already done in my own name, to thank Count Solms for the action taken, I have, etc.,

JOHN B. JACKSON.

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*Mr. Hill to Mr. Jackson.*

No. 1105.]

DEPARTMENT OF STATE,  
*Washington, September 11, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 1368, of the 23d ultimo, stating that American soldiers and sailors will always be able to avail themselves of the arrangements made for the sick and wounded by the German Trained Nurse Association, and you are instructed to express in proper quarter this Government's cordial appreciation of the arrangement in question.

I am, etc.,

DAVID J. HILL,  
*Acting Secretary.*

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**CITIZENSHIP OF CHILDREN OF AN ALIEN WOMAN WHO MARRIED  
AN AMERICAN CITIZEN AND BROUGHT THEM TO THE UNITED  
STATES.**

*Mr. Jackson to Mr. Hay.*

No. 1405.]

EMBASSY OF THE UNITED STATES,  
*Berlin, September 17, 1900.*

SIR: I have the honor to request a ruling of the Department in the following case.

This morning two persons, a sister and a brother, one over 21 years of age, the other still a minor, made application at the embassy for passports. They had been born in Canada of parents who were British subjects. On the death of their father, however, and during their minority, their mother had married an American citizen and the family had gone to reside in the United States. The step-father is now traveling in Russia; his wife and their two children desire to join him, and passports are needed to enable them to do so.

Although I should without question extend protection to these persons in case of necessity, I do not as at present advised feel at liberty to issue the desired passports containing the statement that the holder is "a citizen of the United States." I am of the impression that under British law these persons are still British subjects and that they could obtain passports without difficulty from the British consulate-general in this city.

I have, etc.,

JOHN B. JACKSON.



*Mr. Hay to Mr. Jackson.*

No. 1115.]

DEPARTMENT OF STATE,  
*Washington, October 3, 1900.*

SIR: Your No. 1405 of the 17th ultimo has been received.

You therein inquire whether passports should be issued to two persons, a sister and a brother, one over 21 years of age and the other still a minor, who were born in Canada of parents who were British subjects, but whose mother, after the death of their father and during their minority, married an American citizen and brought them to the United States to reside.

Under our law the two persons referred to are citizens of the United States.

By her second marriage the mother acquired American citizenship, by virtue of the provisions of section 1994 of the Revised Statutes of the United States, which reads as follows: "Any woman who is now or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen."

R. S. 2172 declares that "the children of persons who have been duly naturalized under any law of the United States \* \* \* being under the age of 21 years at the time of the naturalization of their parents, shall, if dwelling in the United States, be considered as citizens thereof."

Any possible question whether by the marriage of the mother she became duly naturalized is set at rest by the decision of the United States circuit court in the case of the *United States v. Kellar* (13 Fed. Rep., 84), in which the court held that the mother, an alien, by her marriage to a naturalized citizen of the United States became "duly naturalized." The court (Mr. Justice Harlan) said:

The marriage of the defendant's mother with a naturalized citizen was made by the statute an equivalent in respect of citizenship to formal naturalization under the acts of Congress. Thenceforward she was to be regarded as having been duly naturalized under the laws of the country, and her infant son, then dwelling in this country, was therefore to be considered not an alien but as a citizen.

As stated in my instruction No. 603, of October 15, 1898, in the case of *Jacob Lenzen*, the words of the statute "dwelling in the United States" are held to mean either at the time of the father's naturalization or afterwards during the child's minority.

In the opinion of the Department the persons referred to in your dispatch are entitled to passports as citizens of the United States.

I am, etc.,

JOHN HAY.

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**CONDOLENCES ON GALVESTON DISASTER.**

*The German Emperor to the President.*

[Telegram.]

STETTIN, *September 13, 1900.*

I wish to convey to Your Excellency the expression of my deep-felt sympathy with the misfortune that has befallen the town and harbor of Galveston and many other ports of the coast, and I mourn with you and the people of the United States over the terrible loss of life and

property caused by the hurricane, but the magnitude of the disaster is equaled by the indomitable spirit of the citizens of the New World, who in their long and continual struggle with the adverse forces of nature have proved themselves to be victorious.

I sincerely hope that Galveston will rise again to new prosperity.

WILLIAM I. R.

*The President to the German Emperor.*

[Telegram.]

EXECUTIVE MANSION,  
Washington, September 14, 1900.

Your Majesty's message of condolence and sympathy is very grateful to the American Government and people, and in their name, as well as on behalf of the many thousands who have suffered bereavement and irreparable loss in the Galveston disaster, I thank you most earnestly.

WILLIAM MCKINLEY.

**CONDOLENCES ON LOSS OF GERMAN TRAINING SHIP GNEISENAU  
AT MALAGA.**

*The President to the German Emperor.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, December 18, 1900.

I beg Your Majesty to accept sincere condolences by reason of the calamity that has afflicted the German nation and carried sorrow to German homes in the loss of the training ship *Gneisenau* at Malaga.

WILLIAM MCKINLEY.

## GREAT BRITAIN.

### SEIZURE BY BRITISH AUTHORITIES OF MERCHANDISE OF AMERICAN SHIPPERS OFF EAST COAST OF AFRICA, AND RESTITUTION MADE ON ACCOUNT THEREOF.<sup>1</sup>

*Mr. Stowe to Mr. Cridler.*

No. 191.] CONSULATE-GENERAL OF THE UNITED STATES,  
*Cape Town, December 6, 1899.*

SIR: I have the honor to report that there arrived at this port on September 6, on the way to Delagoa Bay, the Netherlands ship *Maria*, with cargo consisting largely of flour, canned meats, and oats. The goods for the Transvaal were plainly marked. The ship was detained by the British authorities, but finally was allowed to proceed. Yesterday the British ship *Mashona* was seized at Port Elizabeth by H. M. S. *Partridge*. The *Mashona* was from New York, with 5,000 tons of general cargo, including 17,000 bags of flour for the Transvaal, via Delagoa Bay. She will probably be brought to this port. Is food stuff, such as flour, contraband? Being a British ship, has the British Government a right to seize?

I have, etc.,

J. G. STOWE,  
*United States Consul-General.*

*Messrs. Hopkins & Hopkins to Mr. Hay.*

WASHINGTON LOAN AND TRUST BUILDING,  
*Washington, December 12, 1899.*

SIR: We have the honor to invite your attention to the matter of the reported seizure of the British steamers *Mashona* and *Maria*, off the east coast of Africa, in the vicinity of Delagoa Bay, by Her Majesty's cruiser *Partridge*. We infer that the seizures were made in

<sup>1</sup>Page 529 to page 581 is a reprint of Senate Doc. No. 173, Fifty-sixth Congress, first session.

order to prevent any portion of the cargo reaching the enemy via Lorenzo Marquez.

Portions of these cargoes, consisting of general merchandise, more particularly described in the copies of invoices herewith inclosed, are the property of our clients, Messrs. Flint, Eddy & Co., of New York, and were destined, as will be noted, for neutral citizens, domiciled in neutral territory.

While Her Majesty's Government may be justified in seizing their own vessels, it appears to us at the same time that the British naval authorities are jeopardizing the property of American citizens, in that the vessels in question are under contract to deliver to the persons named in the invoices the merchandise therein specified, none of which is contraband of war.

For the further information of the Department we beg to inclose letter from Messrs. Flint, Eddy & Co., in which certain of the facts are stated in more detail.

We respectfully request that suitable inquiry and representation be made in regard to the matter without unnecessary delay.

We are, etc.,

HOPKINS & HOPKINS.

[Inclosure No. 1.]

*Messrs. Flint, Eddy & Co. to Mr. Hopkins.*

NEW YORK, December 9, 1899.

DEAR SIR: According to cable advices in to-day's newspapers and the report of the New York agents of the steamship *Mashona*, this steamer has been seized at Algoa Bay by the warship *Partridge*.

We find on referring to our books that we made two shipments by that vessel—one for account of Messrs. F. Bridler & Co., Delagoa Bay, and the other for account Messrs. Fowlie & Boden, London. So far as the shipment to Messrs. Fowlie & Boden is concerned, we do not know the ultimate destination of the goods, but in regard to Messrs. F. Bridler & Co., we would state that this firm is in Delagoa Bay, and do a large local business in that city; not only that, but to the best of our knowledge and belief it is a German firm, and we are quite sure that they are not citizens of either the Transvaal Republic or the Orange Free State. The seizure of this steamer, and consequently the goods which we shipped by her, would mean a very serious loss to us unless the British Government at once release them.

The documents covering this shipment were forwarded by us under date of November 3, 1899, and our draft covering the same was made at four months' date; consequently payment of the draft will not be made until March 3, 1900. It is natural to assume that if the customer does not receive the goods he will never pay the draft, so that unless our clients get the goods the loss will ultimately fall upon us. Not only this, but we have purchased merchandise for account of the same people amounting to nearly \$5,000, which we intended shipping by steamer sailing this month, but under the circumstances we will have to defer same until some settlement is made of the *Mashona* matter. This is not only a great loss to us in business, but at the same time is a very serious loss to our clients, as their stock of goods will be completely exhausted, thus necessitating their closing out their American business.

We beg to inclose herewith memorandum of shipments made by us to Delagoa Bay, together with copies of invoices covering those made to Messrs. F. Bridler & Co., and a form of bill of lading used by the steamship company.

We have already been advised that the *Maria*, which sailed August 25, had been seized by the British Government on the coast of Africa before dispatching her Delagoa Bay cargo.

The steamship *Beatrice*, which sailed about October 17, we have never heard whether or not her cargo was landed, and the agents of that steamer told this morning that they had no advice on the subject.

We wish you would take this matter up at once with the Department of State and see if something can not be done in the matter, so that we may feel safe about for-

warding any shipments we may have for Delagoa Bay, provided, of course, they are not consigned to any burghers of the Transvaal or Orange Free State.

Under the present conditions we are absolutely blocked from shipping goods to Delagoa Bay, which means a very serious loss to us and to any American firm doing business in that country. This matter is of such vast importance that we wish you would at once take the matter up vigorously with the proper department.

Yours, faithfully,

FLINT, EDDY & Co.,  
Per SETH R. ABRAMS(?).

[Inclosure 2.]

No. —]

Invoice of merchandise shipped by Flint, Eddy & Co. on board the S. S. Maria, bound for  
Marks: Delagoa Bay, for account and risk of Messrs. F. Bridler & Co., of Lourenço  
F., B. & Co., Marquiz, consigned to order.  
Delagoa Bay.

NEW YORK, Aug. 23rd, 1899.

				Indent No. 97, July 8, '99.			
				Canned meats—Lbbys 11.			
	Nos.	Gross.	Net.				
20 cases..	75	61½	37	20 cases vienna sausage 48/18=80 doz., \$1.35.	\$108.00		
5 cases..	83	56½	39	5 cs. pigs' feet 48/15=20 doz., \$1.25 ..	25.00		
5 cases..	85	74	48	5 cs. roast beef 48/15=20 doz., \$1.15..	23.00		
5 cases..	86	74	22½	5 cs. Hamburg steak and onions, 20 doz., \$1.50.	30.00		
5 cases..	76	61	.....	5 cs. clubhouse sausage, 20 doz., \$1.25.	25.00		
5 cases..	87	33	27	5 cs. mincemeat 36/12-oz., per cs., \$2.00.	10.00		
5 cases..	77	60	33	5 cs. chipped beef 48/2=20 doz., \$2.10.	42.00		
5 cases..	80	69	48	5 cs. tripe 24/2=10 doz., \$1.45.....	14.50		
5 cases..	81	69	48	5 cs. minced callops 24/2=10 doz., \$2.00.	20.00		
5 cases..	74	60	39½	5 cs. lambs' tongues 48/1=20 doz., \$2.75.	55.00		
				Less 1 per cent.....		\$352.50	
						3.53	\$348.97
				Lard, "Red Cross" brand.			
20 cases ..	88	141	100	20 cs. ea. ¾ lbs. = 2,000 lbs., \$7.40....	148.00		
20 cases ..	89	149	100	20 cs. ea. ½ lbs. = 2,000 lbs., \$9.40....	188.00		
						336.00	332.04
				Beans and peas.			
10 bags ..	90	.....	200	10 bags white beans, \$4.30 .....		43.00	
10 bags ..	91	.....	200	10 bags green peas, \$3.75.....		37.50	
				Indent, June 3, '99.			
1 case....	92	20	12½	1 only Mogul lemon squeezer, \$12.00		.09	
				1 only 1-nail puller.....		.65	
				1 only 2-nail puller.....		.55	
				1 only 3-nail puller.....		.50	
				Box .....		.15	1.79
							.15
				Hardware.			
				[Less 10 + 5 per cent.]			
1 case....	93	60	45	1 No. 42 I. & C. lem. squeezer, \$36.00 .	2.57		
				1-45 Acme lem. squeezer, \$15.00.....	1.07		
				1-47 L. vitæ squeezer .....	.36		
				1-47 boxwood squeezer, \$4.50 .....	.32		
				1-47½ Samson squeezer, \$4.50.....	.32		
				1-46 5th ave. squeezer, \$9.00.....	.64		
				1-25 cork puller, \$27.00.....	1.92		
				1-26 cork puller, \$30.00.....	2.14		
				1-28 cork puller, \$10.00.....	.71		
				1-17 corkscrew, p. gro., \$27.00 .....	.16		
				1-39 corkscrew, \$30.00.....	.18		
				1-34 corkscrew, \$27.00 .....	.16		
						10.55	
				Less 2 per cent .....		.21	10.34

Invoice of merchandise shipped by Flint, Eddy & Co., etc.—Continued.

				Cartage.....			\$0 .35
				Stamps and patties.....		\$1.55	
				Revenue stamps.....		.20	
				Freight prepaid.....			1.75 99.79
				Insurance premium \$1,030, at 1 per cent.....			876.28
				Commission, 2½ per cent.....			10.30
				Value net cash, U. S. gold.....			886.58 22.17 908.76

E. & O. E.  
 Certified correct.  
 (Stamped) FLINT, EDDY & Co.,  
 Per SETH R. ABRAMS. (?)

[Inclosure 3.]

No. —.]

Invoice of merchandise shipped by Flint, Eddy & Co. on board the S. S. Mashona, bound for Delagoa Bay, for account and risk of Messrs. F. Bridler & Co., of Delagoa Bay, consigned to order.

Marks: F. B. & Co., Delagoa Bay.

NEW YORK, October 31st, 1899.

				Order Oct. 11, '99.			
				Flour.			
	Nos.	Gross.	Net.				
50 bags.....		100	98	50 98-lb. bags "Sphinx," at \$2.....		\$100.00	
50 bags.....		100	98	50 98-lb. bags "Ultra," at \$2.....		100.00	
50 bags.....		100	98	50 98-lb. bags "Snowden," at \$1.75.....		87.50	
50 bags.....		100	98	50 98-lb. bags "So. Beauty," at \$1.65.....		80.00	\$367.50
				Flour.			
				Cable order Oct. 20, '99.			
200 bags.....		100	98	200 98-lb. bags "Orion," \$1.80.....			360.00
				Order No. 97, July 8, '99.			
				Canned soup (Libby's).			
5 cases...	109	77	48	5 cases ox-tail soup, 48/1, 20 doz., \$1.10.....		22.00	
				Less 1 per cent.....			
				Order No. 106, Sept 2, 99.			
				Quaker oats.			
25 cases..	108	92	72	25 cases, ea. 36 2-lb. pkgs., \$2.92½.....			73.13
				Stamps and petties.....			
				Revenue stamps.....			
				Freight prepaid.....			
				Insurance premium on \$1,225, at 1 per cent.....			
				Commission, 2½ per cent.....			
				Value net cash (U. S. gold).....			
						2.05	822.41
						.18	
							2.23
							232.21
							1,056.85
							12.25
							26.73
							1,095.83

E. & O. E.  
 Certified correct.  
 FLINT, EDDY & Co.,  
 Per SETH R. ABRAMS.

*Mr. Geldart to Mr. Hay.*

NEW YORK, *December 15, 1899.*

SIR: Inclosed please find copy of letter received this a. m., which is self-explanatory.

This shipment consisted of beer and lard, and is a portion of a monthly order consigned to a Portugese firm in Lourenço Marquez, Delagoa Bay, which has been more or less regularly forwarded since March of this year.

Will you kindly inform me whether the British Government is justified in its action, and what redress, if any, I shall have in the event—as it is possible—of my client's refusing to pay for goods non-delivered.

I may say that my policy of insurance does not cover war risks, and the company holding the insurance declare themselves not responsible for any accident that may arise to the merchandise whilst lying in lighters or hulks at the port of discharge indicated by the British authorities.

A prompt reply will oblige,  
Respectfully,

R. W. GELDART.

P. S.—What I am most desirous of ascertaining is whether the British Government can be permitted to seize the goods of non-combatants.

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[Inclosure.]

*Messrs. Norton & Son to Mr. Geldart.*

[Copy of letter received this a. m. from Norton & Son, Produce Exchange, New York.]

NEW YORK, *December 14, 1899.*

S. S. BEATRICE.

DEAR SIR: We beg to advise you that we are just informed that this steamer has discharged all of her Delagoa Bay cargo into lighters at East London, under orders of the British Government, and in accordance with the terms and conditions of the American and African bill of lading, clause 1, the steamship line is relieved of any further responsibility, and goods are at risk and expense of consignees after leaving ship's side.

Yours, very truly,

NORTON & SON.

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*Messrs. Hopkins & Hopkins to Mr. Adee.*

WASHINGTON LOAN AND TRUST BUILDING,  
*Washington, December 15, 1899.*

SIR: We have the honor to acknowledge the receipt of the Department's letter of the 14th instant, relative to the seizure of the *Mashona* and *Maria* by her Majesty's cruiser *Partridge*, and inquiring whether our clients, Messrs. Flint, Eddy & Co., are American citizens.

In response we have to state that Messrs. Flint, Eddy & Co. are American citizens domiciled in the city of New York.

We are, etc.,

HOPKINS & HOPKINS,  
Per S. G. HOPKINS.

*Mr. Hay to Mr. Choate.*

No. 262.]

DEPARTMENT OF STATE,  
*Washington, December 21, 1899.*

SIR: I inclose for your information copy of correspondence,<sup>1</sup> as indicated below, in regard to the reported seizure by Her Majesty's cruiser *Partridge* of the British steamers *Mashona* and *Maria* off the east coast of Africa, portions of the cargoes of which, consisting of general merchandise, are the property of Messrs. Flint, Eddy & Co.

You are instructed to bring the matter to the attention of the British Government, and to inquire as to the circumstances and legality of the seizure. If it was illegal, you will request prompt action and restitution in the case.

The United States consul at Lourenço Marquez will be instructed to use all proper efforts to protect the rights of Messrs. Flint, Eddy & Co.

I am, etc.,

JOHN HAY.

*Mr. Hay to Mr. Choate.*

No. 263.]

DEPARTMENT OF STATE,  
*Washington, December 21, 1899.*

SIR: I inclose for your information copy of a letter<sup>2</sup> from Mr. R. M. Geldart, of New York City, who complains that certain merchandise belonging to him and shipped to a Portuguese firm in Lourenço Marquez on board the British steamship *Beatrice*, was by order of the British Government discharged into lighters at East London without Mr. Geldart's consent.

You are instructed to investigate the matter with a view to ascertaining the facts, in order that the same may be reported to the Department for such action as may be found proper.

The United States consul at Lourenço Marquez will be instructed to use all proper efforts to protect Mr. Geldart's rights.

I am, etc.,

JOHN HAY.

*Mr. Geldart to Mr. Hay.*

NEW YORK, *December 22, 1899.*

SIR: I read in the files of yesterday's papers, re stoppage of merchandise shipped from this port to Delagoa Bay, that you had not as yet received any official complaint.

I had the honor of addressing you on this subject the 15th instant, and beg to inclose for your further guidance the original of a communication recently received from the local agents of the steamship *Beatrice*, sailing under the British flag, which is self-explanatory.

These particular goods consisted of American beer and lard, and I am extremely surprised at the action of the English authorities and would be glad to hear that you are doing something to extricate us from a serious difficulty.

<sup>1</sup>(Inclosures:) Messrs. Hopkins & Hopkins to Mr. Hay, December 12, 1899, and December 15, 1899, printed *ante*.

<sup>2</sup>(Inclosure:) Mr. R. M. Geldart to Mr. Hay, December 15, 1899, printed *ante*.



This shipment was made to a Portuguese subject at Lourenço Marquez, and was merely a repeat order of similar merchandise forwarded at different times this year.

I also learn from the papers that a lot of provisions per steamship *Mashona* had been seized by the English authorities at Cape Town, and which were intended for Delagoa Bay; this also I am interested in, and unless prompt action be taken in the matter, American citizens acting in good faith are liable to make serious losses.

Respectfully,

R. W. GELDART.

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[Inclosure.]

*Messrs. Norton & Son to Mr. Geldart.*

NEW YORK, December 14, 1899.

STEAMSHIP BEATRICE.

DEAR SIR: We beg to advise that we are just informed that this steamer has discharged all of her Delagoa Bay cargo into lighters at East London, under orders of the British Government, and in accordance with the terms and conditions of the American and African Steamship Line bill of lading, clause 1, the steamship line is relieved of any further responsibility and goods are at the risk and expense of consignees after leaving ship's side.

Yours, very truly,

NORTON & SON,  
Per J. H. B.

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*Messrs. W. H. Crossman & Bro. to Mr. Hay.*

77 AND 79 BROAD STREET, December 26, 1899.

SIR: We take the liberty of handing you herewith a memorandum of the shipments made by us to Delagoa Bay, for account of several South African clients, per the steamers *Maria*, *Mashona*, and *Beatrice*, all of which have been seized by the British Government because of certain shipments of flour held to be for the use of the South African Republic, none of which have we had any interest in or connection with.

To the best of our knowledge and belief, none of the items shipped by us have ever been considered contraband of war, and being consigned to a neutral port, we are addressing you with the hope that representations may be made through the proper channels to Her Majesty's Government (such as we understand through the daily press is being done on behalf of our neighbors in similar plight) that may secure the release of the merchandise in question and its delivery to Delagoa Bay as per bills of lading.

As a matter of fact we are not by any means clear as to our rights or status in the matter; hence we are unable to respond intelligently to the request of consignees, who are calling upon us for information in the premises.





We should therefore esteem as a great favor any advice you may be able and pleased to give us for our guidance under the circumstances.

We are, etc.,

W. H. CROSSMAN & BRO.





[Inclosure 1.]

*Shipments to Delagoa Bay per steamship Mashona.*

Marks.		Total value invoices.
T N Z A S M Crossman  Delagoa Bay	1,000 cases lubricating oil (consigned to Netherlands So. African Ry).	\$2,895.95
 1/30 Delagoa Bay	30 bolts duck (consigned to order) .....	367.34
 1549/58 Delagoa Bay	10 cases hatchets, 100 coils barb wire (consigned to order).	447.90
 B Delagoa Bay	513 bags corn meal, 1 case "Cracker-jack" machine; 5 pkgs., each 2 cases, sausage and sauerkraut (consigned to B. Elsasser).	1,008.11
H S ACR Lourenço Marquez	50 cases corned beef (consigned to order) .....	253.17
		4,972.47







[Inclosure 2.]

*Shipments to Delagoa Bay per steamship Beatrice.*

Marks.		Total value invoices.
 Delagoa Bay 1516/35 1649/50 1724/48 1749 1701/3	20 cases succotash .....	} \$279.48
	2 cases pick handles .....	
	25 cases brawn .....	
	1 case catalogues .....	
	3 bdl., each 10 single sash .....	
	20 pcs. yellow pine .....	
 Delagoa Bay	(Consigned to order.)	
 B Delagoa Bay, 381 437/41 442/511 512/31 732/23 736 737/741	447 pieces white pine, 6,797 feet (consigned to order) ...	459.29
	1 bale overalls .....	} 610.15
	5 cases Vienna sausages .....	
	70 cases corned beef .....	
	20 cases brawn .....	
	2 packages, each 3 "Jackport" machines .....	
	1 case pain killer .....	
	5 cases Vienna sausages .....	
S NZASM Crossman  Delagoa Bay	1,000 cases lubricating oil (consigned to Netherlands, So. African Ry.).	2,808.00
H S A C R 1/25 Lourenço Marquez Delagoa Bay	25 cases salmon (consigned to order) .....	128.12
		4,285.04

[Inclosure 3.]

Shipments per steamship Maria to Delagoa Bay.

Marks.		Total value invoices.
R N Z A S M Crossman	1,000 cases lubricating oil (consigned to Netherlands So. African Ry.).	\$2,856.64
		
Delagoa Bay N Z A S M Crossman 1/84	84 cases picks, 20 cases handles (consigned to Netherlands So. African Ry.).	1,258.26
	250/69	
Delagoa Bay		
		
B 261 262/67 343/47 348/52 353/65 376/80 366/75  16049 386/93	1 bale sack coats ..... 6 cases hatchets..... 5 cases pork and beans..... 5 cases veal loaf..... 13 bundles window frames..... 5 cases turpentine..... 10 cases Quaker oats ..... 25 cases kerosene ..... 1 bale overalls ..... 8 cases lard ..... (Consigned to B. Elsasser.)	368.87
	2 wheel scrapers (consigned to order) .....	87.82
Delagoa Bay		
H S A C R I/25 Lourenco Marques Delagoa Bay 26/75	25 cases Aurora salmon, 50 cases corned beef (consigned to order).	377.76
Rebate B M B W Delagoa Bay	25 bundles white pine, 5,332 feet, covering 1,068 feet (consigned to order).	290.10
	528 pieces shelving, 8,448 feet (consigned to order) .....	372.15
Delagoa Bay		
		
Delagoa Bay 1137 1220/22 1223-72 1323 1332/35 1336/75 1376/85 1386/1435 1436/45 1446/65 1466/85 1486/1505 1536/38 1539/48 1599	1 case plumbs and levels..... 3 cases picks ..... 50 cases corned beef ..... 1 case saws..... 4 bundles each 10 headlights ..... 40 bundles each 5 doors..... 10 cases lard ..... 50 cases lubricating oil..... 10 cases corn..... 20 cases peas..... 20 cases peaches ..... 20 cases apricots ..... 3 cases brooms ..... 10 cases salmon ..... 1 case St. Charles cream ..... 20 pieces yellow pine, 998 feet ..... 100 pieces white pine, 2,400 feet..... (Consigned to order.)	\$1,569.80
		7,181.40

*Mr. Cridler to Mr. Hollis.*

No. 49.]

DEPARTMENT OF STATE,  
*Washington, December 27, 1899.*

SIR: I inclose a copy of a letter<sup>1</sup> from Mr. R. W. Geldart, complaining that the steamship *Beatrice*, upon which he had a consignment of beer and lard for a firm at Lourenço Marquez, discharged all of its Delagoa Bay cargo into lighters at East London, under orders of the British Government. You will please investigate the matter and report thereon to the Department. You should use all proper efforts to protect the rights of the shippers.

I am, etc.,

THOS. W. CRIDLER,  
*Third Assistant Secretary.*

*Mr. Cridler to Mr. Hollis.*

No. 50.]

DEPARTMENT OF STATE,  
*Washington, December 27, 1899.*

SIR: I inclose copies of two letters<sup>2</sup> from Messrs. Hopkins & Hopkins, complaining of the action of the British Government in seizing, off Delagoa Bay, the steamships *Mashona* and *Maria*, both of which carried goods shipped by Messrs. Flint, Eddy & Co., of New York. You will please investigate the matter and report thereon to the Department. You will also use all proper efforts to protect the property of the American shippers.

I am, etc.,

THOS. W. CRIDLER,  
*Third Assistant Secretary.*

*Mr. Hay to Mr. Hollis.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, December 28, 1899.*

AMERICAN CONSUL,  
*Lourenço Marquez.*

Ascertain facts concerning seizure American flour.

HAY.

*Mr. Choate to Mr. Hay.*

[Telegram in cipher—Paraphrase.]

EMBASSY OF THE UNITED STATES,  
*London, January 1, 1900.*

[Mr. Choate states that the only information the foreign office has regarding the seizure of the British vessel *Mashona* is that the vessel was arrested by H. M. S. *Partridge* with 1,700 bags of flour marked

<sup>1</sup> (Inclosure:) From R. W. Geldart, December 15, 1899, printed ante.

<sup>2</sup> (Inclosures:) From Hopkins & Hopkins, December 12, 1899, and December 15, 1899, printed ante.

“Z. A. R.” and was brought into prize court for trading with the enemy. It is claimed by the owners that the flour was not destined for the South African Republic.]

*Mr. Hay to Mr. Choate.*

No. 267.]

DEPARTMENT OF STATE,  
*Washington, January 2, 1900.*

SIR: I inclose herewith copy of a letter<sup>1</sup> from Messrs. W. H. Crossman & Bro., and also of a memorandum of shipments made by them to Delagoa Bay, by the steamers *Maria*, *Mashona*, and *Beatrice*, alleged to have been seized by the British Government.

You will bring the matter promptly to the attention of that Government with a view to ascertaining the grounds in law and fact on which the seizure was made, and promptly report the same to the Department.

It is represented that the goods seized were not contraband, and if you ascertain that such is the fact you will represent the view of this Government that the same are not subject to capture, and you will request prompt action and restitution in order to minimize the damage as far as possible.

The United States consul at Lourenço Marquez will be instructed to use all proper efforts to protect the interests of Messrs. Crossman & Bro.

I am, etc.,

JOHN HAY.

*Mr. Hay to Mr. Choate.*

No. 268.]

DEPARTMENT OF STATE,  
*Washington, January 2, 1900.*

SIR: I inclose herewith copies of letters<sup>1</sup> from R. W. Geldart, Norton & Sons, and Hopkins & Hopkins, and of invoices thereto attached, in relation to the seizure of the goods mentioned by the British naval authorities.

You will bring the matter to the attention of the British Government, in connection with the subject of other seizures, in relation to which you have already been instructed, and you will ascertain and report to the Department the grounds of the seizure, and you will represent the view of this Government that unless it can be shown that the goods were contraband it does not regard them as subject to capture under the circumstances represented, and in that event you will request their prompt restitution.

I am, etc.,

JOHN HAY.

*Mr. Hay to Mr. Choate.*

[Telegram in cipher—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, January 2, 1900.*

[Mr. Hay states that from Mr. Choate's telegram of the 1st instant it is inferred by the Department that the seizure of the *Mashona* was for violating British municipal law in trading with the enemy and that

<sup>1</sup> Printed *ante*.

the seizure of the ship carried with it the flour merely as incidental. This suggests that the seizure was not on account of the flour itself which, as the circumstances of the case are understood by this Government, could not be considered contraband of war, and therefore not subject to capture.

Mr. Choate is instructed to request prompt restitution of the goods to American owners if the vessel was seized on account of its violation of the laws of Great Britain, as for trading with the enemy; but if the seizure was on account of the flour, he is to represent to the British Government that the United States Government could not recognize its validity under any belligerent right of capture of provisions and other goods shipped by American citizens in ordinary course of trade to a neutral port. Mr. Choate is also instructed to communicate to the Government of the United States at the earliest practicable moment the grounds of all the seizures; and that nothing appears to justify the seizure, as such, of the goods, so far as the Government of the United States has been advised by the shippers or by the Government of Great Britain.]

*The Pennsylvania Milling and Export Company to Mr. Hay.*

NEW YORK, January 3, 1900.

SIR: I herewith inclose an affidavit covering all the facts concerning shipments of flour made by our company to Delagoa Bay, which have been diverted from their original destination under orders from the British Government, and which are at present, as far as I know, in the custody of the different customs officers of the different ports in the British African colonies, where same have been unloaded. I wish to enter a formal protest against the action of the British Government in seizing or diverting our flour, especially in view of the fact that it is likely to be made unfit for bread-making purposes if not properly cared for, on account of the climate of South Africa at this time of the year.

I inclose affidavit, which will prove to you that there was no action taken on our part by which this flour could be legally determined as contraband of war.

We had already drawn drafts against these shipments through our bankers, Messrs. Fowler Brothers, Limited, of New York, who inform us that our draft for the 1,340 bags branded "Goldfields," shipped on the steamship *Beatrice*, has been protested for nonpayment by the parties on whom we had drawn same at Delagoa Bay. Up to the present I have heard nothing from the drafts drawn against the other shipments, and await result of same with anxiety.

Meantime I beg to state that in the interests of all parties interested I would be satisfied if an arrangement could be made by which the British Government would pay for the flour at its value delivered at Delagoa Bay at the time of its due arrival there had it not been seized or diverted elsewhere.

Hoping that you will give this matter due and prompt consideration, I remain, etc.,

A. J. TOOMEY,

*President Pennsylvania Milling and Export Company.*

[Inclosure.]

*Affidavit of Andrew J. Toomey.*UNITED STATES OF AMERICA, STATE OF NEW YORK,  
*City and County of New York, ss:*

Andrew J. Toomey, being duly sworn, deposes and says that he is the president of the Pennsylvania Milling and Export Company; that the said company is duly organized under the laws of the State of West Virginia, and that the said company is and was for several years past legitimately engaged in the sale of flour to merchants in foreign countries, including the Cape Colonies, Natal, and the South African Republic, and to Lorenzo Marques, and that the said company is not now and never was in any way, directly or indirectly, engaged in selling flour to the Government of the South African Republic, and that all sales of flour that the said company has made for shipment to any south or east African ports were made to merchants who intended same for the ordinary uses of life, and as far as this company is aware no such shipments were ever made with the intention of having same reach the Government of the South African Republic by resale or otherwise.

The deponent further states that since the outbreak of the existing war between the British Government and the South African Republic the Pennsylvania Milling and Export Company has not made any sales of flour to merchants or others resident in the South African Republic; and, furthermore, that the said company, although having sales already effected to merchants in the South African Republic previous to the beginning of the aforementioned war, has not shipped any part of such sales of flour since the beginning of said war. The deponent further states that the Pennsylvania Milling and Export Company was the original shipper of a certain lot of 2,000 bags of flour, branded "Speria," which were sold on the 20th of May, 1899, and which were shipped on the Dutch steamer *Maria* which sailed from New York on or about August 15, 1899; and also of 1,512 bags of flour, branded "Goldfields," which were sold on June 10, 1899, and which were also shipped on the same steamer *Maria*; and furthermore, that the deponent has been notified by the agents of said steamer that the above-mentioned lots of flour, which were destined for Delagoa Bay, and to which port the freight had been prepaid by the Pennsylvania Milling and Export Company, were, under orders from the British Government, landed at Port Natal instead and are now in the custody of the Natal custom-house authorities.

The deponent further states that the Pennsylvania Milling and Export Company was the original shipper of a certain lot of 4,359 bags of flour branded "Johannesburg," which were sold on July 20, 1899, and of 1,350 bags of flour branded "Goldfields," which were sold on June 10, 1899, and consigned to Delagoa Bay on the British steamer *Beatrice* which sailed from New York on or about October 12, 1899, and that the Pennsylvania Milling and Export Company has been notified by the agents of the said steamer that the said lots of flour, although the freight on same had been prepaid to Delagoa Bay, were discharged into lighters at East London under orders of the British Government. The deponent further states that the Pennsylvania Milling and Export Company was the original shipper of a certain lot of 3,154 bags of flour branded "Johannesburg," which were sold on the 20th day of July, 1899, and consigned to Delagoa Bay on the British steamer *Mashona* which sailed from New York on or about October 30, 1899, and that the Pennsylvania Milling and Export Company has been informed that, although freight on said flour had been prepaid to Delagoa Bay, the said flour had been discharged at Cape Town under orders of the commander of the British gunboat *Partridge*, and that the Pennsylvania Milling and Export Company are unable to learn what disposition has been made of said flour.

ANDREW J. TOOMEY.

Subscribed and sworn to before me this 3d day of January, 1900, by Andrew J. Toomey, president of the Pennsylvania Milling and Export Company.

[NOTARIAL SEAL.]

L. B. HOWE,  
*Notary Public 117, New York City and County.**Mr. Cridler to Mr. Hollis.*

No. 51.]

DEPARTMENT OF STATE,  
*Washington, January 4, 1900.*

SIR: Referring to instructions Nos. 49 and 50, of December 27 last, in regard to the alleged seizure of the British naval vessels off Delagoa

Bay of the cargoes of the steamships *Beatrice*, *Maria*, and *Mashona*, I inclose copies of three more letters<sup>1</sup> on the subject from Messrs. W. H. Crossman & Brother, Messrs. Hopkins & Hopkins, and Mr. R. W. Geldart.

A thorough investigation in the matter should be made by you and you should report to the Department the facts connected with the seizure and the reasons therefor, so far as you can learn.

I am, etc.,

THOS. W. CRIDLER,  
*Third Assistant Secretary.*

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*Mr. Choate to Mr. Hay.*

[Telegram in cipher.—Paraphrase.]

EMBASSY OF THE UNITED STATES,  
*London, January 4, 1900.*

[Mr. Choate reports that in an interview with Lord Salisbury on the previous evening he represented to him the views expressed in Mr. Hay's telegram of January 2. Lord Salisbury stated that he had no knowledge of the *Beatrice*; that as to the *Maria*, he understood her to be in the same category as the *Mashona*—a British vessel seized for violation of the municipal law of Great Britain—and the seizure of the cargo only incidental; that he would take into consideration and give prompt answer to the request for the restitution of the goods; that he was troubled by the marks Z. A. R., which were said to be on the goods, as bearing on the question of property. He also hinted at a difficulty arising from cargo being in the prize court with the vessel under the same clause of British statute. Mr. Choate insisted that release of the goods could be procured by orders from Lord Salisbury to the proper law officer and that United States citizens should not be sent to the prize court for their property. Lord Salisbury promised to soon state his views as to contraband goods and to furnish as early as practicable a written statement of the grounds of seizure in each case.]

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*Mr. Cridler to Messrs. Crossman & Bro.*

DEPARTMENT OF STATE,  
*Washington, January 5, 1900.*

GENTLEMEN: I have to acknowledge the receipt of your letter of the 26th ultimo in regard to the alleged detention by British naval vessels off Delagoa Bay of portions of the cargoes of the steamships *Maria*, *Mashona*, and *Beatrice*.

In reply I have to say that the matter has been brought to the attention of the British Government through the ambassador at London, and has been referred to the consul at Lourenço Marquez for an investigation and report.

I am, etc.,

THOS. W. CRIDLER,  
*Third Assistant Secretary.*

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<sup>1</sup> Inclosures: From W. H. Crossman & Brother, December 26, 1899, with inclosure; from Hopkins & Hopkins, December 28, 1899, with inclosure; from R. W. Geldart, December 22, 1899, with inclosure, printed ante.



*Mr. Cridler to Mr. R. W. Geldart.*

WASHINGTON, *January 5, 1900.*

SIR: I have to acknowledge the receipt of your letter of the 22d ultimo in regard to the alleged detention by British naval vessels off Delagoa Bay of a portion of the cargo of the steamship *Beatrice*.

In reply I have to say that the matter has been brought to the attention of the British Government through the ambassador at London, and that the consul at Lourenço Marquez has been instructed to make an investigation and report.

I am, etc.,

THOS. W. CRIDLER,  
*Third Assistant Secretary.*

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*Mr. Choate to Mr. Hay.*

No. 227.]

AMERICAN EMBASSY, *London, January 5, 1900.*

SIR: I have the honor to report that since my dispatch No. 226, of January 2, I received your cipher cable of the 3d [2d], and on the same day I had an interview with Lord Salisbury, and on the 4th instant I sent you an account of it by cipher cable. It was not until after my interview, however, that I received by mail your instructions Nos. 262 and 263, of December 21, with the documents annexed, relating to the shipments of Flint, Eddy & Co. by the *Mashona* and *Maria*, and of Mr. R. W. Geldart by the *Beatrice*. The information conveyed by these documents is not as full as it might be, as Flint, Eddy & Co. do not inclose copies of their bills of lading, and Mr. Geldart sends neither invoice nor bill of lading.

By their aid, however, and with a view of giving Lord Salisbury such information as I had received, I have to-day prepared and sent to him a note referring to our interview, and adding such details as I had, of which note I inclose a copy. I have assumed that these very small shipments are but a small part of the goods belonging to American citizens which are involved in the seizures, and have made my request for restitution broad enough to cover all there are.

I have, etc.,

JOSEPH H. CHOATE.

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[Inclosure.]

*Mr. Choate to the Marquis of Salisbury.*

AMERICAN EMBASSY, *London, January 4, 1900.*

MY LORD: Since our interview of yesterday, in which I stated the views of my Government in regard to the seizure by H. M. S. *Partridge* of certain flour shipped by American citizens on the British vessel *Mashona* for Delagoa Bay, I have received certain papers throwing further light on the case.

Your Lordship will remember that upon the understanding which you confirmed that the *Mashona* was seized by the British authorities for a violation of the municipal laws of Great Britain, for trading with the enemy, and that the seizure or detention of the flour was incidental to the seizure of the vessel, my Government's view was that the flour, to which no such offense could be imputed, could not under the circumstances of the case, as understood by it, be admitted to be subject to capture because not contraband of war, and I therefore asked for its prompt restitution to the American owners.

Your lordship seemed much impressed by the supposed fact that the flour was marked Z. A. R., which might mean the South African Republic, but you courteously took my request under consideration. I also represented to your lordship that if the seizure had been made on account of the flour carried by the ship my Government could not recognize the validity of the seizure under any belligerent right of capture of provisions and other goods shipped by American citizens in ordinary course of trade to the port of a neutral State. So that in any aspect of the case, so far as the circumstances have been communicated to my Government, nothing appeared to justify the seizure of the goods complained of. The seizure not being of the flour as contraband, your lordship very naturally refrained for the time being from formulating your views on the subject of provisions as contraband.

The papers which I have now received show that Flint, Eddy & Co., a very reputable firm of merchants, doing business in New York, American citizens, shipped on the *Mashona*, property belonging to them, consisting of 400 bags of flour, 5 cases canned soup, and 25 cases Quaker oats, marked on the invoice F. B. & Co., Delagoa Bay—no mark Z. A. R. appeared thereon—consigned to order and invoiced to F. Bridler & Co., a firm of merchants doing a large local business there, believed by the shippers to be a German firm and not citizens of either the Transvaal Republic or the Orange Free State. The value of this particular invoice is not large, but the interruption to the business of the shippers is very serious.

The same firm shipped on the *Maria*, which your lordship understood to be in the same category as the *Mashona*—a British vessel, seized for a violation of the municipal law of Great Britain, for trading with the enemy—65 cases canned goods and libbys, 40 cases lard, 20 bags peas and beans, and 1 case containing lemon squeezer and nail pullers, and 1 case hardware—all marked on the invoice in the same way, F. B. & Co., Delagoa Bay, no mark Z. A. R. appearing thereon, invoiced to the same firm here described as of Lourenço Marquez, and also consigned to order.

These goods are drawn against, and are invoiced for account and risk of the consignees, but the goods not being delivered, the loss will naturally rest upon the American shippers, the actual owners thereof.

Messrs. Flint, Eddy & Co. shipped other goods belonging to them on the *Mashona* for account of Fowlie & Boden, London, of which I have no particulars, but they are probably included in the seizures, and there may be other American shippers having goods on the *Mashona* and *Maria*, and also involved. I of course make the same request for the restitution of Flint, Eddy & Co.'s goods by the *Maria* as for those upon the *Mashona*.

By the *Beatrice*, according to my information just received, Mr. R. W. Geldart, of New York City, an American citizen, shipped an invoice of beer and lard belonging to him to a Portuguese firm in Lourenço Marquez, and that the same, by order of Her Majesty's Government, has been discharged into lighters at East London without Mr. Geldart's consent, whereby the liability of the ship and of the insurers of the goods ceased, and in respect to this transaction I am instructed to request a statement of the facts and of the grounds for taking the cargo out of the ship. Mr. Geldart's shipment was one of a series under a monthly order commencing last March.

Your lordship will be so kind as to regard my request for restitution to embrace all merchandise shipped by American citizens on the *Mashona* and *Maria* which may have been detained or seized, and as I receive further particulars I will transmit them to you.

I have, etc.,

JOSEPH H. CHOATE.

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*Mr. Cridler to Messrs. Hopkins & Hopkins.*

WASHINGTON, *January 5, 1900.*

GENTLEMEN: I have to acknowledge the receipt of your letter of the 28th ultimo in regard to the alleged detention by British naval vessels off Delagoa Bay of a portion of the cargo of the steamship *Beatrice*.

In reply I beg to say that the matter has been brought to the attention of the British Government through the ambassador at London, and that the consul at Lourenço Marquez has been instructed to make an investigation and report.

I am, etc.,

THOS. W. CRIDLER, *Third Assistant Secretary.*

[Telegram.]

*Mr. Hay to Mr. Choate.*DEPARTMENT OF STATE,  
*Washington, January 6, 1900.*

President Pennsylvania Milling Company files his personal affidavit with Department that said company has been several years engaged in sale of flour to Cape Colony, Natal, South African Republic, and Lourenço Marquez, and never sold or shipped flour with direct or ulterior destination to South African Republic by resale or otherwise; that all sales and shipments were made for ordinary uses of life; that since war broke out company made no sales flour to merchants or others in South African Republic; that said company sold, May 20, 1899, 2,000 bags flour branded "Speria," and June 10, 1,512 bags flour branded "Goldfields," all shipped on Dutch steamer *Maria*, leaving New York about August 15, destined Delagoa Bay, freight prepaid by said company and reported to be landed under orders British Government at Port Natal and now in custom-house; that said company sold, June 10, 1,356 bags flour branded "Goldfields," and July 30, 4,359 bags flour branded "Johannesburg," all consigned Delagoa Bay, British steamer *Beatrice*, leaving New York about October 12, freight prepaid and reported discharged into lighters East London under orders British Government; and sold, July 20, 3,154 bags flour branded "Johannesburg," consigned Delagoa Bay, British steamer *Mashoná*, leaving New York about October 30, freight prepaid, and informed said flour discharged at Cape Town under orders commander British gunboat *Partridge*.

This Government confidently expects decision of these questions, now under consideration British Government, in accordance with liberal and enlightened principles of justice.

It is also represented by the president of the milling company that unless properly cared for flour soon spoils in the climate of southern Africa. Payment by Great Britain for the flour at its value at Delagoa Bay at the time it would have arrived in due course of voyage if uninterrupted would be satisfactory to the company.

Bring matter to attention of Lord Salisbury in sense above indicated.

HAY.

*Mr. Toomey to Mr. Hay.*PENNSYLVANIA MILLING AND EXPORT CO.,  
*New York, January 6, 1900.*

SIR: Confirming our wire in reply to yours asking information concerning marks on flour, as described in our letter and affidavit of the 3d instant, we now recapitulate as follows:

2,000 bags branded Speria, on steamship *Maria*, were marked—

O & Co.  
Delagoa Bay.

1,512 bags branded Goldfields, steamship *Maria*, were marked—



Delagoa Bay

4,349 bags branded Johannesburg, steamship *Beatrice*, were marked—



Delagoa Bay

1,340 bags branded Goldfields, steamship *Beatrice*, were marked—



Delagoa Bay

3,154 bags branded Johannesburg, steamship *Mashona*, were marked—



Delagoa Bay

Hoping that the above will meet all the requirements desired,  
I remain, etc.,

ANDREW J. TOOMEY,  
*President Pennsylvania Milling and Export Co.*

*Mr. Toomey to Mr. Hay.*

[Telegram.]

NEW YORK, *January 6, 1900.*

SIR: The 2,000 bags branded Speria, on steamer *Maria*, marked O & Co., Delagoa Bay; the 1,500 Goldfields, same steamer, marked diamond T with letter S outside diamond, also Delagoa Bay; the 4,300 branded Johannesburg, on *Beatrice*, marked diamond B, letter M outside, Delagoa Bay; the 1,300 Goldfields, same steamer, diamond T, S outside, Delagoa Bay; the 3,100 branded Johannesburg, on steamer *Mashona*, marked diamond B, letter M outside diamond, Delagoa Bay.

A. J. TOOMEY,  
*President Pennsylvania Milling and Export Co.*

*Mr. Choate to Mr. Hay.*

No. 228.]

AMERICAN EMBASSY,  
*London, January 6, 1900.*

SIR: I have the honor to inclose herewith, for your information, a clipping of the Times of Thursday, January 4, 1900, relating to prize law and Delagoa Bay.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

*Clipping from the Times, January 4, 1900.*

PRIZE LAW AND DELAGOA BAY.

*To the Editor of the Times.*

SIR: The timely letter from so competent an authority as Professor Holland, in your issue of to-day, will probably better inform those who have imagined that our Government, or any, can treat what it pleases as contraband of war, without reference to the prize court, with which alone the decision lies; and it may also relieve those who have imagined that food stuffs are not in any case contraband of war, whereas they have been decided to be such in certain circumstances by the prize courts of all countries in all times.

It has been suggested that the decision that food stuffs are, in any case whatever, contraband of war, would be disquieting. It might be; yet not to Great Britain. So long as we are predominant at sea, the more effectual sea power is decided to be to prevent succor and assistance going oversea to our enemy, the better for us. The succor and assistance that come oversea to us we can protect ourselves in their passage and access to our unclosable sea approaches and our unblockadable islands. Of

course, if we lose predominance at sea it is another matter. But then, "è finita la Musica."

What I particularly desire, however, is to call Professor Holland's attention to a recent case, which I have not seen mentioned, as showing that prize courts have taken into consideration not merely the immediate destination to a neutral port of alleged contraband of war, but also its real and final destination beyond that port and overland to a belligerent. In July, 1896, the Dutch steamer *Doelwijk* took a cargo of arms and ammunition, destined to Abyssinia, then at war with Italy, from the neutral port of Rotterdam to the neutral (French) port of Jibutil, in the Gulf of Tajura. The steamer being captured by the Italian cruiser *Etna* and brought in for adjudication, was condemned as lawful prize by the prize court at Rome on December 8, 1896. The case seems on all fours with that of Delagoa Bay and the Transvaal.

The case of the *Commercen*, quoted by Professor Holland to illustrate another point, would seem equally to illustrate this point also. For Mr. Justice Story, in giving the judgment of the Supreme Court of the United States in that case, put aside the argument that the cargo could not be contraband because destined to a neutral port.

It seems indeed absurd that a prize court should look only to the immediate and pretended destination, and not to the final and real destination; or that it should decide that arms and ammunition shown to be really destined to the Transvaal to be used in the war are not contraband of war only because their destination pretends to be the neutral port of Delagoa Bay.

Your faithful servant,

THOS. GIBSON BOWLES.

WILBURY, *Salisbury*, January 3.

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*Mr. Hay to Mr. Toomey.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, D. C., January 9, 1900.*

PENNSYLVANIA MILLING AND EXPORT CO.:

Ambassador Choate telegraphs to-day inquiring if your flour was sold for future delivery; also how does your present interest appear?

JOHN HAY.

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*Mr. Toomey to Mr. Hay.*

[Telegram.]

NEW YORK, *January 9, 1900.*

Our flour was sold regular course business as done years past in Africa. Shipment so many bags monthly to regular users flour, who anticipate their ordinary requirements. Our present interests uncertain; some drafts already returned unpaid; expecting others due course. In any event we will have to lift all drafts finally, whether paid or not, as we are final recourse. Meantime holders bills lading unable communicate and condition flour jeopardized account climatic deterioration; also value largely reduced present position account charges, loss market, and Cape Colony duties. Easiest and most equitable arrangement suggested British Government use flour, pay cost where interest may appear, and indemnify us reasonably.

A. J. TOOMEY, *President.*

*Mr. Toomey to Mr. Hay.*

[Telegram.]

NEW YORK, *January 10, 1900.*

Please note seized flour was sold by us delivered Delagoa Bay, therefore our property until obligation delivery fulfilled irrespective drafts made against same.

Some drafts already returned unpaid, leaving flour on our hands in critical position, even if released by British Government.

A. J. TOOMEY, *President.*

*Messrs. Henry W. Peabody & Co. to Mr. Hay.*

NEW YORK, *January 10, 1900.*

SIR: We beg to inform you that on the steamships *Maria* and *Mashona*, dispatched from New York for South African ports, we forwarded certain shipments for Delagoa Bay, concerning which we have as yet been unable to secure any definite information.

Our shipment by the steamship *Maria* included a parcel of lumber and general merchandise, valued at £128 9s. 11d.; a shipment of flour, valued at £12 16s. 10d.; a shipment of evaporated cream, valued at £195 10s. 10d., and on the steamship *Mashona* a shipment of 230 bags of meal, valued at \$682.52.

As we know that the Department of State has taken some action concerning shipments by the steamers above mentioned, we should be obliged for any information which you can give us as to what has been done with the shipments for Delagoa Bay forwarded on these steamers, and should be further obliged if you would keep us advised as to what is being done, informing us of any necessary steps on our part, we depending upon the support of our Government in the event of delay or nondelivery of our shipments owing to international complications. You will please see that our name is filed on your record as shippers on the steamships *Maria* and *Mashona*, so that we may be sure to be kept advised of what is being done or to be done in relation to such shipments.

Yours, truly,

HENRY W. PEABODY & Co.

*Mr. Hay to Mr. Choate.*

[Telegram in cipher—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, January 10, 1900.*

[Mr. Hay communicates to Mr. Choate the substance of the reply of the Pennsylvania Milling Company to Mr. Choate's telegram of January 9, as follows: That their flour was sold in regular course of business, as has been done for years past in Africa, shipment being made of so many bags monthly to their regular users who anticipate their ordinary requirements; that their present interests were uncertain, some of their drafts having been already returned unpaid and the return of others being expected in due course, and that whether

paid or not the drafts would finally have to be lifted by the company, they being the final recourse. Meantime the holders of the bills of lading were unable to communicate, and the condition of the flour was being imperiled on account of climatic deterioration, its value being also largely reduced in its present position on account of changes, Cape Colony duties, and loss of market.]

*Mr. Choate to Mr. Hay.*

[Telegram in cipher.—Paraphrase.]

JANUARY 10, 1900.

[Mr. Choate gives text of a paper in writing handed to him on January 10 by Lord Salisbury, as follows:

Our view is that food stuffs with a hostile destination can be considered contraband of war only if they are supplies for the enemy's forces. It is not sufficient that they are capable of being so used. It must be shown that this was in fact their destination at the time of the seizure.

Lord Salisbury verbally added that the British Government do not claim that any of the American goods on the *Mashona* and on the *Maria* are contraband. Lord Salisbury also handed to Mr. Choate an answer to his note of January 4, which, after saying that the *Mashona* is a British vessel and is understood to have been seized and taken in for adjudication by the prize court on a charge of trading with the enemy, and claiming that the offense is cognizable by the prize court only and that the action taken is correct, proceeds as follows:

If the owners of cargo, being neutrals, claim that they are innocent, the cargoes should not be condemned with the ship, but should be delivered over to them. The ordinary course is that they should claim the cargo in the prize court, where the case will no doubt be considered and properly dealt with on its merits. The practice is well stated in Story's Manual of Prize Law, pages 46 to 71, edition 1854, and in the portions of the work relating to claims made by innocent or interested parties.

Mr. Choate, at this point, asked Lord Salisbury what he understood this to require the owners of the cargoes to prove. Lord Salisbury replied: Only that they were the owners; that the prize court must have bills of lading and invoices and could not, of course, deliver to first comer. The note proceeds:

The case of the Netherlands ship *Maria* is of a different character. Her Majesty's Government understand that the flour on *Maria* is not detained in any way and that it is perfectly open to the owners to make whatever arrangements they please for its immediate removal. If they consider themselves to be in any way aggrieved, owing to the action of the authorities in causing the flour to be landed, it is, of course, open to them to take such proceedings as they may be advised are appropriate against the persons concerned.

Mr. Choate here stated that the United States Government would probably send the bill to the British Government. Lord Salisbury replied, "Very likely."

Mr. Choate informed Lord Salisbury that one owner had authorized the United States Government to offer his goods at the value of the flour at the port of destination at the time the vessel would have arrived there if she had not been interrupted. Lord Salisbury replied that his commissariat would consider such an offer. Mr. Choate's impression is that the British Government would take all of the *Maria's* and *Mashona's* cargoes on these terms, and he suggests that it would be

advisable for all those whose cargoes had been landed to offer to sell, if terms can be arranged to include all. Mr. Choate states that he will not present the case of the Pennsylvania Milling Company's flour in the form directed by the Secretary of State unless again instructed, thinking it better to rest the case on the regular shipping papers.]

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*Mr. Hay to H. W. Peabody & Co.*

[Telegram.]<sup>1</sup>

DEPARTMENT OF STATE,  
Washington, January 11, 1900.

One of the owners of goods seized by British naval authorities suggests that he would settle his claim by British Government paying value of goods at port of destination if voyage had not been interrupted. Do you wish Department to attempt settlement and payment of your claim same way? As to flour shipped on the *Maria*, this Government advised that it is not detained and that the owners may make whatever arrangements they desire for its disposition. Flour having been landed, you might dispose of it to best advantage and prefer claim against British Government to cover all loss and damage if you were the legal owners at the time of seizure. Claim must be presented by legal owner, and this Government will take all steps to protect rights of owners if American citizens.

JOHN HAY.

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*Mr. Choate to Mr. Hay.*

[Telegram in cipher.—Paraphrase.]

LONDON, January 11, 1900.

[Mr. Choate states that the substance of the Department's telegram of January 2 was on the 4th communicated to the British minister for foreign affairs, with added details as to the shipments of Flint, Eddy & Co. and the Geldarts. At the same time he asked restitution of all merchandise shipped by American citizens detained or seized on the *Mashona* and the *Maria*, there appearing nothing in any aspect of the case, in the circumstances communicated to the United States Government, to justify the seizure of the goods.]

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*Messrs. C. C. Abel & Co. to Mr. Hay.*

NEW YORK, January 12, 1900.

SIR: On or about October 12, 1899, we shipped, per steamship *Beatrice*, from New York, destination Delagoa Bay, 

JUP	1/400
Delagoa Bay	

 400 cases petroleum, each case containing two 5-gallon cans, and were informed by Messrs. Norton & Son, agents of the steamer here, that

<sup>1</sup> Sent also on same day to W. H. Crossman & Co., 77 and 79 Broad street, New York City; Flint, Eddy & Co., 30 Broad street, New York City, and Arkell & Douglass, 95 Broad street, New York City.



by order of the British Government the *Beatrice* had to discharge her cargo in lighters at Port Natal, and that, according to the terms of the bills of lading, the voyage had to be considered ended.

We respectfully request you to take such steps as you may deem proper to protest against the action of the British Government.

We are, etc.,

C. C. ABEL & Co.

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*Mr. Choate to Mr. Hay.*

[Telegram in cipher.—Paraphrase.]

EMBASSY OF THE UNITED STATES,  
*London, January 12, 1900.*

[Mr. Choate suggests that if it is concluded to offer seized goods to sell both consignor and consignee unite in sale where title is doubtful between them, this course being preferable to incurring questions and delays in prize court, although possibly causing delay in payment while getting consent from consignee.]

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*Messrs. Arkell & Douglas to Mr. Hay.*

NEW YORK, *January 12, 1900.*

DEAR SIR: Your telegram reading as per copy inclosed received, and we should have replied by wire, but really hardly saw how we could do so intelligently, and so we write you instead.

We are pleased to know that the British authorities may be disposed to pay full value of goods the same as if delivered, but your wire is indefinite as to whether this means cost price and freight or the selling price at port of delivery if they had been landed according to bill of lading.

We should explain to you that we have not heard from the parties to whom we shipped these goods, and therefore we have no way of knowing their views or the position, and so we must hesitate to act definitely until we are acquainted with the same.

We naturally are the owners of these goods, unless some of the parties have paid their drafts and obtained, in some way, possession; and in that case, we presume, they might claim ownership, and the position is embarrassing. We, of course, are endeavoring to advise with these people and our own house at Port Elizabeth.

Some of the goods may be stored and the parties who expected the delivery may not be aware of the position of the cargo, or they might take over the shipment.

We must ask you to see that we are protected to the fullest extent which lies in your power, based on this explanation of the position; and if you can kindly give us somewhat more definite advices regarding the matter, so that we may know exactly the situation, if there are details beyond those mentioned in your telegram, we shall feel obliged.

We remain, etc.,

ARKELL & DOUGLAS.

*Messrs. W. H. Crossman & Bro. to Mr. Hay.*

[Telegram.]

NEW YORK, *January 12, 1900.*

Your telegram 11th received with thanks. We made no shipments of flour in vessels seized. As to whether we are now legal owners of any goods shipped by us therein depends on payment of drafts drawn therefor, and not yet due. Pending definite advice thereon we merely desire our rights, if any, reserved.

W. H. CROSSMAN & BRO.

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*Mr. Choate to Mr. Hay.*

[Telegram in cipher—Paraphrase.]

LONDON, *January 12, 1900.*

[Mr. Choate states that in answer to his pressing inquiries foreign office states that it has no information regarding seizures not already possessed by the United States Government, and that it would furnish facts as soon as it received them.]

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*Mr. Choate to Mr. Hay.*

No. 231.]

AMERICAN EMBASSY,  
*London, January 12, 1900.*

SIR: I have the honor to report that since my dispatch No. 227 of January 5 the following events have occurred relating to the seizure of American goods on British ships *Mashona* and *Beatrice* and the Dutch ship *Maria*, described in your instruction No. 262 of December 21, and in Messrs. Hopkins's letter of December 12 inclosed therein, as British, and assumed by both Lord Salisbury and myself as being so in our interview of the 3d instant.

I was well aware of the urgency of the matter, but as he had promised a written statement of the grounds of seizure as early as practicable—perhaps Friday the 5th—not receiving them that day I concluded that the matter must necessarily be in the hands of the law officers of the crown. On Saturday, the 6th, and again on Monday, the 8th, the papers reported him as being in continued conference with them, so I refrained from disturbing him.

On Sunday, the 7th, your first cipher cable relating to the Pennsylvania Milling Company's shipments (translation annexed) was received. I had already prepared a note to Lord Salisbury bringing their case to his attention in the sense therein indicated, when on the 9th I received your second cable, regarding the marks on that company's shipment (copy annexed), which necessitated an alteration of the note to that extent; but I was hourly expecting to receive his answer and the grounds of the seizures, and thinking their contents might render some part or the whole of my note about the Pennsylvania Company's shipments inexpedient, I withheld it until I should receive them. There were two things in the affidavit of the president of the milling

company, as cabled, that were obscure—first, it stated that his company “had been for years engaged in the sale of flour to \* \* \* South African Republic;” and then, second, immediately proceeded to say that it “had never sold flour with direct or ulterior destination to South African Republic by *resale or otherwise.*” These two statements I could hardly reconcile. I inquired at cable office whether “direct” was not meant for “indirect,” and received your cable of the 9th in reply (copy annexed). I had been reading the cases of the *Bermuda* and the *Peterhoff*, where “direct” and “ulterior” seemed to me always to be used as terms of antithesis and not of paraphrase. I concluded that the meaning was that although they had made frequent sales to merchants in the South African Republic they never undertook to sell them to the Republic itself.

The affidavit, as cabled, also showed that several lots of the company’s flour were branded “Johannesburgh” and “Goldfields,” which might have a bearing on the question of “destination,” as well as property, and had better not be communicated until I got their views about contraband. Further, the affidavit, as cabled, stated the sales by the company in such a way and at such dates as to show, or at least raise the inference, that there was no ownership left in the milling company; and so, on the 9th, I cabled you the inquiry (translation annexed) to which, on the 10th, I received your reply giving further statement from company (translation annexed).

On Wednesday, the 10th, I waited upon Lord Salisbury and found him ready to state the legal views of the British Government, but with almost no information as to the details of fact in regard to the seizures. Of the interview I have little to add to what I communicated to you by cipher cable (translation annexed). His two notes, which he handed to me at the interview, contained about all that he has to say. In fact, he expressed his desire to give it to me in writing, so that there might be no misunderstanding. I annex copies of them both. He answered my inquiries as stated in the cable. He stated repeatedly that they did not claim the American goods on the *Mashona* and *Maria* to be contraband.

I called his attention to the fact that such goods as flour were very perishable in the climate of South Africa, and that we should be entitled, not only to costs and damages for detention, but for deterioration, if it took place; but he thought that an incidental matter which could be discussed later. When he made his suggestion that the best way, perhaps, would be for the American owners to offer to sell to his Government, my impression was confirmed that he was contemplating the probability of having to indemnify owners of cargo fully, and that their best way would be to buy at an agreed price. When I told him that I was already authorized to sell for one party, he misunderstood me to say at the present price in Delagoa, and replied: “Why, the prices there have been doubled and more by these seizures;” and when I explained that the authority was to offer to sell the goods at the price at the port of destination at the time when the vessels respectively should have arrived there in due course of voyage, if not interrupted, he said that was not unreasonable, and that if we would make such an offer his commissary department would consider it. We discussed considerably what owners would have to prove in the prize court to get their goods; whether he had any idea of requiring us to prove anything more than their ownership at the

time of seizure, and he said that was all; whether he understood there was to be a trial in the prize court as to destination, and he said, "No; but proof of ownership was essential, either then or on a sale to the admiralty, as his Government could not pay one man and then be accountable to another, who might afterwards appear and prove to be the real owner."

I said in my cable of the 10th that, not having got answer to my telegram of the 9th, I should not present the milling company's case in the form directed unless you still desire; better to rest on regular shipping papers, which I think will suffice.

I am strongly inclined to believe that a sale to the British Government of all the goods, if they will take them at the price suggested, is best, because it is so much simpler. The customs officers, who have the *Maria's* goods, will have to be satisfied as to the ownership of the claimants, and that may make trouble, although regular shipping documents, by which the goods got into the ship, ought to suffice for that in that case. And if we can get the *Mashona's* goods taken by purchase, without having to go through an inquiry, it will be much better in that case. Probably the whole cargo is included in the libel for "Trading with the enemy." Of course, the cargo of innocent American shippers can not be held for that. As Lord Salisbury said, they couldn't get the ship into port after seizure without bringing the cargo too; and I understand that it is the usual practice in such cases to include everything in the libel. But a legal investigation of the ownership of each lot of cargo shipped on the *Mashona* will necessarily involve an inquiry into all that has occurred between the consignor and the consignee, and many difficult and delicate questions might arise.

If on such an inquiry it should turn out that an agent had bought for the Transvaal Government, and on credit, so that the title passed when the goods went on board, would you consider the British Government estopped to claim that they were contraband on discovering such a fact? Such a purchaser would of course not be under American protection in any way; but an American shipper might appear to be privy to the real character of the purchases, and we should hardly like to champion the cause of a party who had shipped contraband. Of course this case is hardly supposable. I assume, as you do, and as Lord Salisbury and his law officers assume, that our American shippers are wholly innocent; but you never know when you go into a prize court what may turn up. It is full of pitfalls, and I am sorry that our cargo is there. I see that some take it for granted that if the shipper has not been paid for his goods the property is still in him, so as to constitute him the owner in a prize court, or for purposes of a sale; but there can be no such universal rule. By the terms of sale and shipment he may not have retained a lien. So there are various questions as between liens and general ownership. (See post-script.)

In view of all this, I strongly hope before this dispatch reaches you that I shall have received instructions from you to propose to sell all that we wish to protect as American property in the *Mashona* and *Maria* to the British Government on the terms which Lord Salisbury and I talked about.

After my cable of the 10th had gone, it occurred to me that you had not received a copy of my note to Lord Salisbury of the 4th, to which

it purported to be a reply, and so I sent you a further cable on the 11th instant. Copy annexed.

To-day I cabled a suggestion, and later, thinking that the foreign office must have more details about the goods and the seizures than they had communicated to me, pressed them very closely, but could get nothing more than you already have, and so I sent you a further cable.

I suppose that you, of course, have some competent man at the prize court to look after proceedings there, in case we do not close the whole matter up by a sale.

I have, etc.,

JOSEPH H. CHOATE.

P. S.—The title of the absolute owner prevails in a prize court over the interests of a lien holder, whatever the equities between those parties may be. (*The Winifred*, Blatchf. Pr. Cases 2, cited; 2 Halleck Internl. Law, 392 Engl. Ed., 1893.)

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[Inclosure 1 in No. 231.]

*Lord Salisbury to Mr. Choate.*

FOREIGN OFFICE, *January 10, 1900.*

DEAR MR. CHOATE: Our view is that foodstuffs, with a hostile destination, can be considered contraband of war only if they are supplies for the enemy's forces. It is not sufficient that they are capable of being so used; it must be shown that this was in fact their destination at the time of the seizure.

Believe me, etc.,

SALISBURY.

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[Inclosure 2 in No. 231.]

*Lord Salisbury to Mr. Choate.*

FOREIGN OFFICE, *January 10, 1900.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 4th instant, in which your excellency calls attention to the American-owned flour which formed part of the cargoes of the steamships *Mashona* and *Maria*. The proper authorities have been requested to furnish a full report of both these cases; in the meantime I am able to make the following statement upon such information as I have been able to obtain:

The *Mashona* is a British ship, and is understood to have been seized and taken in for adjudication by the prize court on a charge of trading with the enemy. This offense is cognizable by the prize court, and proceedings against a vessel for such an offense can only be taken in a prize court, and there seems to be no reason to doubt that the action taken in the case has been correct.

If the owners of the cargo, being neutrals, claim that they, being innocent, the cargo should not be condemned with the ship, but should be delivered over to them. The ordinary course is that they should claim the cargo in the prize court, where the case will no doubt be considered and properly dealt with on the merits.

The practice is well stated in Story's Manual of Prize Law, pages 46 to 71, of the edition of 1854, and in the portions of the work relating to claims made by innocent or independent parties.

The case of the Netherlands ship *Maria* is of a different character. Her Majesty's Government understand that the flour ex *Maria* is not detained in any way, and that it is perfectly open to the owners to make whatever arrangements they please for its immediate removal.

If they consider themselves to be in any way aggrieved, owing to the action of the authorities in causing the flour to be landed, it is, of course, also open to them to take such proceedings as they may be advised are appropriate against the persons concerned.

I have, etc.,

SALISBURY.

*Messrs. Norton & Son to Mr. Hay.*

NEW YORK, *January 13, 1900.*

SIR: We would put before you that we are the agents in New York of the American and African Steamship Line, which line recently dispatched the Dutch steamer *Maria*, the British steamer *Beatrice*, and the British steamer *Mashona* for South and East African ports and Delagoa Bay, which steamers have been detained and cargoes destined for Delagoa Bay landed at South and East African ports by order of the British Government.

We are very much interested in the statements published in the newspapers yesterday to the effect that Lord Salisbury concedes to our ambassador in London that the seizure and detention of the flour by these vessels was illegal. The New York Sun of January 12 published an article which says that the State Department made the following official statement of a dispatch from Mr. Choate:

A telegram has been received from Ambassador Choate, reporting an interview had by him with the Marquis of Salisbury on the afternoon of the 10th in regard to American shipments of flour and provisions on the detained British steamers *Beatrice* and *Mashona* and the Dutch steamer *Maria*. The British position as to food stuffs and to hostile destination is that they can only be considered contraband of war if supplied for the enemy's forces, it not being sufficient that they are capable of being so used, but it must be shown that this was their destination at the time of seizure.

This qualification virtually concedes the American contention that the goods were not subject to seizure, and practically disavows the seizure, it not being claimed that there is any evidence of hostile destination.

It is important for us to have an official confirmation of same from the State Department in Washington, and would kindly ask you to let us know—

(1) Whether goods shipped by the British steamship *Mashona*, with cargo from New York to Delagoa Bay, Portuguese Africa, not intended as supplies for the Boer military forces or agents, or not consigned directly to the Boer military forces or agents, are contraband of war, and if not contraband, whether they would be seized as enemy's property if addressed to foreign merchants in the Transvaal or the Orange Free State?

(2) Whether on the same state of facts, goods under a neutral flag (such as the Dutch steamship *Maria*) would be considered as contraband?

Please note that the New York Sun, commenting on the flour seized off Delagoa Bay, considered that this flour, or breadstuffs, would be entitled to immunity from detention and confiscation if intended for the use of noncombatants in the Transvaal (we presume they mean the Orange Free State or the South African Republic), and could rightfully be taken by Great Britain only when there was evidence that it was to be used by the Boer armies.

An early reply solicited.

Yours, very respectfully,

NORTON & SON.

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*Messrs. W. H. Crossman & Bro. to Mr. Hay.*

NEW YORK, *January 13, 1900.*

SIR: We acknowledge with gratitude your valued telegraphic message of 11th instant (received 12th) respecting our shipments to Dela-

goa Bay per the seized steamers *Maria*, *Mashona*, and *Beatrice*. We attach press copy of our telegraphic reply.

In the list of our shipments handed you December 26, 1899, no flour appeared—we shipped none. It was with the hope of getting information we supposed might be in your possession that would enable us to determine what our status was that we took the liberty of addressing you on that date.

All our shipments were drawn for when made, either upon the South African buyers direct, or upon their financial agents in London and Amsterdam.

It now appears to us quite probable that all our drafts will be paid at maturity, in which event we shall have no claim; but if any of these various drafts should be dishonored, ownership of the goods would revert to us. We can not know yet where we stand; consequently all we seek at present is to preserve our contingent rights.

Thanking you sincerely for your message, with respect, we are, dear sir,

Yours, faithfully,

W. H. CROSSMAN & BRO.  
J. W. SMITH.

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*Messrs. Hopkins & Hopkins to Mr. Hay.*

WASHINGTON LOAN AND TRUST BUILDING,  
*Washington, January 13, 1900.*

SIR: Messrs. Flint, Eddy & Co., of New York, yesterday received the following dispatch from the Department:

One of the owners of goods seized by British naval authorities suggests that he would settle his claim by British Government paying value of goods at port of destination if voyage had not been interrupted. Do you wish Department to attempt settlement and payment of your claim same way?

In response to the foregoing, we have the honor to state, that reposing, as we do, the fullest confidence in the desire of Her Majesty's Government to discharge, with promptness, all just obligations, we hesitate to offer any suggestion as to the method of settlement of claims which our clients may have growing out of the detention of their property off the East African coast, as we are not at present in possession of sufficient information upon which we might properly ask such a settlement. We therefore respectfully request that the matter be held in abeyance until the receipt of mail advices, when we will again address the Department.

Appreciating the promptness and energy which our representations have met at your hands,

We are, sir, your obedient servants,

HOPKINS & HOPKINS.  
Per S. G. HOPKINS.

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WASHINGTON LOAN AND TRUST BUILDING,  
*Washington, January 13, 1900.*

[Memorandum for Dr. Hill.]

Steamship *Beatrice*.—The last heard of this vessel was to effect that she had, by orders of the authorities, discharged her full cargo into lighters at East London.  
Steamship *Mashona*.—Last heard of by shippers was still at Cape Town.

Steamship *Maria*.—Brindler & Co., Delagoa Bay, report that this steamer has arrived, after long delay, bringing cargo destined for their port. From this I am inclined to believe they mean that the portion of the cargo destined for themselves has arrived. We have advices to the effect that some of the cargo was discharged and retained at Durban, Natal.

S. G. HOPKINS.

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*Mr. Hay to Mr. Choate.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, January 13, 1900.

Following telegram received January 11 from president Pennsylvania Milling Company:

Please note seized flour was sold by us delivered Delagoa Bay, therefore our property until obligation delivery fulfilled, irrespective drafts made against same. Some drafts already returned unpaid, leaving flour on our hands in critical position, even if released by British Government.

HAY.

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*Messrs. W. H. Crossman & Bro. to Mr. Hay.*

[Telegram.]

NEW YORK, January 15, 1900,

Your telegram 13th instant received with thanks. Our letter 13th instant explains our position clearly to date. Do not desire any attempt for settlement made, for the present at least.

W. H. CROSSMAN & BRO.

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*Mr. Choate to Mr. Hay.*

[Telegram in cipher.]

EMBASSY OF THE UNITED STATES,  
London, January 15, 1900.

[Paraphrase.]

[Mr. Choate reports that the question of the ownership of the *Mashona's* cargo was embarrassed by the fact that the British foreign office was advised that the vessel had no manifest, and inquires as to the correctness of this advice.]

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*Messrs. Arkell & Douglas to Mr. Hay.*

NEW YORK, January 15, 1900.

DEAR SIR: We would acknowledge your further telegram asking if we would wish you to attempt settlement of claim by securing the value of provisions and other goods at port of destination at the time they would have arrived if the voyage had not been interrupted, and



that you suggest that if title to goods is doubtful both ourselves and the consignee should unite in the sale. You also suggest that if we should conclude to offer to sell it might cause delay, and perhaps throw the question into a prize court. We observe that if you can make a general proposition on this basis you would endeavor to work out the details and secure a just payment, taking into consideration the elements of value at port of destination.

We are obliged to you for this telegram, and we should certainly personally be very pleased to at once agree to your idea, but unfortunately, as we have already pointed out, having drawn drafts with the uncertainty as to whether same have not been paid and delivery taken of the goods, even at ports where the cargo has been landed, we are hardly in shape to handle this matter on the basis you propose. We are satisfied that a number of the drafts will not be paid and that the goods are consequently ours, but to divide the issue and definitely know what has been and what has not been settled would be at present moment practically impossible for us. We are using the cable and also advising with our own house at Port Elizabeth in relation to these matters, and will communicate with you as soon as we have cable advices, if they are such as will warrant our knowing our position, and meanwhile we must ask you to kindly simply do what you can for us in a proper way by having our original protest on file and called to the attention of the British Government. We sent you B/L's showing proof of shipment. As matters proceed, if you make any special headway in acting for us or others, we should, of course, be glad to be advised.

Thanking you for your attention to our interests, we are,  
Very respectfully, yours,

ARKELL & DOUGLAS.

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*Messrs. H. W. Peabody & Co. to Mr. Hay.*

NEW YORK, *January 15, 1900.*

DEAR SIR: We have before us two telegrams received from you within the past day or two relative to shipments forwarded by us on steamships *Maria* and *Mashona* for Delagoa Bay. We are so much in the dark as to what has been done with shipments by these steamers that we hardly know how to act or to reply to the questions contained in your telegrams now before us. Can you give us any definite information as to what has been done with the Delagoa Bay shipments on the steamers above mentioned? The latest reports which we have noticed in the newspapers are to the effect that the vessels have been allowed to go on to Delagoa Bay, and presumably that they will deliver immediately shipments at that port.

Referring to our previous communication on this subject we would call your attention to the fact that the only parcel of flour forwarded by us on either of these vessels is a small shipment by the steamship

*Maria*, marked <sup>444</sup> Delagoa Bay, valued only at £12 16s. 10d.

Our other shipment by the *Maria* consisted of a parcel of lumber  
and miscellaneous cargo (not food products) marked <sup>J H B</sup> N A C ,  
Delagoa Bay

valued at £128 9s. 11d., and a shipment of evaporated cream in tins,  
 marked <sup>B G</sup> J H B , amounting to £195 19s. 10d.

Delagoa Bay  
 Our shipment on the steamship *Mashona* consisted of 230 bags white  
 corn meal, marked <sup>W</sup> Delagoa Bay, valued at \$682.52.

The lumber and miscellaneous cargo could not, we presume, in any event be considered as contraband of war, and we hardly imagine that our shipment of evaporated cream would be so considered. The white corn meal possibly would, and also the flour, but we would first ask whether you can inform us definitely what has been done with shipments by these steamers. In the present condition of affairs, rendering it impossible for us to communicate readily with Africa by cable, it is impossible for us to get any accurate information, so that we do not see how any action can be taken immediately; and we desire only to file statement to the effect that if our shipments have been delayed or interfered with by the British Government we want the United States Government to back up our claims for full indemnity. We should be glad to receive such information as you have in regard to shipments by the steamers in question; also any instructions which you may have to give us, considering the uncertainty of our present position and our lack of information as to the action which you wish us to take to place ourselves in line to receive the support of the United States Government.

Yours, truly,

HENRY W. PEABODY & Co.

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*Mr. Gage to Mr. Hay.*

TREASURY DEPARTMENT,  
 OFFICE OF THE SECRETARY,  
 Washington, D. C., January 16, 1900.

SIR: I have the honor to acknowledge the receipt of your letter dated the 15th instant requesting a copy of the manifest of the British steamship *Mashona*, seized by the British naval authorities with American shipped goods, and have to state that the collector of customs at New York has been instructed by telegraph to forward such copy.

Respectfully,

L. J. GAGE, *Secretary.*

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*Mr. Hay to Mr. Choate.*

[Telegram.]

DEPARTMENT OF STATE,  
 Washington, January 16, 1900.

Ascertain and cable the status of American cargoes on the *Maria*, the *Mashona*, and the *Beatrice*, so Department may inform shippers where their goods are and what portion of them are free.

HAY.

*Messrs. C. C. Abel & Co. to Mr. Hay.*

NEW YORK, *January 17, 1900.*

SIR: We are in receipt of your communication of the 16th instant, and thank you for your courteous and prompt reply to our letter of the 12th instant.

It will be necessary for us to put ourselves in further correspondence with the consignees of the petroleum to enable us to give you the required particulars.

We are, sir, your obedient servants,

C. C. ABEL & Co.

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*Messrs. W. H. Crossman & Bro. to Mr. Hay.*

NEW YORK, *January 17, 1900.*

SIR: Your favor of the 16th instant, with further reference to our shipments to South Africa in certain vessels seized by the British Government, duly received and carefully noted.

Since our previous advices in the premises we are more than ever satisfied that the drafts for our Delagoa Bay shipments have been or will be paid by the consignees of the goods on whom we drew therefor. One or two cases appear to us still in doubt, and in these we might eventually have to resume ownership of the goods, but these are not formidable in amount, so that taking all things into consideration we have decided our case can not under any consideration now be of sufficient importance to warrant troubling your Department with in the manner you have so kindly intimated.

Again thanking you for the attention and information you have afforded us in the premises,

We are, dear sir, very respectfully,

W. H. CROSSMAN & BRO.  
J. W. SMITH.

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*Mr. Choate to Mr. Hay.*

[Telegram in cipher—Paraphrase.]

LONDON, *January 17, 1900.*

[Mr. Choate reports that he is informed by Lord Salisbury that all the information he has regarding the *Beatrice's* cargo is that it was discharged at East London; that he has heard no allegation against it, and that he will furnish information in regard to it as fast as received; that the *Maria's* cargo is at Durban, free for its owners to take; that he does not know where the *Mashona's* cargo is, but that the vessel is at Cape Town; that according to advices received by cable from Sir A. Milner, on January 10, the *Mashona* had no bills of lading, and there was much difficulty in dealing with her cargo; that the United States consul at Cape Town would be informed that application made to him for the release of any bona fide American citizen's goods would receive immediate attention.]

Mr. Choate also reports that at his request Mr. Chamberlain telegraphed to Sir A. Milner the assurances given by Lord Salisbury to Mr. Choate that American owners of any part of the *Mashona's* cargo may have it on proof of ownership, and that there is no allegation that the cargo is contraband. Sir A. Milner was directed to so inform the colonial attorney-general.]

*Mr. Toomey to Mr. Hay.*

PENNSYLVANIA MILLING AND EXPORT COMPANY,  
*New York, January 17, 1900.*

SIR: Your esteemed favor of the 16th instant to hand and carefully noted. I am now preparing the necessary documents that you request; but those, such as the bills of lading, may take a day or two to be obtained from the steamship company. In the meantime I will prepare an affidavit, such as you desire, covering all the facts in the case concerning the flour seized by the British Government.

Meantime I beg to thank you for the efforts you are making on our behalf, and wish to state that I am only too happy to comply with your request not to give out for publication any information that you may have given me, as I do not wish to embarrass your negotiations in any way. You will probably have noticed that, in spite of the enterprising efforts of our press, up to the present no information emanating from me has been published, as I have always been very careful to keep the matter right within proper limits, feeling that you would see that full justice was done to us in the end.

Hoping that a day or two's delay in the preparation of the documents required will be of no inconvenience to you,

I remain,

A. J. TOOMEY.

*Mr. Hay to Messrs. Arkell & Douglas.*<sup>1</sup>

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, January 18, 1900.*

For your information Department reports that British minister for foreign affairs says *Maria's* cargo is at Durban, probably in custom-house, free for its owners to take. He does not know where *Mashona's* cargo is—vessel is at Cape Town. It was reported to him that she had no bills of lading, and there was much difficulty in dealing with the cargo, but that American consul would be informed that application through him for the release of any bona fide American citizen's goods would receive immediate attention. He gives assurances that American owners of any part of *Mashona's* cargo may have it on proof of ownership and there is no allegation that the cargo is contraband. All that can be learned as to *Beatrice's* cargo at present is that it was discharged at East London, but no allegations so far made against it, and he promises further information as fast as received.

JOHN HAY.

<sup>1</sup> Identical telegrams sent on same day to W. H. Crossman & Bro., Flint, Eddy & Co., A. J. Toomey, H. W. Peabody & Co., and C. C. Abel & Co.

*Mr. Hay to Messrs. Norton & Son.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, January 18, 1900.

For your information Department reports that British minister for foreign affairs says *Maria's* cargo is at Durban, probably in custom-house, free for its owners to take. He does not know where *Mashona's* cargo is—vessel is at Cape Town. It was reported to him that she had no bills of lading and there was much difficulty in dealing with the cargo, but that American consul would be informed that application through him for release of any bona fide American citizen's goods would receive immediate attention. He gives assurances that American owners of any part of *Mashona's* cargo may have it on proof of ownership and there is no allegation that the cargo is contraband. All that can be learned as to *Beatrice's* cargo at present is that it was discharged at East London, but no allegations so far made against it, and he promises further information as fast as received.

The attitude of the British Government on the question of contraband is, so far the Department is advised—

that food stuffs with a hostile destination can be considered contraband of war only if they are supplies for the enemy's forces. It is not sufficient that they are capable of being so used. It must be shown that this was in fact their destination at the time of the seizure.

JOHN HAY.

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*Mr. Choate to Mr. Hay.*

No. 234.]

LONDON, January 18, 1900.

SIR: I have the honor to report that since my dispatch No. 231, dated January 12, was written, the following has happened in respect to the seizures of American goods:

On the 15th I received information from the foreign office that the *Mashona* had no manifest on board, which might give trouble about the ownership of cargo, whereupon I sent you a cipher cable, to which I have as yet received no reply.

On the 14th (Sunday) I received your cable of the 13th, giving further details of the milling company's shipments, which showed their continued title to the goods shipped until delivery at Delagoa Bay; and that you still desired me to present it, notwithstanding my reference to it in my cable of the 10th. I accordingly prepared and sent to Lord Salisbury a statement of the Pennsylvania Milling Company's case as directed, dated the 13th (copy annexed).

On the 15th I received your instructions, Nos. 267 and 268, of January 2, containing respectively documents in the case of Messrs. W. H. Crossman & Brother and additional documents in the cases of Mr. R. W. Geldart and Messrs. Flint, Eddy & Co.

I thereupon prepared and sent to Lord Salisbury notes setting forth their cases and claims, dated January 15 (copies annexed).

The same mail brought me your instruction No. 269, but as most of the ground covered by it had already been covered by my interview with Lord Salisbury of January 10, cabled to you on that day, and he had substantially disavowed the seizure of the *Maria* and agreed to

make restitution of the goods, and impliedly reparation to their owners, and in the case of the *Mashona* had explained its situation in the prize court, and agreed that the cargo was not contraband and would be delivered to the American owners on proof of ownership, as stated in my cable of the 10th, and more fully in my dispatch No. 231. I shaped accordingly the claims made in the several cases presented, and took it for granted that you would not have me complain of pretensions which he had not set up. I was also in daily expectation of receiving your answer to my advice that the owners should accept the suggestion of Lord Salisbury to sell to the British Government at the prices to be fixed on the basis named by the Pennsylvania Milling Company, which, if carried out, would probably close the whole matter. As to the costs and damages incurred, if any, he has not thus far shown any disposition to deny liability, but only to postpone, until we both knew the facts, further discussion about it.

I inquired constantly at the foreign office for Lord Salisbury, but he did not come again to town until Tuesday, the 16th, when I had an interview with him. I took it for granted that you were looking after the prize court; but, knowing the summary character of the proceedings in such courts, I was apprehensive of what might happen there if the counsel for the Government and the court should be left to their own devices in respect to the question to be passed upon there, and I also thought it was very strange that I had received no more information in respect to the facts involved in the several seizures. On the first point he was very satisfactory. I told him in substance all that I had cabled you after our interview of the 10th, and that I had had no reply; but I urged him to cable out to the prosecuting officer at the prize court what we had at that interview agreed upon as to the *Mashona*, which he very promptly consented to do at once, but said it would have to go through the colonial office. Before I had left his office he had prepared it and sent it over to Mr. Chamberlain, and I was promised a copy next day.

I then pressed for more information, as my Government ought not to be left so in the dark about the grounds of detention and removal of the goods in the cases of the *Maria* and the *Beatrice*, and that I could not understand why full accounts had not been received of such actions so prejudicial to our citizens which had happened a month ago. He, however, could not give me any more information about the *Maria* and the *Mashona* than was contained in a cable received from Sir Alfred Milner, from Capetown, on the 10th, of which I inclose a copy. I complained of the effect of his answers, even as to the cargoes of the two vessels, that the owners might go and take them where they were, and could not get precise information where to go for them. I got the impression that he was much embarrassed by the extraordinary slowness of the people at the cape, but was evidently desirous of communicating all information that he had, or could get, and we made an appointment for the next day.

In the meantime, on Wednesday morning, the 17th, I received your cable of inquiry. This was directly in the line of what I had constantly been pressing him for. We met in the afternoon and he gave me a copy of the cable which, at my request, he had prepared and sent over to the colonial office, and which showed upon its face that it had been sent off the same night (I annex a copy); but he had not yet received "the facts" and could not give me any more than I immediately cabled

you (copy annexed). I protested again most earnestly that our goods ought not to be taken out of our hands short of the port of destination, and no department of his Government be able, after so long a time, to find out why. He could only answer as before.

You will observe what Sir Alfred Milner said in his cable of the 10th about the *Mashona*, but Lord Salisbury could not tell whether the whole or part of her cargo was with her or had been discharged at Durban or at Port Elizabeth, as the papers stated, but he promised that his inquiries should not cease until he was able to answer my questions. We discussed somewhat the questions of law involved. He claims no blockade or siege of Delagoa Bay, but only, so far as I can understand, the right to seize goods really contraband of war on the high seas which are destined for the enemy's forces, a question in which we are not yet directly involved; but if our goods are to be treated in this way, and taken out of the ship because there are some such articles on board shipped by other people, our indirect interest is considerable.

I suppose that "the failure to find bills of lading" on the *Mashona*, as stated by Sir Alfred Milner, is the same thing which was reported as the want of a "manifest" the day before.

I hope very soon to receive your views on my cable of the 10th, and on the two notes of Lord Salisbury, of which I gave you the substance there, and the full text in my dispatch No 231.

I have, etc.,




JOSEPH H. CHOATE.

[Inclosure 1 in No. 234.]

Mr. Choate to Lord Salisbury.

LONDON, January 13, 1900.

MY LORD: I have the honor to state that I am instructed by my Government to inform your lordship that the president of the Pennsylvania Milling Company, an American corporation created by the State of Pennsylvania, the owner of the seized flour hereinafter mentioned, has filed his personal affidavit in the State Department, by which it appears that that company has been for several years engaged in the sale of flour to merchants engaged in trade in various parts of South Africa, and has never sold flour with direct or ulterior destination to the South African Republic, by resale or otherwise; that all its sales have been made for the ordinary uses of life; that since the war broke out the company has made no sales of flour to merchants or others in the South African Republic; that said company sold May 20, 1899, 2,000 bags of flour, branded Speria, and marked O. & Co., Delagoa Bay; also June 10 1,512 bags of flour, branded Goldfields, and marked diamond T, with letter S outside the diamond, T S, Delagoa Bay—all of which it shipped, consigned to Delagoa Bay, on the Dutch steamer *Maria*, leaving New York about August 15, freight prepaid by said company, and which is now reported to have been landed, under orders of the British Government, at Port Natal, and to be now in custom-house there.

And that the same company also sold, June 10, 1,356 bags flour, branded Goldfields, and marked diamond T, S outside  Delagoa Bay, and 4,359 bags flour, branded Johannesburg, and marked diamond B, with letter M outside  Delagoa Bay, and consigned to Delagoa Bay, all of which was shipped on the British steamer *Beatrice*, leaving New York about October 12—freight prepaid by the company—all of which has now been reported to have been discharged into lighters at East London, by orders of Her Majesty's Government. And that said company also sold, July 20, 3,154 bags of flour, branded Johannesburg, and marked diamond B, letter M outside diamond  Delagoa Bay, and consigned to Delagoa Bay, which was shipped on the British steamer *Mashona*, leaving New York on October 30—freight prepaid by

the company—and which is now reported as having been discharged at Durban, under orders of the prize court. All these sales were made by the milling company to be delivered at Delagoa Bay, and remain the company's property until so delivered.

My Government is still awaiting with great anxiety your lordship's promised statement of the grounds of seizure in the case of the *Beatrice*, and of the grounds of detention and removal of the cargo at Port Natal, short of the port of destination, in the case of the *Maria*.

In the case of the *Mashona*, which, in your lordship's letter of the 10th instant, is stated to have been seized and taken in for adjudication on the charge of trading with the enemy, and where the flour was not seized as contraband, and is not claimed to be contraband, and certainly could not be involved in the charge against the ship, it is manifestly a great hardship for the owners of the flour to be compelled to go into the prize court for it, at a port short of the port of destination, even to prove their ownership, which necessarily involves costs and damages for detention and possible deterioration.

The president of the milling company represents that in the climate of South Africa flour soon spoils unless cared for. He would, however, be satisfied if the British Government would pay for the flour at its value at Delagoa Bay at the time it would have arrived in due course of voyage if the same had been uninterrupted.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure 2 in No. 234.]

*Mr. Choate to Lord Salisbury.*

LONDON, January 15, 1900.

MY LORD: I have the honor to advise you of further shipments on the *Mashona*, *Maria*, and *Beatrice*, made by the firm of W. H. Crossman & Co., of New York, of which I annex their detailed memorandum.

The goods by the *Maria* are, of course, a part of the cargo of that vessel, referred to in your letter of the 10th, and my remarks in my note of to-day in regard to Flint, Eddy & Co.'s shipment apply equally to them.

Messrs. Crossman & Co.'s goods by the *Mashona* and the *Beatrice* seem not to differ in character in the main from those by the *Maria*, and I venture to hope that they may be also restored or released. The matter of indemnification for costs and damages, if any, your lordship seemed to think might better be discussed when the facts are more commonly known, and I say no more at present.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure 3 in No. 234.]

*Mr. Choate to Lord Salisbury.*

LONDON, January 15, 1900.

MY LORD: I have the honor to advise your lordship of the details of the shipment of Messrs. Flint, Eddy & Co., American citizens, by the British steamer *Beatrice* from New York for Delagoa Bay, and there consigned to neutral merchants, Messrs. F. Bridler & Co., which vessel, as we are now informed, has been detained and a portion of her cargo, destined for Delagoa Bay, by order of Her Majesty's naval authorities, has been discharged at East London.

There were so shipped by Flint, Eddy & Co.:

[Invoice marks, F. B. & Co., Delagoa Bay.]

Fifteen cases canned meats, invoiced at \$54.95. Five numbered 94, 5 ditto 95, and the remaining 5, 96.

Fifteen cases dried fruits, No. 98, invoiced at \$88.66.

Three cases honey, No. 99, invoiced at \$14.70.

Four crates baking powder, Nos. 101-103, invoiced at \$148.50.

Twenty-five cases cereals, No. 104, invoiced at \$73.13.

Fifty cases canned salmon, Nos. 105 and 106, invoiced at \$193.55.

Total invoices with charges, \$668.80.

My Government does not see from what point of view this consignment and that of Mr. R. W. Geldart by the same vessel, which I reported to you in my note of the 4th of January, can be regarded as contraband. It is the opinion of my Government that the owners above mentioned will look to Her Majesty's Government for damages



resulting from loss and deterioration, as to which I shall doubtless receive further instructions when we know the grounds of detention and seizure.

Messrs. Flint, Eddy & Co. have never heard a suggestion that the property was destined, even remotely, for the Transvaal or the Orange Free State, or for citizens of those States. The goods were shipped in the ordinary course of trade to reputable merchants in Delagoa Bay, and the shipment was not an unusual one, but, on the contrary, was only one of the usual shipments made by them in the ordinary commerce with the East coast.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure 4 in No. 234.—Telegram.]

*Sir A. Milner to Her Majesty's Government.*

Sir A. Milner, in a telegram to Her Majesty's Government of the 10th instant, says that the *Maria* was not seized. She put into Durban, where they detained her, but on her landing cargo was allowed to proceed. No cargo is in prize court. Certain goods were seized and other goods detained for safety. Any of the latter may be taken away on application of authorized agents; some of it originates from the United States, but whether it is owned there is not known.

The *Mashona* was seized on her arrival in Algoa Bay. As the ship had no bills of lading there was much difficulty in dealing with the cargo. After consultation with the admiral, the United States consul will be informed that an application through him for the release of any bona fide American citizen's goods would receive immediate attention.

[Inclosure 5 in No. 234.—Telegram.]

*Mr. Chamberlain to High Commissioner Sir Alfred Milner.*

Prime minister has assured United States ambassador that American owners of any part of cargo of *Mashona* may have it on proof of ownership and that there is no allegation that the cargo is contraband. You should inform colonial attorney-general to this effect.

*Mr. Choate to Mr. Hay.*

[Telegram received in cipher.—Paraphrase.]

EMBASSY OF THE UNITED STATES,  
*London, January 19, 1900.*

[Mr. Choate states that Messrs. Flint, Eddy & Co., in a letter dated New York, January 9, informed their representative in London that Bridler & Co. reported that after considerable delay all goods shipped by the *Maria* for Delagoa Bay had been delivered.]

*Messrs. Flint, Eddy & Co. to Mr. Hay.*

NEW YORK, *January 19, 1900.*

SIR: Mr. Hopkins has favored us with an extract from your request for information as to our shipments to South Africa on vessels whose voyages were interrupted by the naval force of the British Government. We beg to inclose herewith a memorandum of all shipments made by us on these vessels and to state that a large proportion of these invoices have doubtless been paid for by the consignees. It is our custom to have our agents, the Standard Bank of South Africa, collect drafts on the buyers. The merchandise is shipped on bills of lading drawn to order, and these bills of lading are surrendered or

not, at the discretion of the bank, before payment. As we have not learned from the bank what percentage of the bills of lading have been surrendered it is impossible for us to determine whether we still have or have not a lien upon much of this merchandise. We have, however, received a telegram from Messrs. F. Bridler & Co., of Delagoa Bay, to make a claim for their account.

We are quite unable to furnish copies of bills of lading, as, the transactions being documentary, the bills of lading have gone forward with the drafts for collection and are in possession of the collecting bank or of the receiver of the merchandise.

Should we receive a further request to make claims we shall at once communicate with the Department. We do not know whether any claim could be properly made for the detention of merchandise destined to ports other than Delagoa Bay. We understand that the vessels have been diverted from their regular voyage. This is a matter, however, that we shall not enter upon unless some of our correspondents request us so to do.

Very respectfully, etc.,

FLINT, EDDY & Co.

*Messrs. Flint, Eddy & Co. to Mr. Hay.*

NEW YORK, *January 19, 1900.*

SIR: We have to-day forwarded the documents making such claims as we desire to have presented to the British Government for settlement. We desire to state that from the beginning our main object with reference to this was that the Department should do all possible to avoid an extension of belligerent rights to the detriment of commerce, and we beg to express our thanks to the Department for the energetic, efficient, and thorough manner in which the matter has been treated. The interests of ourselves and of all other American merchants have been carefully safeguarded, and new precedents have been established which can not fail to be universally beneficial to international trade, and friction has been avoided.

With great respect, etc.,

FLINT, EDDY & Co.

[Inclosure.

*Steamship Maria.*

Port.	Name.	Amount.
Delagoa Bay.....	F. Bridler & Co.....	\$908. 75
Cape Town.....	Woodhead, Plant & Co.....	189. 80
Do.....	Koch & Dixie.....	742. 33
Do.....	D. Isaacs & Co.....	119. 15
Do.....	Stuttaford & Co.....	189. 07
Do.....	Savage & Son.....	954. 77
Do.....	do.....	400. 65
Do.....	do.....	17. 81
Do.....	L. Twentyman & Son.....	717. 08
Do.....	Woodhead, Plant & Co.....	834. 15
Do.....	J. G. Van den Berg & Co.....	1, 488. 07
Delagoa Bay.....	W. Bolus & Co.....	1, 514. 44
Cape Town.....	W. Bolus & Co.....	209. 64
Beira.....	Fowlie & Boden.....	1, 074. 24
Do.....	do.....	396. 69
Do.....	do.....	23. 65
Do.....	do.....	450. 23
Delagoa Bay.....	do.....	181. 28
Cape Town.....	Arderne & Co.....	3, 265. 09
Port Elizabeth.....	W. Bolus & Co.....	
Total.....		13, 676. 89

*Steamship Beatrice.*

OCTOBER 20, 1899.

Port.	Name.	Amount.
East London.....	Macdonald, Weber & Co.....	\$251.69
Port Elizabeth.....	Dalldorf, Schabbel & Co.....	186.92
Do.....	Julius Weil.....	168.36
Do.....	do.....	138.63
Do.....	do.....	595.61
Do.....	do.....	93.17
Do.....	W. Bolus & Co.....	174.28
Do.....	Webster Steel Co.....	157.08
Do.....	do.....	95.56
East London.....	Davis & Soper.....	1,337.00
Port Elizabeth.....	Rolfes, Nebel & Co.....	1,508.12
Do.....	do.....	28.65
Do.....	do.....	334.97
Do.....	do.....	1,926.45
Do.....	do.....	14.75
Total.....		7,011.24

*Steamship Mashona.*

Port.	Name.	Amount.
Port Elizabeth.....	Julius Weil.....	\$7,000.91
Beira.....	do.....	498.53
Durban.....	J. M. Wilson & Co.....	417.46
Do.....	H. R. Harwin.....	966.60
Do.....	H. J. Brereton.....	479.37
Port Elizabeth.....	W. Bolus & Co.....	1,237.94
Beira.....	Fowlie & Boden.....	430.12
Do.....	do.....	594.86
Do.....	do.....	296.81
Do.....	do.....	23.88
Durban.....	do.....	355.29
Port Elizabeth.....	Rolfes, Nebel & Co.....	296.92
Do.....	do.....	312.83
Do.....	do.....	229.29
Do.....	do.....	454.32
Do.....	do.....	633.08
Durban.....	do.....	44.40
Do.....	do.....	465.57
Port Elizabeth.....	Webster Steel Co.....	77.21
Do.....	do.....	71.31
Do.....	do.....	20.86
Durban.....	do.....	18.26
Do.....	do.....	350.77
Do.....	do.....	10.78
Do.....	do.....	216.17
Do.....	do.....	52.45
Do.....	do.....	12.05
Do.....	do.....	17.23
Port Elizabeth.....	Savage & Sons.....	1,019.71
Do.....	do.....	
Total.....		16,664.98

Invoice of merchandise shipped by Flint, Eddy & Co. on board the steamship Beatrice, bound for Delagoa Bay, for account and risk of Messrs. F. Bridler & Co., of Delagoa Bay, consigned to order.

Marks: F., B. & Co., Delagoa Bay.

	Nos.	Gross.	Net.				
					Order No. 97, July 8, '99.		
					<i>Canned meats, "Libby's."</i>		
5 cases...	94	62½	40½	5 cans Vienna sausage, 24/2 = 10 dozen, \$2.35.	\$23.50		
5 cases...	95	56½	39	5 cans c. c. ham, 48/1 = 20 dozen, \$1.20.	24.00		
5 cases...	96	19½	11¼	5 cans assorted potted meats, 48/¼ = 20 dozen, 40 cents.	8.00		
				Less 1 per cent .....		\$55.50	
						.55	\$54.95
					Order No. 72, March 25, '99.		
					<i>Dried fruit.</i>		
15 cases..	98	56	48	180 cartons, Los Gatos, f'e'y royal apricots, 15 cents.	27.00		
				180 cartons, Los Gatos, unp'd peaches, 10½ cents.	18.90		
				180 cartons, Los Gatos, white nectarines, 11 cents.	19.80		
				180 cartons, Los Gatos, unp'd ½ pears, 13½ cents.	24.30		
				(12 cartons ea. above in each case).	90.00		
				Less 1 and 1 per cent .....	1.79		
				Cartage .....		88.21	
						.45	88.66
					Order No. 106, Sept. 2, '99.		
					<i>Bees' honey.</i>		
3 cases...	99	51	24	3 cases honey, Leggett's white, extracted, 1-pound tins, ¾ dozen, \$2.50.		15.00	
				Less 1 and 1 per cent .....		.30	14.70
					<i>Baking powder.</i>		
2 crates..	100/101	207	120	10 cases, 20 dozen, 1-pound Royal, \$4.65.	93.00		
2 crates..	102/103	159	90	10 cases, 30 dozen, ½-pound Royal, \$2.40.	72.00		
				Less 10 per cent .....		165.00	
						16.50	148.50
					<i>Cereals.</i>		
25 cases..	104	92	72	25 cases 36/2 pound Quaker oats \$2.92½.			73.13
					<i>Canned salmon.</i>		
25 cases..	105	70	48	100 dozen size 1 "Alaska" salmon, 90 cents.	90.00		
25 cases..	106	70	48	100 dozen size 1 Halcyon salmon, \$1.07½.	107.50		
				Less 2 per cent .....		197.50	
						3.95	193.55
					Stamps and petties .....	1.55	573.49
					Revenue stamps .....	.22	1.77
					Freight prepaid .....		69.63
					Insurance premium on \$760 at 1 per cent.		644.89
					Commission, 2½ per cent .....		7.60
					Value net cash, U. S. gold .....		652.49
							16.31
							668.80

E. & O. E.

We certify this a true copy of original invoice.

January 15, 1900.

FLINT EDDY & Co.,  
By JAMES EDDY, President.

Acknowledged to before me this 19th day of January, A. D. 1900.

[SEAL.]

FRANKLIN ABRAMS,  
Notary Public, Kings County.

Certificate filed in New York County.

Invoice of merchandise shipped by Flint Eddy & Co., on board the S. S. Mashona, bound for Delagoa Bay, for account and risk of Messrs. F. Bridler & Co., of Delagoa Bay, consigned to order.

NEW YORK, October 31, 1899.

Marks: F. B. & Co., Delagoa Bay.

				Order, October 11, 1899.			
				Flour.			
	Nos.	Gross.	Net.				
50 bags	.....	100	98	50 98-pound bags Sphinx, \$2 .....	.....	\$100.00	
50 bags	.....	100	98	50 98-pound bags Ultra, \$2 .....	.....	100.00	
50 bags	.....	100	98	50 98-pound bags Snowdon, \$1.75 .....	.....	87.50	
50 bags	.....	100	98	50 98-pound bags Southern Beauty, \$1.60 .....	.....	80.00	
							\$367.50
				Cable, October 20, 1899.			
				Flour.			
200 bags	.....	100	98	200 98-pound bags Orion, \$1.80 .....	.....		360.00
				Order No. 97, July 8, 1899.			
				Canned soups, "Libbys."			
5 cases	109	77	48	5 cases ox-tail soup 48/1, 20 ounce, \$1.10 .....	.....	22.00	
				Less 1 per cent .....		.22	
							21.78
				Order No. 106, September 2, 1899.			
				Quaker oats.			
25 cases	108	92	72	25 cases each 36/2, packages, \$2.92½ .....	.....		73.13
				Stamps and petties .....		2.05	822.41
				Revenue stamps .....		.18	.....
				Freight prepaid .....			2.23
							232.21
				Insurance, premium on \$1,225 at 1 per cent .....			1,056.85
				Commission 2½ per cent .....			12.25
				Value, net cash, U. S. gold .....			26.73
							1,095.83

E. & O. E.

We certify this a true copy of original invoice.

FLINT, EDDY & Co.  
By JAMES EDDY, President.

Acknowledged to before me this 19th day of January, A. D. 1900.

[SEAL.]

FRANKLIN ABRAMS,  
Notary Public, Kings County, certificate filed in New York County.

Messrs. W. H. Crossman & Bro. to Mr. Hay.

NEW YORK, January 20, 1900.

SIR: Your telegraphic message of the 18th instant duly reached us, and we have again to express our high appreciation of your courtesy and kindness in affording us additional information in respect to the South African shipments per *Mashona*, *Beatrice*, and *Maria* seized by the British Government.

Still further information in relation thereto we note to be promised as soon as possible by the British minister of foreign affairs, and we would esteem it a favor when these further advices come to hand if you will still further add to our obligations by advising us of their tenor.

We are, dear sir, yours, respectfully,

W. H. CROSSMAN & BRO.,  
By J. W. SMITH.

*Mr. Hay to Messrs. Norton & Son.*

DEPARTMENT OF STATE,  
Washington, January 22, 1900.

GENTLEMEN: I have to acknowledge the receipt of your letter of the 17th instant, inclosing copy of your former one of January 13, to which you state you have received no reply.

The Department answered your last-mentioned letter by its telegram of the 18th instant, saying that the attitude of the British Government, so far as the Department is advised, is that—

food stuffs with a hostile destination can be considered contraband of war only if they are supplies for the enemy's forces. It is not sufficient that they are capable of being so used. It must be shown that this was in fact their destination at the time of the seizure.

While this answer is in its terms not so comprehensive as to cover all of your questions in terms, yet, in view of the principle indicated, the Department does not apprehend that further difficulties will arise. It is impracticable for the Department to prescribe instructions in anticipation of all questions that might arise, and that can only be dealt with when they arise in the light of all the facts and circumstances attending them.

I am, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Choate.*

[Telegram in cipher—paraphrase.]

DEPARTMENT OF STATE,  
Washington, January 24, 1900.

[Mr. Hay inquires whether Mr. Choate needs a certified copy of the *Mashona's* manifest, received by the Department of State from the collector of customs at New York?]

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*Mr. Choate to Mr. Hay.*

No. 237.]

AMERICAN EMBASSY,  
London, January 26, 1900.

SIR: I have the honor to report that after my dispatch No. 234 of January 18, mailed in the bag of the 20th, I was waited on by a local representative of Messrs. Flint, Eddy & Co., who showed me a letter dated January 9 from their New York house, which stated that they had that day received a letter from Messrs. Bridler & Co., stating that all goods shipped by the *Maria*, destined for Delagoa Bay, had been delivered, though after considerable delay—whereupon I cabled you to that effect, partly in cipher (copy annexed). The letter did not state whether all goods of all shippers by the *Maria* had been so delivered, or only those of Messrs. Flint, Eddy & Co. It simply said "all goods shipped," but I suppose that you have already ascertained that. It seems to be the impression at the foreign office that all the cargo by the *Maria*, consigned to Delagoa Bay, has been delivered there, and I sincerely hope so, for that would seem to dispose of that case entirely.

On the 23d I received your cable in cipher acknowledging and approving my dispatch No. 231, and asking where prize court sits. On the 24th I had an interview with Lord Salisbury, from whom I learned that there was a prize court at Durban and another at Cape Town, but that the latter had charge of the *Mashona*, which lies at that port, presumably with her cargo, whereupon on the same day I sent you cipher cable. On the same evening I received your further cipher cable about the manifest of the *Mashona*, to which I at once replied in cipher.

In my interview with Lord Salisbury on the 24th I hoped to receive his answer to the offer of the Pennsylvania Milling Company to sell their flour to Her Majesty's Government, but he explained to me the circumlocution through which that matter has had to go—first to the admiralty—where it had to be referred to the treasury, where it was decided that the real purchasers ought to be the Cape Colony and Natal, and that cables accordingly had been sent to the authorities of those colonies, and no answers had yet been received, but he hoped that the flour would be purchased. Up to the present writing, however, I have heard nothing further. He had received further advices in writing or by cable about the cases of the *Maria* and the *Beatrice*, too voluminous to be stated or remembered, but he undertook to furnish me without delay with a written statement of the contents, which I am hourly expecting.

As to the *Beatrice*, he did say that they discovered at the bottom of the vessel a lot of cargo (flour, I understood him) belonging to the Transvaal Government, which of course they would hold; that in order to get at it they had to take out the whole overlying cargo, and that having been done the agent of the owner of the ship thought it best to consent to its storage in the Government warehouse, and that some of it had been taken away by the consignees.

It is certainly very embarrassing to be without information upon which you can predicate any claims which you may think it proper to present on behalf of American owners, but the delay seems inevitable in the present case.

I had some casual conversation with Lord Salisbury on the general question of damages, but it was held over for further consideration when the facts are more fully known, Lord Salisbury saying that we might rely on his doing what was just.

Since writing the above I have received from Lord Salisbury two notes of the 24th and 26th, respectively, respecting the *Beatrice* (copies annexed). As this is the first information received about her, I cable you to-night in cipher the material part of the latter note. Also a note of this date covering a memorandum about the *Maria*, of which I send copies, but as my present understanding is that all the *Maria's* goods belonging to American owners have already been delivered to consignees at Delagoa Bay, at any rate all of Flint, Eddy & Co.'s., I do not cable that. Whether the "picks, handles, and lubricating oil destined for the Netherlands Railway," which is claimed by the Government here to belong to the Transvaal Republic, are a part of Crossman's goods, I have not yet been able to discover. At my next visit to the foreign office I shall endeavor to sift both these communications further. And now comes yet another note from Mr. Barrington, saying: "We have had no answer to the proposal that the flour should be bought on the spot."

Evidently much time yet will be required to get to the end of these

tangled facts. Can you not learn direct from the United States consul at Cape Town or Durban exactly how the matter stands as to the cargo belonging to such American owners as you wish to protect.

I have, etc.,

JOSEPH H. CHOATE,

I inclose also a memorandum of information received since signing this dispatch, showing that a part of Crossman's goods are claimed to be the property of the South African Republic. January 27, 1900.

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[Inclosure 1 in No. 237.]

*Lord Salisbury to Mr. Choate.*

FOREIGN OFFICE, *January 24, 1900.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 15th instant respecting certain goods which were shipped from New York on board the British steamer *Beatrice*, and I have to inform your excellency that Her Majesty's high commissioner for South Africa has been instructed by telegraph to send home a full report of the circumstances of the case.

I have, etc.,

SALISBURY.

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[Inclosure 2 in No. 237.]

*Mr. Bertie to Mr. Choate.*

FOREIGN OFFICE, *London, January 26, 1900.*

YOUR EXCELLENCY: With reference to previous correspondence respecting the case of the British vessel *Beatrice*, I have the honor to inform you that, from a telegram which has been received from the high commissioner for South Africa, dated the 23d instant, it appears that it contained large quantities of goods, principally flour, destined for the South African Republic, which the customs authorities at East London required should be landed at that port. The reason for this requirement was, doubtless, that the *Beatrice*, being a British ship, was, by carrying goods destined for the enemy's territory, illegally engaged in trade with the enemy in contravention of Her Majesty's proclamation of December 27, 1899. As the cargo was stowed in such a manner as to make it impossible to land the goods destined for the South African Republic without also discharging goods intended for Portuguese East Africa, the master and agents preferred to land the whole of the cargo at East London, where it has been stowed by the customs. The removal of large quantities of the goods so landed has, however, from time to time been permitted for the purposes of local and bona fide Portuguese consumption.

The vessel sailed for Calcutta in ballast on December 11.

I have, etc.,

FRANCIS BERTIE.  
(For the Marquis of Salisbury.)

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[Inclosure 3 in No. 237.]

*Mr. Bertie to Mr. Choate.*

FOREIGN OFFICE, *January 26, 1900.*

YOUR EXCELLENCY: With reference to my note of the 10th instant, respecting the case of the *Maria*, I have the honor to inclose a copy of a memorandum on the subject which has been drawn up in this department, and which contains all the facts of the case so far as they are at present known in this country.

I have, etc.,

FRANCIS BERTIE,  
(For the Marquis of Salisbury.)



[Inclosure 4 in No. 237.]

## MEMORANDUM, RE MARIA'S CARGO.

AMERICAN EMBASSY, *January 27, 1900.*

We have discovered by comparing the memorandum of the shipments (inclosed in Messrs. Crossman's letter of December 26th, transmitted in Department's instruction, No. 267, of January 2) with the memorandum contained in the Netherlands Government's protest, addressed to the British Government, showing a list of that part of the cargo of the *Maria* detained or seized at Durban, from the marks which correspond in the two memorandums, that the lubricating oil (1,000 cases), picks (84 cases), and handles (20 cases) consigned to Netherlands South African Railway, referred to therein, were in fact shipped by Messrs. Crossman, and at the foreign office it is understood that there was sufficient evidence brought before the colonial authorities at Durban to show that Netherlands Railway Company were the owners of these goods and not Messrs. Crossman. The Netherlands Railway is held here to belong to the South African Republic, and hence the goods were seized as enemy's property.

[Inclosure 5 in No. 237.]

## MEMORANDUM ON THE CASE OF THE MARIA.

The *Maria* is a Netherlands ship, probably under charter to the American-African Line, a British company with its principal place of business in London. She left America for Delagoa Bay and called at Cape Town and Port Elizabeth, whence she cleared for the Bay. She put into Durban for coal, where she anchored in the roadstead on October 29. The *Maria* was boarded by the commander of Her Majesty's ship *Tartar* and consented to come up harbor. No guard was placed on her. On finding that the agents were willing to land "all the contraband" the commander informed them and the port and customs authorities that this could be done and that the vessel need no longer be detained.

The agents of the ship protested and wrote of her as "belonging" to the British company called the American-African Line. The commander of the *Tartar* pointed out in his reply that British subjects could not, under the governor's proclamation, trade with the enemy, and mentioned the warning in a local customs notice as to what would happen in case vessels carried contraband of war or other goods of whatever nature the real destination of which was the enemy or their agents in neutral ports.

Attached to the record, dated November 1, of the above proceedings is a "summary of goods consigned" to the enemy Republic "seized and in charge of customs, Port Natal—contraband of war included." Under *Maria* are picks, handles, and lubricating oil "destined" for the Netherlands Railway.

A letter of proceedings dated November 28 gives further particulars and refers to the *Maria's* cargo of flour as having been landed, and states that in consequence of the receipt of a telegram dated November 3 that food stuffs were not to be treated as contraband the captain of Her Majesty's ship *Philomel* informed the customs that the flour ex *Maria* should no longer be detained. It was released, and while measures for reshipping it (no doubt on the British steamer *Matabele*) were in progress it was ascertained that it was intended to send it direct to Pretoria. It was then provisionally detained again. But on it being found that the flour was bona fide a part of the *Maria's* cargo the agents and all parties concerned were told that no further restrictions would be placed on the shipment, but it was at the same time pointed out that the flour was going direct to the enemy. The governor's proclamation against trading with the enemy was then studied in connection with the above-mentioned permission, "with the result that agents, shippers, and shipowners all refused to ship or carry the flour, and nobody would have anything to do with it." No objection of any sort was made by the naval authorities to the cargo being forwarded to its destination.

The *Maria* must have left Durban soon after she had landed her cargo, for it appears from a letter from Messrs. Rennie & Co., dated Durban, November 20, that at the time of the events narrated in the preceding paragraph the flour was being shipped, not on the *Maria*, but on to the British ship *Matabele*, and that it was Messrs. Rennie & Co., a British firm, who, because it was destined for the enemy, refused to carry it.

In a telegram of January 10 the high commissioner says that certain goods for the Netherlands Railway were "seized" and the others "detained," and that any of the latter may be taken away on application of authorized agents. He adds that it

was not known whether that part of the cargo which came from the United States is owned there.

On January 16 he was asked why the *Maria* did not carry on the flour and other goods when released. He was also requested to find out the nationality and place of residence of the owners of the goods at the time of seizure, and any further particulars that can be given.

No answer has as yet (January 23) been received to this telegram.

Mr. Choate's note of January 4 states that Messrs. Flint, Eddy & Co., United States citizens, of New York, shipped on the *Maria* 65 cases canned goods and Libbys, 40 cases lard, 20 bags peas and beans, 1 case lemon squeezers and nail pullers, and 1 case hardware, invoiced to F. Bridler & Co. at Lourenço Marquez and consigned to order. The note adds that the goods were drawn against and are invoiced for account and risk of consignees; but the goods not being delivered, the loss will rest with the United States shippers, the actual owners thereof.

Mr. Choate asks for the restitution of the goods.

The canned goods, Libbys, 40 cases lard, and 20 bags peas and beans above alluded to may be considered as being included in the "other goods" mentioned on page 4 as having been released, after temporary but erroneous detention as contraband. It appears probable that the lemon squeezers, nail pullers, and hardware also mentioned were released at the same time unless, indeed, they were never taken out of the ship. A portion only of the *Maria's* cargo was taken out; the rest was doubtless carried to Delagoa Bay.

The *Maria* is undoubtedly a Dutch ship, and her agents introduced an element of confusion by speaking of her as "belonging" to a British company; had she belonged to a British company she would have been a British ship, and it would have been unlawful for her to carry for the enemy. It is therefore possible that some of the goods were removed from her on the erroneous supposition that she could not lawfully carry them.

With regard to what is said in Mr. Choate's note as to the goods having been shipped at consignee's risk and to the loss falling on the United States shippers, it is not clearly understood how this can be; it would rather appear that the loss would fall on the consignees. No doubt a further explanation of this point will eventually be furnished by the United States embassy.

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*Mr. Choate to Mr. Hay.*

[Telegram in cipher—Paraphrase.]

LONDON, *January 26, 1900.*

[Mr. Choate reports that it appears from cable advices received by Lord Salisbury from Sir A. Milner under date of January 23, that large quantities of the goods carried by the *Beatrice*, principally flour, were destined for the South African Republic, and these were required to be landed at East London by the customs authorities there, doubtless for the reason that, being a British ship, she was, by carrying goods destined for the enemy's territory, illegally engaged in trade with the enemy, in contravention of Her Majesty's proclamation of December 27, 1899; that the whole of the cargo had been stored by the customs authorities at East London because the masters and agents preferred to land the whole of the cargo there, inasmuch as it was stored in such a manner as to make impossible a landing of the goods destined for the South African Republic without also discharging goods intended for Portuguese East Africa; but that from time to time the removal of large quantities of the goods for the purpose of local and bona fide Portuguese consumption had been permitted.

The *Beatrice*, on December 11, sailed for Calcutta in ballast.]

*Mr. Hay to Mr. Choate.*

[Telegram in cipher—Paraphrase.]

DEPARTMENT OF STATE,

*Washington, January 27, 1900.*

[Mr. Hay states that the reported landing (see Mr. Choate's telegram of January 26) of the *Beatrice's* cargo at East London, and the permitted removal of large quantities of the landed goods for purposes of local and bona fide Portuguese consumption, seemed to imply an embargo on the sale and delivery of noncontraband goods in ordinary course of trade with the people of the South African Republic and the Orange Free State, and would be in conflict with the assurances given by the British Government that foodstuffs with hostile destination are not contraband of war unless intended as supplies for the enemy's forces (Mr. Choate's telegram of January 10) and inadmissible from the view point of the United States Government. Mr. Choate is instructed to draw attention to the discrepancy and to ask that appropriate orders be given if necessary.]

*Mr. Choate to Mr. Hay.*

[Telegram in cipher—Paraphrase.]

EMBASSY OF THE UNITED STATES,

*London, January 29, 1900.*

[Mr. Choate states that the American owners of cargo in the *Mashona* should prove their damages, if any, in prize court.]

*Mr. Hay to Mr. Choate.*

JANUARY 30, 1900.

SIR: I herewith transmit to you the manifest of the ship *Mashona*, certified by the collector of the port of New York, as suggested by you in your cablegram of the 24th instant. A copy has been forwarded to our consul at Cape Town.

I am, etc.,

JOHN HAY.

No. 241.]

*Mr. Choate to Mr. Hay.*

LONDON, *January 30, 1900.*

SIR: I have the honor to report that since my dispatch of the 26th, No. 237, I have received on Sunday, the 28th, your cipher cable, and on the 29th, in pursuance of the instructions therein contained, I have sent to Lord Salisbury a note of which I annex a copy; but as Parliament sits to-day and his entire attention will be absorbed by that, I do not expect any answer to it, certainly before to-morrow. I had noticed the discrepancy, referred to in your cable, between Lord Salisbury's note on contraband and the action reported by Sir Alfred Milner in the case of the *Beatrice*, but I had understood Lord Salisbury, in an interview on the 24th, to say that the flour on the *Beatrice*, which was detained, was reported as belonging to the Transvaal Government—as I wrote to you in my dispatch No. 237—and you will observe that I have called his attention to this in my note of yesterday.

Seeing a cable from Cape Town in yesterday's London Times to the effect that the prize court was to take up the *Mashona* case that day, and being solicitous that the American owners of cargo there should leave no stone unturned, I sent you a cipher cable the same morning. Of course, a judgment of the prize court against the captors would be nominal, but Her Majesty's Government could hardly question it, and I do not see exactly where else the proof of damages could be made so well.

I am yet without an answer to my offer to sell the Pennsylvania Milling Company's flour by all those vessels to the Government, nor have I any means of ascertaining whether the cargo detained on the *Beatrice* was part of that company's shipment.

I have, etc.

JOSEPH H. CHOATE.

[Inclosure in No. 241.]

*Mr. Choate to Lord Salisbury.*

LONDON, *January 29, 1900.*

MY LORD: I have the honor to acknowledge the receipt of your lordship's note of the 26th instant, conveying the substance of a cable received from the high commissioner for South Africa, dated the 23d instant.

That cable states that the *Beatrice* contained large "quantities of goods, principally flour, destined for the South African Republic" and again speaks of them as "destined for the enemy's territory," and adds that "as the cargo was towed in such a manner as to make it impossible to land the goods destined for the South African Republic" without also discharging goods "intended for Portuguese East Africa," the whole was landed at East London, and removal "permitted for the purpose of local and bona fide Portuguese consumption," implying that the flour destined for the South African Republic was detained.

As this indicates a stoppage and detention not as supplies for the enemy's forces, but only for the territory of the South African Republic, is it not in contravention of the rule declared as the decision of Her Majesty's Government in your lordship's note to me of the 10th instant, wherein you said:

Our view is that food stuffs with a hostile destination can be considered contraband of war only if they are supplies for the enemy's forces. It is not sufficient that they are capable of being so used—it must be shown that this was in fact their destination at the time of the seizure.

Should not these goods, therefore, be immediately released, unless you have evidence that "the supply of the enemy's forces" was in fact their destination at the time of the seizure?

My Government, to whom I cabled the contents of your note of the 26th, has instructed me to call your lordship's attention to this discrepancy, and to say that the action taken seems to imply an embargo on the sale and delivery of noncontraband goods in ordinary course of trade with the people of the republics of South Africa, and to be inconsistent with the rule as to contraband laid down in your note of the 10th, and also inadmissible from my Government's point of view.

As the action taken by the customs authorities at East London was taken a month or more before the making and promulgation of your

rule as to contraband, I assume that it was upon some other theory, which you have overruled.

I understood your lordship to say in our conversation of the 24th that the flour detained at East London was property belonging to the Government of the South African Republic; but the cable of Sir Alfred Milner, recited in your note, does not confirm that idea and leaves me in doubt whether I may not have misunderstood you.

I have, etc.,

JOSEPH H. CHOATE.

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*Mr. Hay to Mr. Choate.*

No. 290.]

FEBRUARY 2, 1900.

SIR: I have to acknowledge the receipt of your No. 234 of the 18th ultimo, inclosing copies of further correspondence on the subject of the seizure and detention of American merchandise bound for South Africa, and stating the present status of the matter.

I take this occasion to inclose, in confirmation, copies of the cablegrams which have passed between us in these cases.

Notwithstanding some confusion in the transmission of the Department's telegram to you of the 2d ultimo, it was correctly interpreted by you in the sense intended.

Immediately on receipt of your cablegram of January 12 with reference to the sale, by joint consent of consignors and consignees of goods seized, to the British Government, the Department repeated the suggestion to all the American shippers, with the result that the proposition of the Pennsylvania Milling Company, already communicated to you, is the only one which has assumed practical shape. Other shippers, uncertain as to what bills drawn against the goods shipped have been paid, and in doubt on questions of ownership, and also on account of the difficulty in obtaining definite and satisfactory information, have been awaiting fuller developments before deciding.

Inasmuch as it is not claimed by Her Majesty's Government that any of the goods seized were contraband, and considering the difficulties involved in obtaining definite information to enable the American owners to establish before the prize court their right to the restitution of their goods, it is hoped that the rules of the prize procedure may not be so rigidly enforced as to result in the condemnation of goods for want of opportunity to defend. In the existing circumstances this is especially desirable in order to avoid possible injustice.

The Department fully approves your action and cordially appreciates the skill and vigilance displayed in the conduct of the negotiations in protecting the interests of the American shippers.

I am, etc.,

JOHN HAY.

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*Mr. Choate to Mr. Hay.*

No. 244.]

AMERICAN EMBASSY,  
London, February 2, 1900.

SIR: I have the honor to report that after sending to Lord Salisbury my note of January 29, based upon your cipher cable of the 27th, I had an interview with him, in which it appeared that he intended no departure from his rule as to contraband of January 10 and was ready to treat the flour referred to by the high commissioner as

detained at East London exactly in the same way as the *Mashona* cargo was treated, viz, to be delivered to the rightful owners on proof of property, and that he did not intend (as I wrote you in my dispatch No. 241) to say that it was being held as the property of the Transvaal Government. And now, as the bag is just closing, without a chance to add more, I have received his promised written reply to my note<sup>1</sup> (copy inclosed).

I have, etc.,

JOSEPH H. CHOATE.

I have just had time to read the note, and there is undoubtedly some confusion between the *Mashona* and *Maria* in the last paragraph but one.

[Inclosure.]

Lord Salisbury to Mr. Choate.

FOREIGN OFFICE, February, 1900.

YOUR EXCELLENCY: I have had the honor to receive your note of the 29th ultimo respecting the merchandise removed from the British ship *Beatrice* at East London.

I think that there is a misunderstanding as to the details of this case which I can best remove by answering somewhat fully the second paragraph of your excellency's note.

You observe in that paragraph that, according to my communication of the 26th ultimo, the *Beatrice* carried large quantities of goods, principally flour, destined for the South African Republic; that the cargo was so stowed that these goods could not be landed without discharging at the same time goods intended for Portuguese East Africa, and that goods destined for consumption in this last-mentioned territory were allowed to be removed. Your excellency thereupon suggests that the flour destined for the South African Republic is still detained.

A British vessel can not lawfully carry merchandise destined for the enemy's territory, and when the *Beatrice* came within British jurisdiction she was required to land all such merchandise.

This part of the cargo was therefore put ashore, together with such other portions of the cargo as had to be removed in order to reach it.

So far as is known in this department none but British lines of steamers run from the ports of Cape Colony to Delagoa Bay, and this circumstance would account for the flour mentioned by your excellency being still at East London. Such portions of the cargo as were destined for Portuguese territory could be carried on, and, as it appears, were carried on, to that territory, and doubtless by steamers belonging to the several British lines serving the South African ports.

I trust that the explanations which I have offered on the second paragraph of your excellency's note make it unnecessary for me to say more in regard to the subsequent paragraphs than that the flour did not, so far as is shown by the information in this department, come within the definition of contraband, and that it was not detained as contraband.

I have no doubt that the flour and any other merchandise not contraband of war from the *Beatrice* would be handed over to any person who showed that he was entitled to receive it.

I think that the flour to which your excellency refers in the final paragraph of your note as having been detained because it was enemy's property must be that marked "Z. A. R." which formed part of the cargo of the *Mashona*.

I trust that I have now made clear to your excellency how the case of the cargo of the *Beatrice* stands; but if there are still any points which appear obscure I shall be pleased to do my best to throw light upon them, as it is the wish of Her Majesty's Government to put the Government of the United States in possession of the fullest possible information respecting these several shipping cases, and, as far as possible, to meet their wishes in regard to them.

I have, etc.,

SALISBURY.

<sup>1</sup>Inclosure: Lord Salisbury to Mr. Choate, February, 1900 (received February 2, 1900).

*Mr. Choate to Mr. Hay.*

[Telegram in cipher.—Paraphrase.]

LONDON, *February 8, 1900.*

[Mr. Choate reports that a telegram received by Mr. Chamberlain from Sir Alfred Milner states that up to January 24 no claim had been received for the release of any flour on the *Mashona* on the ground that it was the property of American citizens, and that no representations had so far been made to him on behalf of American owners of goods on any of the other vessels which Her Majesty's ships had seized.]

*Mr. Choate to Mr. Hay.*

[Telegram in cipher.—Paraphrase.]

LONDON, *February 9, 1900.*

[Mr. Choate reports that notice was given to the United States consul-general at Cape Town on January 10 by the high commissioner that any application from the consul-general for the release of any goods out of the *Mashona* which actually belong to a citizen of the United States would receive immediate attention; that he, Mr. Choate, is informed that there is no objection to the consul-general acting on behalf of his nationals so far as Her Majesty's Government are concerned; that Her Majesty's Government will accordingly assume that he has been authorized to do so, and will consider him responsible in this or any other matter of a similar kind, as between themselves and his nationals and Government; also that Her Majesty's Government are ready to allow the consul-general to similarly represent his nationals in regard to the purchase by Her Majesty's Government of American owned flour eventually released by the prize court and also in regard to the American owned flour destined for the enemy's territory and landed in the British ports of South Africa by British ships because they could not lawfully carry it.]

*Mr. Hay to Mr. Choate.*

No. 286.]

DEPARTMENT OF STATE,  
*Washington, January 26, 1900.*

SIR: I transmit herewith copy of a letter from Mr. Andrew J. Toomey, president of the Pennsylvania Milling and Export Company, in regard to the company's flour seized by the British naval authorities.

I also inclose two copies of each of the invoices and bills of lading<sup>1</sup> referred to in Mr. Toomey's letter, one set of which is for your own use and the other for the use of the British Government, if in the exercise of your discretion you choose to make use of it.

This Government approves Mr. Toomey's views and suggestions as being just and reasonable and as offering a sensible and simple solution of the questions as regards the Pennsylvania Milling Company.

I am, etc.,

JOHN HAY.

<sup>1</sup> Not printed.

[Inclosure.]

*Pennsylvania Milling and Export Company to Mr. Hay.*NEW YORK, *January 23, 1900.*

DEAR SIR: I now beg to hand you herewith, as per your request of the 16th instant, triplicate copies of invoices and bills of lading<sup>1</sup> of goods our company shipped, on different steamers, which have recently been seized or detained by the British naval authorities. I also attach to the different shipments an affidavit in duplicate covering each case. I hope I have made the position of our company sufficiently clear in this matter.

During my absence amongst our mills in Pennsylvania your telegram of the 18th instant was received, for which I thank you.

I would respectfully call your attention to the fact that the British Government, after having seized the flour we shipped to our buyers, which was destined for Delagoa Bay and prevented from arriving there in time to meet a good market at that point, especially when it was not sold for any purposes hostile to the British Government, they should not be allowed to consider themselves relieved from any responsibility for indemnity to ourselves for any direct loss we may have to assume or any indirect loss we may have to compensate our buyers for on account of this diversion and detention, by a simple release of the flour to qualified owners, because said owners could not possibly take delivery of the flour owing to the obstacles of war at the point where it now lays; and furthermore, even if they could do so, they would naturally have suffered great loss by conditions of the market and by any deterioration that may have accrued to the flour through climatic deterioration. I would therefore again respectfully suggest to you that the most equitable way of settling this matter would be to have the British Government take the flour which is now in their custody and keep it at the invoice price, and pay proceeds of said invoices to whoever may prove claim for its value, and a reasonable compensation for loss of market and other losses that may accrue to American interests.

As one of the board of managers of the New York Produce Exchange I brought this matter before the chairman of our arbitration committee as a question of equity, and he was of the impression that such a settlement of the matter would not be more than equitable. I am quite willing to leave the matter, as far as the interests of our company are concerned, on a commercial basis, to be adjusted in an equitable way by our arbitration committee, which holds power from the State of New York to adjust the commercial matters presented to them for jurisdiction, provided such action would not in any way embarrass the diplomatic negotiations which you have in hand.

If any of my proposed suggestions be in any way inconsistent with what is proper, I would respectfully beg to withdraw same.

Respectfully, yours,

ANDREW J. TOOMEY.

[Subinclosure 1.]

UNITED STATES OF AMERICA,

*State of New York, City and County of New York, ss:*

Andrew J. Toomey, being duly sworn, deposes and says that the triplicate copies hereto attached of invoices and bills of lading<sup>1</sup> of flour shipped on the Dutch steamer *Maria* from New York to Delagoa Bay are in all respects true copies of the original documents covering said shipments. Further, that the marks "O. & Co." on the 2,000 bags of flour branded "Speria" were put on to indicate the consignees, Oldfields & Co., the purchasers of the flour, who bought the flour on a basis of cost, insurance, and freight Delagoa Bay, which is indicated on invoice by the letters c. i. f. Further, that the marks  $\diamond$  on the 1,512 bags flour branded "Goldfields"

were put on to indicate the consignees, Treisman & Shapiro, the purchasers of the flour, who bought the same on a basis of cost, insurance, and freight Delagoa Bay, which is indicated on the invoice by the letters c. i. f. The brands of the above flours are only indicated on the invoices, not being required on the bills of lading.

The deponent further states, in explanation of the fact that the invoices are made out in the name of Fowler Brothers, Limited, that said Fowler Brothers, Limited, are the financial agents of the Pennsylvania Milling and Export Company, and that their profits in the sale of flour made by the Pennsylvania Milling and Export Com-

<sup>1</sup> Not printed.



pany consist solely of a commission for financing the sales made by the Pennsylvania Milling and Export Company, and that Fowler Brothers, Limited, hold recourse against the Pennsylvania Milling and Export Company in case of drafts being unpaid or redress demanded by the purchasers of the flour in Africa for any cause; and, further, that the only parties interested in the shipments described, except the buyers already mentioned, are the deponent, the Pennsylvania Milling and Export Company, and Anderson Fowler, managing director of Fowler Brothers, Limited, and further states that said Anderson Fowler is a citizen of the United States of America. The deponent further states that the buyers mentioned, viz, Oldfields & Co. and Treisman & Shapiro, are legitimate flour merchants in Johannesburg and were not contractors to the Transvaal Government at time the purchases were made.

The deponent further states that the documents showing title to the above-mentioned lots of flour were attached to the drafts drawn in payment of same; that the deponent is unaware whether such drafts have been paid or not. The deponent further states that even if the flour in question, which, it is alleged, is now in custom-house in Durban, should be released, the owners would be unable to take delivery of it without very great expense, as they had provided for its delivery at Delagoa Bay instead of Durban, and, further, from the deponent's personal knowledge of climatic influences at Durban, and also from his practical knowledge of flour, he believes that the said flour would probably have suffered from natural deterioration before delivery could be made.

A. J. TOOMEY.

Subscribed and sworn to before me this 23d day of January, 1900.

[SEAL.]

L. B. HOWE, (117)  
Notary Public, New York City and County.

[Subinclosure 2.]

UNITED STATES OF AMERICA,

*State of New York, City and County of New York, ss:*

Andrew J. Toomey, being duly sworn, deposes and says that the triplicate copies hereto attached of invoices and bills of lading<sup>1</sup> of flour shipped on the British steamer *Mashona* from New York to Delagoa Bay are in all respects true copies of the original documents covering said shipments. Further, that the marks  $\text{\textcircled{B}}$  on the 3,254

bags flour branded "Johannesburg" were put on to indicate the consignees, Broudie & Marks, the purchasers of the flour, who bought the flour on a basis of cost, insurance, and freight Delagoa Bay, which is indicated on invoice by letters c. i. f. The brand of the above flour is only indicated on invoice, not being required on bills of lading.

The deponent further states, in explanation of the fact that the invoices are made out in the name of Fowler Brothers, Limited, that said Fowler Brothers, Limited, are the financial agents of the Pennsylvania Milling and Export Company, and that their profits in the sale of flour made by the Pennsylvania Milling and Export Company consist solely of a commission for financing the sales made by the Pennsylvania Milling and Export Company, and that Fowler Brothers, Limited, hold recourse against the Pennsylvania Milling and Export Company in case of drafts being unpaid or redress demanded by the purchasers of the flour in Africa for any cause; and, further, that the only parties interested in the shipments described, except the buyers already mentioned, are the deponent, the Pennsylvania Milling and Export Company, and Anderson Fowler, managing director of Fowler Brothers, Limited, and further states that said Anderson Fowler is a citizen of the United States of America. The deponent further states that the buyers mentioned, viz, Broudie & Marks, are legitimate flour merchants in Johannesburg and were not contractors to the Transvaal Government at time the purchases were made.

The deponent further states that the documents showing title to the above-mentioned lot of flour were attached to the drafts drawn in payment of same; that the deponent is unaware whether such drafts have been paid or not. The deponent further states that even if the flour in question, which, it is alleged, is now in custom-house in Cape Town, should be released, the owners would be unable to take delivery of it without very great expense, as they had provided for its delivery at Delagoa Bay, instead of

<sup>1</sup> Not printed.

Cape Town; and, further, from the deponent's personal knowledge of climatic influences at Cape Town, and also from his practical knowledge of flour, he believes that the said flour would probably have suffered natural deterioration before delivery could be made.

A. J. TOOMEY.

Subscribed and sworn to before me this 23d day of January, 1900.

[SEAL.]

L. B. HOWE,

*Notary Public 117, New York City and County.*

[Subinclosure 3.]

UNITED STATES OF AMERICA,

*State of New York, City and County of New York, ss:*

Andrew J. Toomey, being duly sworn, deposes and says that the triplicate copies hereto attached of invoices and bills of lading<sup>1</sup> of flour shipped on the British steamer *Beatrice* from New York to Delagoa Bay, are in all respects true copies of the original documents covering said shipments. Further, that the marks  $\diamond_{TS}$  on the 1,340 bags flour, branded "Goldfields," were put on to indicate the consignees, Treisman & Shapiro, the purchasers of the flour, who bought the flour on a basis of cost, insurance, and freight Delagoa Bay, which is indicated on the invoice by the letters c. i. f.;

further, that the marks  $\diamond_{BM}$  on the 4,349 bags, branded "Johannesburg," were put on to indicate the consignees, Broudie & Marks, the purchasers of the flour, who bought the same on a basis of cost, insurance, and freight Delagoa Bay, which is indicated on the invoice by the letters c. i. f. The brands of the above flours are only indicated on the invoices, not being required on the bills of lading.

The deponent further states in explanation of the fact that the invoices are made out in the name of Fowler Brothers, Limited, that said Fowler Brothers, Limited, are the financial agents of the Pennsylvania Milling and Export Company, and that their profits in the sale of flour made by the Pennsylvania Milling and Export Company consist solely of a commission for financing the sales made by the Pennsylvania Milling and Export Company, and that Fowler Brothers, Limited, hold recourse against the Pennsylvania Milling and Export Company in case of drafts being unpaid or redress demanded by the purchasers of the flour in Africa for any cause; and, further, that the only parties interested in the shipments described, except the buyers already mentioned, are the deponent, the Pennsylvania Milling and Export Company, and Anderson Fowler, managing director of Fowler Brothers, Limited, and further states that said Anderson Fowler is a citizen of the United States of America. The deponent further states that the buyers mentioned, viz: Treisman & Shapiro and Broudie & Marks are legitimate flour merchants in Johannesburg and were not contractors to the Transvaal Government at time the purchases were made.

The deponent further states that the documents showing title to the above mentioned lots of flour were attached to the drafts drawn in payment of same, that the deponent is unaware whether such drafts have been paid or not. The deponent further states that even if the flour in question, which, it is alleged, is now in custom-house in East London, should be released the owners would be unable to take delivery of it without very great expense, as they had provided for its delivery at Delagoa Bay instead of East London; and further, from the deponent's personal knowledge of climatic influences at East London, and also from his practical knowledge of flour, he believes that the said flour would probably have suffered from natural deterioration before delivery could be made.

A. J. TOOMEY.

Subscribed and sworn to before me this 23d day of January, 1900.

[SEAL.]

L. B. HOWE,

*Notary Public 117, New York City and County.*

<sup>1</sup> Not printed.

*Mr. Choate to Mr. Hay.*

No. 246.]

AMERICAN EMBASSY,  
*London, February 7, 1900.*

SIR: I have the honor to report that on the 4th instant I received your instruction No. 286 of January 26 and its inclosures, the bills of lading and invoices of the Pennsylvania Milling Company's shipments by the *Mashona*, *Maria*, and *Beatrice*, with the affidavits and letter of Mr. Toomey, president of that company.

I have not yet delivered these documents, deeming it prudent to await the answer to my offer of sale to Her Majesty's Government of this very flour. I assume that the new statement of the price which would be satisfactory to the company stated in this letter, viz, invoice value, with damages, etc., intends the same as was stated in your cable of January 7, viz, market value at the port of destination at the date when it would have arrived there in due course of voyage if the same had been uninterrupted, and so I have not changed the form of my offer.

In view, however, of the long delay which has already occurred in the case of the cargoes landed by all three vessels—the *Beatrice*, the *Maria*, and the *Mashona*—and of vague hints dropped by Lord Salisbury that the owners of cargo might have claim against the two British vessels, I have addressed him a note, dated yesterday (copy annexed), which I hope will meet your approval.

I have, etc.,

JOSEPH H. CHOATE.

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[Inclosure.]

*Mr. Choate to Lord Salisbury.*

AMERICAN EMBASSY,  
*London, February 6, 1900.*

MY LORD: I have the honor to acknowledge the receipt of your lordship's note of the 2d instant, giving me such information as you had received up to that date in regard to the cargo of the *Beatrice*.

Your lordship's note confirmed the information which I had for the first time received in our interview of January 31, that as British vessels can not under the municipal law of Great Britain carry merchandise destined for the enemy's territory, "when the *Beatrice* came within British jurisdiction she was required to land all such merchandise, and this part of her cargo was therefore put ashore (at East London) with such other portions of the cargo as had to be removed in order to reach it; and that so far as is known in your department none but British lines of steamers run from the ports of Cape Colony to Delagoa Bay, which accounts for the flour mentioned by me in my note of the 29th being still at East London."

Your lordship has no doubt that the flour and any other merchandise not contraband of war from the *Beatrice* would be handed over to any person who showed that he was entitled to receive it, just as in the case of the *Maria* and the *Mashona* you had already declared that on proving property the owners might take the cargo at the place where it was landed, Durban and Cape Town, respectively.

The obligation of restitution of these cargoes to their owners being conceded, the permission extended to the owners to come and take them at ports short of the port of destination can not be considered as a discharge of that obligation, as delivery at the port of destination is, in a commercial sense, the act which gives them the value intended, and you would not claim that you require the owners to go elsewhere for them; and as to all such goods as your note of the 2d relates to, which can not be carried on in British vessels because of your municipal law, or in other vessels, because there are no other to take them, they are as inaccessible to their owners for all the purposes of their commercial adventure as if they had been landed on a rock in mid ocean.

The discharge from the vessel and landing short of the port of destination, and failure to restore and deliver at that port, constitute wrongful acts as against all owners of innocent cargo; and you do not claim that any but British subjects can be guilty of any violation of your municipal act against trading with the enemy. It is now two months or more since the *Beatrice's* cargo was thus landed at East London, and some of it, at any rate, put out of the reach of its owners, even if they were ready to accept your invitation to go there and take it; and in the climate of South Africa all perishable articles, such as flour and other food stuffs, must be subject to deterioration as well as to the other damages in the loss of the expected price at the port of destination, etc.

The American owners of cargo on these three vessels so treated will claim—and my Government concurs in the justice of their claim—that Her Majesty's Government will be bound to indemnify them for and make good to them all damages and loss sustained by them by such treatment, including damages from the climatic influences which affect all food stuffs, and from the failure to receive their cargo at the port of destination at the due date. They fear that in many instances the damage may subsequently involve the entire value of the goods.

Can not something be done, therefore, to minimize these damages? If, by reason of your municipal law, no owner of a British vessel can carry innocent goods to the port of destination, and there are not other vessels to carry them, can not your Government itself take up a vessel and so discharge its obligation to restore and deliver at the port of destination, or suspend, in these particular instances, Her Majesty's proclamation, so as to permit this to be done by private owners?

The Pennsylvania Milling Company has invoices of flour on all three vessels, no part of which, so far as I can learn, has reached its port of destination. In pursuance of your Lordship's suggestion, that Her Majesty's Government might be disposed to purchase the flour, I made, by my note of the 13th ultimo, a direct offer of sale, but no reply as yet has been received. While we are waiting the flour may perish from decay. Can not something be done to expedite this particular case, or must these innocent shippers and owners be left to a protracted prosecution of claims for damages, instead of having their property promptly restored to them, as was their right?

I have, etc.,

JOSEPH H. CHOATE.

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*Mr. Choate to Mr. Hay.*

No. 251.]

AMERICAN EMBASSY,  
*London, February 10, 1900.*

SIR: I have the honor to report that since my dispatch No. 246, of the 7th instant, I have received, on the evening of February 8, from Lord Salisbury, one note dated February 6 (copy annexed), upon receipt of which I sent you cable of the 8th instant, and another note, dated February 9 (copy annexed), on receipt of which I sent you cable dated yesterday.

I think there is a feeling of doubt at the foreign office whether the documents furnished to them by us are clear evidence of property in American citizens at the date of seizure; whether upon shipment of the goods they did not become the property of the consignees—this as to the invoices of W. H. Crossman & Co., Flint, Eddy & Co., Geldart, and the Pennsylvania Milling Company. In the first three cases I have furnished them all the papers which I have received. In the case of the Pennsylvania Milling Company the documents covered by your instruction No. 268, of January 26, I have not yet delivered to them, for the reason stated in my last dispatch; but they are not calculated to remove the doubt. The invoices show the foods on the *Beatrice* to have been shipped "for and on account of Messrs. Triesman & Shapiro and Broudie & Marks;" drafts on Messrs. Hyman & Co., Delagoa Bay, and on the Bank of Africa, Limited; the goods on the *Maria* to have been shipped "for and on account of H. Oldfield & Co. and Triesman & Shapiro;" drafts on James Lawrence & Co., Johannesburg and the same bank; and those on the *Mashona* to have been

shipped for and on account of "Broudie & Marks;" drafts on same bank; and the bills of lading are in all cases to order. The affidavits of the President Toomy in *each* case are quite consistent with ownership in the consignees, who are legitimate flour merchants in *Johannesburg*, and indicate an actual sale to them in each case; that the price had been drawn for; that the interest of the company is a possible recourse against it in case of the drafts being unpaid, or redress demanded by the purchasers in South Africa for any cause, and that he is unaware whether such drafts have been paid or not.

It was in anticipation of these questions arising on the question of ownership that I made the suggestion contained in my cable of January 12.

Suppose the legal title to be in the consignees, residents of Johannesburg, at the time of the seizure, I assume that you do not mean to present in any way, directly or indirectly, their claims; but in that case are we to claim redress at the hands of the British Government for indirect loss sustained by the American shippers growing out of a sale on credit to citizens of the Transvaal? Of course if the title still remained in the shippers at the time of the seizure, it is all right.

I have, etc.,

JOSEPH H. CHOATE.

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[Inclosure 1.]

*Lord Salisbury to Mr. Choate.*

FOREIGN OFFICE, *February 6, 1900.*

SIR: With reference to previous correspondence respecting the American-owned flour on board the *Mashona*, I have the honor to inform you that I learn from a telegram from the high commissioner for South Africa, which has been communicated to me by the secretary of state for the colonies, that up to the 24th ultimo no claim had been received for the release of any portion of the flour in question on the ground that it was the property of citizens of the United States.

Sir A. Milner adds that so far no representations had been made to him on behalf of American owners of goods on any of the other vessels which have been seized by Her Majesty's ships.

I have, etc.,

SALISBURY.

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[Inclosure 2.]

*Lord Salisbury to Mr. Choate.*

FOREIGN OFFICE, *February 9, 1900.*

YOUR EXCELLENCY: With reference to my note of the 6th instant respecting the case of the *Mashona*, I have the honor to inform you that I learn from the secretary of state for the colonies that the United States consul-general at Cape Town was informed on the 10th ultimo by the high commissioner that any application from him for the release of goods out of that vessel which actually belong to a citizen of the United States would receive immediate attention.

There is, so far as Her Majesty's Government are concerned, no objection to the consul-general acting on behalf of his nationals, and Her Majesty's Government will accordingly assume that he has been authorized to do so and will, as between themselves and his nationals and Government, consider him responsible in this or any other matter of a similar kind.

Her Majesty's Government are also ready that the United States consul-general should similarly represent his nationals in regard to the purchase by Her Majesty's Government of the American-owned flour eventually released by the prize court, and also in regard to the American-owned flour destined for the enemy's territory and landed in British ports of South Africa by British ships, because they could not lawfully carry it.

I have, etc.,

SALISBURY.

*Mr. Hay to Mr. Choate.*

No. 307.]

DEPARTMENT OF STATE,  
*Washington, February 19, 1900.*

SIR: Referring to previous correspondence in regard to the steamship *Mashona*, which was seized by the British authorities at Cape Town before she was given an opportunity to deliver her cargo at several British ports for which she was scheduled, I now inclose copies of bills of lading<sup>1</sup> and invoices,<sup>1</sup> in duplicate, properly signed and attested, covering the entire list of the shipments of Messrs. Henry W. Peabody & Co.

You will observe that the above-named firm desire that such steps may be taken as will protect their interests in the event of their making a loss as the result of the seizure of the *Mashona* by the British Government.

I am, etc.


JOHN HAY.

[Inclosure.]

*Henry W. Peabody & Co. to Mr. Hay.*NEW YORK, *February 13, 1900.*

DEAR SIR: Reverting to our previous communication in re steamship *Mashona*, having been seized by the Imperial authorities at Cape Town before having been given opportunity to deliver her cargo at several British ports for which she was scheduled, we now inclose herewith memo. copies of bills of lading<sup>1</sup>, in triplicate, and invoices<sup>1</sup>, in triplicate, properly signed and attested, covering our entire list of shipments per steamship *Mashona*.

Herewith please find bill of lading, in triplicate, and invoices, in triplicate, for mark.

Steamship.	Mark.	Destination.
Mashona .....	WS HL & Co.	Port Elizabeth. HL & Co. Port Elizabeth.
Do.....	LD	Algoa Bay.
Do.....	AF & Co	Do.
Do.....	BMC & Co	Port Elizabeth.
Do.....	P E CC	Do.
Do.....	D & E H	Do.
Do.....	SCB	Algoa Bay.
Do.....	WCM	Do.
Do.....	LD	Do.
Do.....	G <sup>D</sup> S R	Algoa Bay and GM & Co. Port Elizabeth  Port Elizabeth.

We will feel obliged if you will take such steps as will protect our interests in the event of our making a loss as result of steamer's seizure by the British Government. As before stated, we have written out to South Africa for full information regarding the seizure, but up to this time do not know just where we stand with regard to our shipments.

Yours, very truly,

HENRY W. PEABODY & Co.,  
VERNON W. SMITH.<sup>1</sup>Not printed.

*Mr. Hay to Mr. Choate.*

No. 308.]

DEPARTMENT OF STATE,  
*Washington, February 19, 1900.*

SIR: Referring to previous correspondence relative to the seizure of American flour and other merchandise off the east coast of Africa by British men-of-war, and with reference particularly to the Department's No. 286, of the 26th ultimo, specially relating to the claim of the Pennsylvania Milling and Export Company, I inclose, for your further information, copy of a letter from the president of that company commenting upon their shipments and stating that they sent nothing directly or indirectly to the Transvaal.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Pennsylvania Milling and Export Company to Mr. Hay.*NEW YORK, *February 12, 1900.*

SIR: Referring to alleged discoveries by the British authorities of flour said to belong to the Transvaal Government, at the bottom of the cargo of the steamship *Beatrice*, I beg to state that if such flour was found it did not emanate from us. We had no shipments of flour on the *Beatrice*, except such as was described in the affidavits we filed with your Department, and as stated therein, this flour was sold to regular merchants, and as far as we know was not intended for the use of the Transvaal Government, with whom we have never had any dealings either direct or indirect. The marks on the flour indicate the initials of the buyers and the brands on the flour are ones that the writer established himself when in the Transvaal three years ago and which are well known commercially, being distributed by our buyers to the ordinary users of flour, such as bakers, storekeepers, etc. It is notorious in the African trade here, however, that an English firm, Messrs. Collier & Sons, of Bristol, who are represented in the Transvaal by the firm of Arthur May & Co., of which firm Mr. Collier is the resident African partner, have been the shippers of some of the flour that was on the same steamers that carried ours, and it is rumored that they had made large sales to the Transvaal Government. It is, therefore, possible that their shipments may be confounded with ours to our detriment.

We are only awaiting the arrival of our original documents through the mails to establish our complete title to the shipments seized, but as they are very uncertain at present, all we can do is to ask you to establish our innocence of wrong intent, with the data we furnished you with for that purpose, and we expect that by the time the question of indemnification has been satisfactorily settled, we will be in position to establish our right to the proceeds of the flour by the presentation of the original documents, of which you have copies.

PENNSYLVANIA MILLING AND EXPORT COMPANY.

*Mr. Hay to Mr. Choate.*

No. 311.]

DEPARTMENT OF STATE,  
*Washington, February 20, 1900.*

SIR: Referring to the Department's No. 263, of December 21 last, relative to the detention by the British authorities of goods belonging to Mr. R. M. Geldart, en route from New York to Delagoa Bay, I inclose for your use copy of a letter from Mr. Geldart in regard to shipments of merchandise made by the *Maria*, *Beatrice*, and *Mashona*, respectively, with accompanying bills of lading<sup>1</sup> for the same in duplicate.

<sup>1</sup> Not printed.

You will observe that Mr. Geldart's papers are accompanied by his affidavit, dated the 19th ultimo, in which he declares that he is the shipper of certain goods, to wit: One hundred cases, each containing two 5-gallon tins of cotton-seed oil, placed on board the steamship *Maria* for delivery at Delagoa Bay.

I am, etc.,

JOHN HAY.

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[Inclosure.]

*Mr. Geldart to Mr. Hay.*

NEW YORK, *January 19, 1900.*

SIR: I am duly in receipt of your favor of the 16th and 18th instant relative to detention of goods en route from New York to Delagoa Bay by the British authorities.

As the question of ownership comes in with respect to shipments ex *Beatrice* and *Mashona*, I must write my correspondents at Delagoa Bay for their permission before selling the goods in question.

The *Maria's* shipments, however, covers a lot of oil, draft against which went to protest. (See Exhibits 1 and 2.)

I prefer under the circumstances, especially as cotton-seed oil is an article that easily spoils in a hot climate, to abandon the shipment to the British authorities, and would be pleased to have you exercise your good offices for the recovery of the amount of invoice, together with a fair profit on the transaction.

Inclosed triplicate bills of lading<sup>1</sup> and duplicate of affidavit as requested.

Respectfully,

R. W. GELDART.

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[Subinclosure 1.]

*African Banking Corporation to Mr. Geldart.*

NEW YORK, *January 19, 1900.*

DEAR SIR: We beg to state that we negotiated for you on August 23 last two bills, £75 9s. and £4 2s. 3d., drawn on Patlansky Brothers, Johannesburg, for shipment of goods per steamship *Maria*. These bills fell due on October 28, and are still unpaid.

Yours, faithfully, for African Banking Corporation, Limited,

E. J. FRASER-CAMPBELL, *Agent.*

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[Subinclosure 2.]

*Mr. Van Exter to Mr. Geldart.*

JOHANNESBURG, *October 28, 1899.*

DEAR SIR: I hereby beg to give you notice that a certain first bill of exchange for a total amount of £75 16s. 8d. (viz., £75 9s. capital + 5s. 8d. exchange + 21s. — stamp), dated New York, August 23, 1899, and drawn by you on memorandum Patlansky Brothers, of this town, and which fell due on the 28th instant, and whereof my clients, The African Banking Corporation Limited, Johannesburg, are the legal holders, has been duly presented for payment, but was dishonored and is still unpaid. I am instructed to request you, as I hereby do request, to make immediate provision for the payment, either to me at my said office or to my said clients, of the said amount of £75 16s. 8d., together with interest up to the date of payment and my costs (£1 13s.).

Yours truly,

T. VAN EXTER,  
*Notary Public, etc.*

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<sup>1</sup> Not printed.



[Subinclosure 3.]

*Invoice of cotton-seed oil shipped by the undersigned per steamship Maria to Delagoa Bay, South Africa, for account and risk of Messrs. Patlansky Brothers, of Johannesburg.*

Marks: P. B.—J. Delagoa Bay. No. 1/100.

100 c/s summer oil, containing 1,000 gallons and costing 42 cents, less 1 per cent..... \$415. 80

Charges:

Freight.....	\$60. 27
Bill of lading stamp.....	. 10
Insurance.....	4. 50
Bill stamps.....	. 08
Commission.....	12. 02
	76. 97
	492. 77

R. W. GELDART.

E. & O. E.,  
New York, August 23, 1899.

[Subinclosure 4.]

NEW YORK, January 19, 1900.

I, the undersigned, do solemnly swear that I am the shipper of the within-mentioned goods, to wit: One hundred cases, each containing two 5-gallon tins, of cotton-seed oil, placed on board the steamship *Maria* for delivery at Delagoa Bay.

That the merchandise was shipped in good faith to Patlansky Brothers, British subjects, residing at Johannesburg, S. A. R., and that the draft against said merchandise went to protest.

That the within-mentioned invoice, \$492.77, represents actual cost to-day and does not cover expenses of protest, cablegrams, etc., and that I am a lawful citizen of the United States of America.

R. W. GELDART.

STATE OF NEW YORK, *City and County of New York:*

Sworn to and subscribed to before me this 19th day of January, 1900.

[SEAL.]

THO. NASH.

*Mr. Hay to Mr. Choate.*

No. 313.]

DEPARTMENT OF STATE,  
*Washington, February 21, 1900.*

SIR: I inclose for your use a copy of a letter from Messrs. Arkell & Douglas, of New York City, relative to the shipment of certain merchandise by said firm by the steamships *Maria*, *Beatrice*, and *Mashona*, which were recently seized and detained by the British naval authorities off the east coast of Africa.

Bills of lading<sup>1</sup> in duplicate for the merchandise in question are herewith transmitted to you.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Arkell & Douglas to Mr. Hay.*

NEW YORK, January 5, 1900.

DEAR SIR: We beg to advise that we shipped from New York, through the agents of the American and African Line and the agents of the Union Clan Line, Messrs. Norton & Son and Messrs. Barber & Co., respectively, various lines of goods for the

<sup>1</sup> Not printed.

port of Lourenço Marquez, Delagoa Bay, on the steamships *Maria*, *Beatrice*, and *Mashona*.

The lines named are English lines and the steamers named were English steamers. They were going to the port of Delagoa Bay, which is a neutral port. No intimation was given to us by either agent that it was not perfectly in order to make these shipments, and bills of lading were issued accordingly.

We received these orders from firms in South Africa to whom we have been shipping for many years, and most of the cargo was ordered by British subjects; in fact, probably all of the cargo, except in one or two cases, and in those cases the parties were regular importers and had been for a long time.

We attach herewith a copy of the bill of lading,<sup>1</sup> representing each shipment made by us. The shipment embraces all classes of general cargo—kerosene oil, brooms, stoves, building material, white meal, shovels, turpentine, lard oil, plows, shellers, flour, etc. So far as our knowledge goes, there is nothing contraband of war in the shipments, nor do we understand or believe that any of these goods were imported with the intention of shipment from Delagoa Bay to the Transvaal now that a condition of war exists.

The British Government, we understand, have landed the cargo ex steamship *Maria* at the port of Cape Town, the cargo ex steamship *Beatrice* at the port of East London, and the cargo ex steamship *Mashona* at the port of Port Natal. The various houses to whom we have shipped, so far as we know, have no branch houses or affiliations at these ports, and as we have a large amount involved, having paid for and purchased these goods in good faith and shipped them, we desire to put in a strong protest against the action of the British Government in diverting this cargo from its proper destination, and to claim such compensation and damages as may be right and proper.

We have failed to get any proper explanation or guaranty of redress from the agents of the English lines who carried this cargo. The value of the cargo, with the prepaid freight, will amount to some £3,000, and there is besides unknown amount of charges, expenses, etc., which will now be placed on the cargo; also the question of damage to cargo, which is a serious point, especially in the case of goods which are more or less liable to injury through storage.

We have no way of knowing as to what disposal has been made of these goods, whether they are stored in public warehouses, covered by insurance, whether the consignees have been notified that they can obtain delivery at the ports of discharge, or any other facts.

We trust that you will see from the above statements that our position is a most unsatisfactory one, and that it does not appear to our minds that the British Government were within their rights in making these practical seizures of our cargo.

We hope you will kindly let us know what steps are being taken, and will be taken, to protect us in this matter, and we remain,

Respectfully, yours,

ARHELL & DOUGLAS.

*Mr. Hay to Mr. Choate.*

No. 314.]

DEPARTMENT OF STATE,  
Washington, February 21, 1900.

SIR: I inclose for your use a copy of a communication of the 26th ultimo, from Messrs. H. W. Peabody & Co., of New York, relative to copies of invoices<sup>1</sup> and bills of lading<sup>1</sup> covering merchandise shipped by them on the steamship *Maria* and *Mashona*, which were recently seized and detained by the British naval authorities.

You will observe that the above-mentioned letter is accompanied by an affidavit<sup>1</sup> in duplicate of Mr. Charles D. Barry, a member of said firm, attesting the genuineness of the shipments of said merchants, with an explanatory memorandum in duplicate intended, as said firm states, to make clear all points bearing upon the shipments in question.

I am, etc.,

JOHN HAY.

<sup>1</sup> Not printed.

[Inclosure 1.]

*Henry W. Peabody & Co. to Mr. Hay.*NEW YORK, *January 26, 1900.*

DEAR SIR: Reverting to letter from your Department dated January 16th, we now have pleasure in handing you triplicate copies of invoices and bills of lading covering goods shipped by us on the steamships *Maria* and *Mashona* and which have been recently seized or detained by the British naval authorities. We also inclose herewith, in duplicate, affidavit attesting to the genuineness of the said shipments, also an explanatory memorandum, in triplicate, in which we have endeavored to make clear all points bearing upon the shipments in question.


Now, as to making clear the question of ownership and title in the said goods, this is something which we can not do at this time, having received no advices as yet from South Africa as to whether our drafts upon consignees have been retired. Of course if such is the case we have no further interest in the goods. We are very strongly inclined to believe that consignees have declined acceptance of our several drafts, and that the title of the goods remains vested wholly in us. So far as the shipment of 230 bags of white corn meal shipped per steamship *Mashona* is concerned, there is no doubt about it, since the goods went out for our own account and risk, we having declined to make shipment to the parties in the Transvaal who originally ordered the goods.


We have written to South Africa in the hope of securing full details as to the position of the several shipments, but in the meantime expect that you will file our claims and take such steps to protect our interests as may be necessary, in accordance with our letter to you of January 15.


Yours, truly,

HENRY W. PEABODY & CO.  
VERNON W. SMITH.Inclosures<sup>1</sup>:

Three copies of invoices.

Three consignors' copies of bills of lading covering 230 bags white corn meal, per steamship *Mashona*, under mark  Delagoa Bay.


Three consignors' copies of bills of lading covering shipment 30 bundles of windows, 150 bundles frames, 1 box sash ends, 4 barrels cement, per steamship *Maria*, under mark  transit Delagoa Bay.

Three consignors' copies of bills of lading covering shipment of 250 cases evaporated cream, under mark  Delagoa Bay.

[Inclosure 2.]

*Henry W. Peabody & Co. to Mr. Hay.*NEW YORK, *January 26, 1900.*

DEAR SIR: With regard to documents accompanying our letter of this date, we think they will be found sufficiently explicit without much comment on our part.

Re the shipment of 230 bags white corn meal under mark  Delagoa Bay, this was an order cabled from our South African office under date of September 19, but we deferred making shipment for a time, being apprehensive of trouble, and finally decided to cancel the order altogether, but found that the goods were stowed away in the steamer and in such a portion of the ship that it was impossible for us to obtain delivery of them at any port except Delagoa Bay. We therefore made up invoices for our own account, intending to dispose of the goods to a legitimate merchant in the port of Delagoa Bay. There is no question as to the title of these goods being vested in ourselves. It was originally our intention to make shipment to Messrs. Winter Brothers, Barberton, South African Republic, a legitimate firm of importers with whom we had been doing business for some time past.

With regard to the shipment of the windows, etc., per steamship *Maria*, would say that these were intended for the Norwegian-African Company, Limited, of Johannesburg, lumber merchants, to whom we are in the habit of shipping regularly, the

<sup>1</sup>Not printed.

shipment, per *Maria*, representing an order dated March 29, 1899, which we were instructed to repeat monthly.

So far as we know, the draft against this shipment has not been protected, and title remains invested in us. The goods are liable to deterioration as result of being held, and we should expect to be reimbursed in full for amount of invoice.

With regard to the 250 cases of evaporated cream, shipped per *Maria*, this was for account Mr. B. Gundelfinger, Johannesburg, likewise a legitimate importer, to whom we had been shipping continuously for many months. The order for cream represents a monthly order for these goods.

Yours, truly,

HENRY W. PEABODY & Co.  
VERNON W. SMITH.

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*Mr. Hay to Mr. Choate.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, February 21, 1900.*

(Mr. Hay states that Peabody & Co. bring the Department's attention to newspaper reports to the effect that the British naval authorities have seized the steamer *Sabine* on the ground of carrying contraband cargo for the Boers; that they have shipments aggregating \$30,000 to \$40,000 made in January, to Mossel Bay, Algoa Bay, and Durban, on orders from Cape merchants. The cargo is to be landed at British ports, the destination of the vessel being only such ports, and the port authorities may presumably, and are assumed to be bound to, prevent transshipment through British territory of contraband destined for the Boers. Mr. Hay deplores the action of the naval authorities, declaring that such seizure seems unnecessary and seriously destructive of legitimate American trade, and directs that Mr. Choate take necessary steps looking to the protection of the interests of American shippers.)

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*Mr. Choate to Mr. Hay.*

[Telegram—Paraphrase.]

AMERICAN EMBASSY,  
*London, February 22, 1900.*

(Mr. Choate reports that the foreign office had not, until his inquiry, learned of the seizure of the *Sabine*, but that inquiries will at once be instituted and the results reported to him. He requests to be advised of date and place of seizure and present whereabouts of the vessel.)

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*Mr. Choate to Mr. Hay.*

No. 262.]

AMERICAN EMBASSY,  
*London, February 24, 1900.*

SIR: I have the honor to report that your cable instruction in reference to the seizure of the *Sabine* was duly received at the embassy on the 22d instant. As I had gone out of town in the morning, it did not reach my hands until the afternoon. I immediately called at the foreign office. Lord Salisbury was absent, but I saw the under secretary,

Sir Thomas Sanderson, and stated to him the substance of your cable. My inquiry was the first information which the foreign office had received of the seizure, but he promised to institute immediate inquiry and to inform me of the result without delay. Whereupon, on the same afternoon, I cabled you. It was impossible for Lord Salisbury to receive me yesterday on account of a cabinet meeting and other engagements, but I have an appointment with him for this afternoon. In the meantime, however, cables from Port Elizabeth, published in the newspapers yesterday afternoon and this morning, announce the release of the *Sabine*, which I suppose closes the incident, except that I shall still see Lord Salisbury and impart to him your views in the hope that there may be no more such seizures. I suppose from the immediate release of the *Sabine*, that, as in the case of the *Maria*, it was a mistake on the part of the commander of the gunboat.

I have, etc.,

JOSEPH H. CHOATE.

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*Mr. Choate to Mr. Hay.*

[Telegram—Paraphrase.]

AMERICAN EMBASSY,  
London, February 24, 1900.

(Mr. Choate reports that Lord Salisbury says the *Sabine*, which is a British vessel, was stopped and examined at Port Elizabeth charged with violating municipal law, trading with the enemy; she was also suspected of having actual contraband aboard, which suspicion was not pressed. Ship's papers were not in proper form; goods were found on board, which, though shipped to ports this side, were marked for persons residing in Boer territory. The naval authorities looked upon the case as a very suspicious one under municipal law, but, as the evidence was not very complete, they gave the vessel the benefit of the doubt, and she pursued her voyage after a short detention.

Mr. Choate expressed the hope that no more such seizures would be made, representing the great prejudice to established trade from occurrences of this character.)

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*Mr. Choate to Mr. Hay.*

No. 264.]

AMERICAN EMBASSY,  
London, February 26, 1900.

SIR: I have the honor to report that after my dispatch No. 262, of February 24, and on the same day, I had an interview with Lord Salisbury on the subject of the seizure of the *Sabine*, of which I sent you a concise account the same day by cable.

I stated to him the substance of your cable instructions to me, received on the 22d instant, but the vessel had already been released; and although it was suggested that a part of her cargo was contraband, her detention was not based upon that ground. The real reason of it was a supposed violation of the British municipal law, which prohibits "trading with the enemy." There was, therefore, no reason to discuss the matter on the contraband ground. To what was stated in my cable, I have to

add that Lord Salisbury suggested that an ultimate destination to citizens of the Transvaal, even of goods consigned to British ports on the way thither, might, if the transportation were viewed as one "continuous voyage," be held to constitute, in a British vessel, such a "trading with the enemy" as to bring the vessel within the provisions of the municipal law. He added that, although their general purpose was to prevent British vessels over which they had control from engaging during the war in carrying goods destined for the enemy's territory, his Government did not feel disposed to press that point in this instance.

I represented to him that the indirect injury to American trade by such seizures was very great—far greater than the value of goods actually seized or detained—inasmuch as there had long been established between American ports and South Africa a regular course of trade, which ought not to be interrupted. In view of this I ventured to express the hope that there would be no more such seizures, a hope with which I think he sympathized, for they appear to have given as much trouble to the British Government as to ours.

I have, etc.,

JOSEPH H. CHOATE.

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*Mr. Hay to Mr. Choate.*

No. 315.]

DEPARTMENT OF STATE,  
Washington, February 26, 1900.

SIR: I have to acknowledge the receipt of your dispatch No. 251, of the 10th instant, and for your information to transmit herewith copies of the following letters: From G. F. Lough & Co., dated February 14, 1900; Pennsylvania Milling Company, dated February 16, 1900; Arkell & Douglass, dated January 30, 1900, and February 14, 1900; W. H. Crossman & Bro., dated January 30, 1900; C. C. Abel & Co., dated January 27, 1900, and February 14, 1900; Norton & Son, dated February 13, 1900.

With reference to the suggestion contained in the last paragraph of your dispatch, it is the view of the Department that, in order to support a claim for indemnity against the British Government for the seizure of the goods, it must appear both that the claimant was an American citizen and that he was the owner of the goods when seized, within the rule of the prize jurisdiction, that the consignee on whose account and at whose risk the goods were shipped is considered such owner during the voyage. The rule would seem to suggest as a corollary that the right to claim for damages caused by the illegal seizure would be in the owner.

On the interesting question whether there may be a basis for a claim for "indirect loss sustained by the American shippers growing out of a sale on credit to citizens of the Transvaal," the further question might arise whether the consignor might, notwithstanding the seizure, be able to recover at law the full contract price from the consignee; and, if so, whether the seizure could be considered legally as a wrong against the consignor, and, on the other hand, if unable to recover at law, whether, under all the circumstances of the case, such inability would be legally imputable to the act of the British Government in making the seizure. In view of the possible considerations of fact and

law involved in the question, the expression of any opinion thereon is reserved until a claim shall be presented on a case stated by the shippers to the Department.

You will observe from the inclosed correspondence that C. C. Abel & Co. have withdrawn their claim, for the reason that the consignees are pressing their claim through their own Government; that W. H. Crossman & Bro. have likewise cast the burden of settlement upon their consignees, British subjects; that Norton & Son, shipping agents for some of the shippers, are of opinion that most of the flour was sold at the time of shipment, and that the shippers have received pay for the same.

From the recent correspondence of the shippers, the Department is hopeful that other claims may proceed to an acceptable solution. Nevertheless, the Department would be pleased with the continuation of your efforts until a final solution satisfactory to the American shippers is reached in all of the cases.

The Department has forwarded to the Pennsylvania Milling Company that part of your dispatch relating to their claim, with the request for further evidence to strengthen your hand. Their letter (copy inclosed) names prices for the sale of the flour. The Department has instructed the consul-general at Cape Town to cooperate as requested.

I am, etc.,

JOHN HAY.

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[Inclosure 1.]

*G. F. Lough & Co. to Mr. Hay.*

NEW YORK, *February 14, 1900.*

DEAR SIR: We are in receipt of your favors of the 10th and 13th instant, dealing with the cargoes per steamships *Beatrice* and *Mashona*, which we have read with attention.

We thank you for your offer to instruct the United-States consul-general at Cape Town, to act in our behalf in the sale of any of our goods which may have been seized, but in view of the points laid down in your letter of the 3d instant, "That in order to maintain a claim for indemnity it should appear both that the owners of the goods were American citizens and that they were such owners at the time of the seizure," we do not see that we can at present ask you to act. The shipment in which we are interested per steamship *Mashona* was made by us, American citizens, in fulfillment of an order received from a British subject. Owing to the detention of the *Mashona* the goods deteriorated and our customer declined to accept our draft. These are the facts, as received by cable, but at an early date we expect letters giving fuller details. The bills of lading drawn "to order" were attached to the draft and would not be given up without acceptance. These documents should be sufficient proof of ownership. We have instructed our agent in South Africa, who is the holder of our power of attorney, to act in this matter.

Thanking you for the interest you have taken in our case, we are, etc.,

G. F. LOUGH & Co

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[Inclosure 2.]

*Pennsylvania Milling and Export Company to Mr. Hay.*

NEW YORK, *February 16, 1900.*

SIR: Your favor of the 12th instant duly received. We delayed replying to same until we got some more definite information concerning value of flour at Delagoa Bay about the period at which our flour would have arrived there had it not been seized.

From what we can learn, flour was bringing in the neighborhood of £1 per bag on dock at that time. This, of course, not inclusive of either the Portuguese regular duty or the ordinary transit duty, which is charged there for flour going to the interior. However, as our flour has been sold at prices ranging from 10 shillings to 11 shillings per bag, having been sold much earlier in the season than the time of shipment, we would be satisfied to have the flour taken off our hands by the British authorities at the different points where the flour has been landed, provided they pay us, say, 15 shillings per bag, free of all charges for storage, landing, and any other expenses that may have accrued through the action of the British authorities in the matter.

We hereby authorize you to instruct the consul-general at Cape Town to act in our behalf in the sale of all the seized flour on the different vessels at price of 15 shillings sterling per bag net to us—that is, no expenses for storage or other charges to be deducted from same. The freight on the flour was prepaid at this end, as was also the insurance.

For your guidance we will recapitulate lots of flour that were seized.

On the steamship *Mashona* 3,254 bags marked “**B** M Delagoa Bay,” and branded “Johannesburg.” This lot, we understand, is at Cape Town.

On the steamship *Beatrice* 4,349 bags marked “**B** M Delagoa Bay,” and branded “Johannesburg;” also 1,340 bags marked “**T** S” and branded “Goldfields.” This lot, we understand, is at East London.

On the *Maria* there were 2,000 bags marked “O. & Co. Delagoa Bay,” and branded “Speria;” also 1,512 bags marked “**T** S Delagoa Bay,” and branded “Goldfields.” These lots, we understand, are at Durban.

Each bag of flour weighs 100 pounds, and the quality of all is alike, being the very best grade of spring wheat patent manufactured in this country.

If you require any invoice or anything of that kind to be made out we shall be pleased to furnish you with all the necessary detail.

We thank you for your interest in the matter, and remain, etc.

PENNSYLVANIA MILLING AND EXPORT COMPANY,  
Per A. J. TOOMEY, *President*.

[Inclosure 3.]

*Arkell & Douglas to Mr. Hay.*

NEW YORK, *January 30, 1900.*

DEAR SIR: We have pleasure in acknowledging your further letters of January 25 and January 26, and we observe what you say in reference to the South African status, and the issues you raise are those we have had in our mind, as you will have noted by our letters to you, and that there are considerable complications for us to settle before we could make any specified and definite claim.

We have received word from our house in South Africa that a few of the shipments have been taken up by the parties who originally ordered the goods, so that those cases are removed. There are, however, a very considerable number of the shipments which we do not look for any settlement on, and we think we should be able to claim as absolutely our property, but we have not been able as yet to reach definite conclusions.

Your telegram also received, with thanks, and as you may have observed from our bills of lading sent you, we have a shipment of flour on this steamer. This shipment, we consider, is absolutely our property, and we anticipate receiving advices to that effect daily. We shall, acting on your telegram, as soon as we have information, cable our house at Cape Town to put a claim in, and, if necessary, to consult the American consul there.

We presume you will kindly keep us posted with such further details as you may receive, and we remain,

Faithfully yours,

ARKELL & DOUGLAS.



[Inclosure 4.]

*Messrs. Arkell & Douglas to Mr. Hay.*NEW YORK, *February 14, 1900.*

DEAR SIR: We beg to acknowledge your favors of February 10 and 13, and we thank you very much for the information which you have given us. We observe what you say in reference to cargo having been found at bottom of the steamer *Beatrice* probably belonging to the Transvaal government. We would state that we doubt very much the accuracy of any such information. Of course the flour may have been marked for some firm in the Transvaal who had been in the habit of importing, but this does not follow it was not for legitimate business.

Regarding the steamer *Mashona*, we cabled our house at Cape Town to put in a claim for the damage we had sustained by reason of flour shipped by this vessel not having gone to Delagoa Bay, and to consult with the United States consul as might be necessary.

In reference, however, to the sale of any of our goods, while thanking you for the offer, having our own houses at both Cape Town and Port Elizabeth, we naturally can look after any such issue without troubling the consul; but advised our people to see the consul at either place in case it would be necessary to secure the discharge of the goods.

We are, etc.,

ARKELL &amp; DOUGLAS.

[Inclosure 5.]

*W. H. Crossman & Bros. to Mr. Hay.*NEW YORK, *January 30, 1900.*

SIR: We beg to thank you for your favor of 26th instant, also telegram of 29th instant, and to express our high sense of obligation and thanks for the valuable particulars and advice given us therein in respect to the *Maria*, *Mashona*, and *Beatrice* cargoes.

As indicated per our previous advices the conditions under which all our shipments were made (none of which seem to us to be susceptible of being considered contraband), makes the question of the seizures purely a matter as between Great Britain and the property of her subjects, our obligations in respect thereto having ceased at the moment they were put on board the respective ships here in accordance with orders to us from the importers at the other end.

Notwithstanding this position, we are, of course, keenly interested in anything that transpires in respect to this matter, which may be of service to us later on or instructive in the meantime, and we shall highly appreciate further advices from you in the premises should it please you to favor us with same.

With respect, etc.,

W. H. CROSSMAN & BROS.  
JAS. W. SMITH.

[Inclosure 6.]

*C. C. Abel & Co. to Mr. Hay.*NEW YORK, *January 27, 1900.*

SIR: We beg to acknowledge the receipt of your telegram of the 18th instant and of your letter of the 26th same, and we again thank you for your kind efforts in our behalf. As our correspondents, the East African Company, of Rotterdam, have since paid us for the 400 cases petroleum of *Beatrice*, we have informed them that their protest against the British Government will have to be made through the Dutch state department at the Hague.

Whether a claim on us for nondelivery of goods at Delagoa Bay will be pushed by the East African Company remains to be seen. If it is we may be compelled to address you again on the subject.

We are, etc.,

C. C. ABEL &amp; CO.

[Inclosure 7.]

*Mr. C. C. Abel & Co. to Mr. Hay.*NEW YORK, *February 14, 1900.*

SIR: We have again to thank you for your various communications regarding the seizures in South African ports of merchandise shipped from United States ports, and beg to inform you that we have definite information from Rotterdam to the effect that the claim relating to the 400 cases petroleum per steamship *Beatrice* is being pushed by the Dutch state department, as the property has been paid for by the Dutch company, and we consequently withdraw our claim in the matter.

We are, etc.,

C. C. ABEL &amp; Co.

[Inclosure 8.]

*Norton & Son to Mr. Hay.*NEW YORK, *February 13, 1900.*

SIR: We beg to acknowledge the receipt of your valued favor of the 10th instant, and thank you very much for the information contained therein, which is about as we expected—that very little, if any, of the flour shipped from the United States to South African ports was owned by bona fide American citizens. We think most of the flour was sold at the time of shipment, and the shippers here received pay for same.

Yours, very respectfully,

NORTON &amp; SON.

*Mr. Choate to Mr. Hay.*

No. 265.]

AMERICAN EMBASSY,  
*London, February 27, 1900.*

SIR: I have the honor to report that on my last interview with Her Majesty's secretary of state for foreign affairs he informed me that the high commissioner for South Africa was treating with the United States consul at Cape Town in respect to the flour ex *Mashona*, and, as I understood him, also as to that ex *Maria* and *Beatrice*, and had reported by cable a new difficulty encountered in respect to the question of titles to goods, viz, that in several cases third parties—parties other than the consignor or consignee—were claiming. He seemed indisposed to undertake to settle any such questions, and to be of opinion that they should be left to the high commissioner and the consul to settle in South Africa, where more evidence was accessible; and so of the purchase of goods, he has never withdrawn his original suggestion that the best way to settle each case would be for the British Government to purchase; but he thought that that, too, should be remitted to South Africa, and was unwilling to conclude any purchase here.

I have to-day sent to the foreign office the bills of lading and invoices of the Pennsylvania Milling Company by all three vessels, which I retained at the time of their receipt for the reason which I have already communicated to you by my dispatch No. 246, of February 7; but I have not transmitted Mr. Toomey's affidavit, which, it seems to me, would be detrimental and create greater confusion, for the reason stated in my dispatch No. 251, of February 10. The goods have already been detained so long that those of them which are perishable in their nature must have already greatly deteriorated, and the owners will have to resort to their claim against the British Government, or,

in the case of the *Mashona*, against the captors, which is ultimately the same thing.

I have never heard from you what authority has been given to the United States consul at Cape Town, but I assume that he is looking after the interests of all owners whom our Government is bound to protect.

I annex a copy of my note of this date to Lord Salisbury, which covered the invoices and bills of lading referred to.

I have, etc.,

JOSEPH H. CHOATE.

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[Inclosure.]

*Mr. Choate to the Marquis of Salisbury.*

AMERICAN EMBASSY,  
London, February 26, 1900.

MY LORD: I have the honor to transmit to you copies of the invoices and bills of lading of the several lots of flour shipped by the Pennsylvania Milling and Export Company in the name of Fowler Brothers, Limited, its financial agents, by the *Mashona*, the *Maria*, and the *Beatrice*. The company is understood to continue interested in the flour until its delivery to the consignees at Delagoa Bay. Referring to my previous notes in regard to this company's shipments, and particularly to the offer of sale to Her Majesty's Government contained in my note of 23d ultimo, I have only to add that, in case of the purchase of the flour by the British Government, the company is willing that it should take as purchaser the flour which is already practically in its custody, and pay the price which may be agreed upon for it to whoever may prove entitled to receive it, in view of any questions as to legal title arising between consignor and consignee.

I suggested to my Government some time ago that, in case of any such question in respect to any American goods seized, both consignor and consignee could unite in any sale or in proving title as claimants.

I have, etc.,

JOSEPH H. CHOATE.

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*Mr. Hay to Mr. Choate.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, March 2, 1900.

(Mr. Hay states that the United States Government would be pleased if, through Mr. Choate's good offices, the *Mashona*, a chartered British vessel plying between New York and South African ports, could be released as soon as practicable after the purchase by the British Government of the cargo, on its discharge, without prejudicing in any way the rights and interests of American owners of cargo; that American shipping interests are subjected to serious injury on account of the prolonged detention of the vessel.)

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*Mr. Choate to Mr. Hay.*

No. 268.]

AMERICAN EMBASSY,  
London, March 3, 1900.

SIR: I have the honor to report that on the 1st instant I received your Instruction No. 308, dated February 19, with its inclosures, and having reason to believe that the foreign office was now desirous of

disposing of the case of the Pennsylvania Milling and Export Company, I immediately addressed to Lord Salisbury a note dated the 1st instant—of which I annex a copy—and inclosed in it a copy of President Toomey's letter to yourself, dated February 12, and also copies of Mr. Toomey's affidavits, which accompanied the duplicate sets of the company's bills of lading and invoices. It appeared to me that the president's letter cleared up the doubts arising from the previous documents, including the bills of lading and invoices, and that the British Government, if actually disposed to close the matter, were entitled, before doing so, to all the evidence which was in our possession. I inferred, also, from your reference to the matter in your Instructions No. 290 and from President Toomey's letter that the Pennsylvania Company would be prepared to make complete title to a purchaser of the goods seized.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

*Mr. Choate to Lord Salisbury.*

AMERICAN EMBASSY,  
*London, March 1, 1900.*

MY LORD: I have the honor to transmit to your lordship a copy of a letter dated February 12 from the president of the Pennsylvania Milling and Export Company, also copies of three affidavits by the same gentleman explanatory of that company's bills of lading and invoices by the *Mashona, Maria, and Beatrice*, already sent you by me.

This letter of the president of the company will, I think, be found to clear up much that was left doubtful by the previous papers. It shows the entirely innocent and legitimate character of all their shipments, and declares "that the original documents to establish their complete title to the shipments seized—though now delayed in the mails—will speedily be in their hands.

I have inferred from your note of the 9th ultimo, and from your subsequent references to the matter in our personal interviews, that Her Majesty's Government is ready to purchase the flour.

May I not therefore ask that after an examination of the papers now submitted, in connection with those relating to the same shipments heretofore sent you, you will authorize me to report by cable to the Secretary of State that your Government will purchase these particular lots shipped on these vessels by the Pennsylvania Milling and Export Company, and on what terms as to price, date of payment and vouchers. I have every reason to believe that his reply would be prompt and enable us to dispose finally of the matter of this company's shipments.

I have, etc.,

JOSEPH H. CHOATE.

*Mr. Choate to Mr. Hay.*

[Telegram—Paraphase.]

AMERICAN EMBASSY,  
*London, March 6, 1900.*

(Mr. Choate reports that Sir Alfred Milner, high commissioner for South Africa, cables to Lord Salisbury that in the consul-general's first list of property of American citizens many consignments are claimed by other persons; that in the second list, which does not state the names of the owners, two consignments are claimed by a Russian subject. Mr. Choate thinks the discharge of the vessel would be expedited if shippers could furnish further information, as without this the high commissioner can not go to the prize court, but when it is furnished he will render all possible assistance.)

*Mr. Choate to Mr. Hay.*

[Telegram—Paraphrase.]

AMERICAN EMBASSY,  
London, March 7, 1900.

(Mr. Choate reports that Lord Salisbury says the British Government are prepared to buy flour owned by United States citizens which was taken out of the *Beatrice*, paying the price it would have brought at Lourenço Marquez the date it would have reached there if the ship's voyage had not been interrupted; and that they are willing to accept the intermediation of the United States consul in consummating the purchase, under the conditions set forth in Lord Salisbury's note to Mr. Choate of February 9, but that clear evidence of title of United States citizens to the goods must be furnished, and it must be known to whom the purchase money should be paid, before the transaction can be completed.

Mr. Choate assumes that all claims for damages to the goods will be covered by the price mentioned, should it be accepted.)

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*Mr. Choate to Mr. Hay.*

No. 274.]

AMERICAN EMBASSY,  
London, March 7, 1900.

SIR: Since my No. 268, of the 3d instant, inclosing copy of my note to Lord Salisbury dated the 1st instant, I have the honor to report that I received, on the 4th instant, a note from Lord Salisbury, dated the 29th ultimo (copy inclosed), the main points of which I sent to you in my cable dated the 6th instant. You will observe that Sir Alfred Milner's telegram dated the 23d ultimo, referred to in Lord Salisbury's note of the 28th ultimo, above mentioned, states that the United States consul-general at Cape Town sent in to him a list of consignments showing the names of the American owners of goods on board the *Mashona*, many of which on inquiry he found had been claimed by other parties, and on the 22d ultimo the consul-general sent in a further list, which did not show the names of the owners of the goods. Two of the consignments shown in this second list were, it is stated, claimed by a Russian subject.

The consul-general was accordingly informed that it would be impossible for the high commissioner to go to the court on the information so far furnished, especially as regards proof that any loss accruing would fall on United States citizens. He was further informed, however, that if these particulars could not be obtained by the 2d of March that Sir Alfred Milner would be ready to consider any representations that might be made to him, and to give all possible assistance even in the event of the goods having been consumed.

To-day I received a further note from Lord Salisbury, dated the 3d instant (copy inclosed), respecting the case of the *Beatrice*, the substance of which is contained in my cable of this date. This note is in answer to mine of the 6th ultimo.

You will observe that his lordship takes issue with me in regard to the position I took in my note to him on the 6th ultimo in respect to the damages due to the owners of the cargo, on account of the failure

of the ship to deliver it at the port of destination, but if, as it now appears most likely, Her Majesty's Government is willing to purchase all the flour at a given price, the contention set forth in his lordship's note would seem to be of a purely academic nature.

I therefore stated in my telegram to you of to-day, already mentioned, that the price offered, if accepted, would, I assumed, cover all claims for damages to goods so purchased.

Meanwhile I am daily expecting an answer to the special case of the Pennsylvania Milling Company's goods, which I have reason to believe will be treated separately.

I shall do what I can when I see Lord Salisbury, as I expect to do to-day, to secure the release of the *Mashona*, so that she may resume her regular service between New York and the British ports of South Africa; although, in view of his Government's definite purpose to prevent any violation by British ships of their municipal law, it may be a little embarrassing.

I have, etc.,

JOSEPH H. CHOATE.

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[Inclosure 1.]

*Lord Salisbury to Mr Choate.*

FOREIGN OFFICE, *February 28, 1900.*

YOUR EXCELLENCY: With reference to my note of the 9th instant, respecting the case of the *Mashona*, I have the honor to inform you that it appears from a telegram from Her Majesty's high commissioner for South Africa, dated the 23d instant, that the United States consul-general sent in a list of consignments showing the names of the American owners of goods on board that vessel.

On inquiry, however, Sir A. Milner ascertained that many of these consignments had been claimed by other parties.

On the 22d instant the United States consul-general sent in a further list, which did not, however, show the names of the owners of the goods. The high commissioner has since ascertained that in the case of two of the consignments shown in this second list the claimant before the prize court states in an affidavit that he is a Russian subject.

The high commissioner has accordingly informed the consul-general that it is impossible to go to the court on the information with which he has so far been furnished, and that between now and the 2d proximo he hopes to receive further particulars of each case, especially as regards proof that any loss accruing would fall on United States citizens. He has added that if these particulars can not be obtained by the time mentioned he will be ready to consider any representations that may be made to him and to give all possible assistance, even in the event of the goods having been consumed.

Sir Alfred Milner hopes that it is understood that the difficulties which have arisen in connection with dealing with the matter are due entirely to the impossibility of at once obtaining the necessary information on the various points involved.

I have, etc.,

SALISBURY.

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[Inclosure 2.]

*Lord Salisbury to Mr. Choate.*

FOREIGN OFFICE, *March 3, 1900.*

YOUR EXCELLENCY: I have had under my consideration your note of the 6th ultimo, respecting the case of the *Beatrice*, and I have the honor to inform you that Her Majesty's Government are prepared to buy such flour, being owned by United States citizens, as was taken out of that vessel, paying for it the price it would have fetched at Lourenço Marquez on the day on which it would have arrived there had the voyage of the ship conveying it not been interrupted.

In carrying out this purchase Her Majesty's Government, as already stated in my

note of the 9th ultimo, are prepared to accept the intermediation of the United States consul under the conditions therein stated; but the transaction can not be completed until clear evidence that the goods concerned are owned by United States citizens is forthcoming and until it is known to whom the purchase money in respect of them should be paid.

With regard to your excellency's observations as to the damages due to the owners of the cargo on account of the failure of the ship to deliver it at the port mentioned in the freight contract, it would appear that any claim for damages (assuming such claim to be sustainable at law, a matter which will apparently depend on the terms of the contract of carriage) should properly be brought by the owners of the goods against those who entered into or became responsible for the execution of a contract for delivery which they failed to perform. Her Majesty's Government are unable to admit that they are in any way liable in damages to the owners of the flour, as its detention has been due entirely to the circumstance that the vessel was unable to complete its voyage, owing to the fact that such voyage was illegal by the law of the flag under which the vessel was sailing.

I have, etc.,

SALISBURY.

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*Mr. Choate to Mr. Hay.*

No. 275.]

AMERICAN EMBASSY,  
*London, March 8, 1900.*

SIR: I have the honor to report that in my interview with Lord Salisbury yesterday, in reference to his note of the 3d instant, in which he offered to purchase the flour ex *Beatrice* and dissented from my theory of damages stated in my note of February 6 last, I said that I had observed what he said in his letter about damages, but as he seemed ready to buy all the flour at the price at the port of destination at the date when it would have arrived if the voyage had been uninterrupted, the question of damages would be largely an academic one, to which he replied, in substance, that that was probably so, as if the owner got a full price there would not be much room to claim damages.

I have, etc.,

JOSEPH H. CHOATE.

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*Mr. Choate to Mr. Hay.*

No. 276.]

AMERICAN EMBASSY,  
*London, March 8, 1900.*

SIR: I have the honor to report that I have seen Lord Salisbury in reference to your cable received 2d instant, expressing the desire of American shippers for the speedy release of the *Mashona*. I told him that I believed the general interests of American trade between New York and South Africa would be promoted if she could as soon as possible be put in a position to resume her trips to the British ports on that coast, and that it was a disturbance to established trade to have her taken off for so many months. He agreed with me that it was a recognized mischief for a vessel engaged in such trade to be kept idle longer than was necessary, and said that he would do what he could to hasten her release, though neither of us could define exactly what steps he could take in that direction. There seem to be interminable delays about that case arising from two causes, first, the difficulties upon which I have already dwelt so often, of proving title to the goods, which they are anxious to release, and, second, the slowness of communication between the departments here and those in the South African colonies.

I have, etc.,

JOSEPH H. CHOATE.

*Mr. Hay to Mr. Choate.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, March 8, 1900.*

(Mr. Hay states that shippers have been advised in accordance with Mr. Choate's cablegram of the 7th instant.

Directs that British foreign office be advised that Norton & Son suggest the danger of long continued confinement below hatches of a shipment of oil on the *Mashona*, resulting in spontaneous combustion and destruction of ship and cargo.)

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*Mr. Hay to Mr. Choate.*

No. 325.]

DEPARTMENT OF STATE,  
*Washington, March 9, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 265 of the 27th ultimo in which you report the substance of a conversation with Lord Salisbury as to the American flour seized by the British naval authorities in South African waters, and state that you have sent to the foreign office the invoices and bills of lading of the Pennsylvania Milling Company.

The Department has advised the American shippers, from time to time, of the suggestions made by you with a view to facilitating the sale or release of the goods seized by the British naval authorities, and that the United States consul at Cape Town has been instructed to cooperate with them in effecting a satisfactory adjustment with the British High Commissioner in South Africa. The shippers are acting in harmony with your views and those of the Department by forwarding to the consul-general proofs of ownership, etc. The Department has advised them of the importance of presenting clear evidence of ownership or of procuring the relinquishment by the consignees of their apparent title and their assent to the sale by the consignors to Her Majesty's Government. The spirit of cooperation shown by them, and the willingness of Her Majesty's Government to purchase the goods at the price they would have brought at the port of destination at the time they would have arrived there in course of uninterrupted voyage, induce the hope that the whole matter may be adjusted to their reasonable satisfaction. They have been advised that if their goods are bought by the Government on these terms it would be with the understanding that no damages should be claimed for the seizure and detention of the goods thus purchased.

The Department appreciates and has not failed to advise the Pennsylvania Milling Company of the difficulties of apparent ownership in their case. Their contention is that, through their failure to insure against war risks and on account of the seizure and detention of the goods, the ownership will revert to them. The Department has not yet found it necessary to express any opinion upon the question whether such would be the legal effect of their contract with the consignees, nor on the other question suggested by you, whether there would be a liability on the part of the British Government for indirect



loss to the consignors in case the consignees should accept the goods subject to recoupment of damages by deterioration. It is thought advisable to avoid raising issues, so far as practicable, in the hope that through a mutually reasonable and conciliatory spirit the whole matter may be adjusted without substantial loss to the shippers by the sale of their goods, on the terms and in the form suggested, to the British Government.

The Department approves your action reported in this end in previous dispatches.

I am, etc.,

JOHN HAY.

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*Mr. White to Mr. Hay.*

No. 278.]

AMERICAN EMBASSY,  
*London, March 10, 1900.*

SIR: With reference to Mr. Choate's dispatch No. 276, of the 8th instant, I have the honor to inclose the copy of a note which I addressed to the Marquis of Salisbury upon the receipt of your telegraphic instruction dated the 8th instant.

I have, etc.,

HENRY WHITE.

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[Inclosure.]

*Mr. White to the Marquis of Salisbury.*

AMERICAN EMBASSY,  
*London, March 9, 1900.*

MY LORD: I have the honor to acquaint you that I have received a telegram from my Government instructing me to inform your lordship that Messrs. Norton & Co., shippers of cargo by the steamship *Mashona*, have suggested that there is a considerable quantity of oil in the hold of that vessel, and they fear, in view of its long confinement below hatches, that there is danger of spontaneous combustion and fire in the cargo, and of the consequent destruction of the latter as well as of the vessel.

I have, etc.,

HENRY WHITE.

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*Mr. White to Mr. Hay.*

[Telegram—Paraphrase.]

AMERICAN EMBASSY,  
*London, March 12, 1900.*

(Mr. White reports that the colonial secretary has been requested to ascertain price which flour shipped on *Mashona*, *Beatrice*, and *Maria* by the Pennsylvania Milling Company would have brought at Lourenço Marquez had it not been for the interruption of the voyages of those vessels. If assurance could be given to Lord Salisbury that the flour is now owned by the Pennsylvania Milling Company, and that Mr. White is willing to receipt for the amount of purchase money when it has been ascertained, the settlement of the case would probably be hastened. Such arrangement would be subject, in case of flour shipped by the *Mashona*, to an order being made by the prize court releasing the flour.)

*Mr. Hay to Mr. White.*

No. 329.]

DEPARTMENT OF STATE,  
Washington, March 15, 1900.

SIR: I inclose for your information copy of a letter from the Pennsylvania Milling and Export Company relative to the seizure of certain flour by a British steamship which was shipped on the *Mashona*, and stating that said company has sent invoices, power of attorney, and all information possible in the matter to Consul-General Stowe at Cape Town, so that he may dispose of the flour seized there.

You will observe that the company state that other parties are making claim to many of the consignments on the *Mashona*, among them being Russian subjects; that they do not know whether their buyers were Russian subjects or not, but that they have advised Consul-General Stowe in regard to the questions which may arise in the cases of both the *Mashona* and the *Beatrice*.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Pennsylvania Milling and Export Company to Mr. Hay.*

NEW YORK, March 8, 1900.

SIR: In compliance with your telegram of the 5th instant, we have sent invoices and power of attorney to Consul-General Stowe, of Cape Town, so that he may dispose of the flour seized there to the British Government.

I also note your wire of the 6th instant, stating that other parties are making claim to many of the consignments on the *Mashona*, among them being Russian subjects. We are sending all information possible in the matter to Consul-General Stowe. We do not know whether our buyers were Russian subjects or not, but we have written Consul-General Stowe that should the other parties laying claim to the flour turn out to be our buyers, as described in our letter of information to him on the subject, and should they produce proof of title to the property and be willing to accept it without further claim on us, that we would withdraw our claims against the British Government for any such parcels as presentation of the documents by these parties would indicate payment on their part of our drafts, and would also be evidence that they had considered that we had fulfilled our contract. We have instructed him, however, that in the case of the *Beatrice* there is one lot on which the drafts have not been paid and which drafts are now in process of being returned to this country. This lot, of course, we shall have to ask the British Government to settle for.

It would simplify the matter greatly if the buyers would take delivery without further redress on us.

Yours, respectfully,

PENNSYLVANIA MILLING AND EXPORT CO.,  
Per A. J. TOOMEY, *President*.

*Mr. White to Mr. Hay.*

No. 283.]

AMERICAN EMBASSY,  
London, March 15, 1900.

SIR: Referring to my dispatch No. 278 of the 10th instant, I have the honor to inclose herewith the copy of a note which I have received from the Marquis of Salisbury with reference to the proposed purchase by Her Majesty's Government of the flour shipped by the Pennsylvania Milling Company on the steamships *Mashona*, *Beatrice*, and *Maria*.

I have, etc.,

HENRY WHITE.

[Inclosure.]

FOREIGN OFFICE, *March 10, 1900.*

SIR: I have had the honor to receive Mr. Choate's notes of the 26th ultimo and of the 1st instant respecting flour exported to South Africa by the Pennsylvania Milling Company and shipped by the *Mashona*, the *Beatrice*, and the *Maria*.

Mr. Choate is already aware that Her Majesty's Government are prepared to purchase this flour on the ground that it is neutral owned, and I have already asked the secretary of state for the colonies to ascertain for what price these several consignments could have been sold at Lourenço Marquez on the days respectively on which they would have been landed there had the voyages of the ships named not been interrupted.

It appears to me that the settlement of this case would be hastened if you could give me an assurance that the flour is now owned by the Pennsylvania Milling Company and that you are willing to receive the purchase money, payable when its amount has been ascertained, and to give a receipt for it. This arrangement would, however, in the case of the flour shipped by the *Mashona*, be subject to an order releasing the flour being made by the prize court.

I have, etc.,

FRANCIS BERTIE.

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*Mr. Hay to Mr. White.*

No. 334.]

DEPARTMENT OF STATE,  
*Washington, March 20, 1900.*

SIR: I have to acknowledge the receipt of Mr. Choate's dispatch No. 264, of the 26th ultimo, reporting his interview with Lord Salisbury on February 24 in relation to the seizure of American merchandise bound for South Africa.

The Department has not failed to observe the suggestion made to Mr. Choate by Lord Salisbury that—

an ultimate destination to citizens of the Transvaal, even of goods consigned to British ports on the way thither, might, if transportation were viewed as one "continuous voyage," be held to constitute in a British vessel such a "trading with the enemy" as to bring the vessel within the provisions of the municipal law. ✓

In view of the prospect of a practical solution of the question of the seizures along the lines arranged between Mr. Choate and Her Majesty's Government, it is not deemed necessary for the Department to express at present either its assent or dissent to the said suggestion; but it would regret to have such an issue actually raised by the British Government, and it does not seem probable that it will be done, either on account of the seizures made in the future, or through the failure to consummate the settlement already arranged for the seizures which have been made.

I am, etc.,

JOHN HAY.

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*Mr. Choate to Mr. Hay.*

No. 300.]

AMERICAN EMBASSY,  
*London, April 11, 1900.*

SIR: With reference to Mr. White's dispatch No. 283 of the 15th ultimo, I have the honor to transmit herewith the copy of a note which has just been received from Her Majesty's secretary of state for foreign affairs in relation to the consignment of flour shipped by the Pennsylvania Milling Company on board the steamship *Maria*.

I am, for the moment, unable to obtain further information as to the details of the transaction therein referred to, but assume that they will be perfectly intelligible to the company.

I have, etc.,

JOSEPH H. CHOATE.

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[Inclosure.]

*Lord Salisbury to Mr. White.*

FOREIGN OFFICE, April 7, 1900.

SIR: With reference to my note of the 10th ultimo, I have the honor to inform you that I learn from the secretary of state for the colonies that of the 2,000 bags of flour which the Pennsylvania Milling Company consigned by the *Maria*, 1,959 were landed at Durban; of these 1,759 were sold locally and 200 shipped to Delagoa Bay by the *Matabele*, 41 having been "short landed." Of the company's other consignment of flour carried by the *Maria*, consisting of 1,512 bags, the whole was sold locally at Durban and cleared there. The price of flour at Delagoa Bay on the assumed date, November 2, was £14 to £15 per ton "goods in bond."

I have, etc.,

SALISBURY.

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*Mr. Choate to Mr. Hay.*

No. 301.]

AMERICAN EMBASSY,

*London, April 14, 1900.*

SIR: With reference to your instruction No. 311 of the 20th February last, in relation to Mr. R. M. Geldart's shipments on board the *Beatrice*, *Mashona*, and *Maria*, I have the honor to inclose herewith copies of a note addressed by Mr. White to Lord Salisbury on the subject and of a reply thereto, which has just been received from the foreign office.

I have, etc.,

JOSEPH H. CHOATE.

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[Inclosure 1.]

*Mr. White to Marquis of Salisbury.*

AMERICAN EMBASSY,

*London, March 17, 1900.*

MY LORD: With reference to Mr. Choate's note of the 4th of January last, in relation to the detention by the British authorities in South Africa of merchandise shipped by Mr. R. M. Geldart from New York to Delagoa Bay, under instructions from my Government, I have the honor to inclose for your lordship's further information a copy of a letter from Mr. Geldart to the Secretary of State of the United States, dated the 19th of January, and other correspondence in regard to shipments made by the former on the steamships *Beatrice*, *Mashona*, and *Maria*, respectively, together with a copy of a bill of lading, invoice, and affidavit regarding the *Maria's* cargo, to which the same refers.

It appears from Mr. Geldart's affidavits, dated the 19th of January, that he is the shipper aboard the *Maria* of 100 cases of cotton-seed oil, each containing two five-gallon tins, destined for Delagoa Bay.

I have, etc.,

HENRY WHITE.

[Inclosure 2.]

*Lord Salisbury to Mr. White.*FOREIGN OFFICE, *April 10, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 17th ultimo respecting Mr. R. M. Geldart's shipments on board the *Beatrice*, *Mashona*, and *Maria*, and to inform you that it has been sent to the high commissioner for South Africa.

I do not think that the British authorities will be able to meet Mr. Geldart's suggestion that the cotton-seed oil should be purchased by them for the amount of the invoice price, together with a fair profit on the transaction, as it appears to me unlikely that they would be able to make any use of a vegetable oil of this nature.

I have, etc.,

SALISBURY.

*Mr. Choate to Mr. Hay.*

No. 302.]

AMERICAN EMBASSY,

*London, April 14, 1900.*

SIR: With reference to your instruction 314, of the 21st February last, respecting Messrs. Peabody & Co.'s shipments on the *Mashona* and *Maria*, I have the honor to inclose herewith copies of a note from Mr. White to Lord Salisbury in relation thereto, and of the reply from the foreign office, which I have just received.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure 1.]

*Mr. White to the Marquis of Salisbury.*

AMERICAN EMBASSY,

*London, March 17, 1900.*

MY LORD: With reference to Mr. Choate's note to your Lordship of the 4th of January last, and to subsequent correspondence, in relation to the steamship *Mashona*, which was seized by the British authorities in South Africa, I have the honor to inclose a copy of a letter from Messrs. H. W. Peabody & Co., dated the 13th ultimo, together with copies of bills of lading and invoices properly signed and attested, to which the same refers, covering the entire list of the shipments of Messrs. Henry W. Peabody & Co., American merchants, by the *Mashona*, with a view to the protection of their interests in the event of their making a loss as the result of the seizure of that vessel.

I also have the honor to inclose a copy of a further communication from Messrs. H. W. Peabody & Co. to the Secretary of State of the United States, dated the 26th of January last, relative to copies of invoices and bills of lading covering merchandise shipped by them on the steamship *Maria* and *Mashona*. A copy of an affidavit of Mr. Charles D. Barry, a member of that firm, attesting the genuineness of the shipments is also inclosed herewith, together with the copies of invoices and bills of lading already referred to.

I have, etc.,

HENRY WHITE.

[Inclosure 2.]

*Lord Salisbury to Mr. White.*

FOREIGN OFFICE,

*London, April 9, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 17th ultimo, respecting Messrs. Peabody & Co.'s shipments by the *Mashona* and the *Maria*. A copy of this note and its inclosures will be forwarded to the high commissioner for South Africa.

The information now given is still not sufficiently ample to allow of the determination of the question who ought to be paid for such goods as are covered by the undertaking of Her Majesty's Government to buy the flour and any other articles of use to the military authorities.

I have, etc.,

SALISBURY.

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*Mr. Choate to Mr. Hay.*

No. 304.]

AMERICAN EMBASSY,  
*London, April 16, 1900.*

SIR: Referring to your instruction No. 313 of the 21st of February last in relation to Messrs. Arkell & Douglas's shipments to South Africa by the *Maria*, *Mashona*, and *Beatrice*, I have the honor to inclose herewith copies of Mr. White's note to Lord Salisbury, of the 19th ultimo, and of the reply of the foreign office thereto, of the 13th instant.

I have, etc.,

JOSEPH H. CHOATE.

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[Inclosure 1.]

*Mr. White to the Marquis of Salisbury.*

AMERICAN EMBASSY,  
*London, March 19, 1900.*

MY LORD: With reference to the detention of American merchandise by the British authorities in South Africa, I have the honor, under instructions from my Government, to inclose for your lordship's information copies of bills of lading representing shipments made by Messrs. Arkell & Douglas, a firm of New York merchants, by the steamships *Maria*, *Beatrice*, and *Mashona*, destined for Delagoa Bay.

It will be observed from the bills of lading above mentioned that the shipments made by Messrs. Arkell & Douglas, embrace all classes of general cargo, such as kerosene oil, brooms, stoves, building materials, white meal, shovels, turpentine, lard oil, plows, shellers, flour, etc.

I have, etc.,

HENRY WHITE.

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[Inclosure 2.]

*Mr. Bertie to Mr. Choate.*

FOREIGN OFFICE,  
*April 13, 1900.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of Mr. White's note of the 19th ultimo, respecting Messrs. Arkell & Douglas's shipments to South Africa by the *Maria*, *Mashona*, and the *Beatrice*.

A copy of this note and of its inclosures will be forwarded to the high commissioner for South Africa.

The observations which I had the honor to make in my note of the 9th instant in regard to Messrs. Peabody & Company's shipments apply also to the information now supplied in regard to Messrs. Arkell & Douglas.

I have, etc.,

FRANCIS BERTIE.

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*Mr. Hay to Mr. Choate.*

No. 378.]

DEPARTMENT OF STATE,  
*Washington, May 24, 1900.*

SIR: YOUR No. 301 of the 14th ultimo, inclosing copies of correspondence with the foreign office with reference to Mr. R. W. Geldart's

shipments on board the *Beatrice*, *Mashona*, and *Maria*, was duly received.

I inclose herewith, for your information, two letters addressed to me by Mr. Geldart on the 1st and 7th instant, respectively.

According to the judgment of the British prize court at Cape Town, a printed copy<sup>1</sup> of which I also inclose, there was probable cause for the seizure and detention of the *Mashona* as for trading with the enemy; but the court released the vessel on the ground that she had not in fact traded with the enemy nor intended to do so except with the express or implied permission of the British authorities. In view of the grounds put forward for the seizure of the ship, and of the grounds stated by the court for releasing the ship, the cargo, except so far as contraband, would have the same status as though it had been found aboard a British vessel trading solely between neutral ports. But the court states that there is no question of contraband in the case. The seizure not having been made or justified on account of contraband goods, the effect of the decision must be, therefore, either that the British Government has the right to seize neutral and noncontraband goods aboard British vessels lawfully trading between neutral ports, or else the American owners of such goods would be entitled to full compensation for their damages; and in effecting a settlement by sale of the goods to the British Government, they should not be expected to make sale of the goods on such terms as would involve loss of them by reason of the wrongful action of the British authorities.

You may take such action in the premises as in your judgment will enable Mr. Geldart or other American owners of goods to effect sales on reasonable terms.

I am, etc.,

JOHN HAY.

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[Inclosure 1.]

*Mr. Geldart to Mr. Hay.*

NEW YORK, *May 1, 1900.*

SIR: Referring to your correspondence dated December 21, January 25 and 26, February 5, 10, 13, and 26, and March 9, also telegrams of December 18, January 29, March 5 and 6, respectively, I have the honor of calling the Department's attention to the fact that though some of the goods ex steamship *Mashona* were released outright (to which category mine belonged) and allowed to proceed, they have again been stopped at Port Elizabeth and ordered placed in the Queen's warehouse at the expense of consignees, and, continues my Cape Town agent, "there being no possibility of the goods ever getting to Delagoa Bay until after the war, and as by that time the expense of storing the cargo will have been very considerable, we await your instructions, etc."

As the judgment of the prize court declared that it had no jurisdiction over my shipment and ordered them released to proceed on the vessel that brought them originally to the Cape, it is manifestly unfair that so many obstacles should be thrown in the way of their reaching Lourence Marques.

My shipment to Delagoa Bay ex steamship *Beatrice* landed at East London by order of the local authorities was recently allowed to proceed, and has again been detained at Durban, and from last accounts was to remain there indefinitely.

The bank holding the documents—drafts against which have been refused acceptance by drawees until arrival of the merchandise covered by same—are clamoring for reimbursement of their advances, and I am somewhat in a quandary as to the advisability of having the goods realized upon at their present places of detention, reserving my rights for indemnity for a later date, as the cargo must have deteriorated

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<sup>1</sup> Not printed.

considerably, seeing the time elapsed since the goods left this port, or wait until you take action on the matter through diplomatic channels.

All shipments from this country for Delagoa Bay now proceed via Hamburg or Bordeaux, and are landed at their destination without any remonstrance from the British authorities.

Your prompt and kind attention will oblige,  
Respectfully,

R. W. GELDART.

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[Inclosure 2.]

*Mr. Geldart to Mr. Hay.*

NEW YORK, *May 7, 1900.*

SIR: I addressed you the 1st instant and am now in possession of another communication from my agents at Cape Town concerning the above seizure.

The English director of supplies, in accordance with an agreement entered into with Consul-General Stowe, consents to purchase the seized goods at a 10 per cent profit above invoice cost, after deduction of buying commission carried on face of said invoice.

This would not pay even draft charges, interest, and protest expenses, without figuring on my agents' commission, and it seems very unfair that I should be the actual loser by this operation.

I should be pleased to hear from your excellency.

Respectfully,

R. W. GELDART.

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*Mr. Choate to Mr. Hay.*

[Telegram—Paraphrase]

AMERICAN EMBASSY,  
*London, June 20, 1900.*

(Mr. Choate requests that Mr. Geldart state the price that will reimburse him for shipments on the *Mashona*.)

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*Mr. Choate to Mr. Hay.*

No. 344.]

AMERICAN EMBASSY,  
*London, June 20, 1900.*

SIR: I have the honor to report that on the receipt of your instruction No. 378, of the 24th ultimo, I addressed to Her Majesty's secretary of state for foreign affairs, on the 9th instant, a note upon the subject of Mr. Geldart's goods on the *Mashona*, and his dissatisfaction with the price of invoice and 10 per cent offered by the British Government. I annex a copy of this note.

Yesterday in an interview with Lord Salisbury the matter was further discussed, and upon my stating to him that now that the ship had been adjudged not to be an offender against the municipal law against trading with the enemy, Her Majesty's Government would seem to be liable to make good all damage done to the innocent shipper of cargo, he said the natural inquiry was what price Mr. Geldart would consider sufficient to make him good, whereupon I sent to you a cable of inquiry on that point.

I have, etc.,

JOSEPH H. CHOATE.



[Inclosure.]

*Mr. Choate to Lord Salisbury.*AMERICAN EMBASSY,  
London, June 9, 1900.

MY LORD: With reference to my note of the 4th of January last, in relation to the detention by the British authorities in South Africa of merchandise shipped by R. W. Geldart from New York to Delagoa Bay, I have the honor to inclose herewith for your lordship's further information copies of letters from Mr. Geldart to the Secretary of State of the United States, dated the 1st and 7th ultimo, respectively, with respect to certain goods, viz, 200 bags of flour, 40 cases canned beef, 20 cases canned salmon, shipped by him on board the steamship *Mashona*.

It appears from Mr. Geldart's letter, dated the 7th of May last, that the British director of supplies, in accordance with an agreement entered into with the consul-general of the United States at Cape Town (Mr. Stowe), has offered to purchase the seized goods at a 10 per cent profit above invoice cost after deduction of buying commission carried on the face of such invoice. Such an arrangement, Mr. Geldart claims, would not meet the draft, with charges, interest, and protest expenses.

It would appear, according to the judgment of the British prize court at Cape Town that there was probable cause for the seizure and detention of the *Mashona*, as for the treating with the enemy; but the court released the vessel on the ground that she had not in fact treated with the enemy nor intended to do so, except with the express or implied permission of the British authorities.

In view of the grounds put forward for the seizure of the *Mashona* and of the grounds stated by the court for releasing the ship, the cargo, except so far as contraband, would seem to have the same status as though it had been found aboard a British vessel trading solely between neutral ports. The court, however, states that there is no question of contraband in the case. The seizure not having been made or justified on account of contraband goods, the effect of the decision would appear to be, therefore, either that Her Majesty's Government has the right to seize neutral and noncontraband goods aboard British vessels trading between neutral ports or else that the American owners of such goods would be entitled to full compensation for their damages, and in effecting a settlement by sale of the goods to Her Majesty's Government, in the opinion of my Government, the owners should not, therefore, be expected to make sale on such terms as would involve loss to them by reason of the wrongful action of the British authorities. The decision of the court that the vessel was not engaged in trading with the enemy would seem to make your lordship's suggestion that the owners of the cargo must first look for their damages to the ship and its owners as having been guilty of misconduct which caused the damage would therefore seem to be inapplicable at any rate to the present case; and I therefore have the honor to ask your lordship to consider the matter further, so that you may, if not inconsistent with your view of justice in such a case, direct the purchase of Mr. Geldart's goods, wrongfully detained, at a price which would be at least sufficient to protect him from loss, he being manifestly an innocent sufferer. The amount involved in this case is comparatively trifling, but the principles upon which its disposition depends are of considerable importance.

I have, etc.,

JOSEPH H. CHOATE.

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*Mr. Hay to Mr. Choate.*

[Telegram—Paraphrase]

DEPARTMENT OF STATE,  
Washington, June 22, 1900.

(Mr. Hay states that Mr. Geldart says his shipment by the *Mashona*, including necessary charges, would be covered by \$1,000, and that \$575 would cover his shipment by the *Beatrice*. If better terms can not be had, however, he will accept the British offer.)

*Mr. Hay to Mr. Choate.*

No. 401.]

DEPARTMENT OF STATE,  
Washington, June 25, 1900.

SIR: I confirm my telegram of the 22d instant with regard to the shipments of Mr. Geldart on the *Mashona* and *Beatrice*.

In this connection I inclose for your information copy of his letter on the subject, dated June 20.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Geldart to Mr. Hay.*

NEW YORK, June 20, 1900.

YOUR EXCELLENCY: In reply to your dispatch of this day, reading as follows, "Ambassador Choate cables let Geldart say what price will make him good on *Mashona*," I beg to say that my agents have been instructed to close seized shipments on the English Government's terms if better are unattainable.

At the same time I would recall your excellency's attention to protests contained in my correspondence of May 1 and 8, respectively, which are hereby repeated.

The amount necessary to cover shipment ex *Mashona* is \$1,000, and on *Beatrice* \$575.

Thanking you for your kind attention, and trusting I may eventually be reimbursed all the expenses attached to shipments in question,

Respectfully,

R. W. GELDART.

P. S.—Actual value of shipment ex *Mashona* is \$792. Add interest nine months, protesting, commission on sale of my agents—5 per cent—cabling, legal advice, bank's collecting commission, and so forth, and I am sure you will admit that my claim is only fair.

R. W. G.

*Mr. Choate to Mr. Hay.*

No. 350.]

AMERICAN EMBASSY,  
London, June 27, 1900.

SIR: Referring to my dispatch No. 344, of the 20th instant, and to your telegram in reply, dated the 22d instant, both relative to the terms of payment for Mr. Geldart's shipment on the *Mashona* and *Beatrice*, I have the honor to inclose herewith the copy of a note which I have addressed to Lord Salisbury on the subject dated yesterday.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

AMERICAN EMBASSY,  
London, June 26, 1900.

MY LORD: With respect to my interview with your lordship on the 19th instant, in reference to my note of the 9th instant and to previous correspondence, upon the subject of the detention by the British authorities in South Africa of merchandise shipped by Mr. R. W. Geldart from New York to Delagoa Bay, under instructions from my Government, I have the honor to state that Mr. Geldart considers that \$1,000 would protect him from the loss with respect to the shipments on board the *Mashona*, and that he would accept that amount as full payment of his claim, and further that he would accept \$575 for his shipments (beer and lard) on board the *Beatrice*.

I should therefore be glad to hear your lordship's views upon the subject and whether the proposition above stated will be acceptable to Her Majesty's Government.

I have, etc.,

JOSEPH H. CHOATE.

*Mr. Choate to Mr. Hay.*

No. 361.]

AMERICAN EMBASSY,  
London, July 23, 1900.

SIR: Referring to my dispatch No. 350, of the 27th ultimo, and to previous correspondence respecting Mr. Geldart's shipments to South Africa by the *Mashona* and by the *Beatrice*, I have the honor to inclose herewith a copy of a note from the foreign office, dated the 20th instant, in reply to mine of the 9th and 26th ultimo, respectively, from which it will be perceived that his lordship, while taking exception to what he terms the misapprehension underlying the statement of alternatives set forth in my note of the 9th, and disclaiming any seizure of the neutral and noncontraband goods on board the *Mashona*, at the same time agrees in behalf of Her Majesty's Government to the proposal made in my note of the 26th ultimo, and expresses his willingness to pay Mr. Geldart \$1,000 in full payment of his claim with respect to his shipments by the *Mashona*, and \$575 in full payment of his claim for his shipments by the *Beatrice*, these payments being made on the understanding that they will secure the delivery of the goods from all further claims whatsoever.

His lordship wishes it to be distinctly understood, however, that these payments are made purely "ex gratia," having regard to the special circumstances of this particular case, no legal liability being admitted by Her Majesty's Government either to purchase the goods or for the expenses which he has incurred.

I therefore await your further instructions before accepting the drafts for the before-mentioned amounts in payment of Mr. Geldart's claim.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

*Lord Salisbury to Mr. Choate.*

FOREIGN OFFICE, July 20, 1900. ✓

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your notes of the 9th and of the 26th ultimo respecting Mr. Geldart's shipments to South Africa by the *Mashona* and by the *Beatrice*. The first of your excellency's notes was under my consideration when the second arrived. The action which the second enables me to take renders it unnecessary for me to do more than to notice one point in the first. Your excellency writes on the 9th ultimo:

"It would appear, according to the judgment of the British prize court at Cape Town, that there was probable cause for the seizure and detention of the *Mashona* as for treating with the enemy; but the court released the vessel on the ground that she had not in fact treated with the enemy nor intended to do so, except with the express or implied permission of the British authorities.

"In view of the grounds put forward for the seizure of the *Mashona*, and of the grounds stated by the court for releasing the ship, the cargo, except so far as contraband, would seem to have the same status as though it had been found aboard a British vessel trading solely between neutral ports.

"The court, however, states that there is no question of contraband in the case. The seizure not having been made or justified on account of contraband goods, the effect of the decision would appear to be, therefore, either that Her Majesty's Government has the right to seize neutral and noncontraband goods aboard British vessels trading between neutral ports, or else that the American owners of such goods would be entitled to full compensation for their damages."

I must at once correct the apprehension, which, as I think, underlies this state-

ment of alternatives. In the present instance Her Majesty's Government have neither exercised nor claimed any such right as that indicated; neither have they seized neutral and noncontraband goods; the goods of that description found on board the *Mashona* were not seized; their passage to Lorenzo Marques was interrupted; but by this interruption they were detained only so far as their presence on board of the ship, which had been arrested, made their detention unavoidable.

Had the prize court held that the arrest of the ship was not justified, it would presumably have awarded damages against the captors of the ship, and the damage would presumably have been so calculated as to enable the ship to meet the merchants' claims arising out of the unjustified interruption of the voyage. But the court did not so hold, and, as it appears to me, the ship must therefore bear the consequences of the arrest and must meet the merchants' claims.

The case of neutral-owned and noncontraband goods on board the British ship *Beatrice*, mentioned in your excellency's note of the 25th ultimo, is analogous to that of similar goods on board the *Mashona*. The *Beatrice* by the law of her flag could not legally carry goods destined for the enemy; if, therefore, she shipped such goods, she must bear the consequences of her act. Among those consequences was the delaying of the goods until such time as they could be placed on a ship that could legally carry them on to Lorenzo Marques.

The offer of the British director of supplies to purchase any of the goods originally carried by the *Mashona*, or other ships, was authorized by Her Majesty's Government, because it appeared to be a convenient way of making good to the neutral owners the loss which must accrue to them through the delay caused by the arrest of the carrying ship, and, as the case may be, by the necessary landing of them from ships that could not legally carry them. This course had the manifest advantage of saving the owners the trouble of recovering damages from the carrying ships.

The price offered by the director would be fixed by the commercial considerations which regulate such offers, and would not take into consideration the events in consequence of which the goods chanced to be purchasable at Cape Town.

The above observations have no reference to the stoppage of Mr. Geldart's goods at Port Elizabeth. I am ignorant of the cause of the stoppage, and have asked Her Majesty's secretary of state for the colonies to inquire into it.

But Her Majesty's Government are willing to agree to the proposal made in your note of the 26th ultimo and to pay Mr. Geldart \$1,000 in full payment of his claim with respect to his shipments by the *Mashona*, and \$575 in full of his claim for his shipments by the *Beatrice*. These payments are made on the understanding that they will secure the delivery of the goods free from all further claims whatsoever.

It must be distinctly understood that these payments are made purely "ex gratia" and having regard to the special circumstances of this particular case. No liability is admitted by Her Majesty's Government either to purchase the goods or to compensate Mr. Geldart for the losses or for the expenses which he has incurred.

On hearing from your excellency that these terms are accepted, I shall be happy to forward to you, for payment to Mr. Geldart, drafts for the above-mentioned amounts.

I have, etc.,

SALISBURY.

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*Mr. Adee to Mr. Choate.*

No. 432.]

DEPARTMENT OF STATE,

*Washington, August 15, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 361 of the 23d ultimo, reporting that the British Government is willing to pay Mr. Geldart \$1,000 in full payment of his claim with respect to his shipments by the *Mashona*, and \$574 in full payment of his claim with respect to his shipments by the *Beatrice*, these payments being made on the understanding that they will secure the delivery of the goods free from all further claims whatsoever.

The substance of your dispatch was communicated to Mr. Geldart on the 4th instant. A copy of his letter in reply accepting the offer of the British Government is herewith inclosed for your information.

I am, etc.,

ALVEY A. ADEE.

[Inclosure.]

*Mr. Geldart to Mr. Adee.*

NEW YORK, August 7, 1900.

SIR: In reply to your favor of the 4th instant, I beg to inform you that I shall certainly accept the offer made by the British Government and am forwarding instructions to my representatives at South Africa to that effect.

Thanking the State Department for all its efforts on my behalf,  
Respectfully,

R. W. GELDART.

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**EXERCISE OF GOOD OFFICES OF U. S. CONSUL IN BEHALF OF  
BRITISH PRISONERS OF BOERS IN SOUTH AFRICA.**

*Mr. Hay to Lord Pauncefote.*

No. 1612.]

DEPARTMENT OF STATE,  
Washington, November 11, 1899.

EXCELLENCY: Referring to the correspondence had with Mr. Tower touching the desire of Her Majesty's Government for information concerning the health and welfare of British prisoners in the Transvaal, I have the honor to inform you that a telegram was received late last night from the consul at Pretoria stating that Majors Capel and Humphries are both in fine health. Mr. Macrum adds that he is notified by the state secretary that all requests for payment of money to officers and also other inquiries regarding them must in future come through regular military channels at front; that he will not further recognize Mr. Macrum in any British official capacity.

I have, etc.,

JOHN HAY.

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*Lord Pauncefote to Mr. Hay.*

WASHINGTON, November 22, 1899.

SIR: Referring to your note No. 1612 of the 11th instant, and to previous correspondence with Mr. Tower on the subject of remitting money to British prisoners in the Transvaal, I have the honor, acting upon the instruction of my Government, to suggest, for the consideration of your Government, that the United States consul at Pretoria should point out to the Transvaal Government that they are departing from the usual practice in not allowing the friendly offices of the United States consul to be used on behalf of these prisoners. Lord Salisbury calls attention to the fact that during the Crimean war moneys for British prisoners in Russia and for Russian prisoners in England were distributed through the Danish representatives in St. Petersburg and London. Further, that during the Franco-Prussian war moneys were handed to the French prisoners in Germany through the British representative in Germany, and French prisoners were allowed to send their letters to France from Germany through the British foreign office.

Lord Salisbury desires me to add that it is understood that reciprocal privileges would of course be granted to Boer prisoners in our hands.

I have the honor, etc.,

PAUNCEFOTE.

*Mr. Hay to Lord Pouncefote.*

No. 1619.]

DEPARTMENT OF STATE,  
*Washington, November 28, 1899.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 22d instant on the subject of remitting money to British prisoners in the Transvaal, in which, under instructions from your Government, you suggest that the United States consul at Pretoria should point out to the Transvaal Government that they are departing from the usual practice in not allowing the friendly offices of the United States consul to be used on behalf of these prisoners.

I have instructed the consul at Pretoria to call the attention of the Government of the South African Republic to the statements and views of Lord Salisbury.

I have, etc.,

JOHN HAY.

*Mr. Hay to Lord Pouncefote.*

No. 1753.]

DEPARTMENT OF STATE,  
*Washington, April 9, 1900.*

EXCELLENCY: You will recall that under date of November 22, 1899, you communicated to me the views and desires of your Government as to the pointing out to the Transvaal Government by the United States consul at Pretoria that they are departing from the usual practice in not allowing the friendly offices of the United States to be used on behalf of British prisoners.

In accordance with my promise to you, copy of your note was forwarded to the United States consul at Pretoria, with instructions to make use if necessary of the precedents therein cited by Lord Salisbury to show that the charitable and humane intervention of the United States consul is usual and regular in time of war.

I have since had occasion to communicate with the consul by telegraph in regard to the opportunity and manner of remittance for charitable aid to the sick and wounded, whether British or Boer, in the course of the present war.

It is only within a day or two that I have received a definite reply from the consul. Mr. Hay now telegraphs me that he can use the money for prisoners and can draw upon me for charitable contributions on both sides.

I have, etc.,

JOHN HAY.

*Mr. Hay to Lord Pouncefote.*

No. 1752.]

DEPARTMENT OF STATE,  
*Washington, April 9, 1900.*

EXCELLENCY: Referring to my note of even date, by which I advise you of the gratifying information cabled by the consul at Pretoria that he can use money for British prisoners, I have the honor to communicate to you, for the information of your Government, copy of correspondence exchanged in January and February last between Mr. W. Stanley Hollis, who served as acting United States consul at Pretoria

after the departure of the consul, Mr. Macrum, and Mr. F. W. Reitz, state secretary of the South African Republic, in regard to the manner and extent of the consul's action on behalf of British interests and in aid of the British prisoners.

Mr. Hollis's report of this correspondence was in execution of an instruction sent to Mr. Macrum under date of November 24, 1899, with which was inclosed a copy of your note of November 22, and therefore represents the position taken by the South African Government prior to the arrival of Consul Hay at Pretoria. Whether Mr. Hay's telegram indicates the confirmation by the South African Government of the understanding so notified to Mr. Hollis, or covers any modification of the terms thereof, can not be clearly known until Mr. Hay's full reports shall have been received by mail.

I have, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Hollis to Mr. Hill.*

No. 114.]

CONSULATE OF THE UNITED STATES,  
*Pretoria, S. A. R., February 2, 1900.*

SIR: Replying to the instruction from Hon. John Hay, dated November 24 last and numbered 60, I have the honor to report as follows:

I have had a number of conferences with the state secretary and with the secretary of foreign affairs in relation to my attitude toward British interests and toward British prisoners of war in this country.

I have learned from many official and consular sources that the late British agent at this capital was always a thorn in the side of this Government, and that he is, in part, responsible for this present war.

Such being the case, this Government has a strong aversion toward recognizing anyone who may claim to act as a British agent.

The state secretary said to me: "We got rid of the British agent on the 11th of October last, and, God willing, we will never have another one here."

On the other hand, this Government fully expects, when this present war is over, to receive a British minister and British consuls, but it will not receive any more British agents.

When I thoroughly understood the situation and the views of this Government thereon, I wrote to the state secretary and gave him an expression of the views of his Government, as I understood them.

Copies of my letter and of the state secretary's reply thereto are herewith inclosed.

I also inclose copies of a telegram that I have received from the press censor at Durban, Natal, and of my reply thereto.

In this connection I have the honor to refer to my dispatch No. 105, of January 5, 1900, which, together with this present dispatch and its inclosures, will, I trust, give you a clear idea of my relations with this Government. I have thus endeavored to come to a clear, friendly, and satisfactory understanding upon these matters with the Government of the South African Republic, and trust that my action in so doing will meet with your approval.

I respectfully request that your acknowledgment of this dispatch be sent to me at Lourenço Marquez.

I have, etc.,

W. STANLEY HOLLIS,  
*United States Consul.*

[Subinclosure 1.]

*Mr. Hollis to Mr. Reitz.*

CONSULATE OF THE UNITED STATES OF AMERICA,  
*Pretoria, January 31, 1900.*

DEAR SIR: I have the honor to refer to our conversation of this morning, in which I stated to you that my Government had instructed me to call your attention to its views and to the views of Lord Salisbury upon the subject of the attitude of the United States consul at this capital in relation to British interests and to the British prisoners of war.

In this conversation I communicated to you the substance of the communication, with its inclosures, that I had received from my Government, and you in turn communicated to me your views in the matter.

It thus seems that the present time is an excellent one in which we can come to a mutual understanding in this matter.

As I understand it, the views of your Government in this matter are as follows:

1. The Government of the South African Republic objects to recognizing the United States (or any other) consular officer as the official representative of the British Government during the present war.

2. The Government of the South African Republic objects to the transmission by the United States consul of—

(a) Official communications from the British Government and addressed to the Government of the South African Republic.

(b) Official communications from the British Government and addressed to British prisoners here.

(c) Moneys or funds sent by the British Government to British prisoners here.

On the other hand, I understand that the Government of the South African Republic will have no objection to the performance by the United States consul at this capital of the following services on behalf of the British prisoners of war and their friends:

1. The forwarding of letters and papers sent by friends or relatives of the prisoners.

2. The distribution of funds (under the supervision of the war office of the South African Republic) sent to the British prisoners by their friends or relatives.

Provided that these services are reciprocal and that the Government of the South African Republic will have the right to request the similar services of the United States consular officers in the British Possessions and on behalf of the Boer and Afrikaner prisoners of war that are now in the hands of the British authorities.

I further understand that the Government of the South African Republic reserves to itself the right to revoke any or all of the privileges to receive letters, money, and parcels now enjoyed by the British prisoners of war in this Republic, and that the fact that Boer or Afrikaner prisoners of war in the hands of the British authorities are not receiving kind and humane treatment, or are denied privileges similar to the privileges now allowed to British prisoners of war in the South African Republic, will, if proven to your satisfaction, be deemed sufficient cause and reason for such action on the part of your honorable Government.

Assuring you of my high consideration and esteem, and venturing to hope for an early reply, I have, etc.,

W. STANLEY HOLLIS.

[Subinclosure 2.—Translation.]

*Mr. Reitz to Mr. Hollis.*

DEPARTMENT VAN BUITENLANDSCHE ZAKEN,  
GOUVERNEMENTS KANTOOR,  
*Pretoria, February 2, 1900.*

DEAR SIR: I have the honor to acknowledge the receipt of your letter, No. 194, dated January 31, 1900, in which you state the substance of the conversation between us of that date, concerning the views held by this Government in relation to your taking charge of British interests and those of British prisoners of war in this Republic.

I note with pleasure that the view adopted by this Government has been stated with perfect correctness in your letter under reply.

That is the attitude in accordance with which this Government has acted and will continue to act.

Assuring you of my high consideration, etc.,

F. W. REITZ,  
*State Secretary.*

[Subinclosure 3.]

*Press Censor to Mr. Hollis.*

[Telegram.]

PRETORIA, 124, *February 1, 1900.*

Please say if prisoners are allowed to receive parcels tobacco; other things. Are they allowed newspapers?



[Subinclosure 4.]

*Mr Hollis to Press Censor at Durban, Natal.*

[Telegram.]

UNITED STATES CONSULATE,  
*Pretoria, S. A. R., February 2, 1900.*

Yes; if sent by their friends, and through this consulate.

W. STANLEY HOLLIS.

*Lord Pauncefote to Mr. Hay.*

No. 111.]

BRITISH EMBASSY,  
*Washington, April 18, 1900.*

SIR: With reference to your personal note of March 16, and your note, No. 1753, of April 6, I have the honor, by direction of Her Majesty's principal secretary of state for foreign affairs, to convey to your Government the thanks of Her Majesty's Government for the success which has attended the efforts of the United States consul on behalf of the British prisoners of war at Pretoria.

As regards the treatment of Boer prisoners by British authorities, I am to inform you that telegrams, books, clothing, and luxuries are freely transmitted to them after inspection; that small amounts of money are given to them direct, while larger amounts are handed to the commandant to issue in small sums, and that clothing is issued at the public expense to prisoners who are in great need of it.

I have, etc.,

PAUNCEFOTE.

**AWARD BY BRITISH GOVERNMENT TO MRS. GEORGE F. LABRAM  
IN RECOGNITION OF HER HUSBAND'S SERVICES DURING THE  
SIEGE OF KIMBERLEY.**

*Mr. Hill to Mr. White.*

No. 445.]

DEPARTMENT OF STATE,  
*Washington, September 11, 1900.*

SIR: I inclose for your information copy of a letter addressed to the Department by Mrs. George F. Labram, of Aurora, Ill., inclosing a communication from Lieutenant-Colonel Kekewich, commanding British troops in South Africa, showing services rendered by the late George F. Labram, and requesting information as to the manner in which his widow should present her claim to the British Government for the death of her husband.

In view of Colonel Kekewich's statement to the effect that Mr. Labram completed many engineering works which materially assisted in prolonging the defense of Kimberley, it is thought possible that the British Government might, upon representation of the facts, feel inclined to make some provision for Mrs. Labram.

You are accordingly instructed to informally present the papers in question to Her Majesty's Government for its consideration, and report the result to the Department.

I am, etc.,

DAVID J. HILL.

[Inclosure.]

*Mrs. Labram to Mr. Hay.*

AURORA, August 26, 1900.

DEAR SIR: I do not know the proper channel through which a claim can be presented to the English Government, but have been advised to place the facts before the State Department, and have been assured that you would have the documents forwarded to the party whose duty it may be to act for and in my behalf.

My late husband, George Labram, was in the employ of the De Beers Consolidated Mines, Limited, Kimberley, South Africa; was in the town during the time it was besieged; an American citizen, born in Detroit, Mich., in 1859. He never renounced his allegiance to the United States Government, and was at his death, as always, an American. He was killed at Kimberley by the explosion of a shell while in his room in the hotel, on the 9th day of February, 1900. Myself and son, aged 13 years, are his only heirs, and it seems to me that I am entitled to some consideration from the English Government, as he was practically compelled to fight there, to prevent the capture of Kimberley by the Boers, in behalf of the English forces. If you would kindly forward any documents for evidence that may be required, of his actions and his death, full information can be obtained from Mr. Gardner Williams, American consul at Kimberley and general manager of the De Beers Consolidated Mines, Limited. Mr. Williams is now in England and can be communicated with by addressing care of De Beers Consolidated Mines, 62 Lombard street, London, E. C.

I inclose herewith a certified copy of a letter from Colonel Kekewich stating that the English Government was indebted to my late husband.

I trust that I have appealed to the right quarter for aid as I was dependent upon my husband and his engineering ability for my living, and will feel deeply grateful for an acknowledgment of this letter with information as to the disposal made of it.

Yours, very truly,

MRS. GEO. F. LABRAM.

[Subinclosure.]

*Lieutenant-Colonel Kekewich to Mrs. Labram.*

FEBRUARY 12, 1900.

DEAR MADAM: It was with great grief that I received the sad intelligence on February 9 that your husband, Mr. George Labram, has been killed by a Boer shell.

I write to offer you and your son the deepest sympathy of my staff and myself in the severe loss you have sustained. Not only Kimberley, but the whole British nation, is to-day indebted to your late husband for the invaluable assistance he afforded to the defenders of Kimberley during a siege extending over nearly four months. Your late husband placed unreservedly at my disposal his great genius, and I can not sufficiently express my gratitude for the many works he completed, which have much assisted me to prolong the defense of Kimberley. I can assure you, my dear madam, that the whole of Kimberley mourns the loss of our dear friend George Labram as we would the loss of a dear relative.

Yours, sincerely,

KEKEWICH,

*Lieutenant-Colonel, Commanding the Troops at Kimberley.**Mr. Choate to Mr. Hay.*

No. 459.]

AMERICAN EMBASSY,  
London, December 19, 1900.

SIR: Referring to your instruction No. 445 of September 11 last, I have the honor to inclose the copy of a note received by me from the Marquis of Lansdowne, transmitting an order, which I also inclose herewith, upon Her Majesty's paymaster-general for £1,000, which the secretary of state for war has awarded to Mrs. Labram.

You will observe "that Her Majesty's Government gladly take this

opportunity of placing on record their sense of the valuable services by her late husband during the siege of Kimberley and of expressing their regret at the loss she has sustained in his death."

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

*The Marquis of Lansdowne to Mr. Choate.*

FOREIGN OFFICE, *December 13, 1900.*

YOUR EXCELLENCY: I referred to Her Majesty's secretary of state for war the letter from Mrs. Labram, communicated to me by your excellency on the 2d October last, in which she appeals for a grant from Her Majesty's Government in recognition of the assistance afforded to Her Majesty's troops by her late husband when Kimberley was besieged by the Boer forces. I have pleasure in informing your excellency that Mr. Broderick has found himself able to award Mrs. Labram a sum of £1,000, for which I inclose an order on Her Majesty's paymaster-general.

I have to request your excellency to be good enough to forward this sum to Mrs. Labram, and to add that Her Majesty's Government gladly takes this opportunity of placing their sense of the valuable services rendered by her late husband during the siege of Kimberley and of expressing their regret at the loss she has sustained in his death.

I have, etc.,

LANSDOWNE.

*Mr. Hay to Mr. Choate.*

No. 522.]

DEPARTMENT OF STATE,  
*Washington, December 29, 1900.*

SIR: I have to acknowledge the receipt of your No. 459 of the 19th instant transmitting an order upon Her Majesty's paymaster-general for £1,000, which the British secretary of war has awarded to Mrs. George F. Labram in recognition of the assistance afforded by her late husband to Her Majesty's troops at Kimberly.

The order has this day been forwarded to Mrs. Labram.

I am, etc.,

JOHN HAY.

**SAMOAN CLAIMS OF FRENCH CITIZENS.—ADMISSION TO ARBITRATION.**

*Lord Pauncefote to Mr. Hay.*

[Memorandum.]

BRITISH EMBASSY,  
*Washington, June 19, 1900.*

The French Government have approached Her Majesty's Government with a view to procuring the admission of the claims of French citizens to the forthcoming arbitration before the King of Sweden and Norway on claims arising out of the recent disturbances in Samoa.

According to Article III of the Tripartite Convention either of the three Governments may, with the consent of the others, submit for arbitration claims of persons, not being natives, who are under the protection of that Government. But although French citizens do not, so far as Her Majesty's Government are aware, come within this category, they feel it would be difficult equitably to refuse the application

of the French Government for the admission of the claims of their citizens to arbitration.

It appears that the French Government have obtained an assurance from the German Government that they will do their best to procure the admission of French claims, and Her Majesty's Government understand that the Government of the United States have also been approached on the subject.

Her Majesty's Government are desirous, before returning a definite answer to the French ambassador, to ascertain the views of the United States Government on the subject and the nature of the answer which they propose to return to the request of the French Government.

PAUNCEFOTE.

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*Mr. Hay to Lord Pauncefote.*

[Memorandum.]

DEPARTMENT OF STATE,  
*Washington, June 25, 1900.*

The Secretary of State has given consideration to the memorandum of the British ambassador, dated June 19, 1900, reciting that the French Government was desirous of having the claims of its citizens arising out of the recent disturbances in Samoa included in the arbitration before the King of Sweden and Norway, pursuant to the convention concluded November 7, 1899, between the Governments of the United States, Great Britain, and Germany, providing for the settlement of certain claims in Samoa by that method.

The Secretary of State agrees that the French claims do not properly fall under the provisions of Article III of that convention, since they are not claims of persons, not natives, who are under the protection of either of the three Governments parties to the tripartite agreement, but the Secretary of State believes that the application of the French Government is one that should be equitably treated. Hence the Government of the United States readily consents, in case both Great Britain and Germany agree, that claims of French citizens growing out of occurrences in Samoa may be included in those to be submitted to the King of Sweden and Norway as arbitrator.

The Government of the United States has not yet been approached upon the subject further than by an informal memorandum left at the Department of State by the chargé d'affaires ad interim of France on December 26, 1899, asking that in case the convention for the settlement of Samoan claims should become a law the claims of French citizens sufferers in Samoa be included in the arbitration. Should it be, the assent of the Government of the United States to the proposition will be given, conditioned only that it meets with the approval of Great Britain and Germany.

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*Lord Pauncefote to Mr. Hay.*

No. 285.]

BRITISH EMBASSY,  
*Newport, R. I., October 1, 1900.*

SIR: I have the honor to inform you by direction of the Marquis of Salisbury that His Majesty the King of Sweden and Norway has signified his willingness to consider the claims of all foreigners in con-

nection with the military operations in Samoa, if the three signatory powers of the convention of November 7, 1899, will consent to their being submitted to His Majesty's arbitration.

I am instructed by Lord Salisbury to ascertain the views of your Government on this point and to inform you that Her Majesty's Government on their part are prepared to agree to the proposal.

I have, etc.,

PAUNCEFOTE.

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*Mr. Hay to Lord Pauncefote.*

No. 1952.]

DEPARTMENT OF STATE,  
*Washington, October 13, 1900.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 1st instant, saying that His Majesty the King of Sweden and Norway had signified to Her Britannic Majesty's Government his willingness to consider the claims of all foreigners in connection with the military operations in Samoa, provided the three signatory powers to the convention of November 7, 1899, would consent to their being submitted to arbitration. You accordingly ask the views of this Government, stating at the same time that the Government of Her Majesty is prepared to agree to the proposal.

The provision of the treaty bearing upon claims other than those of the signatory powers is found in article 3, which says:

Either of the three Governments may, with the consent of the others, previously obtained in every case, submit to the King for arbitration similar claims of persons not being natives, who are under the protection of that Government and who are not included in the above-mentioned categories.

This provision limits the claims of those not natives to be submitted to arbitration to those persons who are under the protection of either the United States, Great Britain, or Germany. No other class of claims is provided for; but in view of the probability that the three Governments concerned will sanction the admission of claims of French citizens there does not seem to be any sufficient reason why equal treatment may not be accorded to other nationals, since the arbitrator is disposed to consider them if agreeable to the treaty Governments.

The Government of the United States accordingly assents to the propositions in case Great Britain and Germany do likewise. It believes, however, that each Government should insist upon knowing the number and character of these claims before their final submission to the arbitrator, and that the Government desiring this special privilege on behalf of its citizens or subjects should prefer its request to each of the signatory powers, so that they may have an opportunity to know what is to be presented to the arbitrator. The claim of a national whose Government is not responsible for its presentation in this way should be excluded.

I have, etc.,

JOHN HAY.

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*Lord Pauncefote to Mr. Hay.*

No. 303.]

BRITISH EMBASSY,  
*Newport, R. I., October 16, 1900.*

SIR: I have the honor to acknowledge the receipt of your note, No. 1952, of the 13th, in which you are good enough to inform me of the

terms on which your Government are prepared to assent to the proposal that His Majesty the King of Sweden and Norway should consider the claims of all foreigners in connection with the military operations in Samoa.

I have forwarded a copy of your note to my Government, and I have now the honor to transmit to you, by direction of the Marquess of Salisbury, a copy of a note addressed to his lordship by the chargé d'affaires of Sweden and Norway in London, stating that the German Government have notified their intention to present on the 1st proximo the claims of Germany for losses suffered in Samoa, and requesting Her Majesty's Government to present the British claims by December 1, or at latest by the end of the current year, together with a copy of the reply returned to Baron Ramel, stating that, in the opinion of Her Majesty's Government, it is necessary first to determine whether the military action through which the claims arose was or was not warranted.

I have, etc.,

PAUNCEFOTE.

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[Inclosure 1—Translation.]

*Baron Ramel to Lord Salisbury.*

LEGATION OF SWEDEN AND NORWAY,  
*London, September 25, 1900.*

MR. MARQUIS: The minister of Germany at Stockholm has given notice of the intention of the Imperial Government to submit on the 1st of November next to the decision of His Majesty the King indemnity claims of German subjects for losses sustained at Samoa.

As it is important that similar claims of subjects and citizens of the other signatory powers parties to the Washington convention of November 7, 1899, be laid before the arbitral tribunal without too great a delay after the presentation of the German claims, I have been charged by order of the King to request the Government of Her Britannic Majesty to transmit, if possible, before the 1st of December next to the Government of the King the claims of the British subjects for delivery to the tribunal.

Should the Government of Her Britannic Majesty find it impossible to produce these documents before the date mentioned, the King is ready to grant on request a further extension of time.

It would, however, be highly desirable that all documents bearing on the Samoan indemnities be collected in Stockholm before the close of the year.

While bringing the foregoing to the knowledge of your lordship, I venture to apply to your good offices to the end of receiving an answer as promptly as circumstances will permit.

I take, etc.,

CH. EME. RAMEL.

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[Inclosure 2.]

*Lord Salisbury to Baron Ramel.*

FOREIGN OFFICE, *October 5, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 25th ultimo, in which you are good enough to inform me that the German Government have notified the intention to present on the 1st proximo for the decision of His Majesty the King of Sweden and Norway claims for losses incurred by Germans in Samoa.

These are the losses which, according to the convention signed at Washington on the 7th of November last, Germans allege they have suffered in consequence of unwarranted military action, if this be shown to have occurred, between January 1, 1899, and the arrival of the Joint Commission.

You at the same time request Her Majesty's Government to present the British claims by the 1st of December, or at the latest by the end of the current year.

I have in reply to observe that it seems necessary in the first instance to determine whether the military action through which these claims arose was or was not unwarranted.

With regard to this point a memorandum setting forth the events which took place between the above-mentioned dates is being prepared and will in due course be submitted for the consideration of His Majesty.

I have, etc.,

F. H. VILLIERS.  
(For the Marquess of Salisbury.)

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*Mr. Hay to Lord Pauncefote.*

No. 1958.]

DEPARTMENT OF STATE,  
*Washington, October 22, 1900.*

EXCELLENCY: Referring to my No. 1952 of October 13, 1900, I have the honor to inclose for your information copy of a note<sup>1</sup> from the German chargé d'affaires ad interim of the 15th, and of my reply<sup>2</sup> of the 22d instant, further relating to the submission to arbitration of the claims of foreigners in Samoa, not natives, and not under the protection of either the United States, Great Britain, or Germany.

Copy of the entire correspondence on this subject has been forwarded to Mr. W. W. Thomas, United States minister at Stockholm, with direction to acquaint His Majesty the King of Sweden and Norway of its nature, and to say that the claims of citizens of the United States, as provided for by the convention of November 7, 1899, were being prepared with a view to their early and formal submission.

I have, etc.,

JOHN HAY.

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**COURTESIES TO U. S. F. C. S. ALBATROSS, BY BRITISH DEPUTY COMMISSIONER AND VICE-CONSUL AT SUVA HARBOR, FIJI ISLANDS.**

*Mr. Hay to Mr. Choate.*

No. 316.]

DEPARTMENT OF STATE,  
*Washington, February 26, 1900.*

SIR: At the instance of the Commissioner of Fish and Fisheries, I transmit herewith a copy of a letter from Commander Jeff. F. Moser, U. S. N., commanding U. S. F. C. S. *Albatross*, regarding courtesies extended to Prof. Alexander Agassiz and himself by Her Britannic Majesty's deputy commissioner and vice-consul, Mr. R. Beckwith Leefe, at Suva Harbor, Fiji Islands.

In compliance with Mr. Bowers's request, you are hereby instructed to convey through the proper channel to Mr. Leefe the cordial thanks of this Government for his courteous services to Commander Moser and Professor Agassiz.

I am, etc.,

JOHN HAY.

<sup>1</sup> Printed, p. 523.

<sup>2</sup> Printed, p. 524.

[Inclosure.]

*Mr. Bowers to Mr. Hay.*

UNITED STATES COMMISSION OF FISH AND FISHERIES,  
*Washington, D. C., February 16, 1900.*

SIR: I have the honor to transmit herewith a copy of a letter from Commander Jeff. F. Moser, U. S. N., commanding U. S. F. C. S. *Albatross*, regarding courtesies extended to Prof. Alexander Agassiz and himself by Her Britannic Majesty's deputy commissioner and vice-consul, Mr. R. Beckwith Leefe, at Suva Harbor, Fiji Islands. This Commission would be pleased to have the service acknowledged to the British Government if it is deemed proper by the Department of State.

Very respectfully,

GEO. M. BOWERS, *Commissioner.*

[Subinclosure.]

*Commander Moser to Mr. Bowers.*

U. S. COMMISSION OF FISH AND FISHERIES, STEAMER ALBATROSS,  
*Suva Harbor, Fiji Islands, December 10, 1899.*

SIR: During our brief visit to Nuku'Alofa, Tonga, where we have no diplomatic or consular representative, Her Britannic Majesty's deputy commissioner and vice consul, Mr. R. Beckwith Leefe, placed his services at our disposition, and through him an audience was arranged and held with King George Turbou II. If you deem it proper the Department of State might be notified and the service acknowledged to the British Government.

The audience was formed of three officers, Mr. Woodworth, who accompanied Mr. Agassiz, and myself. We were received by the King and his ministers, and after some questions and explanations as to the nature of our work and expressions of good will we retired.

Very respectfully,

JEFF. F. MOSER,  
*Commander United States Navy, Commanding.*

**COURTESIES OF BRITISH NAVAL OFFICERS ON OCCASION OF AN  
 EXPLOSION ABOARD THE U. S. S. "WHEELING," AT HONGKONG.**

*Mr. Hay to Mr. White.*

No. 333.]

DEPARTMENT OF STATE,  
*Washington, March 20, 1900.*

SIR: I inclose for your information copy of a letter from the Secretary of the Navy transmitting a communication from the commanding officer of the U. S. S. *Wheeling*, wherein he expresses his appreciation of the unreserved kindness of the British officers and men at the time of the explosion on board the *Wheeling*, at Hongkong, China.

You are instructed to transmit a copy of the letter in question to the proper authorities of Her Majesty's Government, with a warm expression of this Government's high appreciation of the kind action of the officers and men of Her Majesty's navy on the occasion in question.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Long to Mr. Hay.*

NAVY DEPARTMENT,  
*Washington, March 12, 1900.*

SIR: I have the honor to forward herewith a copy of a letter from the commanding officer of the *Wheeling*, wherein he expresses his appreciation of the unreserved kind-



ness of the British officers and men at the time of an explosion on board the *Wheeling*, at Hongkong, China.

The Department requests that, if compatible with the views of the State Department, this appreciation of the kindness shown be conveyed to the British Government.

I have, etc.,

JOHN D. LONG, *Secretary.*

[Subinclosure.]

*Mr. Burwell to commander in chief of Flagship Brooklyn.*

U. S. S. WHEELING,  
*Hongkong, China, February 1, 1900.*

SIR: 1. I have the honor to report that since the gun accident reported by me on the 27th ultimo to the senior officer present, there have been no material facts obtainable, as no one who was present at the time can yet be examined.

2. The salute was ordered to be fired in honor of the German Emperor. The usual selected crew, under charge of the executive officer, was firing the salute and the men of the spar deck were at "attention." As there were a large number of vessels firing around us, the accident below was not noticed until I saw that our salute had stopped. I went forward and, seeing smoke coming up, ordered the men to fire quarters. Finding that there were casualties, sent to *Baltimore* for more medical aid. In the meantime the English cruiser *Brisk*, next to us, had noticed the fire alarm and had sent a surgeon. Immediately after, another surgeon was sent from the *Centurion*, the flagship of Vice-Admiral Seymour. Every assistance was given by the English fleet. The men were transferred at once to the naval hospital, and have since been treated with the utmost kindness.

3. On the day following the accident the funeral of C. A. Campbell, gunner's mate, third class, took place. Admiral Seymour, in a private note, requested me to inform him as to the time of the funeral. The band of the *Centurion* and mourners from the *Centurion* and *Brisk* accompanied the procession. The governor sent promptly an expression of sympathy and permission to land a firing party. Messages of condolence have been received from all the foreign vessels in the harbor.

4. I can not express too strongly my appreciation of the unreserved kindness of the English officers and men at this time. Nor can I tell which I admire most, the admirable preparedness which gave such prompt and efficient aid, or the delicate sympathy which has been shown for us in our misfortune.

I have, etc.,

W. T. BURWELL,  
*Commander, U. S. Navy, Commanding.*

**COURTESIES EXTENDED TO AN OFFICER OF THE U. S. ARMY BY  
BRITISH FORCES IN SOUTH AFRICA.**

*Mr. Hay to Mr. Choate.*

No. 496.]

DEPARTMENT OF STATE,  
*Washington, November 19, 1900.*

SIR: I inclose for your information a copy of a letter from the Acting Secretary of War, asking that you may be instructed to express to the British Government the high appreciation of the United States War Department for the courtesies extended to Capt. Stephen L. H. Slocum, Eighth Cavalry, U. S. A., military attaché with Her Majesty's forces during the recent military operations in South Africa, and especially for the kind attention shown him by Colonel Viscount Downe, who had charge of the foreign officers.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Miles to Mr. Hay.*WAR DEPARTMENT,  
*Washington, November 12, 1900.*

SIR: I have the honor to request that the American ambassador at London, England, may be instructed to express to the English Government the high appreciation of this Department for the courtesies extended to Capt. Stephen L. H. Slocum, Eighth Cavalry, U. S. A., military attaché with Her Majesty's forces during the recent military operations in South Africa, and especially for the kind attention shown him by Colonel Viscount Downe, who had charge of the foreign officers.

Very respectfully,

NELSON A. MILES,  
*Acting Secretary of War.***CONDOLENCES ON GALVESTON DISASTER.***Lord Pauncefote to Mr. Hill.*BRITISH EMBASSY,  
*Newport, R. I., September 15, 1900.*

SIR: I have the honor to state that I have been commanded by the Queen to express to the President of the United States the great sorrow with which Her Majesty has learned the details of the terrible disaster at Galveston.

Her Majesty wishes me to convey to the President the assurance of her sincere sympathy with the unfortunate sufferers from this calamity.

I have therefore to request that you will be good enough to transmit this message to its destination.

I have, etc.,

PAUNCEFOTE.

*Lord Pauncefote to Mr. Hill.*

[Personal.]

BRITISH EMBASSY,  
*Newport, R. I., September 15, 1900.*

DEAR MR. HILL: I have received a telegram from the Marquis of Salisbury in which he desires me to convey to the Secretary of State the deep sympathy of Her Majesty's Government on the occasion of the terrible disaster at Galveston.

I take this opportunity of expressing my own sorrow at this calamitous event.

I am, etc.,

PAUNCEFOTE.

*Lord Pauncefote to Mr. Hill.*

SEPTEMBER 17, 1900.

SIR: I have the honor to inform you that I have been requested by Sir A. Moloney, governor of the Windward Islands, to convey to the Government of the United States an expression of the heartfelt sympathy of himself and the people of those islands on the occasion of the terrible calamity that has befallen the city of Galveston.

I have, etc.,

PAUNCEFOTE.

*Mr. Hill to Lord Pauncefote.*

No. 1924.]

DEPARTMENT OF STATE,  
*Washington, September 19, 1900.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note, No. 265, of the 15th instant, by which you transmit an expression of the great sorrow with which Her Majesty the Queen has learnt the details of the terrible disaster at Galveston and the assurance of her sincere sympathy with the unfortunate sufferers from this calamity.

Your note has been communicated to the President, who charges me to express his sincere appreciation of Her Majesty's sympathetic message.

I have, etc.,

DAVID J. HILL,  
*Acting Secretary.*

*Mr. Hill to Lord Pauncefote.*

[Personal.]

DEPARTMENT OF STATE,  
*Washington, September 20, 1900.*

MY DEAR MR. AMBASSADOR: I beg to acknowledge the receipt of your personal note of the 15th instant, stating that you have received a telegram from the Marquis of Salisbury in which he desires you to convey to the Secretary of State the deep sympathy of Her Majesty's Government on the occasion of the disaster at Galveston.

In assuring you that Lord Salisbury's message is highly appreciated by Mr. Hay, I beg to thank you also for your expression of personal sorrow.

I am, etc.,

DAVID J. HILL.

*Mr. Hill to Lord Pauncefote.*

No. 1925.]

DEPARTMENT OF STATE,  
*Washington, September 20, 1900.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note, No. 270, of the 17th instant, conveying to the Government of the United States an expression of the heartfelt sympathy of the governor and people of the Windward Islands on account of the disaster at Galveston.

I beg that you will assure Sir A. Moloney that his sympathetic message is sincerely appreciated by the Government of the United States.

I have, etc.,

DAVID J. HILL.

## GREECE.

### MILITARY SERVICE—CASE OF LOUIS ECONOMOPOULOS—RIGHT OF EXPATRIATION NOT RECOGNIZED BY CONSTITUTION OF GREECE.

*Mr. Hardy to Mr. Hay.*

No. 30, Greek series.]

LEGATION OF THE UNITED STATES,  
*Athens, March 1, 1900.*

SIR: I have the honor to make the following report on the case of Economopoulos, a naturalized citizen of the United States, now held for military service by the Greek Government.

It appears from the record of the district court of the United States for the eastern district of New York that Economopoulos emigrated to the United States in his 16th year, in the month of January, 1893, and was duly naturalized August 23, 1899, being then over 21 years of age. A certified copy of his original application for naturalization and his certificate of naturalization are on file in this legation. Economopoulos left New York on September 2, 1899, for a brief visit to his former home in Laraphon, a village of Laconia, intending to return within a reasonable time to Brooklyn, where he resides. Arriving at Laraphon, he was arrested and taken to Sparta, where, in spite of his declaration of American citizenship and against his protest, he was made to take the military oath. Brought to Athens, he was assigned to the fourth battery, Second Regiment Field Artillery, where he is now serving, being again forced under protest to subscribe to the oath required. The immediate cause of his return to Greece he alleges to have been the illness of his father, and, being summoned by telegraph, he did not have time to provide himself with a passport. There being no one in charge of the legation during the absence of the minister, he made no appeal until after my return from leave of absence in October last, but sent for the above-mentioned proofs of his citizenship. On their arrival he applied to the legation, and a note was addressed to the foreign office requesting his immediate release. Having changed his name in America from Leonidas to Louis, the war office declined to consider the case on the ground that identity was not established. Anticipating this difficulty, I had sent to the Greek consul at New York and obtained his certificate to the effect that the Louis naturalized August 23, 1899, and the Leonidas on the conscription list were one and the same person. In reply to my note communicating this certificate, the foreign office declined to release him on the ground that he had not fulfilled the condition of the Greek constitution requiring the assent of the King to a change of allegiance. This refusal was entirely at variance with the precedents on record in the legation and with the friendly spirit hitherto characterizing the settlement of similar cases. I therefore cited these precedents, calling attention to the fact that whatever the special circumstances of each case, release had

invariably followed the establishment of the claim to American citizenship, and reiterating my former request. As, with one exception, I find no record that these cases have been officially reported to the Department, I append herewith for its information a brief statement of each. Failing to receive a reply to my last note of February 20, I yesterday called upon Mr. Romanos, minister for foreign affairs, who informed me that he had not yet received the decision of the war office.

In conversation with Mr. Romanos I mentioned the convention of 1870, on naturalization, between the United States and Austria-Hungary, and the desirability of some such agreement with Greece. I am inclined to believe that he would favor such, and that, if I were instructed to propose it, a favorable reception would be accorded it. I would therefore ask for instructions. At Mr. Romanos's request I have sent him copies of our conventions with other governments on naturalization.

The present ministry is, I am persuaded, disposed to settle questions of this nature agreeably to our wishes, especially if this can be done unofficially. I am now endeavoring to forestall the raising of the definite issue officially in the case of one Catechise. Dionysius A. Catechise, a naturalized American citizen, recently telegraphed me from Corfu that he intended to visit his native island of Othoni and feared detention by the military authorities. He emigrated at the age of 15, was naturalized in 1895, and is established in business in the State of Alabama. Mr. Romanos was quite willing to write a private letter to the prefect of Othoni, which I trust will prevent complications. He assures me that arrest and detention is not usually due, primarily, to the action of the authorities, but results more often from the malice or jealousy of private informers, who make complaints to the local officers. Once brought to their knowledge the law must follow its course, and the Government finds itself in the position of either being obliged to offend a Government with which it desires to maintain the best of relations or of violating its written constitution and opening a way to the evasion of its conscription law. As a matter of fact I find in the records no official communication from the Greek Government notifying the legation of the release of the person detained for military service in the cases herewith appended. Although release was always obtained, it seems always to have been granted through a spirit of amity, without any formal, or at least recorded, recognition of the validity of the claim made by the legation. I am in hopes that the present case may be adjusted in this way.

Should the war office, however, refuse to release Economopoulos, the desirability of a convention which shall avoid the conflicting claims of a double allegiance would be apparent. I have the honor to ask whether it would be the pleasure of the Department that I should propose such a convention, as also instructions in the event of a formal refusal to release Economopoulos.

I am, etc.,

ARTHUR S. HARDY.

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[Inclosure.]

*Cases of naturalization settled with the Greek Government.*

Alexander M. Cassimus; born in the island of Othoni, February, 1862; emigrated to the United States in 1873; naturalized, March, 1884, at Montgomery, Ala.; returned to Greece in 1884 to visit his parents; arrested at Othoni and taken to Corfu, where,

at the intervention of Mr. Woodley, United States consular agent, on establishment of his claim to citizenship, he was released; before returning to the United States, where he has since resided, was informed by the demarch of Othoni that his name had been erased from the conscription list.

Emanuel C. Catechi; born in the island of Merlera, Corfu; emigrated to the United States in 1872, when 14 years of age; naturalized at San Francisco, Cal., April 16, 1879; returned to Corfu to visit his parents in 1885, bearing certificate of naturalization and passport, and was registered as an American citizen in the consular agency at Corfu; shortly after his arrival was conscripted, but, on the establishment of his claim to citizenship, was promptly released; his name not having been stricken from the recruiting list, he was rearrested in 1886, and again released on the intervention of the consular agent at Corfu; rearrested in May, 1890, he was finally released at the request of Minister Snowden. (See Foreign Relations, 1890, p. 511.)

D. N. Vasilatos; emigrated to the United States in 1880; naturalized in the State of Washington in 1893; revisited Greece in 1897, when, being apprehensive that military service would be required of him, he applied to Minister Rockhill; at Mr. Rockhill's request his name was stricken from the conscription lists; notice to this effect on file.

Georges Dragoman; after service in the Navy of the United States, was naturalized in 1891; arrested in 1898 at the Piræus and sent to naval depot at Salamis; set at liberty on the intervention of Mr. Rockhill.

Elias I. Xanthakos; emigrated in 1887; naturalized in 1893; released on the intervention of Minister Alexander in 1895; no further details.

Peter Cutzenis; emigrated at the age of 16; released on request of Mr. Alexander in 1896; no record.

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*Mr. Hardy to Mr. Hay.*

No. 32, Greek series.] LEGATION OF THE UNITED STATES,  
*Athens, March 22, 1900.*

SIR: I deem it advisable to inform you of the present status of the case of Economopoulos, a naturalized citizen of the United States, now held for military service in the Greek army, as reported in my No. 30, of March 1, 1900.

As therein explained, Economopoulos arrived in Greece in September, 1899, and was arrested the last of that month. Being without a passport, and I being absent on leave, he did not then appeal to the legation, but sent for his passport and certificate of naturalization. On their arrival, early in January, 1900, he personally appeared and presented his case for the first time.

On January 9 I addressed a note to his excellency, Mr. Romanos, asking for Economopoulos's release. On February 3 I received a reply, dated January 30, asking proofs of identity, Economopoulos having changed his name from Leonidas to Louis while in the United States. On the same day—February 3—I sent to the war office the certificate of the Greek consul in New York, which I had previously sent for, showing the above names to belong to one and the same person. On February 20 I received a note, dated February 16, from Mr. Romanos, declining to release the said Economopoulos, and on the same day—February 20—renewed my former request, citing the precedents. On February 28, having no reply, I called on Mr. Romanos, who explained that he had not yet received the decision of the war office. In the course of conversation he expressed the desire to see the conventions on naturalization concluded by the United States with other countries, and at his request on March 1 I sent them to him with an explanatory letter, writing the Department at the same time for instructions regarding such a convention with Greece (No. 30, of March 1, 1900).

Somewhat later Economopoulos called at the legation in uniform, stating his intention to desert if not speedily released. I counseled him not to do so, and sent the vice-consul, Mr. Nicolaides, to the war office to inquire unofficially when a decision might be expected. He was informed the case was under consideration, and on March 10, being still without a reply, I addressed another note to Mr. Romanos.

According to a decision of the legal council on doubtful administration (collection of opinion and decrees No. 16, p. 290) it seems to be clearly recognized that while a former Greek subject, duly naturalized according to law in a foreign country, is liable, on his return to Greece, to the penalty prescribed by the penal code, he is *not* liable to military service. This opinion reads as follows:

Whereas, as is admitted by the council of revision, the appellant has legally become a foreign subject, and consequently the Greek authority can not seize and oblige him to fulfill an obligation, even though that obligation existed before his naturalization, for no one is constrained to render military service except on the condition of being a Greek subject according to article 6 of the law *ψ* 15 (article 7 of the law now in force), and, on the other hand, the State has ceased to have the right to constrain the appellant to render such service. The fact that the appellant is liable to penal proceedings is of no consequence, inasmuch as the penal laws apply without distinction to all persons residing in the country (article 3 of the civil law). Therefore, etc.

While it thus appears that according to a Greek tribunal a change of nationality without the assent of the King subjects a former Greek subject only to the penalty prescribed by the penal code, in view of Economopoulos's long detention in the service, and believing his release would be granted as a friendly act in accordance with precedent, I did not cite the above decision in my correspondence with the foreign office lest he should be turned over to the civil law and subjected to the fine and further detention therein prescribed. From what I learn unofficially, however, I fear that the war office will deny the legality of its own action in the cases cited as precedents and rest its refusal to release on the failure of Economopoulos to obtain royal assent to his expatriation. In that case I see no other course than to appeal to the foregoing decision. A similar appeal resulted in the release of Emanuel C. Catechi in 1890 (*Foreign Relations*, 1890, p. 511); but that case differed from the present one, inasmuch as Catechi had suffered already the penalty prescribed by the penal code and was nevertheless still held in the military service.

Should the war office decline to release Economopoulos I propose to cite the above decision as a reason for his exemption from any obligation to serve in the army, and, should he be condemned under the penal code, to endeavor to have the detention of nearly six months which he has already suffered offset the penalty therein prescribed. Economopoulos called at the legation to-day and stated that in the event of his release being again refused he should desert.

I have, etc.,

ARTHUR S. HARDY.

[Inclosure.]

*Mr. Hardy to Mr. Romanos.*

ATHENS, January 9, 1900.

SIR: I have the honor to inform you that Louis Economopoulos, a citizen of the United States, while visiting his former home near Sparta, was arrested on the pretext that he was liable for military service in the Greek army, and is now serving with the Second Regiment, Fourth Battery, Field Artillery, located at Athens.

It appears from the record of the district court of the United States for the eastern district of New York that Economopoulos emigrated to the United States in the fifteenth year of his age, in the month of January, 1898, and was duly naturalized on the 23d day of August, 1899, a certified copy of said record and the original decree of the court being on file in this legation. Since that time Economopoulos has done nothing to prejudice the nationality thus acquired, and desires to return to the United States.

I have the honor to request of your excellency that you will be so kind as to bring these facts to the knowledge of the minister of war, and to ask him to be so good as to release the said Economopoulos and to remove his name from the rolls of the Greek subjects liable to military service.

Entertaining no doubt that your excellency will at the earliest moment take these measures, I seize this occasion to renew, etc.,

ARTHUR S. HARDY.

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[Inclosure 2.]

*Mr. Romanos to Mr. Hardy.*

ATHENS, *January 30, 1900.*

SIR: In your note of the 9th instant you did me the honor to ask the release from the army of one Economopoulos, of Greek origin, who had been naturalized in 1899 as a citizen of the United States of America.

The war department, to which I had communicated your note, informs me that, before taking cognizance of the same, and in order to establish the identity of the person in question, it desires to know whether the request of your excellency concerns the soldier Economopoulos in the Second Regiment, Fourth Battery, whose baptismal name is not Louis, as stated in your note, but Leonidas. The soldier in question is from the commune of Therapna.

In begging you to be so good as to enable me to reply to this request from the war department, I take this opportunity, etc.

A. ROMANOS.

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[Inclosure 3.]

*Mr. Romanos to Mr. Hardy.*

ATHENS, *February 16, 1900.*

SIR: Referring to my note No. 605 of January 30 last, I hasten to inform you, conformably to a communication from the war department, that that department finds it impossible to accede, as it would have wished to do, to the request of your excellency concerning the release from military service of the soldier Louis Economopoulos, inasmuch as on examination of his civil status (titres de sujétion) it appears that his naturalization as a citizen of the United States of America was irregular in respect to the conditions which he should fulfill, according to the laws of the Kingdom, in order to relieve himself of his obligations as a Greek subject and to acquire a foreign naturalization.

The certificate of identification of the said Economopoulos is herewith inclosed.  
Accept, etc.,

A. ROMANOS.

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[Inclosure 4.]

*Mr. Hardy to Mr. Romanos.*

No. 1.]

ATHENS, *February 20, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of February 4-16 instant, in which you inform me that, conformably to a communication from the ministry of war, you find it impossible to comply with my request for the release of one Louis Economopoulos, a naturalized citizen of the United States, who, on the occasion of his return to Greece, on a visit to his relatives, was arrested as liable to military duty.



This refusal is so entirely at variance with precedent that I beg to call Your Excellency's attention to the following cases, which, among others, are on record in this legation as bearing upon the one now at issue:

Alexander M. Cassimus, born in the island of Othoni in February, 1862, emigrated to the United States in 1873, when 11 years of age, where he was duly naturalized according to law in March, 1884, at Montgomery, in the State of Alabama, being then over 21 years of age. Returning to Greece in March, 1884, bearing his certificate of naturalization and passport, to visit his parents, he was arrested on his arrival at Othoni and taken to Corfu, where, at the intervention of Mr. Woodley, consular agent of the United States, and on the establishment of his claim to citizenship, he was released. Before returning to America, where he has since resided, he was notified by the Demarch of Othoni that his name had been erased from the conscription list.

Emanuel C. Catechi, born in the island of Merlera, Corfu, emigrated to the United States in 1872, when 14 years of age. After a residence of about seven years he was duly naturalized at San Francisco, Cal., on the 16th day of April, 1879, being then 21 years of age. He continued to reside in the United States till 1885, when he returned to Corfu to visit his parents, bearing his certificate of naturalization and a passport issued by the Department of State at Washington, and was duly registered as a citizen of the United States at the United States consular agency in that place. Shortly after his return he was conscripted, but on the establishment of his claim to American citizenship was promptly released. Again arrested in 1886, his name not having been erased from the recruiting list, he was again released through the intervention of the United States consular agent at Corfu. In May, 1890, he was again conscripted, and was again, finally, released in compliance with the request of Mr. Snowden, then minister of the United States at Athens.

In December, 1897, my predecessor, Mr. W. W. Rockhill, requested that the name of D. N. Vasilatos be stricken from the recruiting list of the Greek army for the following reasons:

Vasilatos emigrated to the United States in 1890, was duly naturalized in 1893, and, desiring to revisit his native land, was apprehensive that military service would be required of him by the military authorities. Mr. Rockhill's request was promptly granted.

Georges Dragoman, after service in the Navy of the United States, was duly naturalized a citizen of the United States in 1891. In 1898 he was arrested at the Pireaus and sent to the naval depot at Salamis, on the pretext that he owed military service to Greece. At the request of Mr. Rockhill, Dragoman was set at liberty.

Elias Xanthakos, who emigrated after reaching the conscription age of 21 years, was released on the intervention of Mr. Alexander in 1895.

Peter Catzenis, who went to the United States at the age of 16, obtained his release within twenty-four hours after application therefor, in 1896.

Whatever the special circumstances attending these several cases, release has invariably followed the establishment of the claim to American citizenship. Some of them present complications from which that of Economopoulos is entirely free. He emigrated in his fifteenth year, was duly naturalized, and now returns for a brief visit and with the avowed purpose to go back at once to the United States to discharge his duties as a citizen thereof. His identity is certified by the Greek consul in New York City. I must therefore renew my request that Economopoulos, who has now been detained several months and who desires, after a visit of a reasonable length to his native village, to return to the United States, where he is established in business, be at once set at liberty. I am persuaded in so doing that your excellency, in consideration of the foregoing facts, and in continuance of that friendly spirit which has always characterized the relations of our respective Governments, will be so good as to give this request an early and favorable answer.

Taking this occasion to renew the assurances, etc.,

ARTHUR S. HARDY.

[Inclosure 5.]

*Mr. Hardy to Mr. Romanos.*

ATHENS, *March 10, 1900.*

SIR: On January 9 last I had the honor to send you a note asking you to be so good as to inform his excellency the minister of war of the arrest of an American citizen, Louis Economopoulos, and of his enrollment in the Greek army on the pretext that he owed military service to the Greek Government. I expressed the con-

viction that in view of the fact and for the reasons set forth in my note the minister of war would not hesitate to take the necessary steps for Economopoulos's release.

In answer to your excellency's reply of February 16 last, on February 20 I called your attention to the fact that my former request, far from being of an exceptional character, was in full accord with the friendly spirit which had hitherto marked the settlement of such cases by the Greek Government, as well as with the principles maintained by the Government of the United States.

Not having as yet received any reply to my note of February 20, and in view of the serious injury to the interests of Economopoulos, due to his compulsory service of over five months, I have the honor, on behalf of my Government, to ask your excellency to be so good as to give this matter your early attention.

I am, etc.,

ARTHUR S. HARDY.

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*Mr. Hardy to Mr. Hay.*

No. 33, Greek series.] LEGATION OF THE UNITED STATES,  
*Athens, April 5, 1900.*

SIR: I have the honor to inclose herewith further correspondence in the case of L. Economopoulos, all previous notes between Mr. Romanos and myself having been forwarded in my No. 32 of March 22 last.

I am, etc.,

ARTHUR S. HARDY.

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[Inclosure 1.]

*Mr. Romanos to Mr. Hardy.*

ATHENS, *March 18 (G. S.), 1900.*

MR. MINISTER: I hastened to transmit your note of February 20 to my colleague of the department of war.

Mr. Tsamados informs me that he deeply regrets that he can not release L. Economopoulos from military service.

In fact, Mr. Minister, the soldier in question, before acquiring American citizenship, should have obtained permission to abandon his Greek nationality according to the forms required by our civil code and discharged his military obligations to the country of his birth.

I take this occasion to renew, etc.,

A. ROMANOS.

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[Inclosure 2.]

*Mr. Hardy to Mr. Romanos.*

ATHENS, *April 3, 1900.*

MR. MINISTER: I hasten to reply to your note of March 18/31 last, in which you say that the American citizen Economopoulos can not be released from military service because before acquiring American citizenship he should have obtained permission to abandon his Greek nationality and discharged his military obligations to the country of his birth. Permit me to call your excellency's attention to the fact that this answer does not meet the circumstances of the case.

As a matter of fact, Economopoulos *has* changed his nationality, and has become a citizen of the United States in accordance with the provisions of its laws. This fact is not in dispute, and the question at issue therefore is What, under these circumstances, can the Greek Government legally require of him on his return to Greece to make, in good faith, a brief visit on his parents.

If I understand correctly the rulings of Greek courts hereinafter cited Economopoulos, being an American citizen, can not be held for service in the Greek army; for according to the well-known decisions dated June 14, 1886, to be found in the

Collection of Opinions and Sentences of the Legal Council on Doubtful Administration, pages 290 and 291, it is a recognized principle that only a Greek subject can be so held. No. 16, above referred to, is as follows:

“Vu que, conformément à ce que le Conseil de Révision admet, l'interjetant a légalement acquis la qualité de sujet étranger, été en consequence, l'autorité Hellénique ne peut plus le saisir et l'obliger à remplir une obligation, bien que cette obligation existe avant sa naturalisation, car on n'est soumis au service militaire envers l'Etat qu'à la condition d'avoir la qualité de sujet Hellénique, conformément à l'Article 6 de la loi 15 (Article 7 de la loi en vigueur) et l'Etat d'autre part a cessé d'avoir sur l'interjetant l'autorité à le contraindre à remplir telle obligation. La raison que l'interjetant est soumis à poursuite pénale n'importe pas, vu que les lois pénales s'étendent sans distinction sur toutes les personnes résidant dans le pays (Article 3 de la loi civile). Pour cela elle modifie etc. & exempte etc.”

No. 17 states the case still more clearly.

The question was “Whether one acquiring a foreign allegiance is regarded as a foreigner if he was a minor when he asked permission therefor?” and the opinion declares that it was immaterial whether he was a minor or not, “because he was able even without such permission to change his nationality, *subject only to the penalty prescribed by the penal code.*” It is clear that according to your own law a minor can change his nationality without the royal assent, *subject only to the penalty prescribed by the penal laws.* That Economopoulos is liable to that penalty I willingly admit, though in its application it is to be hoped that the long and unwarrantable service to which he has been compelled will be taken into account.

In the case of Emmanuel C. Catechi, released in 1890, which I had the honor to cite to your excellency as a precedent, the request of my predecessor, Mr. Snowden, was based upon the foregoing decision, and in view of its clear applicability to the case of Economopoulos I must renew my request for his release from military service, whatever may be his liability under the penal code.

It further appears, as I am informed, that when a former subject suffers the penalty prescribed by the penal laws for a change of nationality without royal assent he loses his civil rights.

If then Economopoulos, being subject only to the provisions of the penal code according to the above opinion, be turned over to the civil law and subjected to its penalties, he thereby loses his civil rights and can not therefore be liable for military service, since it is a recognized principle that the protection of a State and obligation thereto go hand in hand. The latter can not be enforced if the former is denied.

In my former requests I have appealed solely to the friendly spirit which has marked the settlement of such cases in the past. To these precedents, which I cited, your excellency's reply makes no reference. Am I to understand that they are disavowed?

If so, there still remains the opinion of the council above quoted, which asserts the essential question to be whether the appellant “legally acquired foreign allegiance according to the laws of that foreign State.” Of this there is no dispute in the case of Economopoulos. I have therefore the honor to renew my request for his release from military service on the ground of his legally acquired American citizenship, and his exemption under the above judgment from obligation for military duty.

I seize this opportunity to renew, etc.,

A. S. HARDY.

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*Mr. Hay to Mr. Hardy.*

No. 18, Greek series.]

DEPARTMENT OF STATE,  
Washington, April 6, 1900.

SIR: I have to inform you that your dispatch No. 30, of the 1st ultimo, in regard to the case of Louis Economopoulos, a naturalized citizen of the United States, of Greek origin, who upon returning to his native country was subjected to the performance of military service, has been received.

In view of the present status of the naturalization question between the United States and Greece, you are instructed to tell the Greek

foreign office that this Government will be pleased to conclude with Greece a naturalization convention similar to that with Austria-Hungary.

The Department fully approves of your desire to get the Economopoulos case out of the way in an agreeable manner.

I am, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Hardy.*

No. 19, Greek series.]

DEPARTMENT OF STATE,  
*Washington April 13, 1900.*

SIR: Referring to previous correspondence concerning the case of Louis Economopoulos, a naturalized citizen of the United States now held for military service in the Greek army, I have to acknowledge the receipt of your dispatch No. 30, Greek series, of the 22d ultimo, reporting the status of the matter. The action taken and proposed by you is approved by the Department. You have handled the matter intelligently, and it is not seen what more can be done than you suggest doing in the absence of a naturalization treaty.

I am, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Hardy.*

No. 20, Greek series.]

DEPARTMENT OF STATE,  
*Washington, April 28, 1900.*

SIR: Referring to previous correspondence concerning the military-service case of Mr. Economopoulos, I have to inform you that your note of the 3d instant, recalling the matter in question to the attention of the Greek foreign office, has been received and read with approval.

I am, etc.,

JOHN HAY.

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*Mr. Hardy to Mr. Hay.*

No. 39, Greek series.]

LEGATION OF THE UNITED STATES,  
*Athens, May 19, 1900.*

SIR: I have the honor to acknowledge the receipt of your No. 20 of April 28 last approving my note of April 3 to Mr. Romanos in the case of Economopoulos. My note remains as yet unanswered. From unofficial sources, however, I have reason to believe that the war office desires to assert the principle of the French law on nationality of June 26, 1889, and to maintain that all Greek subjects naturalized abroad without royal assent, who, at the date of their naturalization, were subject to military service, are still Greek, and as such amenable to the military laws of the Kingdom. No such law on nationality, however, has as yet been enacted in Greece, and in its absence it is difficult to see how such a position could be maintained in face of the decisions of the legal council quoted in my note of April 3 to Mr. Romanos, according to which a Greek subject duly naturalized abroad is not, on

his return, liable to military duty although subject to the penalties prescribed by the penal code unless the council should be convened and should revoke its former rulings.

Prior to the receipt of your No. 18 of April 6 authorizing me to propose a naturalization convention on the basis of that between the United States and Austria, and as a result of the conversation with Mr. Romanos reported in my No. 30 of March 1 on the desirability of some such convention, Mr. Romanos wrote me an informal letter, a copy of which is inclosed herewith, on the refusal of the minister of war to release Economopoulos and explaining why a convention on the basis of that with Austria could not be concluded by Greece. He inclosed at the same time a notice setting forth the conditions on which such a convention should be based. This notice was received prior to my note of April 3, in which for the first time I called attention to the legal aspect of Economopoulos's case as defined by the decisions of the legal council, and as these decisions differ so radically from the notice in principle I waited the result of my note of April 3 before transmitting the notice to the Department. Reply to my note has, however, been so long delayed that I now forward herewith the notice. While admitting the right of the Greek Government to take ground similar to that of the French law of 1889, I do not suppose the Department would favor any convention framed on such a basis.

It seems impracticable to take any further action before receiving a reply to my appeal to the decisions of the legal council.

I have, etc.,

ARTHUR S. HARDY.

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[Inclosure.]

*Mr. Romanos to Mr. Hardy.*

MINISTRY FOR FOREIGN AFFAIRS,  
*Athens, March 18/31, 1900.*

MY DEAR MINISTER: By my note No. 3261/389 of this date I inform you that my colleague in the war department finds himself unable to release Mr. Economopoulos from military service.

To avoid in the future regrettable misunderstandings, I hasten to send you the inclosed notice, which establishes the basis of an arrangement such as you have proposed to me and which would put an end to the present state of things.

You will also find in the same note the reasons why, to my regret, I can not conclude a convention which would accord American citizenship to Greek subjects in conformity with the terms of similar conventions with other European countries.

The American citizenship of Greek emigrants can not be recognized in Greece unless they have requested and obtained the prescribed permission of the Government and discharged their military obligations to the country of their origin.

Accept, etc.,

A. ROMANOS.

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[Subinclosure.]

*Notice.*

The age of majority in Greece is fixed at 21. Before this age no Greek subject is capable of performing any civil act. Consequently, minors can not tender their submission to or acquire nationality in a foreign state.

Military service being obligatory in Greece, Greek subjects are called to the flag at the age of 21; that is, when they attain their majority.

Every person who in any way whatsoever evades his military obligations is considered insoumis or a deserter, and incurs the penalties fixed by the recruiting laws. Hence, the acquisition of a foreign nationality in nowise relieves from military duty Greek subjects, who, on their return to Greece, are bound to submit to the laws of the country of their origin. Were it otherwise, anyone who wished to evade military service in Greece would only have to become naturalized abroad.

A full and complete individual liberty is assured Greek subjects by the constitutional law of the Kingdom. Thus the Greek Government has never refused to any applicant permission to renounce his Greek nationality and to acquire a foreign one. But this permission can not be obtained unless the applicant has satisfied his military obligations and discharged the duties which he might eventually incur toward the State.

Agreeably to the terms of the Greek civil code the prescribed permission of the Government is granted the applicant by royal decree, which, after its publication in the official journal, is sent to the person concerned. In default of this, anyone who becomes naturalized abroad incurs the penalties prescribed in article 527 of the penal code, and, on the other hand, also, is considered insoumis or a deserter and punished as such by the military laws of the State.

To avoid in the future misunderstandings to be regretted, it is necessary to provide by an exchange by notes that every Greek subject who wishes to acquire American nationality should deposit, with the proper American authorities, a duly certified copy of the royal decree authorizing him to abandon his Greek allegiance. The accomplishment of this formality should be stated in an official report drawn up on the occasion.

No Greek subject who has failed to comply with this formality can make good in Greece his claim to American citizenship.

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*Mr. Hay to Mr. Hardy.*

No. 23. Greek Series.]

DEPARTMENT OF STATE,  
*Washington, June 6, 1900.*

SIR: YOUR No. 39, of the 19th ultimo, has been received.

The Department is unwilling to conclude with Greece a convention regulating the naturalization of the citizens and subjects of the two countries, unless such convention recognize the right of the individual to change his allegiance.

In the case of Mr. Economopoulos, a naturalized American citizen held for military service in Greece, the Department will await further developments.

I am, etc.,

JOHN HAY.

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*Mr. Hardy to Mr. Hay.*

No. 48, Greek Series.]

LEGATION OF THE UNITED STATES,  
*Athens, June 8, 1900.*

SIR: I have the honor to inclose herewith three unofficial letters exchanged between Mr. Romanos and myself in the case of Economopoulos. It will be observed that throughout the entire correspondence no real reply has been made to the reasons I have advanced for his release. They have simply been met by a categorical refusal. I have been reluctant to abandon this case, because the attitude of the war office is in complete variance with precedent. It seems to me, however, that if any further action be taken it should be by express direction of the Department. If none such be deemed warranted, it

would appear necessary, under the present ministry at least, to hereafter notify former Greek subjects who appeal to the legation for intervention under like circumstances that nothing can be done in their behalf.

By personal letter to the Corfu authorities, Mr. Romanos was recently good enough to prevent the molestation of one Catechis, who returned to Greece for a short visit under like circumstances; but it would evidently be impossible to count upon such personal good offices, and they would be unavailing after arrest.

I am, etc.,

ARTHUR S. HARDY.

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[Inclosure 1.]

*Mr. Hardy to Mr. Romanos.*

ATHENS, *May 18/31, 1900.*

MY DEAR MR. ROMANOS. I received your letter of March 18 last, inclosing a notice which you say should serve as a basis for a convention on naturalization between Greece and the United States.

While admitting the right of your Government to enact any laws which it deems proper concerning the military obligations of former Greek subjects naturalized abroad, on their return to Greece, I do not apprehend that my Government would formally assent, by a convention, to a principle against which it has contended and which has been definitely admitted by other Governments with which it has concluded conventions on this subject. I have, however, transmitted the notice above referred to to the Department of State, and am awaiting its reply. Meantime, as I am shortly to leave Athens for Servia and Roumania, not to return till October, I wished to reply to your letter of March 18, and inform you that its inclosure had been duly referred to the State Department.

Before leaving I beg to remind you of the case of Economopoulos, and to express the hope that it may be arranged before I go. The decisions of the legal council on doubtful administration, to which I had the honor to call your attention, seem clear and conclusive, and their validity has been admitted in the case of Catechis and others. Whatever law or rule of procedure may hereafter be established by proper authority for the settlement of such cases, Economopoulos is entitled to the benefit of the rulings which were in force at the time of his return to Greece.

I shall take an early opportunity to call upon you to present my respects before my departure, and meantime, beg to assure you of my high regard.

ARTHUR S. HARDY.

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[Inclosure 2.]

*Mr. Romanos to Mr. Hardy.*

ATHENS, *23 May, 5 June, 1900.*

MY DEAR MINISTER: I have received the letter you were good enough to write me on the 18/30 instant.

Mr. Tsamados again informs me that the release of the soldier Economopoulos is absolutely impossible. Insoumis can in no wise urge their acquisition of a foreign citizenship to escape their military obligations.

A foreign nationality, acquired for this purpose, is regarded by all writers on international law as fraudulent, and on this account alone can not be a sufficient reason for violating the laws of the country of one's origin.

I extremely regret not to be able on this occasion to comply with your wishes.

Accept, etc.,

A. ROMANOS.

[Inclosure 3.]

*Mr. Hardy to Mr. Romanos.*

ATHENS, June 7, 1900.

MY DEAR MR. ROMANOS: Since our conversation of yesterday I have received your letter of the 5th instant. I thank you for your expression of personal regret, but I can not understand the position taken by the minister of war, who, you inform me, declares that a foreign nationality acquired for the purpose of evading military duty is held by all writers on international law to be invalid. Economopoulos emigrated to the United States in his fifteenth year, has since resided there uninterruptedly, and intends to return and remain there permanently. His visit to Greece was for a temporary purpose—a visit to a sick parent.

It can not be said that his naturalization was acquired for the purpose of fraudulently evading military duty. The principles of international law can not therefore be cited as a reason for refusing to acknowledge his American citizenship. On the contrary, the whole tendency of international law is affirmed by Calvo to be toward the establishment of the right of expatriation. Indeed, treaties and conventions are one of the chief sources of international law, and this right has been expressly confirmed in ten separate conventions concluded between the United States and European States. I had understood from previous correspondence on this subject that not international law, but the laws of Greece, forbade the release of Economopoulos. For this reason I cited in his behalf the decisions of the legal council on doubtful administration, which I was informed by the highest legal authority was a council expressly created for the interpretation of the laws of the Kingdom. My note of April 3 appealing to these decisions having received the approval of my Government, and being still without answer, I await a reply for transmission to Washington; unless, indeed, you desire that I myself should transmit the substance of our conversation of yesterday, which I understand to be as follows: That the legal council, although created to assist the ministry in the interpretation of the law in doubtful cases, and although its decisions, printed for record and general information, have been applied in previous cases of a similar nature, is without judicial authority; that its decisions are purely advisory in character, and, in the present instance, are held to be contrary to law and without effect.

I should, however, much prefer that you should be so good as to state this fact officially in the form you deem most proper for transmission to the Secretary of State.

Accept, etc.,

ARTHUR S. HARDY.

*Mr. Hardy to Mr. Hay.*

No. 59, Greek Series.] LEGATION OF THE UNITED STATES,  
Athens, October 2, 1900.

SIR: Referring to my No. 48, Greek series, of June 8, last, inclosing copies of correspondence with Mr. Romanos in the case of Economopoulos, from which it appeared that Mr. Romanos denied that the decisions Nos. 16 and 17 of the council on cases of doubtful administration, under which I claimed the release of Economopoulos, were applicable to his case, I have the honor to report that before leaving Athens in June last I consulted the best legal authority in Athens on the constitution of the above council and the legal force of its decisions. I was informed that it has two functions, one advisory to the ministry, the other judicial. The decisions, Nos. 16 and 17, to which I made appeal in Economopoulos's behalf, are decisions rendered in its judicial capacity on appeals made by the interested parties, and are absolutely final, the council consisting of the legal counsellor of the ministry for foreign affairs, the senior judge of the court of appeal, and the chief of the recruiting bureau. Mr. Romanos holds not only that these decisions apply only to the specific cases in which judgment was rendered and do not constitute general principles governing similar



cases, but also that the decisions were themselves unconstitutional, and that the ministry which applied them was liable to impeachment therefor.

It being open, however, to Economopoulos to bring his case before this council by appeal on his own instance, without the intervention of the legation, I notified him through the vice-consul, on leaving Athens, that this course would be a proper and natural one for him to take. On my return I learn that, either on account of the expense involved or for some other reason not stated he does not care so to do. He therefore remains in the military service of Greece.

Having received several letters from former Greek subjects who, having become naturalized in the United States, ask if they can return to Greece, I have, in view of the attitude of the Greek Government and the absence of any naturalization convention, notified them that they do so at their own risk.

I have also informed Mr. Romanos in accordance with your No. 23, of June 6 last, that the United States would be unwilling to conclude any convention or naturalization which did not recognize the right of the individual to change his allegiance.

I am, etc.,

ARTHUR S. HARDY.

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*Mr. Hay to Mr. Hardy.*

No. 32, Greek Series.]

DEPARTMENT OF STATE,  
Washington, October 24, 1900.

SIR: Your No. 59, of the 3d instant, relative to the case of Mr. Economopoulos, a native of Greece naturalized in the United States, who has been compelled to do military service in his native country, has been received.

It is the opinion of the Department, under the circumstances set forth in your dispatch, that you have done all that you could properly do in Mr. Economopoulos' behalf.

I am, etc.,

JOHN HAY.

## GUATEMALA AND HONDURAS.

### CLAIM OF ROBERT H. MAY v. GUATEMALA

*Mr. Hay to Mr. Hunter.*

No. 92.]

DEPARTMENT OF STATE,  
*Washington, November 4, 1898.*

SIR: Mr. R. H. May has filed memorials in the Department showing that under contract with Guatemala, dated April 5 and July 16, 1898, he agreed to operate a railroad in Guatemala for one year for \$35,000 per month, and to furnish and place a large number of cross-ties, and to repair and reconstruct parts of the railroad; for all of which, called in the contract "extra work," the accounts were to be audited by a Government official, and the work inspected as it was done and paid for within the first ten days of the succeeding month; that the railroad was, on the 16th day of April, turned over to Mr. May under this contract, with the right of possession for one year, and from that time to the 21st of September he fulfilled his contract to the letter, as shown by the reports of the inspecting engineer made monthly; that his accounts for extra work were duly presented and approved by the directing engineer without a word of complaint till the 21st day of September; that each month the Government fell behind very largely in its payments, and he, May, was compelled to advance \$35,000 and to purchase supplies to the extent of \$24,000 on credit, and to become indebted to his men \$65,000 up to the 31st day of August, in order to continue the operation of the road and prevent a strike; that the Government's monthly defaults prior to September 1 aggregated \$136,000; that he then explained to the Government that he had exhausted his capital and credit, and that the men would strike unless the Government paid enough to settle their wages; that the Government solemnly promised repeatedly to do so, but broke all its promises; and on the 21st of September the men struck and in consequence the operation of the road was suspended; that on the 22d of September, May went to Guatemala City, and, having obtained an audience with the President, in your presence, explained the situation and demanded \$72,000, then due his men, and necessary to settle the strike; that the President then proposed that he would pay the \$72,000 and would promptly audit and pay May's account for extra work if May would agree to cancel the contract, which May agreed to do; that on October 6 he gave to May \$58,000, which was just enough to pay his laborers for July and August, and on the 15th of October the Government paid \$17,000, which was just enough to pay the men for September; that as to the accounts for extra work and cross-ties, the Government has never taken any steps to audit them more than had been done prior to September 22, nor has it ever attempted to pay them, though it has had six weeks in which to

do so; that, on the contrary, it began after September 22 to question May's rights in every way; that it notified him that his contract was nullified; that his accounts for June, already accepted and approved, should be reduced \$5,000; that his monthly subvention of \$35,000 for September should be reduced \$8,666.66; that his accounts for extra work should be reduced \$4,100 without specifying on what work or for what month; that it held his commissary supplies in the customs house from July to September 30, because he was unable to pay the duties, though it was all the time largely in arrears to him, and that it freely used its soldiers to coerce him and through them seized his hand cars, engines, and trains and placed them in all of his station houses night and day and had them lined up at the depots to meet his trains; that while the Government claimed from September 22 that May's contract was rescinded, yet it gave him numerous orders after the date which recognized him as contractor, and after that date May rebuilt a railroad bridge and repaired another, and removed from the track two large slides; that as soon as the \$58,000 was paid on October 6, he settled the strike and resumed the operation of the road under the contract and continued to operate it until after October 19; that on October 15 you and Mr. Beaupre came down from Guatemala to the railroad and remained there until the 18th; that you, while there, submitted to May a written agreement to arbitrate his dispute; that this agreement provided that all of May's accounts for extra work should be reopened and submitted to the arbitrators, though most of them had been long since approved by the Government; that the Government should take his commissary supplies and that it should receive possession of the railroad in four days; and that it should pay no cash, but have thirty, sixty, and ninety days in which to pay for the commissary stores, and also the amount allowed by the arbitrators; that May, you, and the representatives of the Government signed this agreement, but that it was disapproved and rejected by the President, who at the same time submitted another written agreement to arbitrate according to the contract which he thereby recognized; that this proposition of the President expressly provided that the question of reducing May's pay for September \$8,666.66, and his accounts for extra work in October should not be considered by the arbitrators, but that said amount should be disallowed, thus eliminating from the arbitration the two principal items in dispute, and also provided that the Government should have sixty, ninety, and one hundred and twenty days in which to pay this debt to May, and for his \$9,000 of commissary supplies paying him no cash at all; that May declined to accede to this proposition, and that soon after your return to Guatemala City the Government dispossessed Mr. May of the railroad property by military force.

Upon the facts represented to the Department it appears that the only ground upon which the Government of Guatemala justifies its dispossession of May is that on September 22, 1898, May agreed to rescind the contract; but it is contended on the contrary—

1. That the auditing and payment of May's account for extra work, as well as the payment of \$78,000, were conditions of rescission.
2. That there were several conditions of the cancellation which have not been complied with, and that although the Government of Guatemala denies this, there is thus raised a question of fact between May and the Government which it had no right to determine and enforce by military power.

3. That even if the contract was rescinded, this only gave the Government the right to recover possession by judicial proceedings, in which all the equities of the parties would be protected, and it did not justify the use of force.

4. That the contract of rescission of September 23 meant that the \$72,000 should be paid at once, and that inasmuch as the Government did not pay the first part of the \$72,000 till October 16, and that inasmuch as in the meantime May's condition had materially changed, he having during that time built and repaired two bridges, and removed two slides, and obligated himself for another month's wages to his men, and supplied them out of his commissary, there was not even a compliance with the condition for the payment of the \$72,000, and that therefore May was under no obligation to rescind.

In view of the foregoing facts and contentions, as represented to the Department, it does not seem that the Government of Guatemala was justifiable in forcibly dispossessing May; and if you find the facts to be substantially as above stated, you will promptly bring the matter to the attention of the Guatemalan Government, and make earnest representations to the end that May's rights be respected and protected. You will instruct Consul-General Beaupre to investigate and report the amount of debt and damages to May sustained by the alleged violation of his rights by the Guatemalan Government, with a view to determining the amount of indemnity to which he may be entitled, if any, and report the same to the Department.

I am, etc.,

JOHN HAY.

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*Mr. Hunter to Mr. Hay.*

No. 115.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, November 12, 1898.*

SIR: Referring to the claim of R. H. May against the Government of Guatemala, I beg to submit the following:

It appears that in 1883 the Guatemalan Government conceived the idea of building a railroad from this city to the Gulf of Honduras, a distance of 195 miles. In the same year work was begun at Porto Barrios and pushed in this direction 134 miles to El Rancho, where construction ceased for the want of funds. This completed portion was, at Government expense, thoroughly equipped with rolling stock and all things necessary to put it in good running order, and then operated under lease, the last successful bidder being R. H. May, whose contract was signed on April 5 of the present year, and eleven days thereafter the new contractor took charge.

By the terms of this contract May agreed to operate and maintain the road for one year from above date for a monthly subvention of \$35,000 and all revenues from the line and wharf at Porto Barrios. The contract may, however, be rescinded by either party giving the other two months' notice. It is also stipulated that all questions arising under the contract should be settled by the laws of Guatemala and that no diplomatic interference should be permitted.

The affairs of the road seemed to run smoothly until the middle of September, when May came here and represented to me that all his accounts had not been paid and that he needed money with which to pay his men.

The Government claimed as an excuse for delayed payments that the recent revolution and other demands had emptied the treasury. I urged a partial payment to relieve the situation, and on the 19th day of September May received \$20,000, with a promise that other payments would soon follow. On the 22d May again appeared at the legation and informed me that a strike had taken place the previous day, and that all operations on the line had been suspended.

In order, if possible, to settle the trouble, I obtained for May on the same day (September 22) an audience with the President, and was present at the interview, which was quite animated, May contending that a strike had taken place, while the President held that May, and not the employees, had suspended operations.

The President, who seemed much exercised because of the suspension, wished to know how much it would take to pay the employees. May said that \$58,000 would pay them to September 1 and \$72,000 to September 21, the date of the strike. The President replied that while the Government had no money, he would procure the desired amount and order all accounts for extra work immediately audited and paid as soon as possible, provided the contract was rescinded, to which May agreed. This agreement was verbal. Immediately after the interview the President issued an order to the minister of fomento in accordance with his understanding of the agreement.

On September 30 May received a note from Jose M. Amerlinck, directing engineer, advising him that Martin Roberts had been designated to take charge of the road and to call at his office, etc. In accordance with this request, May called October 1 and conferred with the two chief government officials having supervision of the road and the new contractor. An affidavit of what occurred at the meeting is signed by the three persons named, who were present on that occasion. After this conference May, Roberts, and Amerlinck repaired to Zacapa, where May received the \$58,000, but refused to turn over the road. He wired me that it would take \$17,000 more to pay his men to September 21, the date of the strike. I saw the Government officials here and obtained for him this additional amount. After receiving this last amount he still refused to surrender the road.

Being fully convinced from reports received that no peaceful transfer would soon be made, Consul-General Beaupre and I conferred and thought best to visit the road unofficially and use our good offices to adjust matters. A muleback ride of 65 miles over a rugged, circuitous mountain trail brought us to El Rancho, the terminus of the road. We offered several suggestions to both parties, one which the Government rejected, and one by the Government which May rejected. Finding our good offices of no avail we returned to this city.

May soon followed and addressed to me a note protesting against the forcible seizure of the road on the part of the Government. I at once addressed a note to the minister of foreign affairs asking an explanation of the alleged arbitrary proceeding, to which the minister responded.

The Government claims that having complied with the terms of the agreement made by the President and May September 22 referred to, and the latter's refusal to turn over the road in accordance with that agreement, it felt justified in taking possession in the manner stated.

May, however, puts a different construction on the agreement, and claims as his interpretation of it, a settlement of all accounts by cash

or note, in addition to the amount stated as necessary to meet the pay rolls to August 21, before making the transfer.

As the Government construes the agreement one way and May another, and both state that I was present when the agreement was made, I feel it my duty to say that I was present as stated and certainly understood May to agree to turn over the road on receipt of the \$58,000 and the prompt auditing of accounts for extra work to follow.

The subventions from April 16 to September 20 amounts to \$180,-833.33. Up to October 15 May received \$172,824.62, \$95,000 of which since September 19, the date I commenced using my good offices in his behalf. The balance due will not be known until his accounts from all sources are audited. The Government assures me that these accounts will be promptly passed upon and paid, and I have every reason to believe in the sincerity of this assurance.

It was quite natural for the Government to have felt anxious for a resumption of business on its national road, which has been interrupted for weeks, and over which nearly all foreign mails to and from Guatemala passed.

As proof that May was not discriminated against on the ground of his nationality, the new contractor, Martin Roberts, is a citizen of the United States.

In view of the foregoing, I feel that the Government intended no injury to May and that all his claims when audited will be paid.

I shall continue to use my good offices, and shall vigorously carry out any instructions the Department may see proper to transmit.

I have, etc.,

W. GODFREY HUNTER.

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*Mr. Hunter to Mr. Hay.*

No. 124.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, December 24, 1898.*

SIR: I have the honor to transmit herewith inclosed copies of two letters received from the minister of public works relative to the claim of R. H. May against the Government of Guatemala. One refers to the course pursued by the Government in recovering possession of the road. The other informs me that May's accounts have been audited.

The Government claims that the audited accounts make May a debtor in place of a creditor to the Northern Railroad, while May claims that his accounts show a large balance still in his favor.

I addressed a note to W. F. Fuqua, May's representative here, that May's accounts had been audited, and suggested an early examination of them, with the view to a speedy settlement. See attached copy.

I have, etc.,

W. GODFREY HUNTER.

[Inclosure 1.]

*Mr. Barrios to Mr. Hunter.*NATIONAL PALACE, OFFICE OF THE MINISTER OF FOMENTO,  
*Guatemala, December 20, 1898.*

MR. MINISTER: I have the honor of transcribing to your excellency the following telegraphic dispatch sent to the President of the Republic by the judge of the first instance of Zacapa. It reads as follows:

"With reference to the affair of Mr. Robert H. May, and in regard to the steps which were taken for the peaceable deliverance of the enterprise of the Northern Railroad, I must inform the President that Mr. May was cited to appear in the court under my charge through the agency of the office of Jefe Politico, and notwithstanding the fact of his having being cited twice Mr. May did not obey either summons nor present himself as he was advised, and in view of that, and having exhausted all conciliatory measures, the undersigned accompanied the directing engineer and the Jefe Politico to Gualan, to cause to be delivered the enterprise of the Northern Railroad to Mr. Martin Roberts, which was effected without the use of any force whatever, taking on a purely civil character, as is proved by the investigation which is being followed in the courts under my charge. I will report by mail more extensively to the President. Justo Castellon H., judge of the first instance."

By the preceding dispatch your excellency will see that from the beginning there was an endeavor to arrange this affair in accordance with the agreement made between May and the President, employing for this end the best possible means; but the refusal of said gentleman to present himself to the civil authorities when the latter summoned him, besides his acts of contempt of said authorities, acts which involved a serious charge which the Government looked upon with benevolence, occasioned the delay which Mr. May had desired to cause, and was already causing, in the negotiations for the delivery of the railroad, notwithstanding all the considerations and all the favorable intentions manifested so often by the Executive in behalf of the aforesaid ex-contractor, Mr. May.

I repeat to your excellency the assurances, etc.,

ANTONIO BARRIOS.

[Inclosure 2.]

*Mr. Barrios to Mr. Hunter.*NATIONAL PALACE, OFFICE OF THE MINISTER OF FOMENTO,  
*Guatemala, December 23, 1898.*

MR. MINISTER: On the 10th instant I addressed to your excellency a note, in answer to your verbal inquiry, that the accounts of R. H. May would be rapidly audited, and, if possible, completed not later than Saturday, December 25.

I have the honor to inform your excellency that the work on these accounts has this day been concluded, and that all accounts in this department relative to Mr. May's connection with the Northern Railroad have been audited. These accounts, as well as all books in reference to same, are now ready for inspection by Mr. May or any agent he may designate for that purpose.

According to a contract signed the 5th of April of this year, Mr. Robert H. May on April 16 assumed the conservation and exploitation of the Northern Railroad for a monthly subvention of \$35,000, besides the entrances and products of its traffic. Abnormal circumstances, however, unprecedented in the history of this country, caused delayed payments; but not all, because on the 20th of September last my Government was only owing to Mr. May the sum of \$58,774.62 for subvention up to the 31st of August.

Things being so, Mr. May insisted upon an absolute cash payment of the amount due him, and expressed several times that he was quite willing to rescind his contract, provided the amount due was paid. In the presence of your excellency Mr. May confirmed this assertion before the President of the Republic, repeating that he could not run the road on promises, that he wanted cash, adding that as soon as the sum due was paid he would rescind the contract. These terms were admitted and agreed upon, and my Government, wishing to avoid greater difficulties, obtained the above-stated sum of \$58,774.62 and had it paid immediately to Mr. May. Even more; it paid to him \$17,000 on account of the subvention due on the first twenty days of September.

My Government, having complied with all its engagements, took possession of its road without violence or intervention of soldiers, as has been amply proven by documents transmitted to your excellency heretofore.

Afterwards we proceeded to settle the accounts presented by Mr. May for subvention and payment of extraordinary work. Such liquidation being partial, gave a balance in his favor of \$31,374.33, which has been at his order and which, with a view of provoking more difficulties, he refused to receive, alleging that they had to be paid in silver coin. It has been shown to your excellency by the certificates of the banks which I have had the honor of sending to you that in this Republic silver money, as well as the bills of the various established banks, are equally received and are circulated without any distinction throughout the country.

My Government has shown the best disposition to please Mr. May, and has accordingly complied with all his pretensions and is still in the best resolution to settle this annoying affair. An examination of the books and accounts will show that whether the Government retains or disposes of the \$31,774.33 heretofore at the disposition of Mr. May the latter will be found to appear as a debtor in place of a creditor of the Northern Railroad.

With assurances, etc.,

ANTONIO BARRIOS.

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[Inclosure 3.]

*Mr. Hunter to Mr. Fuqua.*

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, December 24, 1898.*

SIR: I beg to inform you that the minister of public works has this day advised me that R. H. May's accounts have been audited and that these accounts, as well as all books in his department relative to same, are now ready for May's inspection.

I trust that an early examination of these accounts will be made, with the view to a speedy settlement.

W. GODFREY HUNTER.

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*Mr. Hill to Mr. Hunter.*

No. 195.]

DEPARTMENT OF STATE,  
*Washington, October 6, 1899.*

SIR: The Department of State has given careful consideration to the claim of Mr. R. H. May against the Government of Guatemala, and to the evidence on file in the Department in relation thereto. The memorials (which are too voluminous for transmission) that have been filed by Mr. May and the evidence in support of his claim show:

That Mr. May entered into a contract with the Guatemalan Government on April 5, 1898, by which he was to operate the Guatemala Northern Railroad for the period of one year from April 16, 1898, and was to receive from that Government a monthly subvention of \$35,000, and also the revenues of the road, and he was to do certain extra work and make certain repairs, such as building bridges, etc., on the railroad, made necessary by floods causing washouts, landslides, etc.

That on July 16, 1898, May entered into a further contract with the said Government to furnish and place in the roadbed 5,000 cross-ties, and as many more as the Government might require, for which he was to be paid \$2 per tie.

That May faithfully performed his obligations under said contracts until October 20, 1898, when he was forcibly and arbitrarily dispossessed by the Guatemalan Government of said railroad property, materials, commissary supplies, drugs, fuel, etc.



The Guatemalan Government denies this contention and pleads in defense that May was dispossessed by civil authority. But no evidence has been adduced to show that he was dispossessed under any judicial proceedings, and in virtue of any judgment or judicial process against him therefor. This Government is convinced by overwhelming proofs on file in the Department that he was dispossessed by military force and was compelled to yield such possession at the peril of his life, if he had refused to comply with the order given to him to "disoccupy."

The Guatemalan Government further pleads in defense:

1. That May had, on September 21, 1898, voluntarily suspended the operation of the railroad. The evidence in the Department establishes, on the contrary, that the Guatemalan Government had failed to perform its part of said contract by making payments to May as therein stipulated, and that by its breach of said contract May was unable to pay his employees, thereby causing a strike. Whatever blame there is for the temporary suspension, wholly or in part, of the operation of said road attaches to the Guatemalan Government and can not be imputed to him.

2. That May had on the 23d day of September, 1898, agreed with the Guatemalan Government for the rescission of said contract, and that in pursuance thereof said Government was placed in possession of the road. Mr. May maintains that the terms and conditions of the rescission of the contract were not complied with by the Guatemalan Government. His contention is strongly sustained by the proofs submitted to the Department, and strong color is given to his contention by the treatment to which he has been subjected throughout the entire controversy. It is further strongly sustained by the various and conflicting statements put forward in behalf of that Government as to what those terms actually were.

There arose a grave and indisputable conflict between the parties as to the terms of the alleged agreement of rescission, and this Government does not admit that one of the parties to the contract had the right to decide and determine the conflict by the strong hand, as was done in this case.

Mr. May contends that, as a matter of fact, the Guatemalan Government continued to recognize him in operating the road until October 20, 1898, and submits evidence to the Department strongly supporting his contention.

He claims an indemnity in the sum of \$127,793 damages, by reason of his forcible dispossession from said property and for the violation of his contract rights, and also damages for the injury to his reputation, credit, and business standing occasioned thereby, and for expenses incurred in defense of his said rights.

In view of the premises, the Government of the United States has come to the conclusion that Mr. May is entitled to its intervention in his behalf, and to demand an indemnity which will reasonably and fully compensate him for the damages sustained. Considering the nature of the controversy, it is a fit one for international arbitration; and in view of the friendly relations existing between the two Governments, and moved by the high spirit of justice which is its only object, the Government of the United States is willing, in order to reach an amicable settlement of the controversy, alike just and honorable to both governments, to submit to arbitration the determination of the amount of the damages which should be assessed. You will

accordingly communicate said demand to the Government of Guatemala, and you are at liberty, if requested to do so, to furnish to it a copy of this instruction.

I am, etc.,

DAVID J. HILL,  
*Acting Secretary.*

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*Mr. Hunter to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,  
*Guatemala, November 7, 1899.*

(Mr. Hunter reports that Mr. May's rights to indemnity, which he demanded in accordance with instruction No. 195 of October 6, are denied by Guatemalan Government, which offers to submit to an arbitral tribunal all disputed points for the determination of the question as to the existence of rights to damages, and if so, the amount of such damages.)

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*Mr. Hay to Mr. McNally.*

No. 230.]

DEPARTMENT OF STATE,  
*Washington, March 2, 1900.*

SIR: I inclose for your information and the files of your legation a printed copy of the protocol of an agreement submitting to arbitration the claim of Robert H. May against Guatemala and the claim of Guatemala against Robert H. May, which I signed with the Guatemalan minister at Washington on February 23, 1900.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Protocol of an agreement between the Secretary of State of the United States and the Envoy Extraordinary and Minister Plenipotentiary of the Republic of Guatemala submitting to arbitration the claim of Robert H. May against Guatemala and the claim of Guatemala against said May.*

[Signed at Washington, February 23, 1900.]

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 Guatemala for submission to an arbitrator of the claim of Robert H. May against the Republic of Guatemala and of the claim of the Republic of Guatemala against said May.

The United States of America and the Republic of Guatemala, through their representatives, John Hay, Secretary of State of the United States of America, and Antonio Lazo Arriaga, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Guatemala, have agreed upon and signed the following protocol.

Whereas, the United States of America, on behalf of Robert H. May, has claimed indemnity from the Government of Guatemala for a debt alleged to be due him from that Government under certain contracts between him and that Government in connection with the Guatemala Northern Railroad and for damages alleged to have been caused him by that Government, its civil or military authorities in connection therewith; and the Government of Guatemala denies any liability therefor; and

Whereas, the Government of Guatemala has claimed that said May is indebted to it both on account of said contracts and of damages caused by his alleged unlawful acts or those of his agents or employees acting by his authority; and said May, to

secure his faithful performance of said contract, has delivered to said Government a promissory note, signed by certain third parties for \$40,120.79; and the Government of the United States denies any liability on May's part to said Government of Guatemala on account of said claims;

It is therefore agreed between the two Governments, with the consent of said May and of his attorney of record:

## I.

That the questions of law and fact brought in issue between the two Governments in respect of their claims shall be referred to the decision of Mr. George Francis Birt Jenner Her Britannic Majesty's Minister Resident and Consul General to the Republics of Guatemala, Honduras, Nicaragua, Costa-Rica and Salvador, whose award shall be final and conclusive.

## II.

That within thirty days from the date of the signing of this protocol, each party shall furnish to the other and to the arbitrator a copy of the memorial on which its own claim is based; and within ninety days after such signing each Government shall furnish to the other and to the arbitrator copies of all the documents, papers, accounts, official correspondence and other evidence on file at their respective Foreign Offices relating to these claims, and of all affidavits of their respective witnesses relating thereto: Provided, that said arbitrator may request either Government to furnish such additional proof as he may deem necessary in the interests of justice, and each Government agrees to comply with said request as far as possible; but he shall not for such purpose delay his decision.

## III.

That each Government by its counsel, and said May by his attorney, may severally submit to said arbitrator an argument in writing touching the questions involved within sixty days from the date limited for the submission of the evidence; but the arbitrator shall not for such purpose nor in any event delay his decision beyond four months from the date of the submission to him of the evidence aforesaid.

## IV

It shall be the duty of said arbitrator to decide both cases upon such evidence as may have been filed before him and solely upon the issues of law and fact presented by the claim and counterclaim and upon the consideration of said entire controversy, he shall render an award in favor of the party entitled thereto; which shall not exceed the amount claimed by said party as shown by the evidence, and interest thereon from the time said sums were due until the date of the award, and said award shall bear six per cent interest from said date until paid.

## V.

The award shall be payable in American gold, and in case said award shall be against said May, said Government of Guatemala may retain the aforesaid note as security and collect it for the payment of said award, which said May agrees to pay within six months from the date of the award, the Government of the United States being in nowise responsible for the payment thereof. In case said award shall be against said Government of Guatemala, then said Government shall surrender to May said note. Said Government shall pay the indemnity awarded against it by the arbitrator, if any, as soon as the Legislative Assembly of Guatemala shall authorize the payment; but the time thus allowed shall in no case exceed six months from the day the decision is rendered, unless an extension of the time of its payment should be granted by the Government of the United States.

## VI.

Reasonable compensation to the arbitrator for all his services and expenses, is to be paid in equal moieties by the said Governments.

## VII.

This protocol shall be submitted for approval and ratification on the part of Guatemala, to its Legislative Assembly. When so approved and ratified the Government of Guatemala will promptly notify the Government of the United States thereof. Unless so approved and ratified and said notice given by April 1, 1900, this protocol shall be deemed null and void.

Done in duplicate in English and Spanish at Washington this 23d day of February, 1900.

JOHN HAY  
ANTO. LAZO ARRIAGA.

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*Mr. Hay to Mr. McNally.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, March 28, 1900.*

(Mr. Hay states that the Guatemalan Government has been furnished by this Government with a copy of its memorial, but that a copy of the Guatemalan memorial has not been received, as stipulated in the protocol. As no prejudice to the case could result from the mere failure of the arbitrator to receive copy of memorial and protocol within the time mentioned and before time for furnishing evidence, Mr. McNally is directed to immediately notify the Guatemalan Government that this Government asks and expects an extension of the dates named in the protocol to enable it to furnish such copies to the arbitrator.

A copy of this instruction is to be furnished the British minister.)

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*Mr. Hunter to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,  
*Guatemala, March 29, 1900.*

(Mr. Hunter reports that the Guatemalan Government replies, in connection with Department's cablegram of the 28th instant, that Minister Arriaga has full power to grant the requested extension.

The Guatemalan Government, on the 22d instant, furnished the legation with a copy of its memorial, which was acknowledged on the 24th instant.

British minister has been furnished with Department's cable instruction.)

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*Supplemental protocol to the agreement of February 23, 1900, between the Secretary of State of the United States and the Envoy Extraordinary and Minister Plenipotentiary of the Republic of Guatemala, submitting to arbitration the claim of Robert H. May against Guatemala and the claim of Guatemala against said May.*

[Signed at Washington May 10, 1900.]

SUPPLEMENTAL PROTOCOL.

Whereas, a protocol was signed at Washington, February 23, 1900, between the Secretary of State of the United States and the Envoy Extraordinary and Minister

Plenipotentiary of the Republic of Guatemala for submission to an arbitrator of certain issues involved in the claim and counterclaim of Robert H. May and Guatemala, as specified in said protocol; and

Whereas, it is stipulated in Article II of said protocol as follows, to wit:

“That within thirty days from the date of the signing of this protocol, each party shall furnish to the other and to the arbitrator a copy of the memorial on which its own claim is based; and within ninety days after such signing each Government shall furnish to the other and to the arbitrator copies of all the documents, papers, accounts, official correspondence and other evidence on file at their respective Foreign Offices relating to these claims, and of all affidavits of their respective witnesses relating thereto: Provided, that said arbitrator may request either Government to furnish such additional proof as he may deem necessary in the interests of justice, and each Government agrees to comply with said request as far as possible; but he shall not for such purpose delay his decision”; and

Whereas, it is stipulated by Article III, of said protocol as follows, to wit:

“That each Government by its counsel, and said May by his attorney, may severally submit to said arbitrator an argument in writing touching the questions involved within sixty days from the date limited for the submission of the evidence; but the arbitrator shall not for such purpose nor in any event delay his decision beyond four months from the date of the submission to him of the evidence aforesaid”;

Whereas, it is stipulated by Article IV of said protocol, as follows, to wit:

“It shall be the duty of said arbitrator to decide both cases upon such evidence as may have been filed before him and solely upon the issues of law and fact presented by claim and counterclaim and upon the consideration of said entire controversy, he shall render an award in favor of the party entitled thereto; which shall not exceed the amount claimed by said party as shown by the evidence, and interest thereon from the time said sums were due until the date of the award, and said award shall bear six per cent. interest from said date until paid.”

It is agreed between the two Governments that said Article II be, and the same is hereby, amended to read as follows, to wit:—

“That within ninety days from the date of the signing of the original protocol each party shall have furnished to the arbitrator and to the other a copy of the memorial on which its own claim is based; and within one hundred and fifty days after such signing each Government shall furnish to the arbitrator and to the other copies of all the documents, papers, accounts, official correspondence and other evidence on file at their respective Foreign offices relating to these claims, and of all affidavits of their respective witnesses relating thereto: Provided, that said arbitrator may request either Government to furnish such additional proof as he may deem necessary in the interests of justice, and each Government agrees to comply with said request as far as possible.”

It is agreed that said Article III, be, and it is hereby, amended to read as follows, to wit:

“That each Government by its counsel, and said May by his attorney, may severally submit to said arbitrator an argument in writing touching the questions involved within ninety days from the date limited for the submission of the evidence; but the arbitrator shall not for such purpose nor in any event delay his decision beyond six months from the date of the submission to him of the evidence aforesaid.”

It is agreed that said Article IV be, and it is hereby amended to read as follows:

“It shall be the duty of said arbitrator to decide both cases upon such evidence as may have been filed before him and solely upon the issues of law and fact presented by the claim and counterclaim and upon the consideration of said entire controversy, he shall render an award in favor of the party entitled thereto; which shall not exceed the amount claimed by said party and interest at the rate of six per cent, per annum thereon from the time said sums were due until the date of the award, and said award shall bear six per cent interest per annum from said date until paid.”

Done in duplicate in English and Spanish at Washington this 10th day of May, 1900.

JOHN HAY  
ANTO LAZO ARRIAGA.

*Award of the arbitrator elected by the Governments of Guatemala and the United States to consider the claim of Robert H. May against Guatemala, and the claim of Guatemala against said May, in the matter of the Northern Railroad of Guatemala.*

I fully appreciate the honor of being elected by the Governments of Guatemala and the United States to arbitrate in the matter of the differences that have arisen between

the former Government and Mr. Robert H. May, an American citizen, in connection with a contract for working the Northern Railroad of Guatemala.

I think it advisable to begin with a brief statement of facts, admitted by both parties to the controversy.

#### HISTORICAL SUMMARY.

On the 5th of April, 1898, the contract was signed in due form, and on the 16th of the same month Mr. May took over the railroad. As compensation for his services Mr. May was to receive in legal silver currency \$35,000 a month, payable during the first ten days of the month following that in which they were earned. A further sum of \$2,000 was to be paid to Mr. May for painting the Puerto Barrios station, and under a subsequent contract, dated July 16, 1898, May was to furnish and lay 5,000 wooden sleepers, for which he was to receive \$2 apiece.

All differences arising under the contract were to be settled by arbitration.

Up to the 20th of September, 1898, the work of the railroad was carried on to the complete satisfaction of the Government, but May had much difficulty in meeting the expenses of the railroad, owing to the failure of the Government to pay the considerable balance due to him on account of the subsidies and sleepers and extraordinary work executed in accordance with the last paragraph of article 1 of the contract of April 5, 1898.

On the 19th of September the Government paid May \$20,000 on account of upward of \$150,000 then claimed by him.

On the 21st of September the Government received notice that the operations of the railroad had been suspended, and on the 23d instant, in the course of an interview with the President at which Mr. Hunter, the American minister, was present, Mr. May agreed to the rescission of his contract on certain conditions. No minutes were taken of those conditions, but they were discussed at a subsequent meeting on the 30th of September at the ministry of Fomento, between Mr. May, acting on his own behalf, and Mr. Tible, the chief of the administrative department of the Northern Railroad, Mr. Amerlinck, the directing engineer of the railroad, and Mr. Roberts, who was to replace Mr. May as contractor on the part of the Government. No record was kept of the agreement arrived at on that occasion. It is, however, admitted that Mr. May agreed to deliver up the railroad to Mr. Roberts when certain conditions were complied with, among which was the immediate payment of a sufficient sum of money to cover the wages of labor. On the 6th of October a sufficient sum of money was given to Mr. May to pay the wages due to the 31st of August, and on the 16th of October a further sum toward the September wages, but no arrangement was arrived at as to the taking of the inventory, settling the amount of the balance due to Mr. May, or fixing the date of the surrender of the railroad.

A vain attempt was made by the United States minister to arrange matters by means of arbitration, the Government desiring to restrict the scope of the arbitration in a manner Mr. May would not agree to.

On the 19th of October orders were given by the Government that Mr. Roberts should be placed in possession of the railroad, and the same day circulars were issued to be posted in the most prominent part of each station on the railroad, stating that Mr. May had nothing more to do with the railroad, and that all his employees were to recognize Mr. Roberts as the contractor.

On the 20th instant, Colonel Rivas, the jefe politico, who is also the comandante de armas of Zacapa, sent a written order to Mr. May to give up the railroad, and on Mr. May refusing, Colonel Rivas, who was on the spot, caused a fresh-written order in more peremptory terms and threatening other proceedings to be delivered to Mr. May. There was a considerable military force close at hand at the time and Mr. May offered no further resistance, but entered a formal protest, left his headquarters at Gualan, and proceeded at once to Guatemala City. He made no formal surrender of the railroad; no complete inventory was taken, and no arrangement was arrived at as to the mode of settling May's accounts.

Until February 23, 1900, when an agreement was arrived at between the Government of the United States and that of Guatemala to submit the question to arbitration, Mr. May was unable to come to any arrangement as to the final settlement of his accounts.

On the 26th of November, 1898, he was offered the sum of \$31,374.33 as a partial settlement of the Government debt to him, in \$100 bills of the Occidente Bank, which at that moment were depreciated; he refused to receive them, but offered to take bills of any other bank, which were not given to him; but on January 10, 1899, Mr. Fuqua, his power of attorney, received the sum of \$10,000 on account of the amount previously decreed as a partial settlement.

Since then no final settlement of accounts has been arrived at, but a counterclaim against Mr. May has been brought forward purporting to show that May is heavily indebted to the Government of Guatemala.

THE EVIDENCE.

I have given careful attention to all the evidence filed before me by the United States and Guatemalan Governments, and have based my award upon facts I find recorded in it.

In so doing I have considered it my duty to set aside an opinion advanced by the Guatemalan advocate. Under the head of evidence (chapter 5 of his brief), Don Jorge Muñoz contends that the question at issue concerns a Guatemalan contract, affecting real property situated in Guatemala, and he therefore maintains that as the evidence submitted by the claimant does not comply with the rules of the Guatemalan law the Government advocate is entitled to "deny its value and authenticity."

The protocol that guides me as to the procedure I am to follow says (article 4): "It shall be the duty of said arbitrator to decide both cases upon such evidence as may have been filed before him and solely upon the issues of law and fact presented by the claim and counterclaim and upon the consideration of said entire controversy."

I read the above sentence to mean that I am not authorized to question the authenticity of the evidence filed before me by either Government, but that it is my duty to weigh the issues of law and fact presented by the claim and counterclaim, and to decide the entire controversy accordingly.

To begin with, I wish to state that I regret the insertion in the evidence of the Guatemalan Government of a series of accusations against Mr. May and his staff, that are entirely unsupported by trustworthy evidence.

It would be an offense to the Guatemalan Government to admit, as several witnesses allege, that Mr. May was allowed to indulge unpunished a fancy for killing negroes. Neither should depositions have been inserted to the effect that Mr. May repeatedly threatened to blow up the railroad bridges, and that, too, side by side with an affirmation that Mr. May's sole object was to induce the United States Government to present a claim against the Guatemalan Government.

In my opinion such senseless accusations as the foregoing can only have the effect of casting doubt upon the credibility of the whole body of evidence that includes them.

With regard to the allegations concerning smuggling, although the evidence that supports them is nearly as inconclusive, there was at least some object in presenting it for consideration, as the contract (article 12) contains clauses concerning that offense.

But smuggling is a criminal offense, and I consider that in taking upon himself to decide questions within the province of criminal jurisdiction the arbitrator would be exceeding his functions.

In my opinion he would not be justified in considering an accusation of smuggling, in its effect upon a contract, unless it were accompanied by full proof of a conviction in a criminal court.

The utmost that can be proved against Mr. May is that his employees allowed some members of the general public to buy a few articles admitted free of duty under his contract.

The contract of April 16, 1898 (article 22), allows the contractor to import, free of duty, articles necessary for the use of the railroad. The last sentence of the same article runs literally as follows:

"He may, moreover, import monthly the following merchandise in quantities hereafter expressed, which shall be considered as the maximum."

It is plain from the foregoing that the maximum fixed for the importations free of duty of common provisions and articles of clothing, etc., such as workmen usually purchase, is intended to assign a liberal limit to Mr. May's importations free of duty. If, owing to a sudden increase in the number of workmen, he should require more provisions, he would have to pay duty on them; and, similarly, he would be at liberty to dispose of any excess in the manner he deemed advisable.

The exemption from customs duties of such articles is indeed a portion of the subsidy allowed. The profits to be derived from that limited exception, whether confined to his own workmen or obtained in exceptional circumstances from the general public, are duly taken into consideration when the contract is tendered for, and in the other contracts for the construction of the Northern Railroad similar and greater exemptions are granted.

Although the accusations against Mr. May do not properly come within the scope of the arbitration, as they are not among the "issues of law and fact presented by

the claim and counterclaim," and could therefore have no weight in the decision of the case, I have deemed it my duty to deal with them, as it might otherwise be supposed, if the evidence were published, that the arbitrator had to some extent been influenced by those accusations.

I propose to give my own view of the facts of the case in the order in which they presented themselves, dealing first with the strike on the railroad, secondly with the proposed rescission of the contract, and thirdly with May's ejection.

#### THE STRIKE.

The first point to be considered is the origin of the strike which the Government of Guatemala contend was the result of a deliberate plan concerted by Mr. May, principally with the object of bringing a heavy claim for damages against that Government. In support of their view, they put forward the declaration of a great number of witnesses, not one of whom can have had the least knowledge of Mr. May's motives. The only substantial proof of their assertion is a circular issued by Mr. Jekyll, who was in charge of the Northern Railroad during Mr. May's temporary absence at Guatemala City. That circular runs as follows:

"To all employees.—On account of the Government having failed to comply with their contract made with R. H. May, I am compelled to suspend the operation of the Guatemala Northern Railroad from this date.

(Signed)

"A. B. JEKYLL, *Superintendent.*

"GUALAN, *September 21, 1898.*"

At first sight, the above circular has the appearance of an important piece of evidence in favor of the Government view of the causes of the strike. It fails to specify the immediate reason for suspending the operations of the road, which was the existence of the strike, and leaves room for the inference that such suspension was the deliberate act of Mr. A. B. Jekyll, Mr. May's representative, who desired to force the Government to pay the large debt they owed to Mr. May.

By the light of Mr. A. B. Jekyll's evidence (p. 144 of the May evidence, confirmed by the report of the directing engineer of October 10, 1898—May's evidence, p. 168) it is easy to see that such was not the intention of the circular. When that circular was issued the strike was already in full swing. Every one of the engine drivers and firemen had struck work, and without their services it was quite impossible to run engines over the road.

Mr. Jekyll wished to protect Mr. May's credit with the men to whom he had repeatedly promised payment as soon as he received the necessary funds from the Government. He was, moreover, anxious to save the needless expense of keeping on full pay a number of men who could render no services as long as the traffic of the road was suspended by the engine drivers' strike.

My personal knowledge of the facts has been appealed to by the Government, and it is therefore my duty to say that to my certain knowledge a large number of the employees of the Northern Railroad had been at work under Mr. Sylvanus Miller and Señor Camacho, Mr. May's immediate predecessors in the work of the railroad, and that to this day a sum of more than \$60,000 is owing to those men by the estates of the deceased contractors. In both cases the default of the Government is the reason alleged for the failure to pay those wages.

The elements of a strike were therefore present in great abundance, and such a strike had a very fair chance of success, owing to the impossibility of finding in this country a sufficient number of competent engine drivers and firemen to replace those who had struck. As a matter of fact, the judgment of the men was not at fault, and the money to pay their wages was found by the Government. Ever since the middle of August, the pay car not having run for that month and for July, Mr. May was aware that the mechanics, especially those who had suffered under previous administrators, had determined to strike. He warned the Government of the danger, and at the same time did everything he could to make the men take patience. He used his own money and credit and kept matters going until the strike became imminent in September, when three months' pay was owing. As a contractor under Mr. Sylvanus Miller, Mr. May established a general reputation for honesty and punctuality. In contrast to the \$60,000 worth of wages due by Sylvanus Miller and Camacho, I must say that of the \$14,000 worth of pay checks I hold on deposit for money due to British subjects employed under those contractors not one is on Mr. May's account. The credit acquired by Mr. May's former record, and the regular payment of wages for April, May, and June, was so great that his pay checks passed current as money all along the railroad for some time after regular payments ceased.

When matters had reached such a pitch that although the Government owed May



some \$150,000 he was not certain of being able to recover a sufficient sum to meet the payment of his checks on demand, he could not, as an honest man, continue to make free use of them.

When the pressure began to be felt by the American mechanics who, in their own country had had full experience of the value of strikes, it was perfectly natural that they should take that means of obtaining justice.

That the strike was not to the advantage of May must be clear to anyone who has seen that gentleman's accounts. He knew that a strike would greatly exasperate the Guatemalan Government and would probably end in his having to give up the railway. He was earning a net profit of nearly \$20,000 a month, and there is every reason to suppose that he might have continued to earn it until the present day.

Why should he have wished to abandon a lucrative undertaking on the off chance of inducing the American Government to support a claim for damages which he could only hope to establish at great expense and with great difficulty?

The Government directing engineer and inspecting engineer both thought that the strike was spontaneous on the part of the mechanics.

Mr. Amerlinck, the directing engineer, says, in his report dated October 10, 1898 (May's evidence, p. 168), that "up to the 20th of September the trains ran regularly and the number of employees required by the contract were maintained on the work. On the 21st of September the trains from the north and south only reached Gualan, where the engineers and firemen left their engines and declared a strike on account of the long delay in the payment of their salaries. As the operation was impossible without those elements, Mr. May suspended all work on the line. In fact, the construction train could not continue to run without engineers, and without a train service the railway could not be supplied with provisions."

The important report from which the aforesaid passage is quoted does not appear in the Government evidence, but its authenticity is not questioned in the Government brief.

In regard to the strike, it is supported by Mr. Pennypacker's monthly official report of October 1, 1898, which speaks of the mechanics having gone out on strike, and by his declaration of the same month stating that Mr. Jekyll's circular was not posted at Zacapa until September 24, and that he did not see it himself until the same date.

Finally, there are some 70 depositions on oath that bear out Mr. May's statement that he could not stop the strike for want of money to pay the strikers' claims, and all those depositions proceed from persons on the spot, well acquainted with what was going on.

#### RESCISSION.

The agreement for the rescission of the contract alleged to have been arrived at between the President of Guatemala and Mr. May has now to be considered.

Were it not that both parties to the suit admit the existence of such an agreement the whole question at issue might have been decided upon the basis that the Government had broken the principal contract by their admitted failure to comply with the stipulations of articles 15 and 16, which provide for the payment by the Government to Mr. May of a monthly subsidy of \$35,000 during the first ten days of the month following that in which the subsidy was earned.

The first point that strikes me is, that the rescission agreement was not put into writing and duly witnessed in accordance with article 1372 of the Guatemalan civil code of 1886, that says that all contracts for values exceeding \$500 must rest upon a notarial or private document.

It is very evident that the neglect of the essential formality of putting the agreement into writing has been the principal cause of the serious misunderstandings that have arisen between Mr. May and the Government of Guatemala.

Not only was no formal deed drawn up when Mr. May arranged the matter with the President, but a week later, when the question of the rescission of the contract in its effects upon the surrender of the railroad was made the subject of a conference between Mr. May on his own behalf and Señor Tible, the head of the Northern Railroad department in the ministry of public works, Mr. Amerlinck, the directing engineer of the Northern Railroad, and Mr. Martin Roberts, who was chosen to succeed Mr. May as the contractor on behalf of the Government, no written statement whatever was drawn up and signed by the aforesaid gentlemen.

On neither occasion were any minutes made of the subjects under discussion, and there is, therefore, nothing to rely upon but the subsequent declarations made from memory by each one of the persons who talked over the matter of the agreement.

All those statements are essentially different, but they all agree that some settlement was to be arrived at as to what was due to Mr. May before he surrendered the line.

The nearest approach to anything like a business statement of the terms of that compromise, as understood by the Guatemalan Government, is to be found in a letter addressed by the President to the minister of public works on the 23d of September, the very day on which Mr. May had his interview with His Excellency in the presence of the American minister.

That letter was inclosure 1 in an official note from the minister of foreign affairs to Dr. Hunter, dated November 5, 1898, and is to be found in translation at page 867 of the May evidence.

It runs as follows, literally translated:

"THE PRESIDENT OF THE REPUBLIC OF GUATEMALA,  
"Guatemala, September 23, 1898.

"THE MINISTER OF PUBLIC WORKS.

"SIR: For your information and consequent action, I have to inform you that I have this day, in the presence of the United States minister, Mr. Hunter, in view of the demands of Mr. May, agreed with the latter gentleman on the following points:

"(1) The contract for the maintenance and working of the Northern Railroad, concluded with him, is to be rescinded, the subsidies due to the end of August being paid in the regular manner; and,

"(2) As regards the extra work performed on that line by the gentleman in question, after the same has been recognized and duly valued, the Government will, if it be proper, issue a decree declaring the credit correct and ordering its payment, as is the case with other national accounts.

"As the aforesaid gentleman has advanced the statement that without the punctual payment of the subsidies he can not continue to carry out his contract, and, as on the other hand, owing to the strike of his employees, provoked by him, the communications both in the interior and with the exterior, as well as the passenger traffic with the Atlantic side, are interrupted, I have thought it necessary and prudent to propose the arrangement above referred to, which was then accepted, as I have already said, in the presence of the minister of the United States.

"It is therefore a matter of urgency that everything agreed upon should be immediately and exactly carried out by your department.

(Signed)

"ESTRADA C."

It will be observed that His Excellency's letter contains not a word concerning the surrender of the railroad, and that paragraph 1 would appear to imply that May had agreed on the 23d of September to rescind his contract on payment of the subsidy to the end of August alone, although his management of the railroad gave complete satisfaction until the 21st of September, as appears from the Government memorial.

That was not the President's meaning, as is proved by the payment of \$17,000 on account of the September wages and the subsequent recognition of all duly audited claims until the 21st of that month.

From the President's letter it is therefore plain that no agreement was arrived at between His Excellency and Mr. May as to the date of the surrender of the railway, and that there was room for at least one serious misunderstanding as to the terms of the rescission.

With due respect to the President, I can not therefore accept His Excellency's letter as a document establishing an agreement by common consent for the rescission of the contract.

The Government brief appeals to the evidence of the United States minister; but Dr. Hunter did not at the time understand enough Spanish to be certain of what passed between Mr. May and the President, and his testimony must be set aside as merely hearsay evidence.

On Mr. May's behalf I will quote his formal declaration before a Guatemalan judge on the 27th of October, 1898:

"To the fifth question Mr. May replied that His Excellency, the President of the Republic, had proposed to him the rescission of his contract, because the Government could not continue to pay the subsidy at the stated terms, to which May replied that he would rescind the contract, but for that purpose the Government must give him a sufficient sum to pay his creditors and workmen, and, moreover, the balance due to him must be established, as well as the manner and time of payment."

I am fully aware that May's declaration is only evidence of his views, but his statement is clear and concise and covers the whole ground, and the demands it records, besides being fair and accurate, are also such as would have been made by any business man situated as May was at the time of his interview with the President.

The conclusions I arrive at on this point are, firstly, that there never was such a

rescission of the contract as could be enforced at law, and, secondly, assuming that the parties arrived at some agreement as to the rescission of the contract, such agreement, even if we treat the President's letter as authoritative, to this day has not been carried out by the Guatemalan Government.

Mr. May's accounts have not yet been finally audited, as will fully appear when I come to the examination of those accounts. For the present it will be sufficient to refer to the Government "acuerdo" of November 3, 1898, granting \$31,374.33 on account of May's credit. Since the date of that decree no further statement of the balance to Mr. May's credit has been offered to him, but successive Government counterclaims have been advanced against him.

## EJECTION.

There is little possibility of dispute about the ejection of Mr. May from his post as contractor for the working of the Northern Railroad.

Mr. May was called upon to give up the road to the new contractor, Mr. Roberts, and he refused to do so on the ground that the terms of the verbal contract rescinding the original contract had not been complied with. No legal action for May's eviction could follow, as the alleged contract of rescission had not been put into writing in accordance with the law (article 1372 of the code of 1886), and the parties did not agree as to the conditions of such contract of rescission; the Government therefore gave orders that Mr. Roberts, the new contractor, should be put into possession of the Northern Railroad. Orders were consequently issued on the 19th of October that circulars should be posted up at every station in the following terms:

"Mr. Robert H. May has no rights of any kind in connection with the administration of the Northern Railroad.

"Mr. Martin Roberts is the contractor for the operation of the constructed portion of the Northern Railroad, and all employees of every class will recognize him as such."

The above circular alone is sufficient proof that the Executive Government deprived Mr. May of the administration of the Northern Railroad without any judicial process and by the sole exercise of their executive authority.

But on the 20th of October Colonel Rivas, who is at once the political chief and the commander of arms of the department of Zacapa, in which the headquarters of the railroad at Gualan are situated, entered the principal office of the railroad and personally delivered the following letter addressed to Mr. May:

"Immediately, and without any sort of delay, disoccupy the principal office and the other dependencies and annexes of the national enterprise of the Northern Railroad; that enterprise will be taken over by Don Martin Roberts, contractor for the above-mentioned line.

"I expect you to comply immediately with what I have stated without rendering necessary other proceedings.

(Signed)

"F. RIVAS."

The aforesaid letter contains a most peremptory order to "disoccupy" the offices of the railroad. It declares that May is stripped of his rights as contractor, being replaced by Martin Roberts, and it conveys a palpable threat of other proceedings.

Although it is said that Colonel Rivas acted in his civil capacity as political chief, and not in his military capacity as commander of arms, it is not denied that a large body of soldiers was within call, and that at a moment's notice Colonel Rivas could resume his military attributions and order the soldiers to evict May by force. May therefore went in fear of his own life and that of his companions, and, like a law-abiding citizen, surrendered to the authorities before physical violence was used. If the Government contend that physical violence would not have been used, why were not the soldiers withdrawn before May was threatened by the military commandant with other proceedings? The presence of the soldiers had never been really required, and their presence at such a moment, if a peaceable agreement was contemplated, was certainly quite uncalled for.

Can it be contended that if May had resisted the executive order of ejection and physical violence had consequently been used, and, as a matter of course, resisted, he, May, would have been in a better position legally to bring a claim for damages against the Guatemalan Government?

An executive order unsupported by any judicial decision is in itself force, with or without physical violence, and can only lawfully be resisted by such a protest as was entered by May before he surrendered to Colonel Rivas.

The Government advocate is really eloquent when he defends the action of the

executive on the ground that May's proceedings had rendered the situation quite insupportable; that the interruption of the traffic had caused the greatest injuries to the country, and that the dignity of the Government did not permit them to suffer further defiance at the hands of May.

The three following facts must, however, be borne in mind:

1. The suspension of the traffic had ceased on the payment by the Government of what was required for wages; the line was running to the general satisfaction, and the country was suffering no injury on the 20th of October, when May was forcibly expelled.

2. Whatever injury the country may have suffered previously was due to the failure of the Government to fulfill its contract with May for the payment of stipulated subsidies. If the Government can appeal to straitened circumstances constituting "fuerza mayor,"<sup>1</sup> surely a contractor to whom \$150,000 is due is better justified in making such an appeal.

3. The Government, without sacrifice of dignity, could have agreed with May to rescind the contract by means of arbitration or with two months' notice, May having offered to accept that solution, although the contract stipulates that he is to hold the railroad for one year save only in case of the continuance of its construction by the Government or May's failure to fulfill his contract, when the Government may give two months' notice.

#### ACCOUNTS.

Before I enter upon a detailed analysis of the accounts, it is necessary that I should call attention to the singular view the Government memories and briefs take of the balance due to Mr. May.

The Government counterclaim of March 21, 1900, speaks of the Government debt to May as \$31,374.33, of which \$10,000 has been paid.

The briefs of the Government advocate and of the commission of lawyers presented together on October 20, 1900, present the same statement in different forms.

The Government advocate says, at page 117, that *none of May's extra accounts excepting Nos. 3 to 17 have been audited*, owing to May or his representative refusing to discuss them.

At page 93 he inserts a dispatch from Dr. Hunter to Mr. Hay, dated May 16, 1899, which Señor Muñoz speaks of as a most valuable proof. It states (page 93 of the brief) that Dr. Hunter had received a note from the minister of fomento stating that *all May's accounts had been audited* and that the books of the Department were ready for examination by Mr. May or his representative.

Nevertheless, the aforesaid advocate, Don Jorge Muñoz, repeats the assertion that \$31,374.33, minus \$10,000 already paid, is the balance in May's favor.

The legal statement of the Guatemalan Government says, page 31, that the final balance in May's favor is \$31,374.33.

In his report of October 31, 1898, sent to Dr. Hunter, Mr. Amerlinck, the directing engineer, acknowledges a balance in May's favor of \$76,657.78, without the subsidy and extra accounts for October.

In a previous report, dated October 10, 1898, the same gentleman acknowledges a balance of \$83,341.28 on exactly the same items. The difference is in the extraordinary accounts, stated by Mr. Amerlinck, October 10, as \$41,761.95, and reduced in his account of October 31, 1898, to \$35,078.45 in accordance with a scheme that is signed by the under secretary of state for fomento, and dated November 4, 1898, which shows that accounts 19, 20, 22, 23, 25, 29, 36, 49, 50, 54, 56, 57, 58, and 59 have been disallowed.

Moreover, the "acuerdo" (resolution) signed by His Excellency the President, dated November 3, 1898, says expressly that the \$31,374.33 are to be paid to May on account of what will be found due to him when the remaining claims are liquidated.

Señor Tible's report of December 1, 1898, shows that the balance of \$31,374.33 was arrived at by ignoring the existence of accounts Nos. 1 and 2, \$1,249.25; accounts Nos. 18 to 36 and 38 to 55, \$45,598.39; and further masonry and other extra works, accounts not received, \$6,974.59; total, \$85,196.56. Consequently Mr. Tible's report admitted not \$31,374.33, but a possible \$85,196.56.

I do not feel qualified to give the preference to any one of the foregoing statements of the Government debt to Mr. May, and I shall therefore have to rely upon my own scrutiny of the accounts in order to find out what is the real balance of May's account up to the date of his ejection from the railroad on October 20, 1898.

<sup>1</sup> "Fuerza Mayor," nearly equivalent to the act of God. It implies an irresistible pressure, whether of man or of nature, that makes the action it applies to an impossibility.

The reductions made by the Government in dealing with Mr. May's claim touch the following items:

First. The extra accounts.

Second. The subsidy for the month beginning September 21, when the strike suspended operations, and ending October 20 with May's ejection.

#### EXTRA ACCOUNTS.

I have before me Señor Tible's analysis of extra accounts 3 to 17, stating in detail the reasons for cutting down those accounts from \$10,469.79 to \$5,800.

The first objection is that those accounts include the expenses of two locomotives held at the disposal of the Government at Puerto Barrios and Zacapa to convey troops when required.

Señor Tible finds that objection upon the last sentence in article 4 of the contract, which runs as follows:

"May will place at the disposal of the Government the *special* trains which they need, and ask for, through the directing engineer, without any compensation being due to him for those services."

Señor Tible has overlooked the first part of the article, which says plainly that such *special* trains as the Government may require *for the inspection of the line* are to be supplied by May, and the sentence he alludes to is inserted to show that they are to be supplied gratuitously. It can not mean that the Government may use gratuitously as many trains as they please for transporting troops, etc., for if it did the whole rolling stock might be kept in motion for Government service and the regular work and profit to the railway entirely suppressed.

If the Government, for state reasons, should require to monopolize the railway service, they are, of course, entitled to do so on compensating the contractor for expenses and losses consequently incurred.

The second objection is that May claims for repairing an engine that ran over a bull. This fact is denied by May and not proved by Tible.

The third objection is that owing to the damage to the line May was effecting a saving in the regular trains and ought not to charge for extra working trains owing to that reduction in expenditure. This objection may at once be set aside, as the contract contains no provision on the subject.

The fourth objection is that May has charged 15 per cent on the actual cost of the work performed. A similar charge was presumably made by Mr. May's predecessors and successor, although perhaps not in as open a manner. It is the customary charge in the United States and Spanish America for costs of administration, supervision, wear and tear of tools, and other extras that can not be specified in each account.

Every extraordinary expense must necessarily bear a share of the general expenditure that is only calculated in the contract to cover ordinary expenses.

From Señor Tible's analysis of extra accounts 3 to 17 may fairly be inferred the manner in which the other forced accounts would have been dealt with. As I have already said, I do not consider that the deductions made by Señor Tible are justified.

As to Mr. Tible's hint that perhaps the extra accounts were for ordinary work that should have been performed without extra charge, I must point out:

1. That Mr. Pennypacker, the Government inspecting engineer, whose duty it was to follow the works day by day, signed and approved all the 59 force accounts up to October 17, with the exception of account No. 37, which does not appear in May's general account. When called upon by the Government to report as to the nature of the works carried out, Mr. Pennypacker replied, on the 16th of December, 1898, that the accounts were undoubtedly for extraordinary work in accordance with the contract of April 5.

Up to September 21, when the strike took place, all the work done had the previous sanction of a superior authority, and as late as October 3 Mr. Amerlinck, the Government directing engineer, signed an order to May as contractor for the repairs required by bridge 185.

That the work was extraordinary work is proved by overwhelming evidence, including the reports of the inspecting and directing engineers, concerning the immense damage done to the line by the extraordinary floods of the rainy season of 1898.

An objection is also raised by Señor Tible to an account, dated September 30, for repairing a portion of the masonry of bridge 153, carried away by floods in 1897-1898, on the ground that he knows nothing of this charge.

As the account is approved by the inspecting engineer, it should be placed on the same footing as the force accounts.

As the extra accounts Nos. 1 to 36 and Nos. 38 to 59 and the masonry account of September 30, 1898, all bear the approval of the inspecting engineer and are supported by other evidence, as already stated, and as the Government evidence gives no satisfactory reason for their rejection, I must allow the whole charge for extraordinary work as set down in May's account.

## SUBSIDY.

The next objection raised is to the charge for the subsidy for the whole month of September and for the first twenty days of October. Señor Tible says that he has no authority to recognize any charge for subsidy after the 21st of September, and strikes out the amount charged from that date to October 20.

The Government memorials and briefs argue:

1. That during the time of the suspension of the road on account of the strike no subsidy should be paid.

2. That the rescission of the contract having been agreed to by May, on September 23, his further tenure of the road was illegal, and the Government can not be called upon to pay subsidy after September 21, when the strike began.

In reply to these contentions:

1. There is nothing in the contract to justify the view of the Government that the contractor should not be paid for the time during which the railway is prevented from running by a strike of the artisans employed on it, or in other words by "fuerza mayor."

I know of no such clause in other railway contracts and I do not believe that any contractor would accept such a condition. Even if it could be proved, as has not been done, that May started or connived at the strike, the fault would lie with the Government, who, according to their own advocate's brief (p. 70), had ample warning that the men would strike work if they were not paid, and when May's funds came to an end he could not pay them unless the Government paid him.

2. I have already given my reasons for believing that May's tenure of the road until October 20 was perfectly legal, and the fourteen orders sent to him or to his staff by Government officials between September 27 and October 17 recognize the legality of his tenure.

I therefore can not do otherwise than allow Mr. May the full amount of subsidy claimed for the period between September 21 and October 20.

The Government positively assert that May is responsible for the payment of the staff of the railway up to October 20. They have not paid the wages from October 1 to 20, and the unpaid wages are spoken of as a debt of some \$40,000 left unpaid by May. In reality, the amount due for wages is under \$14,000, and the claimants all hold May's pay checks.

As the other items of Mr. May's credit are recognized by the Government, and as the Government statement of the debit side of his account agrees with Mr. May's, Mr. May is entitled to the whole of the credit balance claimed by him, viz, \$127,793.94 silver or \$46,470.52 gold.<sup>1</sup>

To the balance in favor of Mr. May in his account current with the Government must be added the differences in his favor between the inventory when Mr. May took over the Northern Railroad and the inventory when he was ejected.

According to Mr. Amerlinck's report of January 11, 1899, when Mr. May received the railroad, the inventory taken showed a valuation of \$335,737.12. The inventory sent to me by the Government advocate, at my request, on the 18th of October, 1900, was submitted to one practiced accountant and checked independently by another, with the result that it showed a valuation of \$353,950.17, or an excess in favor of Mr. May of \$18,213.05 silver or \$6,622.93 gold.

The Government counterclaim 1, debiting May with \$4,907 gold for deficiencies in the inventory, is evidently based on some error.

We have now to Mr. May's credit—

	<i>Gold.</i>
Balance of account current.....	\$46, 470. 52
Difference in inventory .....	6, 622. 93
Total.....	53, 093. 45

To the aforesaid amount must be added the sum of \$8,816 silver or \$3,205.82 gold, as stated in Mr. Amerlinck's report of January 11, 1899, for explosives made over

<sup>1</sup> Throughout this claim the exchange fixed in the Government evidence of 175 per cent premium, i. e. \$.75 currency, equal to \$1 American gold, will be taken as the standard.

to the Izabal authorities by order of the Government at the time of the August troubles, such explosives having formed part of the valuation of the inventory when he took over the railroad. With this addition, the sum to Mr. May's credit is now \$53,093.45 plus \$3,205.82 gold; total, \$56,299.27.

The Guatemalan Government inventory contains no mention of the Puerto Barrios commissaries, disallowed in the report from the ministry of Fomento dated March 26, 1900. It also fails to include any allowance for wood for fuel purposes, but it includes track commissaries, coal, drugs, and stationery.

The report of March 26 admits that 208 cords of wood, valued at \$1,248, should be placed to May's credit. May's claim for the Puerto Barrios commissaries is \$7,059.86, a charge supported by various depositions in his evidence. The mere fact of his having undervalued the wood left on hand, which he estimates at \$1,058.56, proves that his calculations are framed with a view to fairness. On this ground, because I have always found Mr. May's calculations moderate, and because the only evidence adduced by the Government in favor of a smaller amount of stores says nothing of the Puerto Barrios commissaries which were used by Mr. Roberts, I allow Mr. May \$7,059.86 for Puerto Barrios commissaries and \$1,058.56 for wood; total, \$8,118.42 silver or \$2,952.15 gold. Add this to allowance \$56,299.27 gold, making \$59,251.42 gold.

The last item of Mr. May's claim for expenses connected with his tenure of the Northern Railroad is for \$900 silver which he will now have to pay for removing his railway outfit to the port of embarkation, and which he would not have had to pay if he had been allowed to remain in possession of the railroad during the whole of the period fixed by his contract, or if he had left the railroad in any other legal manner with due notice. In either of the aforesaid cases May would have been entitled to use the railroad to remove his outfit from Zacapa, where it has been lying since his ejection at a considerable expense for rent; but now he will have to pay to whomsoever may hold the railroad a sum estimated at \$900 silver or \$327.27 gold, a moderate claim, estimated upon the actual freight charges, which I allow.

May's total claim at the time of his dispossession is, therefore, \$59,251.42 gold plus \$327.27 gold; total, \$59,578.69.

From the foregoing sum must be deducted \$10,000 silver or \$3,636.36 gold, received by Mr. Fuqua on account of his principal's credit on the 13th of January, 1899.

The committee of eminent lawyers who have drawn up a legal opinion to accompany the Guatemalan Government brief have asserted, at page 31 of that opinion, that according to the mercantile law, by giving a receipt for \$10,000 on account of the sum of \$31,374.33 decreed by the Government on November 3, 1898, in part payment of Mr. May's balance, Mr. Fuqua has recognized for Mr. May the sum of \$31,374.33 as the final balance due to Mr. May. I therefore think it well to state that I do not admit that the acceptance of a sum on account of what is decreed as a partial payment of a debt can convert such partial payment of a debt into its final discharge.

We have now \$59,578.69 gold less \$10,000 silver, or \$3,636.36 gold, making \$55,942.33 gold left in favor of Mr. May.

A further deduction of \$1,800 silver or \$654.54 gold must now be made for unpaid customs duties which form Government counterclaim No. 14 and are said to amount to \$1,363.63 gold.

The above counterclaim is for customs duties on articles introduced by Mr. May during the whole time of his tenure of the railroad, and not merely for goods imported after the 21st of September, 1898, as the Government counterclaim says. It is for merchandise not specifically included in the free list of the contract. In spite of Mr. May's repeated applications, no detailed account of this claim had ever been delivered to him. The first detailed statement issued by the custom-house was one I asked for and received from the Government advocate on the 18th of October, 1900.

The original claim as stated in the Government counterclaim was for \$1,363.63 gold, the only vouchers being three bills drawn upon Mr. May by the administrator of the Puerto Barrios custom-house for the silver equivalent of that gold amount.

The claim, when I had received it, had been raised by the Guatemalan central custom-house to \$7,242.06 silver or \$2,633.48 gold as the result of a fresh revision.

I have been carefully through the account with the assistance of experts having the contract before them, and I have come to the conclusion that the utmost that Mr. May can be held to have imported in the way of goods outside his contract, although intended for the use of the railroad and its staff, leaves him with a debt of only \$1,800 silver after adding over 10 per cent to cover possible small discrepancies.

With regard to this debt, Don Jorge Muñoz, the Government advocate, says that Mr. May ought to have been tried on a charge of fraud against the fiscal revenues.

I do not see how Mr. May could be defrauding the revenues by failing to pay

immediately a small sum for customs duties when the Government owed him a large sum for subsidies. The law with regard to prompt payment of duties was not enforced at Puerto Barrios, but May expressed his willingness to settle as soon as an account was delivered to his agent. That he was right in asking for a detailed statement is proved by the divergences noted above. Moreover, May actually paid \$4,000 duties for goods lying in Puerto Barrios custom-house belonging to merchants and bought by him for the use of the railroad, but although they were all articles included in the free list, as shown by a certificate of the inspecting engineer, he has never been able to recover the sum disbursed.

With a further deduction of \$654.54 gold, the equivalent of the \$1,800 silver for customs dues, Mr. May's credit at the date of his ejection from the Northern Railroad amounts to \$55,942.33 minus \$654.54 gold, making a total of \$55,287.79.

To this must be added, in accordance with article 4 of the protocol of agreement, 6 per cent for interest up to the 16th of November, the date of the signature of the award, or interest at 6 per cent per annum for two years and one month from October 20, 1898, to November 16, 1900.

#### GOVERNMENT COUNTERCLAIMS.

I now come to the Government counterclaims, which are twenty in number.

Counterclaim No. 1 for \$4,909.57 gold is for the difference in the value of the inventory as received by Mr. May and as taken by the Government after May's dispossession. The claim has already been shown to have been based on an erroneous calculation, as the inventory sent to me by the Government shows a considerable excess of value in favor of May. The amount claimed was \$4,909.57 gold.

Counterclaims 2 to 11, both inclusive, for not cleaning the right of way, for placing round instead of square sleepers, for not placing other sleepers, for not painting engines, cars, bridges, and stations, for injury to the foregoing for want of paint; for loss caused by using bad fuel, amounting together to \$25,364.41 gold, need not here be discussed separately.

1. Because they are all the subject of exceptions at the end of the inventory signed April 16, 1898.

2. Because up to the 20th of September, 1898, "things went on regularly and the best understanding existed between the two contracting parties."

It is plain, therefore, that May did everything that was required of him to keep the line in good working order, placing the necessary sleepers in proper shape, doing what was needed in the way of painting, and not damaging the rolling material by the use of bad fuel. The Government inspecting engineer was constantly, and the directing engineer frequently, on the line, and their reports show that everything was in order. May's obligation was confined to doing the work when it became necessary "in the judgment of the director of works and in accordance with his indications."

3. Because there is no evidence to show that at the time when May was dispossessed his attention was called to any breaches of his contract.

The inventory of the road was not taken until long after his dispossession, and he, therefore, had no opportunity of pointing out that the exceptions taken in the new inventory practically referred to the same damages as were the subjects of exceptions when he took over the road.

May could have proved by overwhelming evidence that the round sleepers found on the road had not been placed by him, and that he had placed all the sleepers required by his contract.

4. Because May was not allowed to complete his contract, which was broken off at the close of the rainy season, during which it is nearly useless to cut down brush-wood or to paint objects exposed to the constant damp of the atmosphere.

In the course of the following six dry months he could, to the best advantage, have cleared the right of way and painted the cars, bridges, and stations, in so far as those operations were not to be performed at the expense of the Government, as was the case with those included in the exceptions of his inventory. There is nothing in the contract that binds May to do any particular work at any particular time before the close of that contract. He was to keep the road in good working order, choosing his own time for improvements.

5. Because, until the 5th of December, 1898, not one of the charges I am dealing with was brought against May, and it is evident that, if they had been known to the Government before that time, counterclaims would have been entered to meet Mr. May's constant applications for the payment of what was due to him. As to the painting charge, it appears for the first time in Mr. Amerlinck's report of January 11. How were \$10,000 paid to Mr. May on the 13th of January on account of the balance in



his favor, unless the counterclaims in Mr. Amerlinck's reports of December 5 and January 11 were then regarded as absolutely undeserving of consideration.

No attention is due to charges made under a contract after the holder of the contract has been dispossessed of the property he enjoyed in virtue of its provisions, and thus deprived of the opportunity of effectively rebutting those charges.

Counterclaim 12 is for \$15,000 silver, or \$5,454.54 gold, for amounts not received by the Northern Railroad on account of the suspension of the traffic ordered by the contractor and his agents. I do not clearly understand the meaning of this charge.

Does it refer to the net profits that the contractor was to have made upon the freight and passenger traffic during the eighteen days they were suspended, owing to the strike?

Does it mean that May should have run the railroad not only without a subsidy, but entirely out of his own moneys, giving up to the Government all that he received and paying the working expenses himself?

Whatever it may mean, as I have decided that May held legal possession of the railroad until the 20th of October, or twelve days after the conclusion of the strike on October 8, and was entitled under his contract to the traffic receipts of the railroad, I can not do otherwise than disallow this item.

Counterclaim 13, \$909.09, for expenses involved in the conveyance of the mails during the same eighteen days. This is also an item I can not account for.

I have evidence before me of the most indisputable character that in accordance with the contract, article 8, the foreign mails, inward and outward, were not delayed by the strike.

Counterclaim 14, \$1,363.63, for fiscal dues not paid. (See page 26, where \$654.54 are allowed to Government.)

Counterclaim 15, \$545.45, is for the emoluments of the notary and witnesses who drew up the inventory after Mr. May's dispossession. As Mr. May took no part in the aforesaid operation, he can not be expected to pay for it.

Counterclaims 16, 17, 18, 19, and 20 are all for damages due on account of the strike. The Government suffered no damages, as the mails, telegraphic services, and special trains required by the Government officials were not interrupted. The damages suffered by private individuals must have been very small during the eighteen days' suspension due to the strike, which was "fuerza mayor" provided for in the contract under article 7, and no account of damages suffered by any special individual is put in.

Moreover, as public order is not shown to have been disturbed and as the Government witnesses repeatedly state that there was no want of men to carry on the work when Mr. May was gone, I can not see any grounds for the foregoing counterclaims.

At all events, as I have decided that May was illegally dispossessed of the railway, the last five counterclaims can scarcely require discussion, but must be disallowed, together with all the Government claims against Mr. May, excepting No. 14 for fiscal duties.

#### LOSS OF PROFITS.

Having dealt with the Government debt to Mr. May at the time of his dispossession of the Northern Railroad and the counterclaims of the Guatemalan Government for the alleged nonfulfillment of certain clauses in the contract, for customs duties, and for a difference in the value of the inventory, and for damages caused by the strike on that railroad, I will now consider whether and what damages are due to Mr. May.

The contract itself indicates the first damage suffered by Mr. May for which he is entitled to compensation.

In the words of the Government counterclaim, a contract existed between the Government of Guatemala and Mr. May for the maintenance and working of the Northern Railroad, from its signature until the 21st of September, 1898, that contract has been carried out with the most absolute conformity and agreement of both parties and without giving rise to reproaches, complaints, or claims on the part of either of them.

Unfortunately, the Government's circumstances were such that they were unable to pay the subsidies with regularity, but May always showed consideration and readiness to wait until affairs were improved.

Under these circumstances and "when things went on in the best order" May, following out a well-concerted plan, under pretense of a strike, suspended work on the railroad with the view of bringing a claim against Guatemala.

It will be seen from the foregoing passages, all of which, except the assumption as to the strike, are quite in accordance with the truth, that May's work as railroad manager gave complete satisfaction and that the profit he earned was not due to neglect of the railroad, but was rather the result of a close attention to business, combined with the necessary acquirements of a railroad manager.

I have declared elsewhere that the evidence shows no legal and no moral reason for expelling May from his post. Whatever may have been the motives that actuated the Government, they afford no justification for May's ejection without compensation.

If, for imperative reasons of state, the railroad had been withdrawn from May before he had completed the term fixed by his contract, he would have been entitled to all the profit to be derived from the railroad until the completion of the term.

I hold in my hand a certificate from the minister of foreign affairs dated July 20, 1900, to the effect that at the time of the ejection the Government had no intention of selling the railroad, which is equivalent to saying that they had no intention to make arrangements with other parties for continuing the work of construction.

As is evident from the foregoing extract from the Government counterclaim, no case of noncompliance with the contract can be alleged against Mr. May before the strike, and that strike having been the result of a default of the Government, it can not be alleged against Mr. May as a case of default on his part.

The conditions under which, according to article 29 of the contract, the Government could give Mr. May two months' notice did not exist. Mr. May was, therefore, entitled to carry on his contract for one year from the date of taking over the railroad, or from the 16th of April, 1898, and to receive the profits he would in due course have earned under the contract during the year ending April 16, 1899.

As Mr. May was ejected on the 20th of October, 1898, he is entitled to the profits he would have earned during the five months and twenty-six days between that date and the 16th of April, 1899.

The amount of profits earned during Mr. May's six months' tenure of the railroad is shown by the extract from his books legally certified by the bookkeeper, Mr. Francis, and the auditor, Mr. Fuqua, to be \$116,968.67, or an average net monthly profit of \$19,494.76. Taking that sum as the measure of Mr. May's profits for the remainder on his terms, we find that he would have earned \$114,369.26 silver or \$41,588.83 gold; in other words, that the value of the property his contract entitled him to enjoy, and of which he was illegally deprived, was the above sum.

It must be remembered that the six months during which Mr. May realized an average profit of \$19,494.76 were the six months of an extraordinary severe rainy season, and that being the first six months of his tenure of the railroad, he had necessarily to incur higher working expenses than he need have incurred during the subsequent six months.

During the remaining six months most of his working expenses would have been very considerably reduced, but as a competent railroad manager, he would doubtless have taken advantage of the dry season to carry out such improvements as could not, with advantage, be attended to during the wet season, and to make such preparations as he deemed necessary to meet the ensuing wet season.

I therefore consider that I am dealing fairly by both parties in taking the average net monthly profits earned by Mr. May during the wet season of 1898-99 as the measure of his profits for the whole year.

That the above rate is not excessive is shown by the testimony of Messrs. Greely and Watson, the former of whom was auditor and the latter general superintendent of the railroad under Mr. Roberts. Their evidence is to be found at pages 175 and 180 of the May evidence, and has not been disputed by the Government, in whose hands it lay for three months before the Government advocate put in his brief.

If I were to judge by counterclaim No. 12, for \$15,000 silver claimed apparently as the net profit of the traffic of the railroad during the seventeen days between September 21 and October 8, when traffic was partially suspended owing to the strike, I should have to set the total profits of the contract, including the subsidy, a long way above the amount stated in Mr. May's books.

A letter dated January 29, 1900, and addressed by Señor Lopez Andrade, then directing engineer of the Northern Railroad, to the minister of fomento, deals with the traffic returns as follows:

"SIR: In reply to your communication of the 16th instant, I have the honor to report that the amount that the enterprise of the Northern Railroad failed to receive during the time when the traffic was interrupted in consequence of the suspension of the operations resolved upon by Mr. May, should be calculated at \$15,000, for which purpose must be taken into consideration the large quantity of merchandise in store, according to the report made by Don Enrique Gonzales before the 'Jefatura política' Izabal, herewith inclosed, which merchandise should have been transported precisely during that period. We must take into account not only the freight for merchandise, but also the passenger traffic interrupted as a result of the strike.

With special consideration,

(Signed)

"J. T. LOPEZ ANDRADE,  
"The Directing Engineer."

In view of all the circumstances of the case and with due consideration of the evidence of both parties, I allow Mr. May the sum of \$114,369.26 silver or \$41,588.83 gold for loss of profits.

## DAMAGES.

I can not pretend to lay down the law concerning damages in clearer words than those of the advocate of the Guatemalan Government, who uses the following language in the counterclaim:

"The law of Guatemala, says Don Jorge Muñoz (to which the claimant is subject in this case), establishes, like those of all civilized nations of the earth, that contracts produce reciprocal rights and obligations between the contracting parties and have the force of law in regard to those parties; that whoever concludes a contract is bound not only to fulfill it, but also to recoup or compensate (the other party) for damages and prejudice which result directly or indirectly from the nonfulfillment or infringement by default or fraud of the party concerned, and that such compensation includes both the damage suffered and the profits lost. *Damnum emergens et lucrum cessans.*"

In the previous pages I have dealt with the "*lucrum cessans*," and I will proceed to consider the "*damnum emergens.*"

It has taken Mr. May just over two years to obtain a settlement of his claim against the Guatemalan Government. He has had to undertake journey upon journey to bring the matter before the United States Government, and to induce them to intervene in his favor; he has had to engage, at heavy rates, the services of eminent lawyers, whose reputation would insure a hearing from overworked officials, and whose opinions, based upon the stern logic of facts, would have weight with the legal advisers of his Government. Many of the leading witnesses were scattered over the face of the world, and May has had to undergo the expenses of reaching them. Owing to the unremitting attention exacted by the prosecution of his claim, he has been entirely debarred from seeking remunerative work, and his credit, which, on the showing of this Government, was so excellent as to cause his pay checks to be received as cash by all his neighbors, is nearly, if not entirely, suspended until the decision of the arbitrator be known.

For all these and for other causes, which it would take too long to enumerate, I hold that Mr. May is entitled to substantial damages from the Government of Guatemala, who are legally responsible for the two years' delay in the settlement of their debt to him.

When it appeared that the terms of the agreement for the rescission were not understood in the same sense by the two parties to that agreement, and that consequently no agreement existed, it was open to the Guatemalan Government—

1. To continue May's possession of the road. Work had been resumed and the traffic was being carried on with perfect regularity and with the assent of the Government officials, and the payment of wages to all the staff had reestablished the credit of the road, as is proved by the Government evidence, that shows that when Roberts took charge of the line there was a surplus of labor on hand.

2. To proceed to arbitration under the contract or to rescind the contract by means of a fresh agreement with Mr. May to terminate it on a two months' notice as he proposed.

For the sake of conciliation, Mr. May had agreed to the limited and not too favorable arbitration proposed by the United States minister, but the modifications of that proposal, insisted upon by that Government, made the terms so ruinous to Mr. May, that on due consideration he refused to accept them. Even after the ejection, it is my opinion that if the Guatemalan Government had offered to pay to May the \$127,000 and odd dollars he was entitled to claim, he would have abstained from entering a claim for loss of profit and damages. It is, therefore, plainly due to the action of the Guatemalan Government that Mr. May has been led to advance and able to establish a claim for loss of profits and damages.

On the other hand, there are certain considerations that in no way detract from Mr. May's credit, that I think must in fairness be taken into account in assessing the amount of damages to be awarded to him.

Mr. May came to Guatemala as far back as 1884, and was constantly employed on the Northern Railroad from the year 1892. The knowledge of the road he acquired, first as acting manager for a few months and then as subcontractor until 1898 was very complete and accurate. Mr. May was well acquainted with the straitened circumstances of the present Government and was still waiting to receive a large sum of money coming to him from the Miller estate, which could not be wound up until the Government had paid what it owed to the late S. Miller. Nevertheless he apparently felt certain that with his knowledge of the road; his recognized integrity

and business faculties; and, above all, the implicit confidence reposed in him by all who had worked under him he would be able to give a thoroughly good service of the road in exchange for a good profit.

He was convinced, it would seem, that in view of the importance of the Northern Railroad to the country, the Government, satisfied with his management, would pay him with sufficient regularity to enable him to carry on the line. Unfortunately, revolutionary movements broke out, the Government fell into arrears, and May's credit being exhausted, the strike took place.

As I have already stated, there is nothing in May's connection with the Northern Railroad that is the least to his discredit. What I have just said is merely intended to show there was clearly a speculative element in his acceptance of the contract. Consequently, I hold that the damages awarded should be confined to what may be considered a sufficient amount to cover May's actual expenses and losses.

I do not admit that May's credit has suffered irreparable injury; I rather believe that, with the publication of this award and the payment of his debts in the United States and this country, it will acquire fresh strength.

I can not see that there is any real humiliation suffered by a man who, unaided, has to succumb to the whole power of the government of a country; but it is plain that Mr. May must have suffered much mortification and an anxiety approaching to despair when he found himself called upon to face the great difficulties of his situation.

Upon consideration of the entire controversy, I decide that May is entitled to damages for expenses incurred and losses suffered to the extent of \$40,000 gold, which sum I award him.

On the foregoing grounds the arbitrator decides:

1. That the contract of April 5, 1898, and other contracts arising out of it, between the Government of Guatemala and Mr. R. H. May, for the working and maintenance of the Northern Railroad are rescinded.

2. That the Government of Guatemala will pay to Mr. Robert H. May the sum of \$55,287.79 gold for subsidies earned, works executed, and expenses incurred under the aforesaid contract.

3. That in accordance with article 4 of the amended protocol of agreement the Government of Guatemala will pay to Mr. R. H. May the amount of \$6,874.11 gold for interest at 6 per cent on the foregoing sum from the 21st of October, 1898, to the 16th of November, 1900, being two years and twenty-six days.

4. That the Government of Guatemala will pay to Mr. R. H. May the sum of \$41,588.83 gold, being the estimated amount of the profits he would have earned if he had been allowed to carry on the contract of April 5, 1898, until the conclusion of the term fixed by that instrument.

5. That the Government of Guatemala will pay Mr. Robert H. May the sum of \$40,000 gold by way of indemnity for expenses incurred, two years' time lost, suspension of credit, and grave anxiety of mind.

6. In accordance with article 5 of the protocol of agreement of February 23, 1900, the Government of Guatemala will pay the total sum of \$143,750.73 gold specified under the foregoing headings within six months from the date of the present award, unless the term be prolonged by the United States Government, together with interest at the rate of 6 per cent from the date of the award until the payment of the entire sum.

7. The Government of Guatemala will forthwith return to Mr. R. H. May the bond for \$40,120.79 deposited by him with the Government of Guatemala by way of security for his compliance with the award of the arbitrator.

G. JENNER.

GUATEMALA, *November 16, 1900.*

### MURDER OF FRANK PEARS IN HONDURAS. PAYMENT OF INDEMNITY OF \$10,000.

*Mr. Hay to Mr. Hunter.*

No. 131.]

DEPARTMENT OF STATE,  
*Washington, March 16, 1899.*

SIR: The report of Commander Logan, commanding officer of the United States steamship *Machias*, dated from Puerto Cortez, Honduras, February 21, 1899, conclusively shows that Mr. Frank Pears, an Ameri-

can citizen, was cruelly murdered by a sentinel on post near the office of the Pittsburg and Honduras Timber Company, in San Pedro, Honduras, on the evening of January 31, 1899, while innocently passing between his office and his house.

In obedience to telegrams from the Navy Department of February 8 and 14, Commander Logan proceeded on February 16 to San Pedro, in company with the United States consul, F. H. Allison, from Tegucigalpa, who arrived in Puerto Cortez the previous day, accompanied by Mr. C. Fiallos, minister of justice. The latter bore a letter from President Sierra constituting him, with Consul Allison, a commission to investigate the cause of the death of Mr. Frank Pears.

The commission met at 3 p. m. on the 16th of February at the residence of the consular agent, Mr. J. M. Mitchell, and was permitted to examine the testimony of five witnesses, all soldiers, which had been taken before a military court of inquiry, termed by the minister a "Summary."

This court of inquiry, which had been held upon the evening when the shooting occurred, and immediately following it, before the Mayor de Plaza, Duarte, in command of the troops at San Pedro, found the sentry, Cruz Rosalez, not guilty of any crime, and released him from custody. It is a matter of surprise to this Government that, after this conclusion by the court of inquiry, he was, on February 1 or 2, discharged from the army. The witnesses who gave testimony in this matter, except possibly one, are also reported to have been discharged from the army at the same time. The sentry is now at liberty, but the minister of justice has stated that he could be produced at any time.

In the testimony of the witnesses called, as reported by Commander Logan, it is not represented that Mr. Pears was armed, or that there was any attempt on his part to escape. According to affidavits made before the United States consul, Mr. J. M. Mitchell, Mr. James H. Russell had passed twice over the spot where Mr. Pears was shot a few moments before Mr. Pears left his office to go to the house where he lived, only a short distance away, and Mr. Russell was not even challenged. Other witnesses testify that Mr. Pears was alone when he was shot. It is also in evidence that not more than six seconds intervened between the first challenge and the sentry's fatal fire. Mr. Pears made the statement immediately after the shooting: "I was standing in the light of the street lamp, where the sentinel could see me perfectly well. I did not know what to do, but thought the best thing to do was to stand perfectly still, which I did, facing the sentinel." During the period of martial law Mr. Pears had often passed between his office and his house in full sight of the sentry, and had never been challenged before. He stated that "if he had thought he was in any danger he could have jumped behind a house and saved himself, but he did not do so, as this might appear as if he was trying to hide." When he heard the challenge, he added, he did not think it was meant for him, but thought it best not to move.

It is evident, therefore, that Mr. Frank Pears, unarmed, was shot by the sentinel, Cruz Rosalez, a few seconds after he was first challenged, upon a spot where he had a perfect right to be, neither accompanied nor in the act of flight, and in full light of a street lamp.

This act was committed in the evening of January 31, 1899, two days after martial law had ceased and the civil law had been restored, which change had taken place on January 29. As evidence that no

attack was expected from any quarter at that time, in a house only five blocks from the cabildo and cuartel, the garrison officers attended the wedding of an army officer on that same evening, followed by a dance that continued the most of the night. No intelligence of the approach of armed forces had been received on the day of the shooting; and on the day after the outposts were called in and several barricades were torn down. Further, January 31 was celebrated as a holiday in San Pedro, and gambling was going on all day in the streets, which is permitted only on public feast days.

Taking into account all of the circumstances that have been recited, the shooting of Mr. Frank Pears can be regarded as nothing short of a cruel murder of a defenseless man innocently passing from his office to his house.

But disregarding all the attendant circumstances and all the evidence except that offered by the five soldiers before the military court of inquiry, the act of the sentinel was not in accordance with the military law of Honduras. Article 41 of the military regulations requires sentries to challenge when a person is at a distance of from 40 to 50 paces, but Mr. Pears was at a distance of 190 feet, or more than 63 paces, by actual measurement, when he fell.

If the challenged party gives the wrong reply or fails to answer, the sentry is required by the regulation to repeat the challenge three times, and if the same thing occurs he must call the guard to arrest them. Only in case of flight is he authorized to shoot. On the testimony of the sentinel himself and of his comrades Mr. Pears did not flee, but was advancing toward the sentinel when he was shot. When he fell he was not within the maximum distance to which he might have approached without being challenged.

In view of the facts and the law of the case, therefore, this Government feels under obligation to require of the Government of Honduras, first, the arrest and punishment of Cruz Rosalez, the sentinel who wrongfully and illegally shot and killed Mr. Frank Pears, and, second, the payment of an indemnity of \$10,000 in gold, to be awarded to the relatives of Mr. Frank Pears. You are directed to urge these claims upon the Government of Honduras and to secure an early reply.

I am, etc.,

JOHN HAY.

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*Mr. Hunter to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,  
*Guatemala, April 26, 1899.*

(Mr. Hunter reports having discussed the Pears matter with the chargé d'affaires of Honduras, who, after advising his Government, suggests arbitration, and asks if such a proposition should be entertained.)

*Mr. Hay to Mr. Hunter.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, April 27, 1899.*

(Mr. Hay directs that pressure be brought for immediate settlement of Pears claim.)

*Mr. Hunter to Mr. Hay.*

No. 186.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, May 13, 1899.*

SIR: Referring to the Frank Pears case in Honduras, I have the honor to transmit herewith inclosed copy of a letter sent to this legation by the Honorable Angel Ugarte, the diplomatic representative of Honduras to Guatemala, in which is embodied a telegraphic communication from President Terencia Sierra on the Pears affair.

You will observe that the President expresses great surprise at our Government's refusal to submit the case to arbitration.

On April 25 last I made demand for reparation on the Government of Honduras, in accordance with Department's instructions No. 131, of March 16, 1899, to which no reply has yet been received. I shall push the demand and keep the Department advised of the progress of the case.

I have, etc.,

W. GODFREY HUNTER.

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[Inclosure.]

*Mr. Ugarte to Mr. Hunter.*

LEGATION OF HONDURAS IN GUATEMALA,  
*May 11, 1899.*

MR. MINISTER: In fulfillment of your excellency's desires, I have the honor of transcribing the telegram which the President of Honduras addressed to me and which I communicated to your excellency in our last interview. It reads as follows:

"TO DR. ANGEL UGARTE, *Guatemala:*

"It would, in truth, be inexplicable and strange that the American Government should refuse to submit to arbitration the claim made on account of the Pears affair, it being that Great Britain, a European country, which has heretofore followed a policy so exacting with the Latin-American Republics, has just set the example by submitting to that mode of decision in the *Lothie May* incident, and notwithstanding that the note from the Marquis of Salisbury seemed to put an end to all discussion.

"Your report has greatly surprised me, as I was hoping for other procedure on the part of the American Government, with which that of Honduras has cultivated the best relations of friendship; besides, the news which I had from New York had made me quite tranquil because the sub-Secretary of State, Dr. D. J. Hill, has assured Mr. Bolet Peraza, the consul of Honduras, as also the vice-president of the syndicate, that the Government of the United States would treat the matter with all the consideration to which the Government and the people of Honduras are entitled, to the end that the proof in the case be well established and that he hoped all would result satisfactorily and justly.

"Before that conference, Mr. Sprague, vice-president of the syndicate, presented a memorial with the object that opportunity might be given the Government of Honduras to be heard in regard to the death of Mr. Pears with the certainty that there would be found extenuating circumstances which would at least relieve the Government and inhabitants of the country from the charge of a conscious violation of the laws of hospitality and of the protection due American citizens resident in Honduras.

"Mr. Sprague mentioned that the Government of Honduras is friendly to the United States and animated by sentiments of sympathy toward the Americans resident here; that the actual President uses his influence to a very marked degree for the protection of American interests in Honduras, and furthers their development to the utmost limit; that it would be quite ungenerous to compel the Hondurians to make peremptory payment of an indemnification for the death of Pears without giving the Government of Honduras a hearing, and without having clear information as to the circumstances of the deed, and that the other American interests which have taken root in Honduras would be notably injured by any precipitate and undue action on the part of that Government.

“With such antecedents it was natural to think that arbitration was the most acceptable mode of resolving the difficulty in a friendly manner, and I do not lose hope that we may yet arrive at that result.

“Nevertheless, inasmuch as Minister Hunter has sent his communications, we shall endeavor to obtain the best documents in which to found the reply which this Government must give.

“I remain, etc.,

TERENCIO SIERRA.”

I take the liberty also of calling your excellency's attention to the reason which I had the honor of making known to your excellency in support of the ideas contained in the above telegram, and which I have no doubt the American Government will take into consideration in the prosecution of this unfortunate occurrence.

I take this opportunity of renewing, etc.,

ANGEL UGARTE.

*Mr. Hunter to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,  
*Guatemala, July 6, 1899.*

(Mr. Hunter reports in regard to the Pears case that the Government of Honduras has replied with a denial of responsibility and refusal of his demand. This reply is accompanied by an opinion of the chief justice and advice that a copy of proceedings in the trial of the sentinel will be transmitted.

Minister of Honduras to Guatemala expresses, under instructions, desire for a friendly settlement and belief that arbitration would furnish a prompt solution.)

*Mr. Hunter to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,  
*Guatemala, July 21, 1899.*

(Mr. Hunter reports, in connection with his telegram of the 6th instant, the receipt of the promised copy of the proceedings in the trial of the sentinel who killed Mr. Pears, and that the Government of Honduras persists in its denial of responsibility for Pears's death and its refusal to demand for indemnity.

He asks if correspondence in relation to the matter shall be transmitted and Department's instructions awaited.)

*Mr. Hay to Mr. Hunter.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, July 22, 1899.*

(Mr. Hay directs that correspondence in the Pears case be transmitted to the Department, and that Mr. Hunter await instructions.)



*Mr. Hunter to Mr. Hay.*

No. 227.]

LEGATION OF THE UNITED STATES,  
 GUATEMALA AND HONDURAS,  
*Guatemala, July 22, 1899.*

SIR: In compliance with Department's cable instructions of this date I have the honor to transmit herewith inclosed a copy of the correspondence of this legation with the minister of foreign affairs of Honduras relative to the Pears case, as follows:

My letter to minister of foreign affairs, marked 1; the minister of foreign affairs' reply, marked 2; the chief justice's report, marked 3; the minister of foreign affairs' letter, marked 4; proceedings in trial of sentinel, marked 5.<sup>1</sup>

I have the honor to be, etc.,

W. GODFREY HUNTER.

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[Inclosure 1.]

*Mr. Hunter to Mr. Bonilla.*

LEGATION OF THE UNITED STATES,  
 GUATEMALA AND HONDURAS,  
*Guatemala, April 25, 1899.*

SIR: I have the honor to inform your excellency that I have received instructions from my Government relative to the murder of Mr. Frank Pears, an American citizen, by a sentinel in San Pedro, Honduras, on the evening of January 31, 1899, a copy of which I herewith transmit inclosed in order to fully advise your excellency of my Government's reasons for demanding the punishment of the murderer and the indemnity to the relatives of Mr. Frank Pears.

Your excellency will observe, from the instructions referred to, that two high Government officials of the United States have made a thorough investigation of this unfortunate occurrence near the scene of the tragedy, and reported the result of their labors to Washington. On the facts thus obtained, so clearly set forth in the inclosed communication that comment by me is unnecessary, I have been directed to require of the Government of Honduras: First, the arrest and punishment of Cruz Rosales, the sentinel who wrongfully and illegally shot and killed Mr. Frank Pears, and second, the payment of an indemnity of \$10,000 in gold, to be awarded to the relatives of Mr. Frank Pears.

Trusting that your excellency's Government will promptly comply with these demands, and that I shall be honored by an early reply, I embrace this opportunity to renew to your excellency the assurance of my most distinguished consideration.

W. GODFREY HUNTER.

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[Inclosure 2.]

*Mr. Bonilla to Mr. Hunter.*

REPUBLIC OF HONDURAS,  
 OFFICE OF MINISTER OF FOREIGN RELATIONS,  
*Tegucigalpa, June 5, 1899.*

MR. MINISTER: With considerable delay your excellency's dispatch of April 25 ultimo, came to my hands, manifesting to me that you have received instructions from your Government relative to the assassination of Mr. Frank Pears, an American citizen, on the night of January 31, 1899; that you accompany a copy of those instructions in which are expressed the reasons which your Government has for asking the punishment of the assassin, and a pecuniary indemnity for the family of said Mr. Pears; and that you ask in a formal manner of the Government of Honduras: First,

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<sup>1</sup> Not printed.

the arrest and punishment of Cruz Rosales, the sentinel who wrongfully killed Mr. Pears, and second, the payment of an indemnity of \$10,000 gold, which will be given to the family of the deceased.

As the claim expressed has for its basis the report of Commander Logan, the officer in command of the ship *Machias*, belonging to the United States, and dated at Puerto Cortez the 21st of February of this year, I judge it indispensable to make a hurried narration of what happened, thereby making it possible to estimate whether there is or not any responsibility on the part of the Government of Honduras, and therefore whether the claim is well founded.

As soon as this Government had information of the unfortunate occurrence at San Pedro on the night of January 31, 1899, and although the work of reorganizing the administration had just then begun, a work necessarily difficult owing to the change of the personnel of the executive power, with a desire of showing the greatest interest for the protection of the foregoing who come to the country, and in order that the deed might be investigated with promptness and impartiality and the culprit judicially punished in case he be found to be such, commissioned the minister of justice, Mr. E. C. Fiallos, in order that he might constitute himself at San Pedro in company with the United States consul, Mr. F. R. Allison, for the purpose of bringing to light everything relative to the occurrence which is now the motive of the claim presented by your excellency.

Mr. Fiallos arrived at San Pedro on the 14th of February and in accord with Mr. Allison and with the commander of the *Machias*, Mr. Logan, tried to investigate the truth of the facts relating to the death of Mr. Pears.

In the investigation (summary) the declarations of all the witnesses present at the deed were taken and which are uniform in assuring that the sentinel, Cruz Rosales, fired the shot which caused the death of Mr. Pears, after the former kept silence, notwithstanding his being warned three times as the military ordinance requires.

Besides, Messrs. Allison and Logan had a knowledge of the telegrams and instructions which the military commander of San Pedro had received in order to maintain a vigilance of "*Threatened Plaza*," owing to the notorious state of alarm which existed in the village and to the advices which they had that an invasion was about to take place by the emigrants then on the frontier of Guatemala.

Mr. Fiallos also made known to the American commission the following facts: First, that a few days previous there had been discovered a plan of insubordination in the fortress where a considerable number of accused were inclosed in a place insecure, on account of which, extraordinary military precautions must be taken; second, that Mr. Pears had already resided in the country more than twenty days, a time more than sufficient to learn the customs of the locality, and that his brothers and other persons had warned him not to go out at night, because it was dangerous; third, that Mr. Pears, upon being warned by the sentinel, did not reply, notwithstanding that he already had sufficient knowledge of the language to make himself understood; fourth, that Mr. Pears was dressed in costume of common use on the coast, so that it was not possible to distinguish whether he was a foreigner or not; and fifth, that some minutes before the shot was fired by Cruz Rosales, others were heard fired by the other sentinels close by.

For the knowledge of your excellency I accompany an authorized copy of the report given by the minister of justice, who deduces the following conclusions: That the death of Mr. Pears was due merely to a misfortune greatly to be lamented; that the sentinel, Cruz Rosales, could and ought to have acted with more prudence, and therefore ought to be tried in conformity with the law; and that the deed can not justify a diplomatic claim, because the investigation is being carried out in accordance with prescribed laws, and it is not possible to allege a denial of justice since no one has appeared as an interested party accusing the author of the death of Mr. Pears, nor asking any indemnity.

I believe it proper to assure your excellency that in Honduras there is no prejudice against foreigners, as the many foreigners of different nationalities residing here can confirm; that the laws grant them the same civil rights as the natives; and that regarding the Pears family they have been rather favored by grants of valuable concessions. This demonstrates that there could not have been that evil intention and treachery which is required according to penal law in order that the crime of homicide be reputed as an assassination, being therefore improper the qualification given the death of Mr. Pears.

Regarding the punishment of the sentinel Cruz Rosales, I ought to manifest to your excellency that in the application of the laws when matters of a judicial character are being ventilated it is not possible for the executive power to exercise any action. Our constitution, like that of the United States of America, establishes the

independence of the judicial power, and that separation of faculties is a guaranty of success in the order of administration, and, according to some authorities of public right, constitutes the first condition of every well-constituted government. For these reasons the executive power of Honduras has not been able nor can it apply of itself the punishment of the sentinel Cruz Rosales, and the only thing within its faculties is to endeavor to have the supposed culprit tried in order that he may be punished if the tribunals find sufficient ground. That has been done and Rosales has been imprisoned during the course of the trial.

A short time ago there came to this office an authorized copy of the process carried on by the proper judge, and because of its volume there has not been time to make a new copy to send to your excellency, but I will do so by next mail.

From the report from Mr. Fiallos, as well as from the proofs of the investigation, it appears plainly demonstrated that the superior authorities of San Pedro have proceeded impartially and without negligence or delay in the administration of justice, and this ex officio, because neither the family of Mr. Pears nor the consular agent of the United States has made any petition nor appeared as party to the case.

For such motives and in fulfillment of the instructions of the President of the Republic, I have the honor of manifesting to your excellency that the Government of Honduras, owing to the knowledge which it has of the facts verified, believes that responsibility can not be deduced against the State, inasmuch as they were not done by its order nor received its approval, and that in consequence the claim presented is not in order nor can it be accepted.

The Government of Honduras, being fully aware of the high criterion which guides the United States of America in these matters, trusts that the objections opposed to the claim to which I have referred will be attended and considered in the most friendly and favorable manner. This hope is also founded in the promise made to the consul of Honduras in New York, Mr. Bolet Peraza, who was at Washington the 4th of February last, and in a conference which he had with the Subsecretary of State, Dr. D. J. Hill, the latter assured him that the Government of the United States would treat the matter with all the consideration to which the Government and people of Honduras are entitled, to the end that the proof of the case be well established.

As Honduras has a diplomatic minister accredited in Guatemala with whom your excellency has treated this subject before, manifesting to him the good disposition with which you are animated in order to obtain a friendly and just solution of it, instructions are given him to follow the pending negotiation, not impeding that this office treat also directly with your excellency.

I take this opportunity of renewing to your excellency, etc.,

CESAR BONILLA.

[Inclosure 3.]

*Mr. Fiallos, minister of justice, to the minister of Honduras.*

REPUBLIC OF HONDURAS,  
OFFICE OF MINISTER OF FOREIGN RELATIONS,  
*Tequeigalpa, March 4, 1899.*

MR. MINISTER: I have the honor of presenting to you the following report regarding the mission which you were pleased to confide to me the 9th of February last, of going, together with the United States consul, Mr. F. H. Allison, to investigate the facts relating to the death of the North American citizen, Mr. Frank S. Pears, which occurred at San Pedro Sula on the night of January 31 last.

We left this city on the 10th of the aforesaid month of February within twenty-four hours after having resolved upon my journey.

We arrived at San Pedro on the 14th at midnight, and as Consul Allison manifested to me that first of all he must speak with the commander of the North American gunboat *Machias*, anchored at Puerto Cortes, I accompanied him on the following morning to that port, as much in order to be continually with him in the investigation which we were going to make as also to present my respects to Commander Logan, who received me with the greatest courtesy.

On the same evening of the 15th I was informed that the commander of the *Machias* had also received instructions by cable from the Minister of the Navy of the United States to investigate the death of Mr. Pears, and in virtue thereof he would come with us to San Pedro on the morning of the 16th.

On the evening of the last-mentioned day we had our first conference at the house of the consular agent, Dr. T. M. Mitchell, where Mr. Logan and his secretary, Mr.

Grant, had lodged, and where incidentally we all found ourselves together, including the consular agent, Alger, resident at Puerto Cortes, who assisted in the capacity of interpreter for Commander Logan.

I brought to mind the firm determination which animated the Government of Honduras to proceed with special care and rectitude in the investigation of the facts relative to the touching death of Mr. Pears, and I read the sheet of instructions which I carried from the President. At the same time Consul Allison manifested that he had instructions to constitute himself in that city with the same object, and Commander Logan showed a cablegram in which the Minister of the Navy, Mr. Long, ordered him to do the same, advising him also that there was fear regarding the safety of the property of the Honduras syndicate, without doubt by reason of the known threats of a new armed invasion over Honduras.

After a long exposition of the circumstances which occurred at the death of Mr. Pears, according to the opinion of his brother Benjamin, and of the consular agents, Mitchell and Alger, who had taken copies of the data and opinions upon the particulars, we passed to inspect the ground where the occurrence took place.

The accompanying plan shows the situation of the place where the sentinel was standing when he fired and that where Mr. Pears fell wounded, giving a distance between one and the other of 190 feet, according to the measure made by some Americans and confirmed by me after having counted the steps and heard the report of the military commander.

On the morning of the 17th we met again at the house of the consular agent, Dr. Mitchell, and proceeded to take knowledge of the proces (trial), for which I had to ask the summary of the military commander; and as a demonstration of the sincerity of the Government in the matter I caused it to be read integrally, converting it into English.

There figured in the proces the declarations of Col. Matias Gracias, native of Salvador, who was the officer on guard; of Capt. Manuel Moreno, also a native of Salvador; of Surg. Raymond Murillo, of San Pedro Sula; of Chief Marcos Contreras, of Omoa, and of Private Cruz Rosales, who was on guard as sentinel.

These declarations did not appear to be in accord with the opinion which the Americans there present had formed about the event in virtue of the explanations made in private by the wounded and of other declarations made before the consular agent, Dr. Mitchell, by the North Americans, T. S. Noran, John L. Agon, and James Henry Russell; they assured that the wounded said that he was alone, and upon hearing the warning had stopped (stood still), believing that by not advancing nothing would happen to him; and the declarations in possession of the consular agent were contradictory as regarding Messrs. Noran and Agon, who found themselves in a side street about 50 yards distant, to wit, that they had only heard two warnings before the shot was fired, and that they were made with an exceedingly short pause between the one and the other, and as regarding that of Mr. Russell, who was 30 yards (varas) distant, declaring that the warnings of the sentinel were three. Besides the consular agent manifested that he had taken some other declarations of a purely private character and which he had promised not to make use of; but being pressed to make known the principal points of those declarations without divulging the names, with the object of looking for other means of obtaining the useful data which they might contain for finding out the truth, it resulted that they furnished no light on the principal matter, and only referred to certain calumnious phrases which they pretended having heard some of the soldiers utter regarding foreigners.

In view of what was expressed, we discussed the manner of proceeding to the investigations which we were called upon to make later. The idea was first considered that the commission as a body should solicit and take the declarations of such persons as might be able to give information according to the knowledge possessed by the consular agent, who presented for that purpose a list of their names, among which figured some ladies and some soldiers, who on account of being dismissed were no longer in San Pedro; but, although I manifested my desire to accept that way, I had to observe that I considered it impracticable, because not being invested with sufficient authority we could neither oblige private persons to appear before us nor would the declarations thus obtained have any value. Attending such motives, I proposed that the consular agent should alone make such investigation as he might think proper, and that in view of those results and any other data which might be submitted to me, we would form a list of persons whose declarations the judge in charge of the summary might cause to be taken in legal form to be incorporated in the proces. In the meanwhile, in order to have established before the commission certain facts of importance which did not figure in the proces, but which exercised a great influence on observations which had immediately to be made on the report to be sent to the Government at Washington, I manifested to them the reasons which in

those days had existed for maintaining in that city a vigilance of "*threatened plaza*" (*plaza amenagada*) although the state of siege had already ceased two days previous. I showed them the telegrams and instructions in possession of the commander of arms, which were amplified by explanations given by the commander himself regarding the notorious state of alarm which existed in city, and of the advices which he had received concerning the capture of spies on the frontier of Guatemala, etc.

Besides, with data furnished by said commander, I manifested before the commission the following facts: First, that a few days before a plan of insubordination in the fortress had been discovered, where some thirty were inclosed in a place quite insecure; second, that Mr. Frank Pears had been in the country some twenty days, a time more than sufficient to learn to what he must attend regarding the laws and customs which rule in the country; and not only was he advised by his brother Walter and the consular agent, Dr. Mitchell, that he must not go out at night because it was dangerous, but he already possessed sufficient knowledge of the Spanish language to make himself understood, as I demonstrated with a receipt written in his own handwriting to Col. Donoso Cubero; third, that Mr. Pears, on being notified by the sentinel after the call of silence for some motive or other, did not answer anything at all, while it is known that in that city where there are so many foreigners everyone answers "*who lives?*" as he pleases, without any accident having occurred before because of the answer; fourth, that Mr. Pears was dressed in a yellow suit, which foreigners and natives alike use very much on the coast, so that by reason of his dress it was not possible to distinguish whether he was a foreigner or not; fifth, that a few minutes before the shot was fired by the sentinel Cruz Rosales others had been heard made by the sentinel of another reserve situated to the south, which as was afterwards verified were aimed at an individual named Panfilo Reina, who came near the barracks and did not answer the warning which was given him according to the law.

When I had finished the exposition of the facts which proved the points which I have enunciated, I proposed to Messrs. Allison and Logan that, if we were to consist in writing the result of our conferences and investigations, to please state if they accepted those points, in order that afterwards we might occupy ourselves only in making clear before the judge others which might be found obscure or doubtful; but they responded that they did not believe they had the attribute of qualifying the certainty of any facts nor of signing any document in that sense, but that their mission was reduced to verifying what steps had been taken by the authorities of Honduras relative to the death of Mr. Pears, and in what way the process was going to be continued.

In virtue of which I assured them in the most complete manner possible that the investigations would be carried forward in conformity with the law, without delay of any kind, and that for the purpose of making clear the points not clearly established in the summary I would cause the judge of the case, by an indication of some of the parties declaring, to make to appear in this office, in order to hear their testimony, such persons as the consular agent might designate; which seemed to satisfy Messrs. Logan and Allison.

The principal points which, judging from the observations made by Commander Logan and the consuls, and upon which I myself find deficiency or obscurity in the summary, are the following: First, whether Mr. Pears was really accompanied or followed by two other individuals. Who were they, and at what distance were they found at the moment of the warning and firing? Second, whether these individuals fled upon hearing the warning of the sentinel, "*thereby giving founded motive of suspicion,*" as says article 41 of the military ordinance, or whether they fled after the shot was fired by the sentinel, as appears consigned in the declarations which figure in the summary.

Another motive of displeasure on the part of Messrs. Pears and of various Americans resident in San Pedro consisted in that the judicial authority of criminal jurisdiction had not instituted the process which corresponds to a case of homicide committed in time of peace and on a person of civil class, pretending, on making that charge, that Mr. Benjamin Pears had denounced the deed by means of a note directed to the political governor, in which he asked that an investigation be ordered of the case, and insinuating, besides, that the testimony rendered by the officers and soldiers on duty could not be considered as good. That point was already debated when I arrived, and I believed it always capable of being sustained that the military authority was the one called to institute the process, on account of Pears's death having proceeded from the act of a soldier in active service, and on the other hand, having commenced the military process immediately after the firing, the judicial authority could not have initiated at the same time another process upon the same facts.

Regarding the insinuation that the testimony of the military persons who declared

could not be taken in evidence, I could only reject such a charge, adducing the argument that they were citizens as everybody else, and therefore merit equal faith, there being, besides, in favor of their declarations the circumstances that they were the best prepared to witness the occurrence, as much on account of the place in which they were situated as because it was early in the evening, and because, being almost strangers to one another, there was no motive to induce them to falsify, exposing themselves thereby to grave consequences if they did so.

Besides what I have expounded I must mention the concrete charges which, in the course of our discussions, were expressed against the sentinel: First, that the distance at which he fired at Pears was excessive, according to the limit marked by the military ordinance; and, second, that granted the circumstances which characterized the deed the sentinel was not called upon to fire but advise the chief of the guard in order to cause Pears to be recognized. But in regard to the first point, the distance, according to article 41 of the military ordinance, is not fixed, because it speaks only of the immediate surroundings (in mediación) of the place where the sentinel is, so that the distance of 75 steps, at which Mr. Pears was wounded, can not be considered as excessive.

Article 47, which contains instructions for the sentinels in time of war, says they shall not permit any person to approach to within 40 or 50 steps, which reveals that distance is simply subject to the calculation of the sentinel; and at the same time that article seems rather to refer to the formalities which the members of the army are obliged to observe one with the other, and not to the precautions of a general rule, as is indicated by the sense of the preceding articles.

Regarding the second point, the commander of arms explained to me that the sentinel was situated in what, according to article 6, Title IX, of the garrison service, constitutes a closed reserve (retén cerrado), from which neither the chief of the guard nor the officer had authorization to come out.

Besides, let that be as it may, and resuming the present report, I believe that the death of Mr. Pears was due merely to a misfortune, which we Hondurians lament as his own countrymen; that there was no evil intention on the part of the sentinel; that he could and ought to have acted with greater prudence, and therefore must be subjected to the sentence which his conduct merits in the eyes of the tribunals which judge him in accordance with the law; that the death of Mr. Pears, although it caused great bitterness in the minds of his relatives and of foreigners in general, can not give place to a diplomatic claim, because the investigation is being made in accordance with the laws of the country; and even if these were badly applied, it would not be possible to allege denial of justice, as to date no one has appeared as party interested, accusing the person causing the death of Mr. Pears, nor asking justice or indemnity.

Before concluding I ought to establish, as an act of justice to Consul Allison, that in this delicate matter he has proceeded with entire circumspection and impartiality, without allowing himself to be surprised with the exaggerated reports and passionate observations with which many of the North Americans resident on that coast sought to lead him away from his criterion in the matter; and regarding my own conduct, I am convinced of having proceeded with the interest and good faith which you recommended to me.

I am, etc.,

E. CONSTANTINO FIALLOS.

TEGUCIGALPA, *May 30, 1899.*

It is correct:

[SEAL.] RICARDO PINEDA, *Subsecretary.*

[Inclosure 4.]

*Mr. Bonilla to Mr. Hunter.*

REPUBLIC OF HONDURAS, OFFICE OF FOREIGN RELATIONS,  
*Tegucigalpa, June 30, 1899.*

MR. MINISTER: In compliance with the offer which I made to your excellency in my official communication of the 5th instant, I have the honor of sending you an authorized copy<sup>1</sup> of the process carried on by the authorities of San Pedro Sula against the soldier Cruz Rosales, on account of the death of Mr. Francisco Pears.

A careful reading and study of that process makes one acquire in a clear and terminant manner the plain conviction of the truth in the matter, which truth demonstrates that the death of Mr. Pears was due to a mere accident, especially worthy of

<sup>1</sup> Not printed.

being lamented, inasmuch as it has given rise to a claim vexatious or this country; but in no sense was it due to a deliberate and ostensible intention of the soldier Cruz Rosales. The spirit of justice which has always distinguished the great American Republic will cause the matter to be viewed with the necessary calmness and impartiality, and will therefore cause to be comprehended that Honduras bears no blame whatever. Everything has been done in accordance with our laws. By them, even without petition of party, the extensive investigation has been carried on, a copy of which I now send you. The accused named his defender, the case was submitted to jury, and this tribunal absolved the accused, as your excellency will have occasion to see, in the above-cited process. Such verdict was hoped for by public opinion, and can not but be in accord with the conscience of every just and honorable person. The sentence of the judge, which appears on folio 89 of said process, has been sent to the court of appeals for its approval, and as soon as this honorable tribunal shall have emitted its definite decree I shall have the honor of transcribing it to your excellency for a better and clearer knowledge of the present subject.

I do not consider it superfluous here to remind your excellency of the argumentation concerning the inculpability of this country, which I adduced in my former official communication of the 5th instant. The true foundation of that argumentation is found in the process and in the report of Minister Fiallos, of which I have remitted to your excellency an authorized copy. Those documents, clear and irrefutable, manifest that Honduras is in every light without responsibility in the afore-said claim.

Reiterating to your excellency the assurances, etc.,

CESAR BONILLA.

*Mr. Hay to Mr. Hunter.*

No. 236.]

DEPARTMENT OF STATE,  
*Washington, March 20, 1900.*

SIR: Referring to your dispatch No. 227, July 22, 1899, with inclosure of notes exchanged between you and the minister of foreign affairs of Honduras and of the proceedings had by the Honduran tribunals in the case of the sentry, Cruz Rosales, for the shooting of Frank Pears, I have the honor to inform you that the case has been carefully considered, with the result that the Department has reached the conclusions which follow.

Mr. Pears was shot in the city of San Pedro Sula, Honduras, on the evening of January 31, 1899, from the effects of which, on February 2 following, he died. On the 16th of that month a commission consisting of Mr. Fiallos, minister of justice, and Mr. F. H. Allison, United States consul, examined the testimony of five witnesses given before a court of preliminary inquiry, which had been held on the same evening of and immediately following the shooting, while the facts were fresh in the recollection of the witnesses, and there was no apparent motive or attempt on their part to color or distort the facts against their own Government.

On the evidence taken, including the statement of the sentinel himself and the testimony of his four comrades, the captain, lieutenant, sergeant, and corporal of the guard, the following facts were established:

1. Mr. Pears was shot on the evening of January 31, 1899, by the sentinel, Cruz Rosales.
2. At the time he was shot he was not fleeing, but advancing toward the sentinel.
3. The sentinel did not call the guard before he shot.
4. The other persons with Pears, if any, did not flee until after he was shot.
5. The sentinel stated that he was instructed by the corporal and sergeant to fire into any group after challenges, receiving no answer.

On the foregoing facts, which may be accepted as true unless overthrown by the evidence taken in the subsequent trial of Rosales, the conclusion is irresistible that the sentinel, in shooting Mr. Pears, acted in violation of article 41, which provided two safeguards for the protection of Pears, both of which were disregarded, namely: "If the challenged party gives the wrong reply or shall fail to answer he will repeat the challenge three times, and if the same thing occurs he will call the guard to arrest them, and in case they flee, giving by this act a foundation of suspicion, he will shoot them."

There was no call of the guard; there was no ground of suspicion within the precept of article 41 justifying the shot.

Pears was therefore unlawfully slain. He was intentionally slain, for every man is conclusively presumed to intend the natural consequences of his acts. Rosales stated that he "called out to them 'Halt! Who comes there?'" in a loud and clear voice; that as they did not reply to any of the challenges, but continued to advance, *he fired a shot at them with his rifle and saw one of them fall and the other two ran away.* He added that in consequence of this place being in a state of defense the instructions given to him by the corporal and sergeant of the guard were to fire upon any group advancing toward the trenches, if they did not halt upon being challenged three times; that in spite of these instructions he challenged the group four times.

Affidavits of witnesses, taken by the United States consular agent, Mr. J. M. Mitchel, show that Mr. Pears left his office at 8.25 in the evening, and within three minutes thereafter he was shot; that when shot he was standing alone. Mr. Pears himself stated that he "was standing in the light of the street lamp, where the sentinel could see him perfectly well; that he (Pears) stood perfectly still, facing the sentinel;" that he "has been in the habit of passing back and forth between his house and office and had never been challenged before; that when he heard the challenge, although he did not think it was meant for him, he thought best not to move."

Commander Logan, of the U. S. S. *Machias*, reports that "it is a fact that martial law was to have ceased on January 6, but as a precautionary measure the Honduran Government extended the time to January 29, at which time it actually ceased and civil law became supreme." He reports that "no attack from any direction was expected," and in corroboration states the fact that "on February 1 the outposts in the barricades were removed and several barricades were torn down," and "January 31 was a holiday and gambling was going on in all of the streets, which is only permitted on public feast days," facts inconsistent with any serious apprehension of an impending attack. These facts may be considered in connection with the facts developed before the court of preliminary inquiry on January 31. The further questions arise:

1. Are the foregoing facts and conclusions overthrown or substantially modified by the subsequent proceedings of the Honduran authorities?

2. If there was reasonable doubt as to the liability of that Government in the first instance, does that doubt remain?

On the evidence taken before the court of preliminary inquiry that court decided that Rosales had discharged the duty imposed on him by article 41, and the case then came for trial before Colonel Cabero, special judge of first instance at San Pedro Sula, who, on February



23, returned the record to the military court of peace for further examination of Rosales. Rosales appeared before the latter court and made an unsworn statement, in which, for the first time, he says that he called the guard and the persons in the group ran away in silence and then he shot; that he "fired a shot with my (his) rifle at the said group of persons in order to stop them." He adds that "even after the shot the other persons in the group continued the flight which they had begun when challenged." The testimony of his comrades supplies the singular omission in their first testimony of the remarkable facts that Rosales called the guard to arrest the group and that they began to flee before the shot. While it is not remarkable that all of the witnesses did not recall and state all of the facts in their testimony given on the evening of January 31, it is remarkable that not one of the five witnesses did, in their testimony of February 23, then recall and state either of these exculpatory facts.

An order for the arrest of Rosales was then issued and he was arraigned before the special military court of first instance on the charge of manslaughter. Counsel was assigned him, and the court appointed to that responsible position Capt. Francisco Leiva as special prosecuting attorney in the case. The trial began March 7, 1899, and the prosecuting attorney at once entered upon an elaborate defense of Rosales. In stating the case he asked that "If it shall appear in this case that the sentry, Cruz Rosales, obeyed his instructions, the court shall decree a stay of proceedings or the final quashing of this unjust prosecution instituted against a Honduran soldier who knows how to do his duty." But even he did not then venture to state that Pears or his companions fled before the shooting.

After hearing the statement of the prosecuting attorney, followed by that of Rosales's counsel, the court held that there were sufficient grounds for proceeding to the trial, and "the stay of proceedings requested by the prosecuting attorney is (was) refused," and twenty days were given to take evidence. To this the prosecuting attorney objected. He objected that "the refusal of the stay of proceedings, which he has asked in the present case, and the consequent opening of the case for the hearing of evidence, are not in accord with the law, as the arguments which he has adduced in his request for the stay of proceedings, clearly corroborated by the counsel for the accused, are of sufficient weight to justify such stay of proceedings, as the evidence furnished sufficient proof that the order for the imprisonment of the sentry, Cruz Rosales, ought not to have been issued." He added the significant statement that "the preparatory judge failed to investigate certain pertinent matters of great importance in the decision of the case," and that "I do not think it is necessary for the defense to prove the orders which were given to the soldier."

The evidence of various witnesses was taken tending to show the character of the accused for honesty, sobriety, and peacefulness, as well as his poverty, and to show the public notoriety of an apprehended attack on the city of San Pedro Sula at the time by the Honduran emigrants.

The judge certifies that "the prosecuting attorney produced no evidence." Apparently all the efforts of both counsel were directed to the common end of securing an acquittal of the accused. The zeal displayed by the prosecuting attorney is notable. The evidence having been closed he made his statement to the court and asked the court to

acquit the defendant; but the case was submitted to the jury on April 24 on seventeen special interrogatories. The prosecuting attorney then opened the case and said "that the clearness of the record in the case removes all idea of the guilt of the accused, as he had maintained in his allegation of evidence."

Together with answers to other interrogatories the jury found that Rosales, "in firing the shot which wounded Don Francisco Pears, had no intention of wounding or killing him," and that "in firing the said shot he acted without gross carelessness." It is unnecessary to add that the jury found every fact which the prosecuting attorney, Rosales, and his counsel could have desired, after a careful study of article 41. The court decided that Pears was killed unintentionally and without gross negligence; that the act of shooting was, under all the circumstances, lawful and innocent, and discharged him.

The trial was concluded on the 24th or 25th of April, and a copy of the proceedings was in the possession of Mr. Cæsar Bonilla, minister of foreign relations, when he wrote to the American minister the note dated June 5, 1899, in which it is stated that in the preliminary investigation "the declarations of all the witnesses present at the deed were taken, and are uniform in assuring that the sentinel, Cruz Rosales, fired the shot which caused the death of Mr. Pears after the former kept silence, notwithstanding his being warned three times as military ordinance required."

In the report dated March 4, 1899, made by the minister of justice, Mr. Fiallos, to the minister of foreign affairs, Mr. Bonilla, he states, after a personal investigation of the affair in company with Consul Allison, that the distance between the points where the sentinel and Mr. Pears stood was 190 feet, or about 75 paces, instead of 40 to 50 varas, or about 137 feet, as required by the military ordinance before shooting. He reports that at the time of the shooting there were reasons for maintaining in the city a vigilance, but that military law had already ceased two days previous. Mr. Pears was therefore under the protection of the civil law, and the abrogation of the state of seige on January 27 is sufficient proof that no attack was apprehended, and that the shooting was without legal justification. The position thus stated by the minister of justice, from which the illegality of the act appears, was shifted at the trial by the prosecuting attorney and counsel for the accused, in order to show by the witnesses that the shooting occurred at a distance of 50 varas, or about 137 feet, between the sentinel and Pears, and to show all other conditions necessary to justify the shooting.

Considering the manner of the prosecution before the military court, it is impossible to confide in its findings of facts or in its conclusions. The far more consistent and reasonable view is the one stated in said report of the minister of justice, which was characterized by apparent candor. He says, speaking of the witnesses who testified at the preliminary examination on the evening of January 31, "there being in favor of their declarations the circumstance that they were the best prepared to witness the occurrence, as much on account of the place in which they were situated as because it was early in the evening, and because, being almost strangers to one another, there was no motive to induce them to falsify." He concedes that the sentinel could and ought to have acted with greater prudence, but the military court exonerated him and thereby justified and approved the act. If there was any doubt of the liability of the Government of Honduras in the

first instance for the act, that doubt is dispelled by the later action of its military authorities. Rosales was not even enrolled as a soldier. He was a raw recruit, ignorant and illiterate. It is not necessary to impute malice to his act. But that Pears was wantonly shot through the sentinel's gross ignorance of his duty and through the gross ignorance or negligence of the officers of the guard and of the post in failing properly to instruct him, can not be doubted. Either this is true, or the alternative conclusion is inevitable, that he was intentionally shot. In either case it was done in violation of the military ordinance. And there has appeared no serious purpose on the part of the Honduran Government to punish either the sentinel or his superiors. Under all the circumstances, the Government of Honduras ought in equity to pay the indemnity demanded.

In view of the foregoing conclusions it becomes the duty of this Government to insist upon the payment of the indemnity of \$10,000 demanded in my instruction No. 131, March 16, 1899. You will therefore inform the Honduran Government of the conclusions arrived at by the United States.

I have, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Hunter.*

No. 251.]

DEPARTMENT OF STATE,  
Washington, May 24, 1900.

SIR: Referring to instruction No. 236, of March 20 last, directing you to inform the Government of Honduras that the Government of the United States insists upon the payment of an indemnity of \$10,000 for the murder of Frank Pears, I have now to inquire if the Government of Honduras has made answer to that demand? If it has not, you will remind it of the importance of the matter.

I am, etc.,

JOHN HAY.

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*Mr. Hunter to Mr. Hay.*

No. 398.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
Guatemala, June 30, 1900.

SIR: Referring to Department's instructions No. 251, of the 24th ultimo, relative to the Pears case, I have the honor to inform you that in compliance with Department's instructions No. 236, of March 20, 1900, I addressed a note to the minister of foreign affairs on April 9 last, in which I made demand on the Government of Honduras for \$10,000 gold and the punishment of the sentinel, Cruz Rosales, for the shooting of Mr. Frank Pears, a copy of which is hereto attached. To this the minister replied on the 5th instant, copy of which is hereto attached.

In accordance with Department's instructions No. 251, of the 24th ultimo, referred to above, I telegraphed the minister of foreign affairs on the 15th instant relative to the matter, and on the 16th I received a reply by wire, copies of which are hereto attached.

Should the promised definite answer of the minister to my demand be delayed, I shall again promptly call his attention to the subject and keep the Department advised as to the progress of the case.

I have, etc.,

W. GODFREY HUNTER.

[Inclosure 1.]

*Mr. Hunter to Mr. Bonilla.*

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, April 9, 1900.*

SIR: Referring to the demand on the Government of Honduras, made by me in my note of April 25, 1899, in compliance with instructions from my Government, dated the 16th of March preceding, for an indemnity of \$10,000 in gold and the arrest and punishment of the sentinel, Cruz Rosales, on account of the murder by the latter, while on duty at San Pedro Sula, of Mr. Frank Pears, an American citizen, I have the honor to inform your excellency that I am in receipt of additional instructions, No. 236, dated March 20, 1900, upon the subject, a copy of which I beg to transmit herewith inclosed.

From these instructions, as also from those accompanying my former note upon the subject, your excellency will see that my Government, after a careful consideration of all the evidence and circumstances in the case, has reached the following conclusions:

That Mr. Frank Pears was shot on the evening of January 31, 1899, by the sentinel, Cruz Rosales; that when shot he was not fleeing, but advancing toward said sentinel, in the full light of a street lamp, and at a distance of 190 feet; that said sentinel, whether through ignorance, malice, or in obedience to orders from his superiors, acted in violence of article 41 of the military ordinance, and that Mr. Pears was therefore unlawfully and intentionally slain; that there are no extenuating circumstances to exculpate the sentinel or lighten the responsibility of the Government, but, on the contrary, martial law had given place to the civil régime; no attack was feared, as the town was in a measure given up to festivities, and Mr. Pears's conduct gave no cause for suspicion; that the subsequent trial and acquittal of Cruz Rosales by the military court reveal a marked effort on the part of both the prosecuting attorney and the attorney for the defense to acquit the accused sentinel, and that the findings of that court can not be confided in, and show that there has been no serious purpose on the part of the Honduran Government to punish either the sentinel or his superiors.

In view of the foregoing facts and conclusions which I now make known to your excellency, my Government has decided to insist upon the payment of the indemnity of \$10,000 and the punishment of the sentinel, for both of which I made demand on the Government of Honduras in my note of April 25, 1899, and which I now insist upon, in accordance with the instructions of my Government.

Trusting that I shall have the honor of receiving a prompt response to this communication, I embrace this opportunity to renew to your excellency the assurance of my most distinguished consideration.

W. GODFREY HUNTER.

[Inclosure 2.]

*Mr. Bonilla to Mr. Hunter.*

REPUBLIC OF HONDURAS,  
OFFICE OF THE MINISTER OF FOREIGN AFFAIRS,  
*Tegucigalpa, June 5, 1900.*

MR. MINISTER: I had the honor of receiving the last communication of your excellency relative to the claim arising out of the violent death of the American citizen, Mr. Frank S. Pears.

This matter being of sufficient importance, and with the object of studying it in detail in order to obtain the best possible solution, there has been appointed a commission of the most notable lawyers of the Republic to give their opinion on it, and

to propose the means of arrangement which they may consider most in accordance with law and justice, consulting at the same time the true interests of the country and the desire which the Government has had and has to cultivate the best relations of friendship with the Government of the United States.

It is probable that said commission will give its report within a few days, and then I shall have the honor of answering your said dispatch, remitting at the same time a copy of the respective report.

I ask your excellency, that, taking into consideration the reasons set forth, you will please excuse the delay of a definite answer, and I am, etc.,

CÉSAR BONILLA.

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[Inclosure 3.]

*Mr. Hunter to Mr. Bonilla.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Guatemala, June 15, 1900.*

In compliance with instructions from my Government relative to the Pears case, I addressed a note to your excellency on the subject on April 9 last, to which no reply has been received, not even an acknowledgment of its receipt. I have received a dispatch from the honorable Secretary of State, dated the 24th ultimo, making inquiry if your excellency's Government has made answer to my note. In view of the foregoing I beg to ask that your excellency telegraph me when I may expect your reply.

W. GODFREY HUNTER.

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[Inclosure 4.]

*Mr. Bonilla to Mr. Hunter.*

[Telegram.]

TEGUCIGALPA, *June 16, 1900.*

In answer to your excellency's attentive telegram of yesterday, I manifest to you that on the 5th instant I addressed a note to your excellency from this office acknowledging the receipt of your last note in regard to the Pears case, in which I said that it being of sufficient importance and with the object of studying it in detail, in order to reach the best solution, there has been named a commission of the most eminent lawyers of the Republic in order that they might give their opinion and propose the means of arrangement most in accordance with law and justice, consulting at the same time the true interests of the country and the desire to cultivate good relations of friendship with the United States. I suppose that my said note will soon arrive to your excellency, and I am happy to manifest to you the hope that I may address you a definite answer by next mail.

I am, etc.,

CÉSAR BONILLA.

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*Mr. Hay to Mr. Hunter.*

No. 270.]

DEPARTMENT OF STATE,  
*Washington, July 22, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 398, of the 30th ultimo, inclosing a copy of correspondence between you and the minister of foreign affairs of Honduras in relation to the Pears claim.

The Department is not disposed to require the punishment of the sentinel who killed Pears. His punishment was not mentioned in instruction No. 236 of March 20 last. But delay in responding to the demand for indemnity should not be allowed to pass unnoticed.

I am, etc.,

JOHN HAY.

*Mr. Hunter to Mr. Hay.*

No. 410.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, July 27, 1900.*

SIR: Referring to my No. 398 of June 30, 1900, relative to the Pears case, I now have the honor to inform you that I have received a note from the minister of foreign affairs of Honduras dated the 2d instant, in which was inclosed a certified copy of the promised report of the commission of jurists appointed by the Government of that Republic to investigate and report its views on the merits of said case, copies of which are hereto attached.

It will be seen by the above that the Government of Honduras adheres to its former position in refusing to punish the sentry, Cruz Rosales, and pay the indemnity demanded of \$10,000 gold.

In this attitude the Government seems to be supported by the report of the above-mentioned commission, strengthened by a letter of the claimants, dated October 24, 1899, addressed to yourself, a copy of which is attached, which the Government claims is a bar to further proceedings.

I have acknowledged the receipt of the minister's note with inclosures in a dispatch dated July 24, 1900, a copy of which is hereto attached.

Awaiting the Department's further instructions, I have, etc.,

W. GODFREY HUNTER.

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[Inclosure 1.]

*Mr. Bonilla to Mr. Hunter.*

[Translation.]

OFFICE OF THE SECRETARY OF FOREIGN RELATIONS,  
*Tegucigalpa, July 2, 1900.*

MR. MINISTER: I have the honor to refer myself to the communication of your excellency, dated 9th of April last, in which you insist in the name of your Government on the payment of an indemnity amounting to \$10,000 gold for the violent death of the American citizen, Frank S. Pears, which occurred in San Pedro Sula on the 31st of January, 1899, and on the punishment of the sentry, Cruz Rosales; upon which motives your excellency addressed his note of the 25th of April of last year.

It pleased your excellency to accompany this communication with an authorized copy of the instructions which, bearing the number 236 and the date 20th of March, 1900, he received from the Secretary of State of the Government of the United States of America.

As I indicated to your excellency in my last note of June 5, ultimo, the Government of Honduras desired to treat that question with the greatest caution and prudence; in view of which it had appointed a commission of juriconsults, that they might study scrupulously the antecedents of the claim and come to a decision which, in their judgment, would be in accordance with equity and propriety; taking into account the desire of the Government of Honduras which has had, and has, to maintain with that of the United States the truest relations of friendship. That decision was rendered on the 29th of May last, and I am pleased to send to your excellency an authorized copy of the same.

My Government obeying said decision, I have the honor to answer the above-mentioned communication of your excellency of the 9th of April, ultimo, and to

confirm the arguments offered in my note of July 5, 1900; and therefore I have to demonstrate:

First. That Cruz Rosales, the sentry, having been absolved by the tribunals of the Republic, it would be contrary to the political constitution of the country, and to the secondary laws now in force, to reopen the corresponding proceedings in order that he might be punished; and I have here the opportunity to state the significant fact that in the new instructions given to your excellency on March 20 last no insistence is made for the punishment of the sentry Rosales, showing thereby that the American Government, which is noted for its respect to the Constitution of the Republic, could not but recognize the moral and legal impossibility of a republican country like Honduras invalidating, on no motive, the final decree of the tribunals of justice that possess a sphere of action of their own and are completely independent of the executive department.

Second. Also the pecuniary indemnity claimed for the Pears family is viewed as inadmissible, for the reasons presented in my last note, which I confirm, and those which appear in the decision of the legal commission heretofore cited, and which I accept and reproduce as my own.

The family of Mr. Pears, which is conducting an important business in the country, and which has been endowed with valuable concessions; moreover which was the party to benefit from the aforesaid indemnity, renounce their rights and have so notified the Department of State of the American Government, as may be seen in the instrument which I inclose. Hence the ground on which the claim is based is void.

I ought finally to suggest to your excellency that if, notwithstanding the above statements and after having reexamined the merits of the case, the American Government should insist on the payment of the indemnity, though I do not entertain such belief, from its wisdom, as this Government earnestly desires the maintenance of the harmony happily existing between the two countries, it is ready to take part in a friendly settlement, which would remove the difficulty, and that through whatever means which might impair neither the honor nor the dignity of the State, and which could not establish any precedent in cases that may unfortunately occur in the future, and afford an opportunity to claims not resting on lawful rights.

I apprehend that your excellency, with justice to the conciliatory purposes of my Government, will efficiently cooperate in the direction indicated, so that this unpleasant affair may come to a satisfactory conclusion; and, at the same time, will opportunely favor me with the communication of the new instructions that might be issued by your Government.

Reiterating, etc.,

CESAR BONILLA.

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[Subinclosure 1.—Translation.]

*Report of the Honduran commission.*

REPUBLIC OF HONDURAS,  
MINISTRY OF FOREIGN AFFAIRS,  
*Tegucigalpa.*

MR. PRESIDENT: The commission, to whose study you confided the claim of the Government of the United States against that of Honduras, on account of the death of the American citizen, Frank S. Pears, which happened in San Pedro Sula on the 2d day of February of last year, as the result of the firing of the rifle by the soldier Cruz Rosales, on the night of the 31st of January of the same year, has minutely considered the pretensions of the American Government, transmitted to its minister resident in Guatemala, the answer of the minister of foreign affairs under date June 5, 1899, the report made to the Government by the minister of justice in discharge of the commission conferred upon him for the investigation of that deed, and the proceedings followed by the courts of the country for the attainment of all the ends of the law. In view of such documents and through the considerations suggested by them, the commission has tried to form an impartial opinion as regards both points of said claim, viz: First, Soldier Cruz Rosales's punishment for his having caused the death of the citizen Frank S. Pears by the rifle shot above mentioned, which took place on the night of the 31st of January of last year; second, the payment of \$10,000 gold as damages for said Mr. Pears's heirs. The commission has taken into account, first of all, the circumstances that the Government of the Repub-

lic, on receiving the news of the death of said gentleman, which happened in the manner above said, in San Pedro Sula, decided that the minister of justice should go to that city and obtain the investigation of the deed by all the legal proceedings, a duty which was fulfilled by that high functionary, as is seen by the lengthy report which he made to the Government, describing all the events which took place during the discharge of his commission.

The judge of the civil court of San Pedro, in fulfillment of his duty, started the trial against Soldier Rosales on the same night of the events and established it by all the legal proceedings, ending with the verdict by which the prisoner was acquitted of the charge for which he had been tried. These preliminaries established, and in obedience to several of the provisions of our political constitution, the commission appreciate as true and incontestable the conclusions which it herein sets forth. Whichever the proofs may be presented in the trial against the accused; whichever may be the legal value ascribed to them, decided, as it is, by the courts of the Republic, that the soldier Cruz Rosales never incurred any criminal responsibility on account of the firing of the rifle shot that caused the death of Mr. Pears, it behooves the Government to appreciate such a decision as conclusive and decisive in respect of the irresponsibility thereby declared of Soldier Rosales. And this being so, it is evident that the demand of the United States Government for the punishment of said soldier, already acquitted by the courts, is utterly inadmissible. As to the second point of the claim—that is, the monetary indemnity—the undersigned are likewise of opinion that such a pretension is unacceptable. Forsooth, the nations become responsible to one another by the governments that represent them, by their functionaries or agents, and even by private persons on certain occasions. Such are the principles which rule in the matter. But the case which originates the indemnity asked for by the American Government evidently is not comprised in any of those which we have just mentioned. The Government of Honduras, as has been already said, initiated at the proper time the investigation of the deed which has caused the dispute. The courts of the Republic undertook the trial of the suspected criminal, having based themselves upon the verdict of the jury of inquiry, which, according to our law, means a legal truth. They declared him innocent of the charge made to him. Then the legal foundation is lacking to support the indemnity asked or the deed to establish the responsibility of this country. In support of its assertions the commission can not but invoke the answer of the minister of foreign affairs in relation to the same point, in which document the question has been extensively debated, developing arguments which justify in every way the irresponsibility of Honduras for the fact of the death of Mr. Frank S. Pears.

However, as the Government of the United States seems to formally insist in the demand of indemnity, from which it may be inferred that the data contained in the trial have not been appreciated by it in the same light as our courts have done, the commission think that for the sake of the friendship which must exist between both countries it is proper to reach an arrangement capable of removing the difficulty, even devising some means which by rigor of law would not be admissible. The commission, on the other hand, can not but admit, as the Government has also done, the good will of the United States toward Honduras, of which this Republic has received marked proofs on several occasions, and this is one more reason for endeavoring to reach an amicable settlement with the American Government which may put an end to the controversy. In the opinion of the commission it may be solicited from said Government that the sum claimed be reduced, and on accepting this idea the President might fix the sum which could be paid, and the commission itself hope that such a petition would be crowned with the success wished for; so much more so, when in the hands of the President is a letter addressed by four of the relations of Mr. Pears, brothers of his, to the Secretary of State of the American Government in which they decline to accept the share which they might get in the sum claimed. This renouncement of so personal a right must undoubtedly produce its legal effect in the straightforward and learned judgment of the United States Government. The above-mentioned letter was placed in the hands of the President for it to reach its destination. And this is the opportunity to point out, from the data which the commission has had before it, that when the deed happened which originated the claim the alarm and intransquillity produced in the country from several causes had not completely disappeared, it not being strange that on such occasions such unfortunate contingencies should happen as the death of Mr. Pears, engendered by the abnormal conditions prevailing rather than by a deliberate intention of outraging. We will not refrain before closing this document from pointing out the following: The brothers of Mr. Frank S. Pears were in San Pedro when the said event happened. It was their duty for themselves or through an attorney to act as plaintiffs against



Sentry Cruz Rosales. By supporting in this form their charge they might have produced all the proofs within their reach for the investigation of the facts. If, in spite of their acting in this way, the courts had disregarded their action or denied the recourses accorded by our laws, then, indeed, for denial of justice they would be entitled to apply for redress by diplomatic intervention. In conclusion, this commission beg to express to you, Mr. President, its hope that the affair it has taken into consideration may attain a satisfactory issue.

C. GOMEZ.  
RAFAEL ALVARADO.  
JERONIMO ZELAYA.

TEGUCIGALPA, *May 29, 1900.*

True copy:

[L. S.] RICARDO PINEDA,  
*Subsecretary.*

TEGUCIGALPA, *June 23, 1900.*

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[Subinclosure 2.]

*Ben. B. Pears et al. to Mr. Hay.*

TEGUCIGALPA, HONDURAS, *October 24, 1899.*

DEAR SIR: In the matter of the demand made by you, in connection with the death of our brother Frank, upon the Government of Honduras, we would respectfully request that you suspend action. We make this request especially in view of the friendly disposition manifested by President Sierra to us personally and to our business interests here. Should M. A. Bonilla cease to be connected officially with the Department of Cortes, and so long as such is the case, we beg that the matter be allowed to rest.

We have large and constantly expanding business interests here and we desire to live on terms of friendliness with the Government. The present chief executive shows a disposition to deal with us fairly and justly, and in appreciation of this fact we urgently make this request.

If this petition be faulty for any cause, we ask that you so indicate and we will make necessary amendment.

We remain, etc.,

BEN. B. PEARS.  
WALTER W. PEARS,  
By B. B. PEARS.  
HARRY P. PEARS,  
By D. B. COOPER.

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[Inclosure 2.]

*Mr. Hunter to Mr. Bonilla.*

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, July 24, 1900.*

SIR: I have the honor to acknowledge the receipt of your excellency's dispatch of the 2d instant, in answer to mine of April 9, in which your excellency adheres to the original attitude of the Government of Honduras in the case of the murder of Frank S. Pears, and which attitude seems to be now supported by the report of the commission of jurists named by the Government of your excellency to investigate the matter. The said report, together with a letter addressed to the Hon. John Hay by the Pears family, being found duly inclosed in your excellency's dispatch.

I observe in your excellency's note that you propose a friendly settlement, and I should be pleased to be informed what methods your excellency would have to suggest as a means to effect the same.

I seize this opportunity, etc.,

W. GODFREY HUNTER.

*Mr. Hay to Mr. Hunter.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, October 6, 1900.

(Mr. Hay acknowledges Mr. Hunter's dispatch No. 410, and states that a written request, forwarded in original to Mr. Hunter, has been addressed to the Department by the entire Pears family (mother and seven children), asking that demand for indemnity be pushed; directs renewal of demand, and insistence upon prompt payment of \$10,000.)

*Mr. Hay to Mr. Hunter.*

No. 280.]

DEPARTMENT OF STATE,  
Washington, October 6, 1900.

SIR: Upon the receipt of No. 410, of July 27 last, in relation to the Pears case, the Department called the attention of the members of the Pears family to the letter purporting to be signed by Benjamin B. Pears, Walter W. Pears by B. B. Pears, and Harry P. Pears by D. B. Cooper, a copy of which you inclosed, and which requested the Department to suspend action for the collection of an indemnity for the death of Frank Pears, and inquired of them whether it was their desire to have the claim abandoned.

The Department is now in receipt of letters, the originals of which I send herewith, from all the members of the family, which effectually dispose of the contention that they have renounced the claim.

I accordingly telegraphed<sup>1</sup> you to-day as follows:

I am, etc.,

JOHN HAY.

*Mr. Everett to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,  
Guatemala, October 8, 1900.

(Mr. Everett acknowledges Mr. Hay's telegram of the 6th instant, and states that it did not specify gold or currency; that the Honduran Government offers immediate payment of \$5,000 currency, and that he defers reply to the offer pending instructions from the Department.)

*Mr. Hay to Mr. Everett.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, October 10, 1900.

(Mr. Hay directs Mr. Everett to insist upon the payment of \$10,000 in gold, the offer of the Government of Honduras being unacceptable.)

<sup>1</sup> Printed ante.

*Mr. Everett to Mr. Hay.*

No. 446.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, October 12, 1900.*

SIR: I have the honor to transmit hereto attached:

(1) Copy of a note of September 20, 1900, from minister for foreign affairs of Honduras.

(2) My note of the 11th instant in reply.

By reading the above it will be seen that the Government of Honduras refer to the report of their commission of jurists (forwarded to the Department in dispatch 410) and refuse to admit their responsibility for the killing of Pears, but nevertheless for the sake of preserving friendly relations with our Government are willing to pay cash indemnity of 5,000 pesos currency.

In accordance with your cable instructions I have declared this unacceptable, and have demanded the immediate payment of \$10,000 United States gold, to be paid through this legation in order that there may be no trick used of extorting receipts from representatives of the Pears family on the spot for money actually paid over.

It will also be observed that I have pointed out that we have receded from our original demand for the punishment of the sentry, Cruz Rosales, which may in a measure serve as a balm to their wounded feelings.

Hoping that my actions will meet with the approval of the Department,

I have, etc.,

SIDNEY B. EVERETT,  
*Chargé d'Affaires ad interim.*

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[Inclosure 1.—Translation.]

*Mr. Bonilla to Mr. Hunter.*

REPUBLIC OF HONDURAS,  
MINISTRY OF FOREIGN AFFAIRS,  
*Tegucigalpa, September 20, 1900.*

MR. MINISTER: Referring to the attentive dispatch of your excellency, under date of July 24 ultimo, relative to the report which you deign to request of me, of a way which this Government shall suggest for an amicable arrangement which will put an end to the Pears affair.

As I have had the honor to assure your excellency on another occasion, by the procedure, sufficiently detailed, which was formed by the decision of the courts of the country acquitting the supposed transgressor, and by the opinion of the jurists to whose study the affair was submitted, the Government of Honduras is not responsible for the regrettable deed which caused the death of the citizen Pears.

Notwithstanding, in the desire to maintain unchangeable the friendly relations which always have existed with the United States, and also in the desire to put an end to that vexatious affair, my Government proposes the following arrangement: The payment of 5,000 pesos to the family of Pears as indemnification. It is to be hoped that this arrangement may be acceptable to the American Government, taking into consideration the entire knowledge of the respective reports and investigations that the honorable Secretary of State, Mr. Hay, possesses.

And also your excellency has made an attentive and profound study of the affair, and in other occasions has shown the praiseworthy wishes of maintaining the best harmony between the two countries I highly beg of you to interpose toward your Government your good offices and valuable influence to the end that said proposition may be accepted, and a corresponding degree for the purpose of the agreed sum be given out.

With assurances, etc.,

CÉSAR BONILLA.

[Inclosure 2.]

*Mr. Everett to Mr. Bonilla.*

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, October 11, 1900.*

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 20th ultimo, stating that while the Government of Honduras does not consider itself responsible for the killing of Pears, yet for the sake of preserving friendly relations with the United States Government your excellency's Government is willing to settle this regrettable incident by the immediate payment of 5,000 pesos.

In reply I have the honor to inform your excellency that this offer, together with the report of the commission of jurists to whom the matter was referred, was duly submitted to the honorable Secretary of State of the United States, and the latter, after carefully considering the matter and consulting with the heirs at law of the late Mr. Pears, has declared it unacceptable, and instructed me as follows:

The United States recedes from its demand that the sentry, Cruz Rosales, be punished, but, while sharing your excellency's desire that the amicable relations between the two Governments may always be maintained, insists on the immediate payment of an indemnity of \$10,000 United States gold, to be paid through this legation.

In the sincere hope that this decision will commend itself to the judgment of your excellency's Government and will be promptly complied with, I seize the occasion, etc.

SIDNEY B. EVERETT,  
*Chargé d'Affaires ad interim.*

*Mr. Everett to Mr. Hay.*

No. 454.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, October 25, 1900.*

SIR: Referring to Department dispatch No. 280, of the 6th instant, with inclosures as stated, I have the honor to inform you that upon its receipt I at once telegraphed as follows to the minister for foreign affairs of Honduras:

Confirming my note of 11th instant, I have just received further instructions from my Government ordering me to insist on the prompt payment of \$10,000 gold as indemnity in the Pears case. Please inform me by telegraph when I may expect to receive payment of the same.

This morning I received the following reply:

(Translation.) I have had the honor to receive your telegram of the 23d relative to the Pears claim. As I have no knowledge, on account of not having received the note to which your excellency refers, it is not possible for me to give a definite answer; I will do it as soon as I receive your dispatch. Referring to that same affair, I beg to remind your excellency of the conclusions of my note dated September 20 ultimo, in which I proposed a satisfactory arrangement, in virtue of an initiation made to that end by Honorable Hunter, in note of July 24 last.

Remaining your excellency's obedient servant,

CÉSAR BONILLA.

My note of the 11th instant which is alluded to in my telegram above inclosed in my dispatch No. 446, of the 12th instant, as is also his note of September 20, to which Mr. Bonilla refers in his reply.

Minister Hunter's note of July 24 last, referred to above, was inclosed in the latter's No. 410, of July 27 last.

As soon as I receive Mr. Bonilla's further reply I shall notify the Department immediately.

I have, etc.,

SIDNEY B. EVERETT,  
*Chargé d'Affaires ad interim.*

*Mr. Everett to Mr. Hay.*

[Telegram.—Paraphrase]

LEGATION OF THE UNITED STATES,  
*Guatemala, November 6, 1900.*

(Mr. Everett reports the receipt of a telegram from the minister for foreign affairs of Honduras to the effect that his Government has ordered the payment of the indemnity demanded in the Pears case, and that immediate remittance will be made to Mr. Everett.)

*Mr. Everett to Mr. Hay.*

No. 459.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, November 9, 1900.*

SIR: I have the honor to inform you that on the 6th instant I received a telegram, a copy of which I inclose herewith, from the minister of foreign affairs of Honduras informing me that his Government had decided to pay the indemnity demanded in the Pears case, and that drafts for the amount would be sent me in due course.

A copy of my note of October 11, to which he refers, was inclosed in my dispatch to the Department, No. 446, of October 12.

I at once acknowledged the receipt of above telegram in a telegram dated the 6th instant, a copy of which I inclose herewith, and communicated the facts to the Department the same day in a cablegram.

I am now awaiting the arrival of the promised drafts, which will be forwarded to the Department as soon as received.

I have, etc.,

SIDNEY B. EVERETT,  
*Chargé d'Affaires ad interim.*

[Inclosure 1.]

*Mr. Bonilla to Mr. Everett.*

[Telegram—Translation.]

TEGUCIGALPA, *November 5, 1900.*

I have the honor to inform your excellency that on receipt of your courteous dispatch of October 11 last this Government has ordered the immediate payment of the indemnity claimed in the Pears case. Drafts in conformity therewith will arrive in due course.

CÉSAR BONILLA.

[Inclosure 2.]

*Mr. Everett to Mr. Bonilla.*

[Telegram.]

LEGATION OF THE UNITED STATES,  
*Guatemala, November 6, 1900.*

Your excellency's telegram received informing me that Government of Honduras had decided to pay the indemnity demanded in the Pears case and that drafts for required amount would be sent me immediately. I shall acknowledge their receipt as soon as received.

EVERETT,  
*Chargé d'Affaires.*

*Mr. Hay to Mr. Everett.*

No. 293.]

DEPARTMENT OF STATE,  
*Washington, November 12, 1900.*

SIR: I have to acknowledge the receipt of your dispatch, No. 446, of the 12th ultimo on the subject of the Pears claim, and to inform you that the Department approves your note of the 11th ultimo to the Honduran Government demanding the immediate payment of an indemnity of \$10,000 United States gold, payable through the legation.

In this connection I have to inform you that I have received, with gratification, your telegram of the 6th instant.

I am, etc.,

JOHN HAY.

*Mr. Hay to Mr. Everett.*

No. 294.]

DEPARTMENT OF STATE,  
*Washington, November 14, 1900.*

SIR: I have to acknowledge the receipt of your dispatch, No. 454, of the 25th ultimo, quoting your telegram to the minister for foreign affairs of Honduras insisting upon the prompt payment of \$10,000, gold, as indemnity in the Pears case, and also quoting the minister's reply.

Your action in the matter is approved by the President.

I am, etc.,

JOHN HAY.

*Mr. Hunter to Mr. Hay.*

No. 465.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, November 26, 1900.*

SIR: In reply to Department's dispatch No. 293, of the 12th instant, on the subject of the Pears claim, I have the honor to inclose herewith first exchange, No. 604, dated Tegucigalpa, November 8, 1900, of a draft for \$10,000 gold on Rodolfo G. Barthold, of New York, and indorsed payable to the order of "John Hay, Secretary of State."

I inclose also a copy and translation marked (2) and (3), respectively, of the note from the minister of foreign affairs, transmitting the said draft, and a copy and translation marked (4) and (5), respectively, of the decree and preambles of the President of Honduras ordering the payment of the above-mentioned sum, and receipt for same marked (6).

I have the honor to be, sir, etc.,

W. GODFREY HUNTER.

[I closure 1.]

*Mr. Bonilla to Mr. Everett.*

[Translation.]

REPUBLIC OF HONDURAS, MINISTRY OF FOREIGN AFFAIRS,  
*Tegucigalpa, November 3, 1900.*

SIR: A short time ago I received the dispatch of your excellency under date of October 11 last, in which you stated that the Government of the United States of America

recedes from its claim for the punishment of the sentry, Cruz Rosales, but insists on the immediate payment of an indemnity of \$10,000 gold for the heirs of Mr. Frank S. Pears, which sum must be paid to the order of that legation.

In accordance with instructions from the President of the Republic, I have the honor to state to your excellency that the Government of Honduras, notwithstanding that it persists in its opinion already stated as regards the irresponsibility of the state in the violent death of Mr. Pears, the discussion having reached an end, and to prevent the affair interrupting the good relations with the Government of the United States, it has resolved to decree the payment of the indemnity claimed.

I inclose herewith an authorized copy of the decree, which puts an end to the regrettable affair.

In the same way I inclose a draft to the order of your legation to the value of the sum which is ordered to be paid.

Expecting that your excellency will acknowledge their proper receipt, I sign myself your obedient servant,

CESAR BONILLA.

[Inclosure 2.]

*Decree of President of Honduras ordering payment of indemnity of \$10,000.*

[Translation.]

REPUBLIC OF HONDURAS,  
MINISTRY OF FOREIGN AFFAIRS,  
*Tegucigalpa, November 2, 1900.*

In view of the communication, under date of October 11 last, from the chargé d'affaires ad interim of the Government of the United States of America, in which he states that the honorable Secretary of State of the United States, after having thoroughly considered the offer made by the Government of Honduras to put an end to the incident which arose on account of the sudden death of Mr. Frank S. Pears, by the payment of an indemnity of five thousand pesos (\$5,000), which was declared unacceptable, giving him instructions to claim the immediate payment of an indemnity of ten thousand dollars gold (\$10,000), which must be paid through the legation resident at Guatemala.

Whereas, In his dispatch of April 25, 1899, the honorable minister of the United States, Mr. W. Godfrey Hunter, acting under instructions from his Government, presented the claim arising from the death of Mr. Frank S. Pears, which occurred on the night of January 31 of said year as the result of the wound with firearm which was caused by the soldier Cruz Rosales while on duty as sentry in one of the sentry-houses near the cuartel of San Pedro, demanding the arrest and punishment of said sentry, and the payment of an indemnity of ten thousand dollars gold (\$10,000) for the heirs of the deceased.

Whereas, The Government of the Republic, taking as a basis the report made by the minister of justice, Mr. E. Constantine Fiallos, who went to San Pedro expressly to conduct the proper investigation of the case, accompanied by the consul of the United States, Mr. F. H. Allison, made judicial investigations upon the presentation of the claim, stating at the same time the hope by which he was animated to reach an amicable and just ending of the difficulty which had sprung from the sad event of the death of Mr. Pears.

Whereas the said minister of the United States in his dispatch of April 9 of the current year insisted on the claim set forth, for which reason it was deemed necessary to request the judgment of a committee of jurists, which gave its opinion, that in conformity with the laws of the Republic and on account of the legal acquittal of the sentry, Cruz Rosales, there was lacking the legal base upon which the indemnity demanded ought to rest, or what is the same, that there was no act from which the responsibility of the Republic might be deduced, but with the view of avoiding further difficulties, it was agreed that a proposal should be made to the American Government so that the sum claimed might be reduced, the more so as there existed a letter signed by four of the near relatives of Mr. Pears, addressed to the Secretary of State of the American Government, by which they refused the share that they might claim in the indemnity demanded.

Whereas in accordance with the judgment, and on account of the suggestion of the honorable Minister Hunter in his dispatch of July 24 of the current year, that it would be satisfactory to him if he would be advised of a way by which an amicable arrangement could be reached, it was proposed to him to pay an indemnity of five

thousand pesos (\$5,000.00), insisting always upon the legal impossibility of the punishment of the sentry, Cruz Rosales, on account of the inability to reopen the procedure ended by the acquitting sentence passed in authority of judgment.

Whereas with such antecedents it was justly expected that the claim would be arranged on principles less oppressive for the country; but with the last dispatch of the chargé d'affaires, Mr. Sidney B. Everett, the controversy is finished and a decision most beneficial to the interests of the country must be given out to avoid difficulties of a more serious character; and

Whereas, It is true that even if we have been unsuccessful in reducing the sum of the indemnity claimed, yet we have still obtained definitely that the demand be abandoned for the punishment of the sentry Cruz Rosales, which was the most dangerous portion of the claim set forth; in that way the honor of the country remaining untouched. Wherefore the President decrees as follows:

To acknowledge as a liability of the State the sum of ten thousand dollars gold (\$10,000.00), which shall be paid to the order of the legation of the United States in Honduras as an indemnity to the family of the American citizen, Frank S. Pears, who died in Puerto Cortez the 31st day of January, 1899. This expense must be charged to the entry of the public credit, for which the minister of that department will be advised.

Let it be notified.

SIERRA.

The Secretary of State for Foreign Relations.

CÉSAR BONILLA.

A true copy:

TEGUCIGALPA, November 5, 1900.

[SEAL.]

RICARDO PINEDA,  
Subsecretary.

[Inclosure 3.]

*Mr. Hunter to Mr. Bonilla.*

LEGATION OF THE UNITED STATES,  
*Guatemala, November 26, 1900.*

SIR: I have the honor to confirm the following telegram:

“GUATEMALA, *November 20, 1900.*

His Excellency CÉSAR BONILLA,  
*Minister of Foreign Affairs, Tegucigalpa:*

“I have the honor to acknowledge the receipt of your excellency's note of the 3d instant, inclosing a draft on New York for \$10,000 gold as indemnity in the Pears case.

“I shall have great pleasure in transmitting it to my Government, and shall further acknowledge the receipt of your excellency's note by mail.

“I am, with assurances of personal esteem, your excellency's obedient servant,

“HUNTER.”

In expressing my sincere gratification that this incident has been finally disposed of, I also take the opportunity to renew, etc.,

W. GODFREY HUNTER.



**CONSULAR IMMUNITIES IN CONNECTION WITH JUDICIAL  
SUMMONS.**

*Mr. Hunter to Mr. Hay.*

No. 481.]

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, December 19, 1900.*

SIR: I have the honor to inclose herewith copies of a correspondence I have recently had with the minister of foreign affairs, to which I beg to direct your attention.

It seems that Mr. P. A. Bruni, our consular agent at Champerico, having been summoned to appear in court at Retalhuleu to testify in some case, wrote back to the judge, saying that while he was willing to come to the court, yet he only did so out of pure good nature, as he considered that his official character freed him from any obligation to obey court summonses.

The minister objects to this attitude on the part of the agent, and requests me to persuade him "to modify his ideas in this respect," which I have done by means of a letter to Consul-General McNally, a copy of which is hereto attached.

Inasmuch as there is no consular convention between the United States and Guatemala, I would request the Department to advise me what course to pursue in these and similar cases.

I have, etc.,

W. GODFREY HUNTER.

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[Inclosure 1.—Translation.]

*Mr. Barrios to Mr. Hunter.*

*GUATEMALA, December 4, 1900.*

MR. MINISTER: Mr. P. A. Bruni, United States consular agent at Champerico, has been summoned to attend a trial in the criminal court of Retalhuleu; and although this gentleman in a note manifested his willingness to attend court, yet he also stated that he did so out of pure good nature, as he considered that by virtue of the official character with which he was invested he was not obliged to respond to such summonses.

This declaration, made by the consular agent referred to, compels me to request your excellency to take cognizance of the case, because my Government is not disposed to tolerate proceedings which are in any way contrary to what is laid down by the laws of nations.

In effect, your excellency knows better than I that the members of the consular corps do not enjoy in any country in the world any special rights which place them outside the jurisdiction of the laws of the place where they exercise their functions, but that, like all the inhabitants, they are subject to the authority and protection of the said laws.

I would request your excellency, if it will not give you trouble, that your honorable legation will give Mr. Bruni a friendly warning, to the end that he may modify his ideas in this respect in case there may be summonses in the future.

I cherish the hope that your excellency, seeing through the reasons which this office holds, may be pleased to agree to the foregoing and will accept, etc.,

JUAN BARRIOS, M.

[Inclosure 2.]

*Mr. Hunter to Mr. Barrios.*

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, December 18, 1900.*

SIR: I am in receipt of your excellency's note of the 4th instant informing me that Mr. P. A. Bruni, United States consular agent at Champerico, having been summoned to appear to testify in a court of justice, stated that while he was willing to do so to assist the ends of justice, yet that it was out of pure good nature on his part, for that owing to his official position he was not obliged to attend court if he did not wish to.

Your excellency objects to this attitude on the part of Mr. Bruni, and requests me to warn him to modify his ideas in this respect.

In reply I have to remind your excellency that there is no consular convention existing between the United States and Guatemala, and such a case may therefore fairly be judged by the treaties on the subject existing between nations.

I am unable to agree with your excellency that "members of the consular corps do not enjoy in any country in the world any special rights which place them outside the jurisdiction of the laws of the place where they exercise their functions," for, on examining the consular conventions which the United States has with the different nations of the world, I find that in a few countries, such as China and Turkey, consuls have complete extraterritorial rights, and in many countries (France, Holland, and a number of others) they have the right to have their testimony in judicial cases taken at their consulate, in some cases even at their dwellings.

These privileges, however, I am willing to admit, are generally confined to consuls by profession, consules missi, sent out by and citizens of the country they represent, and do not extend to consular officers who carry on business or have their domicile in the country where they exercise their consular functions, and who are not citizens of the country they represent.

Consequently I am of your excellency's opinion that neither Mr. Bruni nor any other consular officer in his category is justified in assuming the attitude he has; although I am likewise of the opinion that some consideration should be shown such consular officer in the event of a summons to attend court interfering with his consular duties, especially when the court is located at some distance from his post, and that his absence at such a time would cause loss or injury to business interests, as might frequently happen.

In the case, however, of a salaried consul, a citizen of the United States, who is here solely as consul, and who carries on no business or trade, I should certainly be inclined to claim for him the right to insist that testimony in judicial cases be taken at his consulate, in accordance with the terms of most of the consular conventions which exist between the United States and other countries.

I shall take occasion to convey to the United States consul-general in this city my views as stated above, and shall also refer the matter to my Government for its opinion.

I seize, etc.,

W. GODFREY HUNTER.

[Inclosure 3.]

*Mr. Hunter to Mr. McNally, U. S. Consul-General at Guatemala.*

LEGATION OF THE UNITED STATES,  
GUATEMALA AND HONDURAS,  
*Guatemala, December 18, 1900.*

SIR: I have to inform you that I am in receipt of a note from the minister of foreign affairs, dated the 4th instant, informing me that Mr. P. A. Bruni, our consular agent at Champerico, having been summoned the other day to appear in court at Retalhuleu in connection with some judicial proceedings, wrote a letter to the judge saying that, while he was willing to go to the court, yet he only did so out of pure good nature, as he considered that his office of consular agent freed him from the obligation to obey court summonses.

The minister, in his note, protests against this attitude and requests me to "give Mr. Bruni a friendly warning, to the end that he may modify his ideas in this respect."

I inclose therefore for your information a copy and translation of the minister's note above referred to, also a copy of my reply, and would suggest to you to caution your agents against claiming more privileges than they can support their right to.

Meanwhile I had referred the matter to the Department of State for their opinion.

I am, etc.,

W. GODFREY HUNTER.

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*Mr. Hill to Mr. Hunter.*

No. 311.]

DEPARTMENT OF STATE,  
*Washington, January 9, 1901.*

SIR: I have to acknowledge the receipt of your dispatch No. 481, of the 19th ultimo, in which you report that Mr. P. A. Bruni, United States consular agent at Champerico, having been summoned to attend a trial in the criminal court of Retalhuleu, wrote to the judge, saying that while he was willing to go to the court, yet he did so only out of pure good nature, as he considered that his official character freed him from any obligation to obey court summonses.

You add that the Guatemalan minister of foreign affairs objected to Mr. Bruni's attitude and requested you to persuade the latter "to modify his ideas in this respect," which you have done by means of a letter to Consul-General McNally, a copy of which is attached to your dispatch, and you request to be advised what course to pursue in this and similar future cases.

In reply I have to say that a consul engaged in business is amenable to summons, etc., only for causes apart from his official functions. He can not be summoned to give evidence of any matter of his consular business, nor to produce to the court any part of the consular archives.

In relation to matters not affecting their official functions consuls are not, as a general rule, exempt from process, whether missi, salaried, feed, or engaged in business or not.

In cases where the testimony of a consul may be properly required before the courts, the privilege of having such testimony taken at a consulate is not recognized by international law or usage, but depends for its existence on express conventional arrangement, which does not exist between the United States and Guatemala.

The Department would suggest that it would be proper for you to investigate what conventional privileges Guatemala may have conceded in this respect to consuls of other countries. If there are any such privileges, this Government might reasonably expect, in the absence of a treaty, that they might be extended as an act of comity by Guatemala to our consular officers in that country.

The Department limits its response to your inquiry to the statement of a few general rules, which seem applicable to the case so far as its nature is disclosed by your dispatch; but if specific instructions are desired in any particular case, the concrete case should be stated, and the Department will then give instructions accordingly.

I am, etc.,

DAVID J. HILL.

## HAITI.

### JURISDICTION OVER ALIENS WAIVED BY HAITIAN COURTS.

*Mr. Powell to Mr. Hay*

No. 687.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, December 16, 1899.*

SIR: I respectfully call to your attention a question that has been raised by Dr. Michahelles, the German minister resident here, upon a construction of Haitian law, by which the courts in certain civil cases refuse to accept jurisdiction, or to have the same tried before them, if the litigants be foreigners, if either of the parties refuse their assent to the jurisdiction and competency of the court,

Dr. Michahelles claims they have no right to waive jurisdiction but should pass upon all cases when the litigants are foreigners, as they would if they were Haitians, that if the courts of the Republic waive this right, then it is incumbent upon Germany to establish a court for the trial of cases brought by her citizens living here, and the judgments of this court shall be considered as valid as if the cases have been tried in a Haitian court.

The Government refuses to recognize this claim, or the right of Germany to establish such a court. The matter is not yet settled, both the Government and the minister are awaiting the decision of the supreme court (court of cassation) to which the case has been appealed from the lower court, both litigants being Germans.

I have, etc.,

W. F. POWELL.

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*Mr. Hay to Mr. Powell.*

No. 390.]

DEPARTMENT OF STATE,  
*Washington, January 8, 1900.*

SIR: I have to acknowledge the receipt of your No. 687, of the 16th ultimo, reporting that a question has arisen between the Governments of Haiti and Germany because the courts of the Republic in certain civil cases decline to take cognizance of them if both parties are foreigners and either refuses his assent to the jurisdiction and competency of the court.

In reply, I have to say that article 6 of the treaty of 1864 between the United States and Haiti, guarantees to American citizens the right which is in controversy between Germany and Haiti. It is therefore unnecessary, for the present at least, for the Department to express any opinion on the merits of the controversy.

I am, etc.,

JOHN HAY.

*Mr. Powell to Mr. Hay.*

No. 758.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, April 24, 1900.*

SIR: I have the honor to inclose the decision of the court of cassation in which it states the incompetency of Haitian courts to try civil cases when both parties are foreigners.

This is a matter I informed the Department in dispatch No. 687 of December 10, 1899. In view of the decision the minister resident from Germany proposes to recommend to his Government that it insist that there shall be established in this Republic an independent tribunal for the trial of such cases that the Haitian tribunals refuse to assume jurisdiction when both parties are foreigners, such tribunals to be under the control of the foreign powers having representatives here. It is to be further stipulated that the decisions of such courts are to be respected by the Haitian Government and that it be empowered to carry its decrees into effect.

I also inclose the correspondence between the German legation and this in regard to this subject.

I have, etc.,

W. F. POWELL.

[Inclosure 1.—Translation.]

REPUBLIC OF HAITI.

*Extract from the minutes of the clerk of the tribunal of the Republic.*

In the Name of the Republic.

The tribunal of cassation, civil section, competently assembled at the palace of justice has rendered the following decree: On the appeal formulated by the Messrs. Tippenhauer & Co., foreign engineers domiciled at Berlin, Germany, dwelling at Port au Prince, acting in their quality as proprietors and directors of the technical bureau established in this city, having for constituted lawyer Mr. Luc Dominique, against a judgment of the civil court of Port au Prince, of date of September 22, 1899, rendered contradictorily between them and Mr. J. B. Reimers, engineer domiciled at Berlin, Germany, having for lawyer J. B. W. Francis. Facts: For to have the payment of \$181.30, final payment of the one-half of the percentage collected for the construction of a house belonging to the citizen P. Faine, the Messrs. Tippenhauer & Co., acting as proprietors and directors of the technical bureau established at Port au Prince, have had a summons made to Mr. Reimers to appear before the civil tribunal of Port au Prince, to hear himself condemned by all the legal means to pay to them without delay, with interests and expenses, the above sum.

At the hearing of the affair by the above tribunal Mr. Reimers raised an exception of incompetence, tending to say that the Messrs. Tippenhauer & Co. are the same as himself, Reimers, foreigners, German subjects; the Haitian courts are incompetent to take cognizance of the civil litigation existing between the parties; that the tribunal should declare itself incompetent to take cognizance of the action that is submitted to it in the occurrence, and to give him an official certificate of the reserves that he makes both in regard to the form as to the foundation against the subpoena made to him on the 7th of September, 1898, and to condemn his adversaries to the expenses. To repulse this exception the Messrs. Tippenhauer & Co. have declared that in accord with the juris consuls of private international law the difficulties relative to the contracts that have origin in a determined territory should be judged and decided by the tribunals of that territory; that thus the request of incompetence should be declared badly founded and injunction should be made to their adversary to plead the basis with condemnation to the expenses. After having heard the public minister the tribunal ordered the documents to be deposited for deliberation and put off pronouncing of the judgment to another audience. The 22d of September last this tribunal rendered its judgment in these terms: For these motives the tribunal, after

having deliberated, declares itself incompetent to take cognizance of the civil dispute existing between Messrs. Tippenhauer & Co. and Mr. Reimers, and send the parties to appeal to the proper person. It is against this judgment that was raised and notified after a summons made to that effect to the said Mr. Reimers by the said Tippenhauer & Co., foreign engineers, domiciled at Berlin, Germany, dwelling in Port au Prince, acting in their quality of proprietors and directors of the technical bureau, established in this city, having Mr. Luc Dominique for their constituted lawyer; that they have appealed and have notified their request containing the two means. First means:

Triple violation, say the plaintiffs, of article 148 of the code of civil procedure: In that there is, first, complete absence in the point of law of the question that has made the object of their claim against their adversary. Instead of asking themselves whether the court should condemn Reimers to pay to Tippenhauer & Co. the sum of \$181.30 that they claim of him, the judges, say the plaintiffs, hastened to ask themselves the sole question, to wit: If the exception of incompetence proposed by the defendant should be accepted, thus proving in the most evident manner their ardent desire to give right to the said exception. Is it not in fact logic, say the plaintiffs, that in the case the first question to be asked was naturally that taken from the act introductory of the instance, and that that relative to the exception of incompetence could only come in second instance. The will of the law, moreover, say the plaintiffs, is that all the questions agitated at the outset should be determined and precised as much from the point of view of right as from the point of fact. It would surely be no violation of article 148, say the plaintiffs, if the first judges had simply committed the error of transposing the order of the questions, it being given that there is no sacramental form for putting that; but there is place to observe, say they, that the first, the claim is absolutely wanting in the point of law, and that under that title the judgment attacked should inevitably be broken. In vain, say they, they think that in the following phrase the tribunal has itself sufficiently "examined the leading point reproached. If on the contrary the said exception should be rejected as badly founded and the defendant appointed to conclude on the basis." There is no doubt, say the plaintiffs, that this interrogation no wise makes known what was the nature of the basis, and of what it consisted. Second, moreover, this question, think the plaintiffs, on the declinatory proposed and accepted is it even of such an ambiguity and defect that it can not be advanced without hesitation that it does not exist properly speaking from the point of law in the judgment.

In fact, say they, the petition from the principle to which the judges delivered themselves in their wording, absolutely says nothing. "It is a question of knowing whether the tribunal should accept the exception raised, it being question in the case of two foreigners."

This defect, say the plaintiffs, equivalent to an absence of the point of law, should bring on the decision criticised. Third. Their arguments, say they, repulsed the incompetence raised, itself reposing on the powerful consideration taken from authors competent in the matter of private international law (see, say they, Calvo, A. Weife, Asser, Leaine, etc., to wit, that the dispute to be judged having originated on Haitian territory (at Port au Prince), the place where is erected the Faine Building, for the fees of which a sort of partnership existed between the parties), the pretended principle, say the plaintiffs, of incompetence of the Haitian tribunals to take cognizance of civil suits between foreigners, weakens, and therefore the civil tribunals of the jurisdiction could in all rights decide the question that they submitted to it, against their adversary. Now, say the plaintiffs, the tribunal without examining the merits of this scientific discussion exerted itself in the exposition of its motives, to make no allusion thereto. "It says well in the preamble, that the defendant and the plaintiffs are foreigners, and that the dispute existing between them is purely civil, although the contract from which it emanates took place in Haiti." But it is rational, they say, again, that this preamble explains nothing, and can not supply the reasoning that the judges were bound to make to avoid that series and important consideration and simply accepted the declination of incompetence. This abstention from elucidating a luminous point at the outset constitutes a want of motives sufficient to annul the work of the judges of the civil tribunal. Second means:

Excess of power, and violation of the rules of the competency, say the plaintiffs, because the civil tribunal declared itself incompetent, it being questioned in the case of two foreigners, but they see nowhere in the judgment, in virtue of what text of law it has thus decided. And they ask themselves, where has it drawn the elements of its decision? On the other part, what are the reasons and the considerations that have led it to pronounce itself in that manner? Why, it being a question of foreigners, the Haitian justice can not take cognizance of the difference that divides them.

The judges on these different points have thought it their duty to observe an imprudent silence, say the plaintiffs. It is manifest, however, they say, that the tacit contract, which engaged their adversary toward them (contract, again say, of which there is no dispute in regard to the existence before the first judges, and which is even recognized by the latter in their judgment) taking place on account of the erection at Port au Prince of a building for Mr. P. Faine, that was to be done in that city and nowhere else, they still say, under these circumstances, the plaintiffs esteem how could German judges be able to decide such a claim, not having within their reach the special elements of the case. Wronged in their interest, they find themselves, say the plaintiffs, exposed to not being able to find anywhere a just reparation. This absence of a precise and formal text of the law refusing to foreigners in Haiti the justice which is due to all who work in the country, joined to the defaults of motives above cited, on the particular and special circumstances of the case deferred to the civil tribunal, say the plaintiffs, besides the vices in the form signaled, an excess of power and a flagrant violation of the rules of competence that should cause to be annihilated the work of September 22 last; and they conclude, that by these motives and others to be supplied by law and equity, to break the above judgment, order the remittance of the fine deposited, send back the case to another tribunal, and condemn Reimers for the expenses with abstraction to the profit of Mr. Luc Dominique, the lawyer, on the affirmation of law Mr. J. B. Reimers, engineer domiciled at Berlin, Germany, having for lawyer Mr. J. B. W. Francis, defendant against the said appeal, to repel the means of his adversaries, as follows: Against the triple resolution of article 148. First, for to render account to himself of the emptiness of that criticism, says the defendant, and to convince himself that the Messrs. Tippenhauer & Co. are in complete error. It suffices to read over that portion of the judgment. It is, in fact, says he, conformable to the prescription of article 148 of the code of civil procedure that the authors of the judgment of September 22 last interrogated themselves on the question that they have resolved.

The text of articles 169, 170, and 171 of the same code makes it obligatory of all tribunals, after the exposition of the case, to question itself first on competency. It is only after having assured itself of the possibility of judging the case that is submitted to it, either on account of the matter that is permitted to a tribunal to retain and to interrogate itself on the pretensions of the parties contesting the basis. It is, therefore, wrong, says the defendant, that the Messrs. Tippenhauer & Co., in consequence of a regrettable ignorance of the rules of Haitian legislation on the competency of the tribunals reproached to the drawers up of the judgment criticised, of having questioned themselves at the commencement on the exception of incompetency that was proposed to them and which constituted its sole defense. Is there need, says the defendant, of a more ample demonstration for to prove the civil tribunal of Port au Prince could not and should not interrogate itself on that which the appellants to cassation reclaim of them, when, moreover, that they dispute the competency of that tribunal to decide on the claim of which in fact it could not recognize either the legitimacy or the illegitimacy, for reason of the nationality of the litigating party. It would only have been, says the defendant, in case that the parties having concluded all means, recognize the competency that they contest with it, deciding on the basis that the tribunal could interrogate itself on the claim of Tippenhauer & Co. This hypothesis did not present itself, says the defendant. To criticise in any manner is easy, says he, but to criticise in good right, in good knowledge, is another thing.

Second. The defendant declares that the interrogatory of the judgment which Tippenhauer & Co. incriminates is neither ambiguous nor defective. It is, says he, on the foreign origin of the parties that he bases himself to propose to the civil tribunal of Port au Prince to recognize and to pronounce its incompetency, to order the execution of the civil obligation coming between him and his adversaries.

Besides, says he, they have only to read over that interrogatory, which the plaintiffs in cassation have not had the loyalty to produce in whole, to assure that it concerns absolutely the question discussed by the parties and decided by the judgment, and he reproduces this as it follows this interrogation.

“It is a question of knowing whether or not the tribunal should accept the exception raised and to declare itself incompetent, it being a question in the case of a civil dispute existing between two parties, foreigners domiciled in Germany.” It conforms, says the defendant, with the provisions of article 148 of the code of civil procedure, and he asks himself with astonishment, where is the petition that it contains? It is only, says he, a solution, a vicious reasoning, that can contain a petition of principle and never an interrogation.

Third. The defendant thinks that Mr. Tippenhauer & Co. commit an error in believing to be the only ones who read the competent authors who treat of law,

when they blame the drawers of the judgment of September 22 last because they had not admitted the serious and important considerations of the authors that they cite, and conclude the violation of article 148 of the code of civil procedure, in alleging that the judgment has no motive. The defendant thinks that the competent authors who have thought out the important and serious considerations in virtue of which his adversaries wish that his means of nonreception be rejected are but men; and therefore the considerations that they have alleged to elucidate the question debated can be contradicted by other men who like them think and make profession of studying laws and applying them.

If, says the defendant, the author cited by his adversaries are men, if in that quality, the opinions that they emit can be combatted by other opinions of persons who make a profession of studying laws and applying them, it must be said that the criticism of his adversaries is ridiculous. The defendant adds, whatever Calvo A. Weis, Laine, etc., may sustain they can not affirm that the motives of the judgment that admits that the civil tribunal of Port au Prince is incompetent to judge the civil dispute existing between him, a German, and his adversaries, equally Germans, why they may not be luminous are those required by article 148 of civil procedure. Moreover, says he, these motives which his adversaries have trumped up and which they find so denuded of science are accredited by numerous French authors, among others Demolombe, by the courts of justice of France, and by the tribunal of cassation.

Against the second means. In principle, says the defendant, the Haitian laws are only made for Haitians. They alone cooperate in the creation of those laws, and the delegates of the sovereign people have only legislated for them. It is only in particular cases that the Haitian laws are applicable to foreigners, and special text indicate these cases. Articles 7, 15, and 16 of the civil code, outside, therefore, says the defendant, of the cases foreseen by these texts it must be said, with the court of cassation of France, with Demolombe, with the tribunal of cassation of the Republic, that in civil matters the courts of a nation can only judge two foreigners when the law authorizes it.

Here is, says the defendant, in virtue of which principle, in virtue of which text, and in what company, the civil tribunal of Port au Prince, the 22d of September last, declared itself incompetent to take cognizance of the civil claim founded or not, made by the German plaintiffs, even that they be of Haitian descent, against the defendant, equally a German. This decision, says the defendant, contains no vice of form or any excess of power. Nevertheless, says the defendant, he is astonished, the tribunal can not fail without doubt of being equally astonished, that Tuppenhauer, who is like him domiciled at Berlin, does not wish to submit to the German justice. "There are," says the defendant, "judges in Berlin," and he concludes, in that it may please you to reject the appeal of Messrs. Tuppenhauer & Company in consequence, conformable to the decrees of the 14th of November of last year, and the 2d of February, 1895, maintain the judgment of the civil court of Port au Prince, of date of September 22 of last year, and condemn the adversaries to the costs, to the profits of his lawyer, who affirms to having made the advances. Such are the facts of the case, the respective means of the parties, to you it appertains to decide that which is right.

I hear at the audience of March 13, instant, Mr. the Judge Pollux Hyppolite in his report, Mr. Lue Dominique and J. B. W. Francis in their observations, Mr. E. Dauphin, commissary of the Government, in his conclusions.

Section 1, the judgment attacked; second, the declaration of appeal; third, the request of the parties; fourth, all the documents produced on the first means of the appeal.

Whereas, that for to conform to the provisions of that article, it suffices in that which concerns the point of law that it contains clearly sets forth the questions on which the judges are called to decide, in that which relates to the motives, that they express the reasons that have determined the judgments.

Whereas, that in the case that a declination, based solely on the foreign quality of the parties, has been proposed and fixed the limits of the debate, the defendant not having concluded on the basis; that henceforth the judges not having to decide only on that exception were not obliged to put the question relative to the principal request, that had not been discussed.

Whereas, that the second criticism made from the same point of law has not any more consistence, and for to be convinced it sufficed to remind that the incompetency raised is based solely on the qualities of the parties; Germans, plaintiffs and defendants, that is to say, foreigners.

Whereas, as to the motives, that those expressed are complete, sufficient, and explained clearly the decision, that it is to be strangely mistaken on the idea of the



legislature to think for one single instance that he could have intended to obligate the judges to reason on the arguments whatever that might be produced by the parties in support of their respective pretensions; that in the matter of motives, it requires only that those expressed, true or not, be appropriate to the debate. Whereas, that it results from the observations above that the article 148 of the code of civil procedure has not been at all violated. On the second means.

Whereas, that it is the rule that civil disputes between foreigners relative to the execution of obligations contracted in Haiti or otherwheres can be judged by Haitian tribunals only with the consent of the parties, and that because the laws that govern these matters are special to Haitians and can not be imposed on foreigners; that therefore when the latter do not think that they should accept the Haitian jurisdiction and raise, for to have it understood, the incompetency of our tribunals, the judges are obliged to give right to it. Whereas, that the first judges have thus understood it, and in deciding as they have done, in accepting the declinatory proposed, they have not committed any excess of power, they have not violated, in any manner, the rules of competency.

By these motives the tribunal after having deliberated, reject the appeal formed by Messrs. Tippenhauer & Co. against the judgment of date of September 22, 1899, rendered by the civil tribunal of Port au Prince, contradictorily between them and Mr. J. B. Reimers, in consequence orders the confiscation of the fine deposited, and condemn the said Messrs. Tippenhauer & Co. to the expenses liquidated by the sum of \$39.35, of which abstraction to the benefit of Mr. J. B. W. Francis, who affirms having made the advance, at that not including the cost of the present decree.

Given by us, H. Lechaud, president; Perigor Pollux Hyppolite, Bourjolly, and F. Baron, judges, in public audience of the 27th of March, 1900, in presence of Mr. E. M. Chancy, substitute of the commissary of the Government, and assisted by Mr. C. S. Benjamin, clerk of the court. It is ordered to all bailiffs on request, to put the present decree in execution, to the officers of the public ministry near to the civil courts to hold a hand to all commandants and other officers of the public force to lend a strong hand when they shall be legally requested.

In faith of which, the minutes of the present decree is signed by the president, the judges, and clerk of court.

(Signed)

H. LECHAUD,  
PERIGOR P. HYPOLITE,  
BOURJOLLY F. BARON,  
and C. S. BENJAMIN.

For an expedition conform. Collated:

(Signed)

C. LES BENJAMIN.

For copy:

J. B. W. FRANCIS, *Lawyer*.

Recorded at Port au Prince, April 2, 1900, folio 363, 364, Vol. C., 1318 of Reg. F., No. 4 of Judicial Acts. Collected for dues fixed, two dollars and fifty cents, and ppal., fifty cents. Twenty-eight words erased, null, eight references and two additions to the line, Good Dtr. ppal. of Records.

(Signed) EDWARD COICOU.

Seen by authorization of controller:

(Signed) CYRUS SAUREL.

For copy:

J. B. W. FRANCIS.

The year one thousand nine hundred, the eleventh of April, at the request of Mr. J. B. Riemers, engineer, domiciled at Berlin, empire of Germany, dwelling at Port au Prince, having for constituted lawyer Mr. J. B. W. Francis, at the cabinet of whom he has made election of domicile, I, Desir Alexander, undersigned, bailiff of the court of cassation of the Republic, sitting at Port au Prince, and there dwelling, has notified, and in head of these presents left copy with Messrs. Tippenhauer & Company, engineers, dwelling at Port au Prince, there being and speaking to the person of Mr. Rudolphe Tippenhauer, one of the associates, to one of them has thus declared of a decree of the tribunal of cassation of the Republic rendered the 27th of March last in favor of the plaintiff against the aforesaid Tippenhauer & Company, recorded and already notified to the lawyer of the accused by writ of the bailiff Cavalho, of the tribunal of cassation duly recorded.

And I to them being and speaking as above, left copy both of the decree above-announced and of the present writ. Two acts, the cost of which is eleven dollars and sixty-five cents. One reference good.

D. ALEXANDER.

[Inclosure 2.]

*Mr. Michahellis to Mr. Powell.*

IMPERIAL GERMAN LEGATION,  
*Port au Prince, April 18, 1900.*

MY DEAR COLLEAGUE: I take the liberty to send you herewith the judgment by which the cour de cassation has sanctioned the decision of the tribunal at Port au Prince about the incompetence in civil cases between foreigners. As far as I remember, I have already told you that the minister of justice has declared his intention to elaborate a new scheme of law on this question, but, as I have no high opinion neither of his intelligence nor of his good will, I consider his promise of little value.

It would be more convenient that the interested great powers—the States, England, France, and Germany—should come to an understanding how to put an end to the actual state which can not last for a long time without compromising notable interests of our nationals residing in Haiti. With the next mail I will report in this sense to my Government.

If you like to take a copy of the judgment it is entirely at your disposal, only I shall be glad to get it back as soon as possible.

With best regards, believe me, etc.,

G. MICHAHELLIS.

[Inclosure 3.]

*Mr. Powell to Mr. Michahellis.*

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, April 19, 1900.*

MY DEAR COLLEAGUE: I have your kind favor with the accompanying documents. Accept my thanks for same. I shall take a copy and will endeavor to return them to you to-morrow.

The prevailing influenza has affected about one-half of my clerical force.

Again thanking you for this act of kindness, I remain, etc.,

W. F. POWELL.

*Mr. Hay to Mr. Powell.*

No. 410.]

DEPARTMENT OF STATE,  
*Washington, May 18, 1900.*

SIR: I have to acknowledge the receipt of your No. 758, of the 24th ultimo, inclosing a copy of the decision of the court of cassation, maintaining that the courts of Haiti are incompetent to try civil cases where both parties are foreigners.

In reply, I have to say that the measure proposed by the German minister at Port au Prince to establish through the action of other States an independent judicial tribunal within the Republic of Haiti for the trial of suits at law between aliens, with the further stipulation that the decisions of such court are to be respected by the Haitian Government, would appear to be such an essential interference with the sovereign rights of Haiti that the Government of the United States could not view it with approval. But if, as stated in the German ministers's note, the want of jurisdiction in the Haitian courts to try such controversies seriously compromises the rights of aliens resident or engaged in business in Haiti, the Government of the United States would suggest, and instructs you that you may in the form of good offices bring to the attention of the Government of Haiti the defect

in the administration of justice, and suggest to it the great importance of remedying the defect by independent legislation, conferring upon its courts the necessary jurisdiction. In doing so, however, you will act independently of any action which may be taken by the diplomatic representatives of other States.

I am, etc.,

JOHN HAY.

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*Mr. Powell to Mr. Hay.*

No. 783.]

LEGATION OF THE UNITED STATES,  
*Port au Prince, Haiti, May 30, 1900.*

SIR: Acting in accordance with instructions conveyed in Department's dispatch, No. 410, of May 18, 1900, I had an interview with Mr. St. Victor, the minister of foreign relations, in reference to that feature of their laws in regard to civil cases arising in this Republic, in which both parties were foreigners, in which the courts of Haiti declared their inability to take cognizance of the same when one of the parties in litigation objected to the jurisdiction of the court. I at the time informed the secretary that my Government could not approve of this interference with the sovereign rights of Haiti, nor would it be a party thereto, stating also that this Government had the sovereign right to establish its tribunals, enact such laws as it deemed necessary for their Government, and the adjudication of such cases as might be brought before them without interference in so doing from another state. I suggested to the secretary, in accordance with the instruction, the advisability to enact such laws to cover the defect complained of by the German minister. That while I made this statement or suggestion, I desired him to understand that it was not the desire of my Government to interfere with the judicial system of this Republic in any way; this suggestion was simply made to remove an objection that might cause trouble to the Republic in the near future; that the best way to prevent it was the enactment of such laws as would remove the objection.

The minister in reply requested me to express the thanks of his Government to the Department for the interest that it has shown on many occasions in the welfare of this Republic and for the statement made that it could not approve of any measure taken by a foreign power that would interfere with the inherent and sovereign rights of this Republic. He also assured me that before the present chambers concluded its labors a law would be passed to clothe its courts with such power that they could judicially treat the cases complained of on the part of the German minister.

Again thanking me for the statement made, the interview ended.

I have, etc.,

W. F. POWELL.

## CONDOLENCES ON GALVESTON DISASTER.

*Mr. Léger to Mr. Hay.*

[Translation.]

LEGATION OF HAITI,  
*Washington, September 15, 1900.*

MR. SECRETARY OF STATE: I hasten to inform you that I have returned to Washington. I was sorry to hear, on my landing at New York, the sorrowful news of the Galveston disaster. Permit me to join in the mourning of so many distressed families and to lament with you the losses that the country has just sustained.

Be pleased to accept, etc.,

J. N. LÉGER.

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*Mr. Adee to Mr. Léger.*

No. 50.]

DEPARTMENT OF STATE,  
*Washington, September 18, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 15th instant, expressing your sorrow on learning of the terrible disaster in Texas.

In reply I have the honor to advise you that this Government sincerely appreciated your message of sympathy.

Accept, etc.,

ALVEY A. ADEE.

## ITALY.

### LYNCHING OF PERSONS OF ITALIAN ORIGIN AT TALLULAH, LA.<sup>1</sup>

*Baron Fava to Mr. Hay.*

[Translation.]

ITALIAN EMBASSY,  
*Washington, January 15, 1900.*

MR. SECRETARY OF STATE: In the correspondence which the honorable Department of State has exchanged with this embassy with regard to the Tallulah lynching, your excellency has been constantly pleased to assure me that every exertion would be made by the Federal Government to secure the punishment of the parties guilty of that massacre. To that end I think that I am now acting in accordance with your excellency's wishes in furnishing you herewith some information of no little importance concerning the lynchers, which information will, in my opinion, facilitate the work of attaining those ends of justice which you have in view.

I have received from the acting Italian consul at New Orleans a report in which Signor Tapini sends me—

(a) A list of the lynchers, furnished by two brothers—negroes—who were witnesses of the lynching. One of these negroes is said to have been murdered, either on suspicion or because he had talked too much about the lynchers. The other, whose name is Joe Evans, was employed for more than two years by Frank Difatta, one of the men lynched. Evans is said to have declared, moreover, that he knows two other negroes—the brothers Paul and Billy Bruse—whose names are in the list, and who can testify against the lynchers, because they were constantly with him during the lynching.

(b) An original procès verbal containing the affidavit made in the office of the Italian consular agency at Vicksburg by Giuseppe Defina, an Italian subject, the brother-in-law of one of the men lynched, who was himself threatened with death by the lynchers, but succeeded in escaping from Millikens Bend, a village near Tallulah, on the night of July 20 last, abandoning his house and property and taking refuge at Vicksburg.

I think it expedient to annex to the present letter certified copies:

1. Of the report of the acting royal consul at New Orleans.
2. Of the above-mentioned list of the lynchers.
3. An extract from the affidavit referred to above.

Postponing a fuller discussion of the contents of this affidavit until I come into possession of further information on the subject, I must, for the present, call the attention of the Federal Government to that

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<sup>1</sup> See Foreign Relations, 1899, pp. 440-466; also references to same subject in the President's messages to Congress, December 5, 1899, and December 3 1900.

paragraph of the affidavit in question in which Defina gives the names of Drs. Ward and Gane, who went to him to warn of the hostile intentions of the same gang who had lynched the five Italians at Tallulah. The names of the lynchers were evidently known to these two doctors, and justice could be enlightened by them, at least, if by no others.

The importance of the statements made in the three documents which I now submit to you will certainly not escape your excellency, and you will agree with me in finding in them every evidence of their truthfulness, or, at least, abundant grounds for the intervention of the representative of the law. This action has not yet been taken by the local magistrates, nor is it to be expected, in view of the peculiar conditions prevailing in that region, that it will be taken in future. Nor does it yet appear that the governor and attorney-general of Louisiana have attempted to carry out the assurances repeatedly made by them to the Federal Government—that justice would certainly be done; and this in spite of the provisions of the revised statutes of Louisiana. Article 1018 of those statutes provides:

Whenever the attorney-general or any district attorney shall be informed that a crime has been committed and that no complaint or declaration thereof has been made before any judge or justice of the peace, it shall be their duty, respectively, to inquire, ex officio, into the fact by causing all persons they shall suppose to have some knowledge of the fact to be summoned before some judge or justice of the peace that their depositions may be taken.

It is clear that the spirit and the letter of this law are intended to confer upon the attorney-general of the State the power and the duty of instituting and conducting investigations concerning criminal acts of which the ordinary judicial authorities neglect to take cognizance. This is also the opinion of eminent American lawyers whom I have consulted on the subject.

And if there is any case in which that attorney-general should make use of his powers, it is certainly that of the Tallulah lynching, where there was not even a meeting of the grand jury to give some show of proceedings in the case.

I cherish the hope that the inclosed documents will afford the Federal Government an opportunity and new and effectual grounds for pressing the Louisiana authorities to fulfill the contractual obligations of the confederation to which they belong, and to comply with the laws of their own State and the general principles of universal justice.

Accept, etc.,

FAVA.

[Inclosure 1.]

*The acting Italian consul at New Orleans to Baron Fava*

[Translation.]

NEW ORLEANS, *January 13, 1900.*

YOUR EXCELLENCY: Guiseppa Defina, the brother-in-law of one of the men who were lynched, came to my office some time ago, and brought me a list of names of persons at Tallulah who wanted to go to Millikens Bend to lynch him. This list was made by two brothers, negroes, who are ready to testify that these persons were at the head of the Tallulah lynchers.

I requested Defina to return at once to Vicksburg, and to have the affidavits of the two negroes taken before a notary public and before the royal consular agent,

Piazza. But I learned, from information which I received, that no notary at Vicksburg would draw up such a document.

I likewise learned that, in consequence of suspicion or because he had talked too freely about the lynchers, one of the two negroes who were ready to testify had been murdered.

The other negro, whose name is Joe Evans, 30 years of age, was for more than two years in the employ of Frank Difatto, who was lynched.

I have to add to this general information that Joe Evans has asserted that he knows two other negroes, the brothers Paul and Billy Bruse, whose names are in the said list, and who can also testify against the lynchers, as they were with him the whole time during the lynching.

I inclose a certified copy of the said list, and the original procès verbal of Defina's affidavit, taken in Vicksburg in the office of the royal consular agent there.

TAPINI, *Acting Consul.*

A true copy of the original on file at the royal Italian embassy at Washington.

FAVA.

WASHINGTON, *January 15, 1900.*

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[Inclosure 2.]

*List.*

Mr. Rogers (was the leader to go to Millikens Bend to hang Joseph Delfino and his son), Fred. Lichslider, Edward Stewart, Mr. Coleman (he was the one that climbed the tree and tied the rope), Burt. Severe, Tom Nola, Dave Evans, Jim Johnson, Fred. Johnson (was the one that carried the rope), Scott, Anden Severe (furnished the rope), John Yerger, Jim Ervesie, Jim Stone, Tom Broders, Fred Broders, Sam Slank, Paul Bruse, Billy Bruse.

A true copy of the original.

C. PAPINI, *Acting Consul of Italy.*

NEW ORLEANS. *January 16, 1901.*

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[Inclosure 3—Translation.]

*Extract from an affidavit taken by the Royal consular agency of His Majesty the King of Italy, at Vicksburg.*

In the reign of H. M. Umberto I, by the grace of God and the will of the people, King of Italy.

Vicksburg, Mississippi, December 13, 1899, at the Royal consular agency of Italy. Before me, Cav. Natale Piazza, Royal consular agent, assisted by Signor A. L. Tirelli, acting as clerk,

Personally appeared Giuseppe Defina, son of Matteo, deceased, a native of Cefalu, residing at Anguilla, Miss., who, after having been duly sworn, testified as follows:

I emigrated to America in 1889 and went to New Orleans, and in 1892 I went to live at Millikens Bend, Louisiana, where I opened a shop for provisions and other articles. By my good conduct I soon acquired a reputation in the village for honesty above the other shopkeepers, and thereby gained many customers, and in a short time I found myself in an enviable position, and was able to lend money and sell my goods on credit to the families of the place until the cotton crop was gotten in.

On the night of July 20 last, at Tallulah, after the lynching of my unfortunate brothers-in-law, the lynchers, who knew me well, because I frequently went to Tallulah on business, after finishing their work resolved to go to Millikens Bend to lynch me, so as to root out the last Italian in the county.

Mr. Ward, a resident of Millikens, who was on the road between Tallulah and Millikens that night, met a body of armed men, and as he knew them, I believe, he asked them where they were going, and they replied: "We are going to Millikens Bend to lynch Defina." Ward, who had always displayed sincere friendship for me, was very much surprised and pained at the plan which those people were carrying out and interceded for me, praising me highly; but, not able to persuade those scoundrels, who were not yet satiated with our blood, he, by dint of eloquence, obtained

two hours' time for me to leave the country if I valued my life. As that gentleman could not go to my house, after asking and obtaining the withdrawal of the lynchers, he met on the road Dr. Ganes, of Millikens Bend, who was coming back from Tallulah from a visit to Dr. Hodge in connection with the lynching and was going home, and he was requested by Ward to inform me of my banishment from Millikens within two hours by order of those murderers, and to tell me that if I did not leave within the time fixed I would be lynched without mercy.

When I heard the sad news I could see that Ganes knew the threats of the lynchers against me before leaving Tallulah that night and without having seen the gang whom Ward met. A few minutes before the arrival of the doctor at my house I had been informed of the occurrences of the night by a negro who had been with the doctor on his way to Tallulah and back, and while I was awaiting fuller information I noticed that several persons at Millikens were whispering together, probably about the occurrences of the night at Tallulah, and also, I think, about the threats of the lynchers against me. I noticed that those persons were very sorry for my situation, but I do not think that if the lynchers had come to Millikens they would have opposed the murderers in order to save me and my children.

Having been informed by Ganes that Hodge was dying, and that if he died I would certainly not be spared by their revenge, I decided to fly with my children without loss of time on a small boat. Having been warned by Ganes and others that it would be very dangerous for me to leave Millikens by land, I went to Vicksburg by the Mississippi River; and you can testify that you saw me here in a deplorable state, suffering with a high fever, as you remember, when I told you all that had happened to me.

GIUSEPPE DEFINA,  
*The Deponent.*

N. PIAZZA,  
*The Royal Consular Agent.*

N. L. TIRELLI,  
*Acting Clerk.*

A true copy of the original on file at the Royal Embassy of Italy at Washington.  
WASHINGTON, *January 15, 1900.*

FAVA,  
*The Royal Ambassador.*

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*Mr. Hay to Baron Fava.*

No. 557.]

DEPARTMENT OF STATE,  
*Washington, February 15, 1900.*

EXCELLENCY: I regret to find that your note of January 15 last, in further reference to the case of the lynching of persons of Italian origin at Tallulah, La., and with which you inclosed a report from the acting consul at New Orleans, was, through an unaccountable oversight, not acknowledged at the time of its receipt.

Copy of your note, with its inclosure, was, however, immediately sent to the governor of Louisiana with appropriate commendation to his excellency's early and attentive notice.

Be pleased to accept, etc.,

JOHN HAY.

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*Baron Fava to Mr. Hay.*

[Translation.]

EMBASSY OF HIS MAJESTY THE KING OF ITALY,  
*Washington, March 5, 1900.*

MR. SECRETARY OF STATE: By my note of the 15th of January last I had the honor to furnish to your excellency new and important evidence which went to show that, according to article 1018 of the Revised Statutes of Louisiana, intervention was justified on the part



of the attorney-general of that State or of the district attorney competent to investigate the acts of the lynchers of Tallulah, and to proceed against them.

In reply you were pleased to inform me, under date of the 15th ultimo, that a copy of my note had been immediately forwarded to the governor of Louisiana, and that his excellency's attention had duly been called to its contents.

I thank you for this courteous assurance, and I should be grateful to you, Mr. Secretary of State, if you now have the kindness to communicate to me the tenor of the reply which the aforesaid governor doubtless has not failed to send to the honorable Department of State on this subject.

Thanking your excellency in advance, I renew, etc.,

FAVA.

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*Mr. Hay to Baron Fava.*

No. 566.]

DEPARTMENT OF STATE,  
Washington, March 15, 1900.

EXCELLENCY: In response to your note of the 5th instant I have the honor to say that no reply has yet been received from the governor of Louisiana to the Department's letter of January 24 last, inclosing copy of your note of the 15th of the same month.

Accept, etc.,

JOHN HAY.

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*Baron Fava to Mr. Hay.*

[Translation.]

ITALIAN EMBASSY,  
Washington, March 15, 1900.

MR. SECRETARY OF STATE: Your excellency was pleased to inform me in your kind note of to-day that the honorable governor of Louisiana has not yet replied to the letter of January 24 last, in which the Department of State sent him a copy of this embassy's note of the 15th of that month.

While thanking you, Mr. Secretary of State, for this communication, I would be greatly indebted to you if you would kindly inform me what measures the Federal Government intends to take, in view of this protracted silence on the part of that governor, for the purpose of having search made, on the basis of the facts collected by the Royal consulate at New Orleans, and of prosecuting the Tallulah lynchers in accordance with the Revised Statutes of the State of Louisiana, article 1018, the text of which I had the honor to submit to you on the 15th January last.

Accept, etc.,

FAVA.

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*Mr. Hay to Baron Fava.*

No. 569.]

DEPARTMENT OF STATE,  
Washington, March 31, 1900.

EXCELLENCY: Upon receipt of your note of the 15th instant, in further reference to the lynching at Tallulah, I again brought the subject

to the attention of his excellency, the governor of Louisiana, reviewing the correspondence heretofore exchanged and the facts reported in the investigation of the lynching, and requesting that the governor bring these statements to the knowledge of the attorney-general of Louisiana, and that he inform the Department what action has been or will be taken in the premises.

I now have the honor to inform you that I am in receipt of a reply from Governor Foster stating that he has duly forwarded my communication to the attorney-general, calling his attention to the importance of the matter at issue. He states further that he has promptly followed the wishes of this Department in laying my several communications before the officers of the law in the district in which Tallulah and the parish of Madison are situated, and in requesting their official action on the same. The governor adds that he is not prepared to say what further steps will be taken in the matter, but that he is assured that they have done and will do their full duty under the law.

Be pleased to accept, etc.,

JOHN HAY.

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*Baron Fava to Mr. Hay.*

[Translation.]

EMBASSY OF H. M. THE KING OF ITALY,  
*Washington, April 2, 1900.*

MR. SECRETARY OF STATE: By your excellency's esteemed note of the 31st instant I am apprised that, in reply to the communications sent to Governor Foster by you in compliance with the note which I had the honor to address to you on the 15th of January last, furnishing new and important information concerning the Tallulah lynchings, his excellency, the governor, has informed you that he has transmitted these communications to the attorney-general of the State and has called that officer's attention to them. Governor Foster adds that he has promptly complied with your desire that he should likewise call this matter to the attention of the authorities of the district in which Tallulah and Madison Parish are situated, and that he has urged them to take official action. He states, in conclusion, that "he is assured that they *have done* and will do their full duty under the law."

The fact that although ten months have passed since the cruel lynching at Tallulah, and that although I transmitted even the names of the presumptive murderers to the Federal Government not one of them has been brought to justice, and that not even the slightest judicial investigation looking to this has been held, is indeed discouraging and can not induce me to share the optimistic feeling which has, even at this late day, been expressed by the governor. Certainly the authorities of Louisiana have not done their duty in the past. If they had the murderers would not hitherto have remained unpunished.

I trust that they will soon decide to act as justice requires that they should; but your excellency will share the painful surprise felt by me when I received this statement of the governor as the only reply to the grave charges and circumstances which I submitted by my note of January 15.

I have the honor to beg your excellency to observe to his excellency, Governor Foster, that any further delay in investigating lynchers, whose names are in the mouth of everybody, is without justification, and that it is now more important than ever that I should be enabled to assure the King's Government that the said lynchers have been criminally prosecuted in due form of law.

Accept, etc.,

FAVA.

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*Mr. Hill to Baron Fava.*

No. 574.]

DEPARTMENT OF STATE,  
*Washington, April 17, 1900.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 2d instant in regard to the lynching of certain persons of Italian origin at Tallulah, La.

In reply I have the honor to inclose a copy of a letter addressed to the governor of Louisiana on the 29th ultimo by the district attorney of the ninth judicial district of Louisiana, reporting that the third grand jury has investigated the affair, without finding evidence to implicate anyone.

Accept, etc.,

DAVID J. HILL,  
*Acting Secretary.*

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[Inclosure.]

*District attorney, ninth judicial district of Louisiana, to the governor of Louisiana.*

TALLULAH, LA., *March 29, 1900.*

DEAR SIR: The matter of the alleged lynching of the Italians here was investigated by the grand jury which has just adjourned. All the witnesses mentioned in your communication, whose attendance could be compelled, were summoned and testified on oath that they knew nothing of the affair. They, none of them, gave any testimony which implicated anyone, and positively swore they knew nothing of the matter whatever.

This is the third grand jury which has thoroughly investigated this matter, and each investigation has been thorough and has resulted in failure to implicate anyone.

I am, etc.,

WM. S. HOLMES.

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*Baron Fava to Mr. Hay.*

[Translation.]

EMBASSY OF H. M. THE KING OF ITALY,  
*Washington, May 6, 1900.*

MR. SECRETARY OF STATE: I duly received your note of the 17th ultimo, whereby your excellency, replying to mine of the 2d of that month, was pleased to send me a copy of a letter from a competent district attorney, who informed the governor of Louisiana that the third grand jury had thoroughly investigated the cruel lynching at Tallulah without being able to secure any indication or evidence of criminality against anybody.

From a deep sense of dignity I prefer not to discuss this singular assertion, made by a grand jury of a State belonging to a highly civ-

ilized Republic, which assertion can not fail to astonish and discourage those friendly nations which, like Italy, earnestly desire to sustain constant and cordial relation with the United States.

It is, however, my duty most solemnly to protest to your excellency on account of this additional violation of treaties bearing the signature of the United States Government, and in view of the evident and patent denial of justice which has been renewed by one of its States, which is strictly bound to observe the laws of the Confederation of which it is an integral part.

However, as your excellency confined yourself to informing me, purely and simply, of this unqualifiable verdict of the Louisiana jury, without apprising me, at the same time, of the view taken by the Federal Government on the subject, I refrained, from a feeling of high respect for that Government and for your excellency personally, from reporting it to His Majesty's Government.

I now, however, desire to beg you, Mr. Secretary of State, to be pleased to let me know what measures the Federal Government intends to take in order to settle this unfortunate matter in a manner conformable to the pledges which bind it. In this connection I scarcely need remind you that the authorities and enlightened word of the President has already marked out to Congress the proper course to be taken, and that I have faith in the efficient action of your excellency for the prevention, in future, of any repetition of such atrocious outrages, and for the application of remedial measures to the failure, on the part of the Louisiana authorities, to do justice.

Be pleased to accept, etc.,

FAVA.

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*Mr. Hay to Baron Fava.*

No. 587.]

DEPARTMENT OF STATE,  
*Washington, June 12, 1900.*

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's esteemed favor of May 6, in relation to the cruel lynching at Tallulah.

In answer to your inquiry as to "what measures the Federal Government intends to take in order to settle this unfortunate matter," and to the assurance of your faith in the efficient action of the Department for the prevention in future of any repetition of such atrocious outrages, and for the application of remedial measures to the failure on the part of the Louisiana authorities to do justice, it should hardly seem necessary to testify to your excellency the unqualified condemnation with which the Government of the United States views all such acts of lawless violence, whether committed against the subjects of other States residing in the United States or against its own citizens.

Your excellency is advised of the dual nature of our Government, and of the defect in the Federal laws, which the President has sought, so far as lies in his power, to have remedied, and of the prompt and energetic measures adopted by the Department of State with a view to the punishment, by the only competent authorities, of the authors of the crime under discussion.

It having been shown that Italian subjects were slain by said lynching and that there has been a failure on the part of the only compe-

tent authorities to indict or bring the guilty parties to trial in any form, the President feels that a case has been established that should be submitted to the consideration of Congress, with a view to the relief of the families of Italian subjects who lost their lives by lawless violence, which will accordingly be done on the reassembling of Congress in December next.

Accept, etc.,

JOHN HAY.

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*Baron Fava to Mr. Hay.*

[Translation.]

EMBASSY OF HIS MAJESTY THE KING OF ITALY;  
*Washington, October 14, 1900.*

MR. SECRETARY OF STATE: Your excellency was pleased to express to me, in your esteemed note of the 12th of June last, in reply to my protest of the 6th of May of this year, the sentiments of high reprobation of the Federal Government for the unspeakable acts of violence committed the year before at Tallulah against Italian subjects.

But you reminded me of the dual nature of the Government in the United States and of the inadequacy of the Federal laws, which the President had, within the bounds of his powers, endeavored to remedy.

Lastly, your excellency informed me that since the failure of the proper authorities to indict or bring the guilty to any form of trial had been established, it was the President's intent that the case should, on the coming December, be laid before Congress for the purpose of relieving the families of the Italian subjects who had fallen victims to that slaughter.

I have the honor to take formal notice of that communication, which I shall not fail to bring to the knowledge of the Government of the King. I am sure it will appreciate the explicit condemnation with which the Federal Government, hampered by the working of its powers in conjunction with those of the States, has branded, by the mouth of your excellency, the excesses of Tallulah and the doings of the judicial authorities of Louisiana.

Yet this straightforward and spontaneous condemnation will afford it a well-founded plea for insisting upon the now pressing necessity of preventing the recurrence of such frequent deeds of blood, which can not but find encouragement in their present impunity. This can not be accomplished without appropriate laws for the protection of the safety reciprocally guaranteed by the treaties, and your excellency correctly surmises in adverting, in the note which I am answering, to the efforts made in that direction by the President, within the bounds of his powers. The two bills in that sense now pending in Congress are indeed the outcome of the earnest recommendations made in his message of December last, and I am confident that it will be pleased to continue till the end the exercise of his efficient action toward convincing those legislative bodies that the approval of the two bills under discussion will happily remove the only but frequent causes of difference between our two countries, whose mutual friendship is so strong.

Now, with respect to the purpose of the President, as communicated

by you, concerning an indemnity for the families of the lynched Italians, I am of opinion that the Government of the King has no right to object to or to refuse a measure taken in an absolutely spontaneous manner by the Administration and Congress of the United States, especially if such a measure should be, in strict justice, extended to such of the relatives of the lynched Italians who had assumed the citizenship of the United States as have remained Italian subjects.

But a measure of that character, prompted by considerations of humanity toward the families of the victims, can not dispose of the question raised for the Italian Government by the cruel slaughter at Tallulah. It has asked no more than the effective course of justice and the protection guaranteed by the treaties. As affecting the relations between the two Governments, the question can not be solved otherwise than by provisions of law similar to those contained in the Davis and Hitt bills now pending in the Senate and House of Representatives, which modify the Federal jurisdiction. It would therefore be desirable not to let the indemnity measure for which the President purposes to call upon Congress assume or be given the character of a final solution to the unpleasant question. Nothing could be more contrary to the true condition of things.

It is for your excellency alone to judge what will be the best means of attaining this end and of preventing influences in both Houses to use that act of humanity for an argument against carrying out Federal legislation for the protection of aliens now under consideration in the American Parliament.

By way of simple suggestion, I take the liberty of saying that the difficulties which I submit to the high consideration of your excellency might be eluded if the proposition for the indemnity to the families of the victims were presented after the approval of the two above-mentioned bills, which approval is, I believe, made secure by the good and efficient offices of the President and the Administration.

Be pleased, etc.,

FAVA.

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*Baron Fava to Mr. Hay.*

EMBASSY OF HIS MAJESTY THE KING OF ITALY,

*Washington, October 14, 1900.*

MR. SECRETARY OF STATE: When I laid before your excellency, with my note of the 15th of January of this year, certain evidence to help in the detection of the guilty in the Tallulah lynching, I had occasion to advert also to the case of Giuseppe Defina, a brother-in-law of the Difatta brothers, who was, on the evening of the lynching, threatened with death by the mob if he should not depart from Millikens Bend, where he lived, and had to repair to Vicksburg, leaving his house and property behind.

I reserved to myself the right of again taking up this matter, concerning which I wanted to collect more precise information.

I now transmit herewith to your excellency, with a request that they be returned to me, the following papers:

1. Certified copy of an extract from an account of the lynching, given under date of July 26, 1899, by the representative of the consulate at New Orleans, who had gone to inquire on the spot (Ann. A).

2. Certified copy of an affidavit of Giuseppe Defina, taken by the Royal consular agent at Vicksburg (Ann. B).

3. Copy of a report from the Royal consulate at New Orleans of the 18th September, 1899 (Ann. C).

From these documents, which, I am privately assured, are in accordance with the facts, there results: First, that Defina actually had to abandon his property, with his family, in order to save his life. The testimony of Drs. Ward and Gane, who may be examined in this connection, and who warned him of the danger he would be in if he did not put himself immediately out of harm's way, is especially important in that respect. Second, that in spite of the sheriff's assurances Defina was on all hands advised not to return to the spot, which, indeed, he never visited again. Finally, that Defina, who has now lost his all, sets his loss at about \$5,000.

Under ordinary circumstances I would have advised him to apply to the local judicial authorities. But your excellency is not the person to whom I need demonstrate how the conditions of justice in that district are such as to make any kind of resort to these courts wholly superfluous. Nor does it avail to say that he would have a special jurisdiction open to him in the Federal courts of Louisiana in his character of an alien, for he could find no one inclined to testify for fear of vengeance. The judicial point would at length be raised whether the country or the parish were responsible for the violence of the mob and for the scanty safety of the place or whether the several individuals should be held responsible, in which case it would not be possible to find them out. There would be, in addition, the costs involved in such a procedure.

It has therefore seemed to me that this was a proper case to submit to the equity of the Federal Government, owing to its connection with a condition of things that your excellency has not hesitated to acknowledge and deplore. I send you herewith, to that effect, a petition (Ann. D) that Lawyer Commander Baisini, head of the International Judicial Institute, counsel of Defina, has addressed to the Royal ministry for foreign affairs and that the latter has transmitted to me with special recommendation that I ask of the Federal Government such indemnification for damages as Defina would appear to be unable to secure in any other way.

I doubt not that your excellency, fully appreciating the justice of the case, will direct an examination of the papers and take the present application in benevolent consideration.

Be pleased, etc.,

FAVA.

[Inclosure 1.—Translation.]

*Mr. Cavalli to Mr. Papini.*

NEW ORLEANS, LA., July 26, 1899.

[Notes of the representative of the Royal consulate in the investigation made by the consular agent, Mr. N. Piazza, at Tallulah, La.]

I deem it my duty, in order to justify the delay of forty-eight hours in leaving Vicksburg for Tallulah, as the assistant of this Royal consulate in the official investigation ordered by the Royal agent, to make the following statement:

As soon as I had arrived at Vicksburg I called on the Royal consular agent, who had already received a telegram from the consul notifying him of my arrival. The

agent received me, but, having heard that I proposed to go to Tallulah at once in company with him, he refused positively to leave Vicksburg, declaring that he would not do so on any account, because—

1. The occurrence took place outside of his jurisdiction, he being the Royal agent for Mississippi, and the lynching having taken place in Louisiana.

2. He had been advised by everybody not to go, owing to the risk that he would run, the minds of the people, as he had been informed, not yet being pacified. Among his advisers was Attorney Pat Henry, who, having gone alone to Tallulah on Friday to look after the interests of Romano, a creditor of Frank Difatta, was very coldly received, and observed in the district manifest signs of aversion to any person who came there on account of matters connected with the lynching.

3. He considered any investigation at Tallulah as being useless and out of place, the entire colony residing there having been broken up.

It was therefore not to be presumed that sincere, honest, and dispassionate declarations could be had of the inhabitants, and it appeared from the testimony of one person who had witnessed the crime, but who was unwilling to make himself known, owing to the fear which he felt, that all, or almost all, the persons composing the population of that village had taken part directly in the murder or had consented to it.

4. Because it would be easier for him to make an investigation in some place other than that in which the murder had been committed.

In view of these objections, I, thinking that the instructions received from the Royal consulate authorized me to act as an assistant to the aforesaid officer in the investigation which the Royal agent was ordered to make, informed this Royal consulate by telephone of the objections of the agent, requesting the consulate to telegraph again to the agent, insisting that he should start with me.

At the same time, with a view to overcoming the hesitation of the Royal agent, I requested the consulate to procure, without delay, from the governor of the State some sort of an assurance that the Royal agent and the representative of the consulate would have no trouble if they went to the place. A dispatch from the consulate was soon received, assuring the Royal agent that he might freely go to Tallulah. When I informed him of this he told me that he had, of his own accord, telegraphed to the sheriff of Tallulah, and that the latter had answered him, giving him the most ample assurances. At this point the hesitation of the Royal agent ceased. But at my urgent request that he would set out immediately, on Sunday, the 23d, and, as the train which arrived at 11.35 had to be awaited, that he would start in the morning early, hiring a carriage in order to arrive promptly at the place, and thus have ample time to examine the place and investigate the case as fully as possible, the Royal agent objected, saying that on Sunday, according to the American custom, the persons who were to furnish to us their assistance could not be relied upon for that purpose, and that it was not proper to disturb those gentlemen on Sunday. He consequently thought that we ought to wait till Monday.

As it was therefore not possible for me to prevail upon him to start, I was obliged to wait until Monday, the 24th, when we finally set out.

It can easily be imagined that at Tallulah, for reasons that can be more easily guessed than described, it would not be possible to secure any information, as all parties there were pledged to silence. The Royal agent, however, did not fail to do all in his power to perform his task properly. I should have been glad to remain all day at Tallulah, and all night too, and to leave on the next day by a freight train that arrived in the morning. I had expressed this desire to the Royal agent, not because I was convinced that we could accomplish anything by remaining or because I thought that by remaining we could learn more than was already known. I only wished to do so in order to give moral satisfaction to the Royal consulate, to the inhabitants of the locality by showing them that we were in no haste to leave, and likewise to the people of Vicksburg. The Royal agent was informed of my desire, and I telegraphed to the Royal consulate, saying that we should stop there over night, but a few moments afterwards the Royal agent told me that he desired to leave by the next train, for reasons known to himself, which he told me afterwards. In this state of things I, in my turn, requested the Royal agent to suppress the notice given to this Royal consulate, and, at about 4 o'clock, we left. The Royal agent did not think proper to remain any longer, because there was no ground to hope to obtain from those gentlemen any reliable information, and because, as we both, for very good reasons, had been obliged to accept the hospitality so generously extended to us and the cordial welcome of those persons, a part of whom, perhaps—if not all—had taken part in the murder, it would not be proper to go beyond the bounds, which we would certainly have been obliged to do had we remained.



EXPLANATION MADE AT VICKSBURG, MISS., WITH REGARD TO THE LYNCHING.

One Frank Raymond, a traveling painter, who frequently visited Tallulah and its vicinity, was on the best of terms with the deceased Frank Difatta. He was examined at length by me at Vicksburg. He claimed that he knew the name of an upright and disinterested person who, in all probability, had witnessed the lynching which took place on the 20th, and who, if examined in a distant place, where he could be sure that he would not be exposed to danger on account of his answers, might give valuable testimony. That person, the painter said, was a man named Blander, a barber at Tallulah, who conducted his business opposite to the establishment of one John Wilson, who (Raymond said) had been an instigator of or participant in the murder. Raymond declared that he was ready to answer any questions. He knew the deceased, spoke well of them, and said that there was a latent grudge against them, and that he had often warned them to avoid difficulties that might result in a catastrophe. If that is true, he was a prophet.

It is claimed that a certain ———, a saloon keeper, egged on the crowd to perpetrate the murder, promising whisky and beer gratis to them if they would lynch the Italians, Frank Difatta, Rosario Fiducia, and Cirone. According to Raymond there was a plot, not among the Italians to do harm to the doctor, but among the shopkeepers of the village and others, from a spirit of rivalry in trade, and from a desire to prevent the Italians from voting. From the examination of Giuseppe Defina, of Cefalu, a brother-in-law of Frank Difatta, and a tradesman, apparently in good standing, which examination was held by the undersigned, it would appear that he fled precipitately in order to avoid certain death, together with his son Salvatore.

He resided at Millikens Bend, La., a village about 5 miles from Tallulah, and he had lived there for about six years. His business was flourishing. On the evening of the lynching a boss met a crowd of armed men on the road from Tallulah to Millikens Bend. He stopped them and asked them where they were going. He was told that they were going to Defina's house to kill him. He dissuaded the crowd from doing so, assuring them that Defina did not deserve to be lynched, as he had done nothing that called for such a measure.

He succeeded in inducing the crowd to retrace their steps, but they told him to let Defino know that twenty-four hours' time would be given him to leave that locality, and that if he failed to do so in that time he would be killed.

On the following day Dr. Ghem, having learned at Tallulah that the twenty-four hours' delay which had been granted to Defina had been reduced by those rascals to two hours, and having been unable to induce them to change their minds, went to Defina's residence and told him to leave the village at once if he did not wish to be killed. Defino then secured a small boat and made his escape on the river, repairing to Vicksburg and leaving his store and the debts that were due him to their fate, since he could not do otherwise. It appears, however, that the store was respected. At Tallulah the writer inquired of the authorities whether Defina could return to his home; he was told in reply that he could do so without running any risk, but that, as friends, they could not advise him to remain there long.

The reliable person mentioned in the report of the royal agent (which report I had the honor to draw up) is a priest, who does not wish to have his name mentioned, inasmuch as he is obliged to go to Tallulah from time to time to perform the duties of his ministry. He resides at Lake Providence. He is a Frenchman. He had a long conversation with the undersigned. His opinion is that all the people of the locality took part, either directly or indirectly, in the killing of the Italians, who were disliked for the reasons above mentioned.

He mentioned the name of Judge Montgomery, of the court at Tallulah, as a possible impartial witness. The judge, when interviewed at Vicksburg on the morning of the 24th by the royal consular agent and requested to throw some light on the subject, excused himself on the ground of the judicial position which he held at Tallulah, which was incompatible, as he said, with the position of a witness.

I have nothing more to add.

ENRICO CAVALLI.

A true copy of the original.

C. PAPINI [L. S.],  
In Charge.

[Inclosure 2.]

*Royal consular agency of His Majesty the King of Italy at Vicksburg.*

In the reign of His Majesty Humbert I, by the grace of God and the will of the nation, King of Italy.

In the year 1899, on the 13th day of the month of December, in the State of Mississippi and at the royal consular agency of Italy, before me, Chevalier Natale Piazza, royal consular agent, assisted by Mr. A. L. Tirelli, acting as chancellor, personally appeared Giuseppe Difina, son of Matteo Difina, said Giuseppe Difina being a native of Cefalu, now residing at Anguilla, Mississippi, and after taking his due form of law before us, made the following statement:

I emigrated to America in the year 1889, going at first to New Orleans, and, in 1892, I went to reside at Millikens Bend, Louisiana, where I opened a provision and miscellaneous store.

By my good conduct I soon acquired a reputation as being a more honest man than any of the others engaged in similar business, and thus I secured numerous customers, and I soon found myself in an enviable position, being able to make loans and to sell my goods on credit to the families of the place, who paid for the goods when they had gathered their cotton crops.

On the night of July 20th, at Tallulah, after the lynching of my unfortunate brothers-in-law, the lynchers, who knew me well, because I frequently came to Tallulah on business, having accomplished their cruel deed, decided to go to Millikens Bend for the purpose of lynching me, wishing to kill the last Italian that still lived in the country.

Mr. Ward, an owner of real estate at Millikens Bend, who that night was on the road between Tallulah and Millikens Bend, fell in with a group of armed men to whom, I believe, he was known. He asked them where they were going, and they said: "We are going to Millikens Bend to lynch the Difinas." Ward, who had always been very friendly to me, was greatly surprised and displeased at the plan which those men proposed to carry out. He implored them in my behalf, praising me highly, but could get no promise from those ruffians, who were still thirsting for our blood. He pleaded so hard, however, that he induced them to promise that I should have two hours to leave the country, in default of which I should be lynched. As Mr. Ward could not go to my house, he fell in with Dr. Ganes after he had induced the lynchers to withdraw. Dr. Ganes is a resident of Millikens Bend, and had just returned from Tallulah, where he had visited Dr. Hodge, who was the cause of the lynching. He was then going to his own house, and was requested by Mr. Ward to inform me of the decision of those murderers, viz, that if I had not got out of the way in two hours I should be lynched without mercy.

When I received this unwelcome information I understood that Dr. Ganes, without having himself seen the band that Mr. Ward had met, had been informed of the threats made by the lynchers against me even before he had left Tallulah that night.

A few minutes before the doctor's arrival at my house I had been informed of the occurrences of that night by a negro who accompanied the doctor on his trip to Tallulah and back, and while I was awaiting more precise information I observed that various persons living at Millikens Bend had assembled in a group, and that they were secretly talking to each other about the lynching at Tallulah; and also, I think, about the threats of the lynchers to kill me. I observed that those persons felt very badly about the plight in which I was, but I do not believe that if the lynchers had come to Millikens Bend those people would have resisted the assassins in order to save me and my children.

Having been informed by Ganes that Hodge was dying, and that if he died my life would certainly not be spared by the lynchers, I decided to flee with my children without loss of time on board of a small boat, having been told by Ganes and others that it would be exceedingly dangerous for me to leave Millikens Bend by land. I went to Vicksburg, sailing along the Mississippi River. You know that you saw me there in a deplorable condition, and suffering from a burning fever. You remember that I told you all that had happened to me. Of course, I left to its fate a well-furnished house, which was full of all kinds of merchandise, household furniture, three horses, four carts, and eleven acres of land planted with indian corn and cabbages, together with other garden stuff, which was entirely destroyed by the thieves. I had, moreover, outstanding debts to the value of more than \$2,000, as my book will show, without counting various sums, both in money and goods, loaned to persons with whom I did not have an account opened. I have several times reckoned up my losses conscientiously, and have found that I had suffered a loss amounting to about

\$6,000, but having recovered, through honest persons, the three horses that I had lost, which were in the woods dying of hunger, and three damaged and useless carts, together with some boxes of old merchandise of no value, which had been left by my nocturnal visitors, because the articles of good quality fell into the hands of the conscienceless thieves; thus, having recovered those articles, together with the animals in question, I compute my losses as amounting to not less than \$6,000.

I have inquired of several influential persons living at Millikens Bend whether I could return to that place in order to settle up my affairs without being disturbed by the enemies of the Italians, but they have all told me that if I should return I would certainly be maltreated and even mercilessly lynched, because those people are no jokers.

The consul at New Orleans interested himself in procuring an order for me from the governor of the State authorizing me to go to Millikens Bend to settle up my affairs, promising me protection by the local authorities. I have not been willing to accept this, because, if those authorities can not prevent a lynching like that which took place at Tallulah, they certainly can not prevent one in the woods at Millikens Bend, through which I should be obliged to pass in order to settle up my affairs.

Having been advised, as I have before remarked, by influential persons of the locality to abandon everything and not to go there if I care for my life, I think that the part of a prudent man is to follow this advice.

A few days ago my son Matteo, a highly respectable youth, who was always well liked before our misfortune at Millikens Bend, desired to go to a farm near there to collect a debt from a farmer who owes me \$350. Scarcely had he been seen by some person of the neighborhood when they came to him and urged him as friends to keep out of the neighborhood, and to go away quickly, because, as they said, the hatred of the Italians was constantly increasing, and if he should be seen, it would be a serious misfortune to him (observe that the persons in question are friendly to us and owe us nothing); consequently you can understand that my flight from the place was not caused by fear, but by the reality of the threats of those cruel people.

In view of my serious losses owing to this unfortunate affair, I find that I have suffered damage to the amount of not less than \$5,000, and feeling certain that the Government of my native country will not fail to support my claims, I have, through Mr. Baisini, my representative, made a statement to his excellency the minister of foreign affairs of Italy, setting forth with truth and sincerity all the painful misfortunes which I have suffered.

I have made a statement of the foregoing, by means of the present procès verbal which, after having been read and ratified, is subscribed by the deponent in my presence.

The deponent.

The royal consular agent.

The acting chancellor.

GIUSEPPE DEFINA.

N. PIAZZA.

A. L. TIRELLI. [L. S.]

[Inclosure 3.]

*The officer in charge of the royal consulate of Italy at New Orleans, to the royal embassy of Italy at Washington, D. C.*

NEW ORLEANS, September 18, 1899.

I deem it my duty to report to your excellency the following:

Giuseppe Delfino (or Defina), the Italian who escaped from Millikens Bend when the lynching took place at Tallulah, through fear lest he also should be lynched, informed this consulate that he desired to return to Millikens Bend in order to settle up his affairs, and asked that the authorities would guarantee his personal safety.

I consequently addressed the governor of the State; Governor Foster wrote to the sheriff at Tallulah, and handed me the sheriff's reply, a copy of which I have the honor herewith to inclose. I likewise sent a copy to Defina, as appears from a letter from him, which I have the honor to submit to your excellency, begging that it may be returned to me; in this letter Defina points out that his life is not sufficiently guaranteed by a piece of paper, and states that he reserves the right to claim indemnity.

(Signed)

C. PAPPINI,

*In Charge of the Italian Consulate at New Orleans.*

[Inclosure 4.]

*Mr. Baisini to the Royal minister of foreign affairs, Rome.*STRESA, LAGO MAGGIORE,  
September 19, 1899.

I have received very grave news from Vicksburg, which must certainly have been brought to the notice of the Royal ministry under your charge, since the writer of the letter to me is well known at the Royal consular agency there. The case, as stated to me, is as follows: After the killing of the Difatta brothers and their two companions, the band of lynchers, having learned that a brother-in-law of the Difattas, named Giuseppe Defina, of Cefalù, was settled in the village of Millikens Bend, Madison County, held a council, at which they decreed the death of both him and his entire family, for no crime save that he was connected by marriage with the unfortunate men who had been lynched. Without losing any time the lynchers mounted their horses and started for that village in order to carry out their nefarious design. Fortunately a friend of Defina, an American, having received intelligence of their plan, mounted his best horse and galloped to inform Defina that he was threatened with lynching. The poor man had scarcely time to collect his children and to escape by precipitately crossing the Mississippi River. He had a good business at Millikens Bend, where he had 11 acres of land under cultivation, where he raised vegetables, etc., and had outstanding debts to the amount of about \$2,000, and he also had furniture, horses, carts, etc. In order to save his life he was obliged to abandon everything, without hope of returning, and he is now, with his children, without employment and plunged in the direst misery.

In my capacity as attorney for the unfortunate Defina (as is shown by an authenticated instrument bearing date of April 15, 1899, drawn up at the office of the Royal consular chancellor at Vicksburg) I deem it my duty to call the attention of the Royal ministry under your charge to this additional crime perpetrated upon our countrymen, and I respectfully ask that, if proper evidence of this act is obtained, you will, in the negotiations now pending with the United States Government on account of the lynching at Tallulah, efficiently uphold the rights of my poor client to moral and material indemnity.

With the most profound esteem, etc.,

(Signed)

JACOPO BAISINI,

*Director-General of the International Law Bureau.*

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*Mr. Adee to Baron Fava.*

No. 621.]

DEPARTMENT OF STATE,  
Washington, October 19, 1900.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 14th instant, relating to the lynching of certain Italian subjects and persons of Italian origin at Tallulah, La.

The suggestion contained in your note will be taken into consideration.  
Accept, etc.

ALVEY A. ADEE,  
*Acting Secretary.*

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*Baron Fava to Mr. Hay.*Personal and }  
confidential. }EMBASSY OF H. M. THE KING OF ITALY,  
Washington, D. C., November 26, 1900.

MY DEAR MR. HAY: On the eve of the reopening of Congress I take the liberty to beg you, in a merely friendly way, to submit courteously to the President the following considerations and requests:

The hope that the President expressed in his message of last year that the authorities of Louisiana would duly punish the perpetrators

of the Tallulah lynchings has, unhappily, not been fulfilled. The guilty parties have not been punished.

In this condition of things the question of the protection of the Italian subjects can only be resolved between the two Governments by legislative provisions which, like those contained in the two bills, Davis and Hitt, afford a guaranty for the future according to the treaties.

I appeal again to the well-known sense of justice of the President, in order that this year, too, his authoritative word may explain to the nation its incumbent duty of protecting effectively the safety and lives of the citizens of a friendly country, and kindly suggest to the Congress the speedy adoption of the above-mentioned bills. \* \* \*

Believe me, etc.,

FAVA.

*Mr. Hay to Baron Fava.*

DEPARTMENT OF STATE,  
Washington, November 27, 1900.

MY DEAR MR. AMBASSADOR: Answering your personal communication of the 26th, I have the pleasure to inform you that the subject of the Tallulah lynchings and the question of providing a Federal forum for such cases, concerning which you have heretofore conferred with me, have been duly considered by the President and will be appropriately treated in his forthcoming message.

Believe me to be, etc.,

JOHN HAY.

*Baron Fava to Mr. Hay.*

EMBASSY OF H. M. THE KING OF ITALY.  
Washington, December 4, 1900.

MR. SECRETARY OF STATE: I did not fail to inform the minister of foreign affairs of Italy, by telegraph, of the sentiments expressed by the President in his message to Congress on account of the death of His Majesty King Humbert. I also gave in full what is contained in the message with regard to the Tallulah incident.

\* \* \* \* \*

I have the honor, at the same time, to inform you that His Majesty the King, my august sovereign, has, with great pleasure, taken note of the declaration contained in the aforesaid message of the President concerning the conferring upon the Federal courts of jurisdiction in the case of outrages committed against foreigners. I have the honor to request your excellency's kind intervention to make known the gratification felt by my sovereign to His Excellency the President.

I tender you, Mr. Secretary of State, my thanks in advance, and reiterate, etc.,

FAVA.

## COURTESIES TO U. S. S. "DIXIE."

*Mr. Hay to Mr. Draper.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, March 16, 1900.*

(Mr. Hay directs that proper authorities be informed of the expected arrival of the U. S. S. *Dixie* at Naples April 6, Venice April 30, and Livorno May 9; and that port courtesies usual in such cases be suggested.)

*Mr. Draper to Mr. Hay.*

[Telegram.—Paraphrase.]

EMBASSY OF THE UNITED STATES,  
*Rome, March 18, 1900.*

(Mr. Draper acknowledges receipt of telegraphic instructions of the 16th instant, and reports that arrangements will be made as directed.)

*Mr. Draper to Mr. Hay.*

No. 582.]

EMBASSY OF THE UNITED STATES,  
*Rome, Italy, March 23, 1900.*

SIR: I beg leave to confirm on the overleaf your telegram<sup>1</sup> of the 17th instant, directing me to inform the proper authorities of the expected arrival at Naples, Livorno, and Venice of the training ship *Dixie*, and to suggest that the usual port courtesies should be extended to her. I also confirm on overleaf my telegram<sup>1</sup> to you acknowledging the receipt of the same. I carried out your instructions by a note to the minister for foreign affairs dated March 17, to which I have to-day received a reply, a copy of which I inclose herewith.

I have, etc.,

WILLIAM F. DRAPER.

[Inclosure—Translation.]

*Mr. Malvano to Mr. Draper.*ROME, *March 22, 1900.*

MR. AMBASSADOR: In reply to the note of the 17th instant, with which your excellency informed of the arrival, shortly, in our ports of the training ship *Dixie*, I have the honor to say that I referred the matter to my colleague of the navy, begging him to give the necessary instructions to the proper maritime authorities, that the usual facilities may be granted to said ship.

Pray accept, etc., for the minister.

MALVANO.

*Mr. Draper to Mr. Hay.*

No. 587.]

EMBASSY OF THE UNITED STATES,  
*Rome, Italy, April 2, 1900.*

SIR: Referring to your telegram of March 17 last, and to my No. 582, of March 23, both relating to the expected arrival in Italian ports of the training ship *Dixie*, I beg leave to inclose herewith a copy of a further reply to my note of March 17 to the minister for foreign affairs, informing me that orders have now been given to the proper authorities to extend all possible courtesies to the above-mentioned ship *Dixie*.

I am, etc.,

WILLIAM F. DRAPER.

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[Inclosure.—Translation.]

*Mr. Malvano to Mr. Draper.*

ROME, *March 31, 1900.*

MR. AMBASSADOR: In pursuance of my note of the 22d instant, I beg leave to inform your excellency that my honorable colleague of the navy has just informed me that he has given proper instructions to the competent maritime authorities of the Kingdom that the greatest possible courtesies be shown to the American school-ship *Dixie*.

Pray accept, etc., for the minister.

MALVANO.

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*Mr. Hay to Mr. Draper.*

No. 461.]

DEPARTMENT OF STATE,  
*Washington, May 16, 1900.*

SIR: I inclose copy of a letter from the Secretary of the Navy requesting that the thanks of his Department may be conveyed to the Italian Government for courtesies shown to the U. S. S. *Dixie* by the authorities of the dockyard at Naples.

You will carry out Mr. Long's wishes.

I am, etc.,

JOHN HAY.

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[Inclosure.]

*Mr. Long to Mr. Hay.*

NAVY DEPARTMENT,  
*Washington, May 11, 1900.*

SIR: The Department is in receipt of a report from the commanding officer of the *Dixie*, wherefrom it appears that the Government dockyard at Naples furnished gratuitously to the *Dixie* 47,000 gallons of water for steaming purposes, and that hose, floats, and other appliances for taking the water on board were also supplied.

The Department would be glad to have its appreciation of this courtesy conveyed by the State Department to the Italian Government.

I have, etc.,

JOHN D. LONG, *Secretary.*

## ASSASSINATION OF KING HUMBERT.

*Baron Fava to Mr. Hay.*

[Translation.]

WASHINGTON, *July 30, 1900.*

MR. SECRETARY OF STATE: With the most intense grief I discharge the sad duty of announcing to your excellency that His Majesty King Humbert died last night, the 29th instant, a victim of an infamous assault.

I have the honor to beg your excellency to be pleased to impart this mournful intelligence to the President of the United States.

His Majesty King Victor Emanuel III is now at Piresus, whence he is about to return to the Kingdom.

Accept, etc.,

FAVA.

*The President to the King of Italy.*

[Telegram.]

EXECUTIVE MANSION,  
*Washington, July 30, 1900.*

In my name, and on behalf of the American people, I offer Your Majesty and the Italian nation sincere condolences in this hour of deep bereavement.

WILLIAM MCKINLEY.

*Mr. Hay to Baron Fava.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, July 30, 1900.*

The tidings of the King's assassination has profoundly shocked public sentiment. The President has telegraphed to His Majesty Vittorio Emanuele offering in his name and on behalf of the American people sincere condolences in this hour of deep bereavement.

Permit me to add the assurances of my personal sympathy.

JOHN HAY.

*Baron Fava to Mr. Hay.*

[Telegram.]

SEABRIGHT, N. J., *July 30, 1900.*

Your telegram received and transmitted to my Government. I am deeply grateful for the part the President, your excellency, and American people take in our great sorrow.

FAVA.



*Mr. Iddings to Mr. Hay.*

[Telegram.—Paraphrase.]

EMBASSY OF THE UNITED STATES,  
*Rome, July 30, 1900.*

(Mr. Iddings reports the assassination of King Humbert, on the night of Sunday, July 29, at 10 o'clock, at Monza, while driving away after distributing prizes at competitive athletic exercises. The King was shot at three times by an Italian and died a few minutes later.

Official announcement of the death of the King and succession of his son, Prince Victor Emanuel, has just been received from the ministry of foreign affairs.)

*Mr. Iddings to Mr. Hay.*

No. 636.]

EMBASSY OF THE UNITED STATES,  
*Rome, Italy, July 31, 1900.*

SIR: I have the honor to confirm my telegram<sup>1</sup> of yesterday, July 30, announcing the assassination of the King of Italy, at Monza, at 10 p. m., July 29. The details are those given out at the foreign office. I inclose a copy of the note from the foreign office officially informing the embassy of the death of the King and the succession of his son, Prince Victor Emanuel. Upon receipt of the news I sent a telegram to the minister for foreign affairs asking him to express in the proper quarters the horror felt in the embassy at the terrible crime, and our profound sympathy for the royal family and the Italian people. A similar telegram was sent to Monza to the Marchesa Villamarina, lady of honor to the Queen, asking her to represent to Her Majesty the Queen the profound and respectful sympathy felt for her in this embassy.

I am, etc.,

LEWIS MORRIS IDDINGS.

[Inclosure—Translation.]

*Mr. Fusinato to Mr. Iddings.*

ROME, *July 30, 1900.*

It is my painful duty to convey to your knowledge that His Majesty, King Humbert I, the victim of an odious criminal act, died at Monza last night, July 29.

By virtue of the constitution of the Kingdom, His Royal Highness Prince Victor Emanuel is called to succeed him.

I avail myself of the occasion, etc.,

G. FUSINATO,  
*Under Secretary of State.*

<sup>1</sup> Printed ante.

*The King of Italy to the President.*

[Telegram.]

MONZA, August 3, 1900.

I heartily thank your excellency and the great American people who, sharing my grief and that of my country, have strengthened the old bonds of friendship existing between the two nations.

VICTOR EMANUEL.

*Baron Fava to Mr. Hay.*

EMBASSY OF HIS MAJESTY THE KING OF ITALY,  
Washington, December 4, 1900.

MR. SECRETARY OF STATE: I did not fail to inform the minister of foreign affairs of Italy, by telegraph, of the sentiments expressed by the President in his message to Congress on account of the death of His Majesty King Humbert. \* \* \*

The Marquis Visconti Venosta, in reply to my communication, instructs me to thank, in the name of the Royal Government, the President and his Government for this new evidence of sympathy given to Italy on the occasion of the serious misfortune which has befallen it, and I have the honor to beg your excellency to become the interpreter of this expression of thanks.

\* \* \* \* \*

I tender you, Mr. Secretary of State, my thanks in advance, and reiterate, etc.,

FAVA.

## JAPAN.

### ALLEGED DISCRIMINATION IN UNITED STATES AGAINST JAPANESE, IN THE MATTER OF QUARANTINE AGAINST BUBONIC PLAGUE.

*Mr. Nabeshima to Mr. Hay.*

No. 18.]

LEGATION OF JAPAN,  
*Washington, May 22, 1900.*

SIR: I have the honor to inform you that I am in receipt of a communication from Count Mutsu, His Imperial Majesty's consul at San Francisco, in which he states that the board of health of that city has notified him that the Surgeon-General of the United States Marine Hospital Service has issued an order prohibiting any Japanese or Chinese from leaving San Francisco without being inoculated as a precaution against the bubonic plague. The consul states further that the board of health is enforcing this order strictly and not permitting Japanese to go even to the other side of the bay, thus interfering with their liberty of movement and thereby subjecting them to inconvenience and humiliation. It would seem from what the consul says that this order is restricted to Japanese and Chinese, and that neither citizens of the United States nor persons of any other nationality are required to observe it. For that reason Count Mutsu has protested to the board of health against its further enforcement so far as Japanese subjects are concerned, and has requested me to bring the matter to your attention. That I have the honor to do because, apart from other considerations, the action of the Surgeon-General of the Marine Hospital Service appears to me to involve a very serious question of principle. His order, as I have had the honor to indicate, is not general in character, but is only applicable to two nationalities. To that extent, therefore, it discriminates against those nationalities and in favor of the people of other nationalities in San Francisco. In so far as it affects the subjects of His Imperial Majesty such action, I respectfully submit, is not in harmony with the guarantees contained in the treaty between Japan and the United States, which assure to the subjects or citizens of either party the same privileges, liberties, and rights in connection with residence and travel in the territories of the other as are enjoyed by native subjects or citizens, or by the subjects or citizens of the most favored nation. Therefore I have the honor to submit the matter for your consideration and beg to express the hope that the discrimination established by the Surgeon-General's order against Japanese subjects may be removed or other appropriate action taken to remedy the inequality of the conditions at present imposed upon them in San Francisco.

Accept, etc.,

K. NABESHIMA.

*Mr. Nabeshima to Mr. Hay.*

No. 19.]

LEGATION OF JAPAN,  
Washington, May 23, 1900.

SIR: Referring to my No. 18 of yesterday's date, regarding the action of the board of health at San Francisco, under direction of the Surgeon-General of the Marine-Hospital Service, I have the honor to state that I am in receipt of additional information on the subject from His Imperial Majesty's consul at that port. It would seem from what Count Mutsu says that he has seen a copy of the telegram from the Surgeon-General to the quarantine authorities, which shows that the order given by the former differs somewhat from the version communicated to Count Mutsu by the board of health. The Surgeon-General's directions were, in effect, to forbid the sale of tickets by common carriers to persons of Asiatic or other races liable to disease, and also to prevent the transportation of persons infected with or likely to convey the plague to other communities. It seems, however, that the Surgeon-General's order is being enforced in the manner described in my No. 18 and that Japanese subjects are being discriminated against as therein stated. Nor does it appear, putting aside consideration of the question of principle involved, that the action of the board of health is rendered less onerous and vexatious by the exercise of reasonable discretion. Japanese subjects who desire to leave San Francisco even for a brief space, as in the case of those whose business places are in the city and their residences elsewhere in the neighborhood, must submit to inoculation if they go to their homes. The regulations of the board are enforced, also, regardless of occupation, condition in life, and other circumstances which, under the existing state of affairs at San Francisco, might reasonably be regarded as good cause for immunity. Thus among the persons who have recently been put to serious inconvenience by the action of the board have been the wife of the head of Mitsui & Co., a Japanese firm of long standing and high reputation, and several employees of the same establishment, none of whom had been exposed to infection or were at all likely to spread it.

These facts, I have the honor to state with all due deference, seem to me to show that the board of health at San Francisco is not only acting outside of its powers so far as Japanese subjects are concerned, but is also exercising its functions in a manner calculated to cause them unnecessary trouble and embarrassment.

I trust that you will agree with me that the case is one which calls for prompt remedy.

Accept, etc.,

K. NABESHIMA.

*Mr. Hill to Mr. Nabeshima.*

No. 37.]

DEPARTMENT OF STATE,  
Washington, May 25, 1900.

SIR: I have the honor to acknowledge the receipt of your notes Nos. 18 and 19, of the 22d and 23d instant, respectively, complaining of the action of the Supervising Surgeon-General of the United States Marine-Hospital Service, in prohibiting Japanese subjects from leaving San Francisco without being inoculated, as a precaution against the bubonic plague.

In reply, I beg to inform you that copies of the notes have been sent to the Secretary of the Treasury for his consideration, and such action as he may be pleased to take in the matter.

Accept, etc.,

DAVID J. HILL,  
*Acting Secretary.*

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*Mr. Nabeshima to Mr. Hay.*

No. 21.]

LEGATION OF JAPAN,  
*Washington, May 30, 1900.*

SIR: Referring to my communications dated the 22d and 23d instant, respectively, with reference to the methods of enforcing quarantine regulations now being employed in the city of San Francisco, I have the honor to state that I am in receipt of telegraphic instructions from His Imperial Majesty's minister for foreign affairs directing me to draw your attention to the subject, with a view to securing such action as will prevent the discrimination against Japanese subjects at present enforced by the national and local health authorities at San Francisco.

My two communications above referred to were based upon telegraphic information from His Imperial Majesty's consul at San Francisco. I have received a detailed report on the subject from him by mail to-day including his correspondence with national and local authorities at San Francisco, copies of which I have the honor to transmit herewith for your information.

This correspondence discloses the fact that the discrimination at present being enforced against Japanese subjects in San Francisco is the result of an order from the Surgeon-General of the Marine-Hospital Service, issued under authority of regulations promulgated by the honorable the Secretary of the Treasury forbidding, among other things, the "sale or donation of transportation by common carriers to Asiatic or other races liable to disease." It appears further that the restriction upon travel enjoined by the order is confined exclusively to subjects of Japan and China, and that all other nationalities are exempt, even although the San Francisco board of health has formally declared that bubonic plague exists in that city. Furthermore, although there seem to be certain discrepancies between the statements of the national and local health authorities on the point, it is clear that the latter have made inoculation with the "Haffkine prophylactic against bubonic plague" compulsory upon all Japanese subjects who desire "to leave the limits of the city and county of San Francisco," and that the officials of the Marine-Hospital Service sanction this, as well as the other measures adopted by the board of health. His Imperial Majesty's consul reports that the regulation requiring inoculation, in particular, has been peremptorily and harshly enforced against all Japanese subjects, even in cases where the exercise of anything approaching intelligent discretion would have shown it to be absolutely unnecessary.

I trust that it is not necessary for me to assure you, Mr. Secretary, that my Government, fully recognizing the right of the United States to protect its people against the spread of disease, does not desire to present even the appearance of interfering with the exercise of that right. Under ordinary circumstances the Imperial Government would

regard it as one of the first duties of Japanese officials in this country to cooperate with the proper authorities to prevent the spread of disease wherewith Japanese subjects might unfortunately be afflicted. The present case, however, presents an entirely different condition of affairs. No Japanese in this country has had the bubonic plague; Japanese are not more liable to it than other races, and where it has appeared in Japan during recent years, from sources of infection to which the United States is also exposed, the Japanese Government has shown its ability to confine the outbreaks within very narrow limits and finally to suppress them altogether. There is no reason, therefore, why Japanese subjects should be singled out as the object of special precautions. If those precautions were made general, as might reasonably be thought would be the case if San Francisco is infected by the plague, nothing more would remain to be said. Inasmuch, however, as such has not been the case, I beg most respectfully to protest, in the name of my Government, against the discrimination now exercised there as regards Japanese subjects, and to ask that measures be taken to terminate it and to protect them in the rights guaranteed to them by treaty and hitherto enjoyed by them without question under the just and equal administration of the laws of this country.

Accept, etc.,

K. NABESHIMA.

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[Inclosure 1.]

*Mr. Williamson to Count Mutsu.*

HEALTH DEPARTMENT OF THE CITY OF SAN FRANCISCO,  
CITY HALL, OFFICE OF THE BOARD OF HEALTH,  
*San Francisco, May 20, 1900.*

SIR: I have the honor to inform you that the Surgeon-General of the United States Marine-Hospital Service has issued an order to the effect that no Chinese or Japanese will be permitted to leave the limits of the city and county of San Francisco, unless presenting a certificate countersigned by an officer of the Marine-Hospital Service showing the bearer to have been inoculated with the Haffkine prophylactic against bubonic plague.

The board of health of San Francisco is actively engaged in cooperation with the United States authorities in carrying out this order, and its representatives are stationed at the various points of exit in accordance therewith. These inspectors are also prepared to make the necessary inoculations, and will grant certificates which will be at once countersigned by the officer of the United States Marine Service who may be on duty at that point.

Your cooperation in this matter is earnestly requested.

JOHN M. WILLIAMSON,  
*President Board of Health.*

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[Inclosure 2.—Telegram.]

*Count Mutsu to Dr. Kingyoun.*

Health board informs me Surgeon-General Marine Hospital issued order prohibiting Japanese from leaving city without inoculation against plague. Kindly inform me if such is the case, and if so, why order was issued.

MUTSU,  
*Consul of Japan.*

[Inclosure 3.]

*Count Mutsu to Dr. Williamson.*420 CALIFORNIA STREET,  
May 21, 1900.

SIR: I have the honor to acknowledge the receipt of your communication of the 20th instant, informing me that the Surgeon-General of the United States Marine-Hospital Service has issued an order prohibiting Japanese and Chinese from leaving the limits of the city and county of San Francisco unless presenting a certificate signed by an officer of the Marine-Hospital Service showing the bearer to have been inoculated with the Haffkine prophylactic against bubonic plague.

Numerous complaints have come to me from my countrymen residing or stopping in this city, including some prominent members of the community and ladies, that they have been subjected to great inconveniences and humiliation by your deputies at the ferry depot and other places in the alleged enforcement of said order, and I fear that the continuance of such action on their part will lead to serious complications.

I have called upon Dr. Gassaway, commanding the United States marine hospital at San Francisco, this morning, in order to learn the full particulars of this matter, and am surprised to find that the said officer has no knowledge of the issuance of order in question by his superior authorities in Washington. At his suggestion, I have endeavored to secure an interview with the United States quarantine officer, Dr. Kinyoun, this afternoon, but so far have not succeeded in finding him at his station or elsewhere; and in the meantime my primary object in addressing you at the present moment is to request that you kindly furnish me, at your earliest convenience, with all the facts that have led to the present measure.

My further object is to urgently protest against the treatment to which my countrymen have been singled out and subjected, the same appearing to me as an unjust discrimination not warranted by present conditions in the city of San Francisco. Your cooperation in ameliorating the situation is earnestly requested.

MUTSU, *Consul of Japan.*

[Inclosure 4.—Telegram.]

*Dr. Kinyoun to Count Mutsu.*319 DAVIS STREET,  
San Francisco, May 22, 1900.

Telegram received. By order of Supervising Surgeon-General I was directed on the 18th instant to request the transportation companies and common carriers to refuse sale of tickets to Japanese and Chinese desiring to leave San Francisco for other points unless accompanied by certificate signed or countersigned by marine-hospital officers. These orders have been approved by the President.

KINYOUN.

[Inclosure 5.]

*Extract from minutes of San Francisco board of health, held on the evening of May 18, 1900.*

“Dr. Baum introduced the following resolution:

“‘Resolved, That it is the sense of this board that bubonic plague exists in the city and county of San Francisco, and that all necessary steps already taken for the prevention of its spread be continued, together with such additional measures as may be required.’

“Seconded by Dr. Bazet and unanimously adopted.”

Respectfully transmitted to Count Mutsu, Imperial consul-general, San Francisco, Cal.

J. J. KINYOUN, *Surgeon, M. H. S.*

[Inclosure 6.—Telegram.]

*Dr. Wyman to Dr. Kinyoun.*WASHINGTON, D. C., *May 21, 1900.*

By direction of President, Secretary of Treasury has promulgated the following regulations under act of Congress, March 27, 1890: "First, during the existence of plague at any point in the United States the Surgeon-General Marine-Hospital Service is authorized to forbid the sale or donation of transportation by common carriers to Asiatic or other races liable to disease. Second, no carrier shall accept for transportation any person suffering with plague or any article infected therewith, nor shall common carriers accept for transportation any class of persons who may be designated by the Surgeon-General of the Marine-Hospital Service as being likely to convey the risk of plague contagion to other communities, and said common carriers shall be subject to inspection." Inform transportation companies and direct them under above regulation to refuse transportation to Asiatics except on your certificate, and instruct bonded inspectors to inspect trains and prevent Asiatics leaving State without your certificate.

WYMAN,

*Surgeon-General Marine-Hospital Service.*

[Inclosure 7.]

*Count Mutsu to Dr. Williamson.*

MAY 22, 1900.

SIR: I have the honor to inform you that I have received from Dr. Kinyoun a copy of the orders received by him this day from the Surgeon-General Marine-Hospital Service at Washington.

Said copy shows the orders are, first, to forbid the sales or donation of transportation by common carriers to Asiatic or other races liable to disease, and, second, to prohibit common carriers from transporting persons infected with plague or who may be designated by the Surgeon-General as being likely to convey the risk of plague contagion to other communities.

I fail to find any order to the effect that no Japanese are to be permitted to leave San Francisco unless presenting a certificate showing the bearer to have been inoculated with the Haffkine prophylactic against bubonic plague, and hereby beg to request that you kindly inform me why this statement was made in your favor of the 20th instant.

Further, I have the honor to request you to apprise me of the reason why the other races liable to the disease in this city are not being treated similarly as Japanese, in accordance with said orders from Washington.

I have been informed by Dr. Kinyoun that your honorable board has passed a resolution declaring the port infected with bubonic plague, and deem it a favor if you will kindly supply me with a copy of same.

Your early reply to the above queries, together with the information I requested you for in my yesterday's communication, will be highly appreciated.

MUTSU, *Consul of Japan.*

[Inclosure 8.]

*Dr. Williamson to Count Mutsu.*

HEALTH DEPARTMENT OF THE CITY OF SAN FRANCISCO, CITY HALL.  
OFFICE OF THE BOARD OF HEALTH,  
*San Francisco, Cal., May 22, 1900.*

SIR: In reply to your letters of the 21st and 22d I will state the particular order emanating from Washington relative to the forbidding of transportation to Japanese and Chinese unless presenting certificates of inoculation antedates the orders quoted by you in your communication of the latter date. We have not got a copy of the same at hand, but I have communicated with Surgeon Kinyoun, requesting him to furnish us with the same. He has promised to do so, and upon receipt thereof it will be immediately forwarded to you.

With regrets, etc.,

JOHN M. WILLIAMSON,  
*President Board of Health.*



[Inclosure 9.]

*Dr. Wyman to Dr. Kinyoun.*WASHINGTON, D. C., *May 16, 1900.*

In event plague becomes officially proclaimed, see J. C. Stubbs, third vice-president, or J. C. Kruchtnitt, general manager; request refusal of tickets to Chinese and Japanese, without accompanied by certificate signed by marine-hospital officer.

WYMAN.

[Inclosure 10.]

*Count Mutsu to Dr. Kinyoun.*

MAY 24, 1900.

SIR: In my communication of the 23d instant I have informed you that the wording of the orders from Washington, copy of which you have recently transmitted to me, differs from the wording of the alleged orders which the San Francisco board of health has supplied me with.

Since then I have received a communication from said board of health to the effect that the particular order relative to the inoculation antedates the orders you have been good enough to inform me the other day. The board of health promised to forward me a copy of the former on receipt of same from you.

Pending the receipt of said copy I had the pleasure of seeing you at your office this afternoon, when you gave me a copy of said order of the 16th instant having no reference to the necessity of inoculation.

You, however, informed me on that occasion that the certificate necessitated by said order can not be issued by you without either the inoculation or the detention of the person for certain number of days. You added that the information I received from the board of health is therefore in the main correct, though not exact quotation of the order.

Kindly acknowledge this note and let me know if the foregoing is my correct understanding of your information.

MUTSU.

[Inclosure 11.]

*Dr. Kinyoun to Count Mutsu.*

OFFICE OF THE MEDICAL OFFICER IN COMMAND,  
MARINE-HOSPITAL SERVICE,  
*San Francisco, Cal., May 24, 1900.*

SIR: In reply to your letter of this date I have to state that under the law and regulations the transportation companies have been directed by me to refuse to sell or donate transportation to Asiatics desiring to leave San Francisco unless they have fully complied with the United States quarantine laws and regulations.

I have agreed to honor the certificates of inoculation as issued by the city board of health, upon which tickets will be issued; also a certificate will be granted to the person, provided he has been detained for fifteen days under constant medical supervision.

The main facts as set forth in your letter of this date are correct.

J. J. KINYOUN, *Surgeon, M. H. S.*

[Inclosure 12.]

*Count Mutsu to Dr. Kinyoun.*

MAY 23, 1900.

SIR: I have the honor to acknowledge the receipt of your esteemed favor of the 22d instant, inclosing a copy of the orders from Washington, together with a copy of the law of March 27, 1900.

Upon careful perusal of the orders, I find the wording of same to be very different from the wording of alleged orders of the San Francisco board of health, as recently communicated to me.

The latter were to the effect that no Japanese were to leave this city unless presenting a certificate showing the bearer to have been inoculated against bubonic plague. I have addressed a letter to the said board of health under date of yesterday, and expect a satisfactory explanation in regard to the matter.

As I yesterday informed you over the telephone, numerous complaints have reached me from my countrymen in this city, including some prominent men and ladies, that they have been subjected to great hardship and humiliation and in some instances to bodily injuries at the hands of the inspectors in different parts of this city in the alleged enforcement of said order, and I fear that the continuance of such action on their part will augment serious complications.

I consider the present treatment of Japanese extremely harsh, and regard the singling out of my countrymen as a very unjust discrimination, not warranted by law or present conditions in this city.

I am now taking steps with a view of relieving my countrymen in their difficulties, and pending the settlement of the question I hereby beg to request that you will kindly do whatever is within your province toward ameliorating the situation.

MUTSU, *Consul of Japan.*

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[Inclosure 13.]

*Count Mutsu to Mr. Jackson.*

MAY 23, 1900.

SIR: I have been informed by Dr. Kinyoun, of the United States quarantine station, that a resolution has been passed by the San Francisco board of health on the 18th instant to the effect that bubonic plague exists in the city and county of San Francisco, and same has been communicated to you by said surgeon, with the request not to permit any vessel to depart from this port without inspection.

Will you kindly inform me if such has been the case, and if so, whether this port is to be officially regarded and treated as an infected one, and oblige, etc.,

MUTSU, *Consul of Japan.*

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[Inclosure 14.]

*Mr. Jackson to Count Mutsu.*

OFFICE OF COLLECTOR OF CUSTOMS,  
*Port of San Francisco, Cal., May 23, 1900.*

SIR: In your favor of this date, just received, you ask me whether this port is to be officially regarded and treated as an infected one, and whether I have been requested not to permit any vessel to depart from this port without inspection.

In answer I have to say that under an act of Congress passed March 17, 1890, the Surgeon-General of the Marine-Hospital Service is authorized to forbid common carriers from accepting for transportation Asiatics or other races particularly liable to plague, or any article liable to carry the same.

The quarantine officer of this port, Surgeon Kinyoun, deems it his duty to enforce this law at this time, and accordingly coastwise vessels are not permitted to leave this port with the forbidden passengers or freight without said quarantine officer's certificate.

There has been no other or further action which would go to the point of treating this as an infected port. As you will see, the law is one of long standing, and is now being enforced only out of abundant caution.

J. J. JACKSON, *Collector.*

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*Mr. Hay to Mr. Nabeshima.*

No. 38.]

DEPARTMENT OF STATE,  
*Washington, June 1, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 30th ultimo, protesting against the alleged discrimination against

Japanese subjects in San Francisco in the enforcement of the measures adopted to prevent the spread of bubonic plague.

In reply, I beg to inform you that a copy of your note has been sent to the Secretary of the Treasury for his information and consideration.

Accept, etc.,

JOHN HAY.

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*Mr. Nabeshima to Mr. Hay.*

JUNE 6, 1900.

MY DEAR MR. SECRETARY: You will pardon me, I trust, for addressing you informally upon the subject, but I should regard it as a great favor if you would kindly inform me when I may expect a reply to my communications regarding quarantine matters at San Francisco. I would seek a personal interview but for the fact that I do not like to take up your time when it must be so fully occupied during the closing hours of the session of Congress. Meantime, however, the receipt of telegraphic instructions from my Government, of which I informed you, and the continued agitated state of feeling in the Japanese community at San Francisco makes it very desirable that I should receive a reply to my communications dated the 22d, 23d, and 30th ultimo, respectively.

K. NABESHIMA.

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*Mr. Hill to Mr. Nabeshima.*

Personal.]

DEPARTMENT OF STATE,  
Washington, June 6, 1900.

MY DEAR MR. NABESHIMA: In answer to your inquiry of to-day as to when you may expect a reply to your communications regarding quarantine matters at San Francisco affecting Japanese subjects, I inclose herewith for your information a copy of a letter from the Surgeon-General of the Marine-Hospital Service, giving the facts of the case.

I am, etc.,

DAVID J. HILL.

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[Inclosure.]

*Dr. Wyman to Mr. Gage.*

TREASURY DEPARTMENT,  
Washington, June 3, 1900.

SIR: The Bureau has received letters of May 25 and June 1 from the honorable the Secretary of State, addressed to yourself, and inclosing copies of notes from the Japanese chargé d'affaires at this capital, complaining of the action of the Surgeon-General of the Marine-Hospital Service in prohibiting Japanese subjects from leaving San Francisco without being inoculated as a precaution against the bubonic plague, and protesting against the alleged discrimination against Japanese subjects in San Francisco in the enforcement by the national and local health authorities of the measures adopted to prevent the spread of this disease.

I have respectfully to state that no orders have been issued by this Bureau requiring these preventive inoculations. As a temporary measure, the plague having been officially declared by the local board of health existent in Chinatown, San Francisco,

inspections and some restraints of travel were imposed in regard to Asiatics, inasmuch as the plague had been found to exist only among the Chinese in Chinatown, where also dwelt a number of Japanese. This action was taken pending the declaration by the local board of health of an infected area and the establishment of a cordon, and was necessary for the protection of adjoining States because of the anticipated exodus from Chinatown following the declaration of said local board. It was an emergency measure and not intended to discriminate against those who were not resident in Chinatown, and I have been informed by Surgeon Kinyoun that in its enforcement exemptions were made in favor of those who had not been within the infected area. Later the local board of health, under authority of the board of supervisors, declared the presence of plague in Chinatown and placed a cordon around that section, and the orders above referred to were rescinded.

There has never been an intent on the part of this Bureau to discriminate against Japanese residents on account of their nationality, and I am of the opinion that the carrying out of certain measures by the local board of health has been erroneously attributed to this Bureau or its representative at San Francisco. That there might be no room for misunderstanding, I wired Surgeon Kinyoun at San Francisco that the Bureau would not enforce, or assist in enforcing, regulations which make race discriminations, and have received a reply, under date of June 2, to the effect that no racial discrimination is being made, so far as known to him, and that any assertion that Japanese are still being inoculated or prevented from leaving noninfected area is incorrect.

WALTER WYMAN,  
Surgeon-General M. H. S.

*Mr. Nabeshima to Mr. Hay.*

No. 22.]

LEGATION OF JAPAN,  
Washington, June 7, 1900.

SIR: Referring to the question of the discrimination against Japanese subjects in the adoption of quarantine measures in California, concerning which I had the honor to address you in my Nos. 18, 19, and 21, I beg to state that I am in receipt of information from His Imperial Majesty's consul at San Francisco which discloses the fact that similar but even less justifiable discrimination is being practiced in the State of Colorado. The inclosed copy of a letter from Mr. T. H. Goodman, general passenger agent of the Southern Pacific Railway, to Count Mutsu explains the nature of the discrimination. I should state in explanation of the first paragraph of Mr. Goodman's letter, that Count Mutsu had been told that the health authorities of Texas and Louisiana, as well as those of Colorado, had established quarantine against Japanese and Chinese only. But it seems from Mr. Goodman's statement that the quarantine in the two former States is general against all persons coming from San Francisco. The health board of Colorado, however, has, according to Mr. Goodman's information—

quarantined against Chinese and Japanese from everywhere, the only condition upon which they would be allowed to proceed through the State being that they should present health certificates showing that they had not been exposed to the bubonic plague within six months preceding the date of the certificate.

If Mr. Goodman's information is correct, I have no hesitation in pronouncing the action of the health authorities of Colorado as most extraordinary and unusual, and the enforcement or attempted enforcement of the rule they are said to have adopted as most unjustifiable discrimination against Japanese subjects. I have the honor, therefore, to ask your good offices for the purpose of ascertaining whether it is the fact that such a regulation has been adopted by the Colorado board of health. If it is, I trust that prompt action may be taken to abrogate or amend a measure that is in such palpable violation of conventional and personal rights. I beg to express the further hope that I

may be favored with an early reply to my communications above alluded to with reference to the action of the health authorities at San Francisco, and with a statement of the views of the Government of the United States regarding the question of principle involved in that case as well as in the one under consideration.

Accept, etc.,

K. NABESHIMA.

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[Inclosure.]

*Mr. Goodman to Count Mutsu.*

SAN FRANCISCO, June 1, 1900.

DEAR SIR: Responding to your favor of even date, I desire to say that your information is somewhat at fault. The facts are these:

On Sunday, the 20th ultimo, we received a dispatch from Texas stating that the health authorities of that State would not permit any person, regardless of nationality, to enter or pass through the State of Texas, provided he came from San Francisco.

We have just received similar notice from the State of Louisiana.

We, a few days since, received notice that the health board of the State of Colorado had quarantined against Chinese and Japanese from everywhere, the only condition upon which they would be allowed to proceed through the State being that they should present health certificates showing that they had not been exposed to the bubonic plague within six months preceding the date of the certificate.

Trusting that this will give you the desired information, etc.,

T. H. GOODMAN,

*General Passenger Agent Southern Pacific Railroad.*

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*Mr. Hay to Mr. Nabeshima.*

No. 39.]

DEPARTMENT OF STATE,

Washington, June 11, 1900.

SIR: I have the honor to acknowledge the receipt of your note, No. 22 of the 7th instant, calling attention to alleged discrimination against Japanese subjects in Colorado through the enforcement of quarantine regulations as a safeguard against bubonic plague.

In reply I beg to inform you that a telegram was sent by the Department to the governor of Colorado, calling his attention to your complaint and requesting a report of the facts of the case.

A telegram has been received from him in reply, a copy of which I have the honor to inclose herewith.

Accept, etc.,

JOHN HAY.

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[Inclosure.—Telegram.]

*Mr. Thomas to Mr. Hay.*

DENVER, COLO., June 8, 1900.

Colorado State board of health, on May 28, issued an order that until further notice no Chinamen or Japanese would be allowed to enter the State of Colorado without a certificate signed by the health officer of the city from which he has come to the effect that he has not been exposed to the bubonic plague during the six weeks immediately preceding his departure. Action was taken on official information from California that Chinese quarter was infected and that general exodus was probable. The quarantine will be raised July 1 if no new occasion arises for its continuance. Order required under State statutes.

CHARLES S. THOMAS,

*Governor.*

*Mr. Nabeshima to Mr. Hay.*

No. 23.]

LEGATION OF JAPAN,  
Washington, June 12, 1900.

SIR: I have the honor to acknowledge the receipt of your communication dated the 11th instant, in reply to my No. 22 of date the 7th instant, and of the copy of a telegram from the governor of Colorado dated the 8th instant transmitted therewith. The latter document discloses the fact that the information upon which my communication was based was correct, and that the State board of health of Colorado has issued a discriminatory order against Japanese travelers, which is in manifest violation of their personal rights and of the treaty obligations of the United States. I sincerely regret that your communication expresses no opinion upon this point, and is silent also as regards the request made in my No. 22 for a reply to my three communications regarding the cognate question of quarantine discrimination against Japanese subjects at San Francisco.

In view of the gravity of the circumstances which the admitted facts in both cases disclose, I beg most respectfully to state that I am at a loss to understand why I have not had the honor to receive some expression of the views of the Government of the United States on the subject; and therefore can not see that I have any other recourse than to report the matter to my Government and await its further instructions.

Accept, etc.,

K. NABESHIMA.

*Mr. Hay to Mr. Nabeshima.*

No. 40.]

DEPARTMENT OF STATE,  
Washington, June 15, 1900.

SIR: I have the honor to acknowledge the receipt of your note of the 12th instant, and to say in reply that the complaints made by you of the quarantine regulations of Colorado and San Francisco are receiving the careful consideration of the Department, the result of which will be communicated to you as soon as a conclusion is reached.

Accept, etc.,

JOHN HAY.

*Mr. Hay to Mr. Nabeshima.*

No. 41.]

DEPARTMENT OF STATE,  
Washington, June 18, 1900.

SIR: Referring to your notes of the 22d, 23d, and 30th ultimo and of the 7th and 12th instant, I have the honor to say that I have transmitted to the Secretary of the Treasury copies of said notes, with the request for a prompt and full report of the specific ground on which the quarantine order complained of was adopted, why its operation was limited to subjects of Japan and China, and whether any injurious discrimination was intended against them.

I have also transmitted to the governor of Colorado copies of your notes of the 7th and 12th instant, with a similar request. As soon as the said reports are received I will promptly communicate the result to you.

Accept, etc.,

JOHN HAY.

*Mr. Hay to Mr. Nabeshima.*

No. 43.]

DEPARTMENT OF STATE,  
*Washington, June 25, 1900.*

SIR: Referring to your notes Nos. 22 and 23 of the 7th and 12th instant, respectively, and to the Department's notes Nos. 39 and 41 of the 11th and 18th instant, respectively, in reply, on the subject of the alleged discrimination against Japanese subjects in the enforcement of quarantine measures at San Francisco and in Colorado as a precaution against bubonic plague, I have the honor to inform you that the Department is in receipt of a letter from the Secretary of the Treasury, dated the 21st instant, inclosing a report on the subject by the Surgeon-General of the Marine-Hospital Service. The report is dated the 21st instant.

In his report the Surgeon-General, after referring to the information contained in his letter of June 3, a copy of which was sent to you with the Department's note of the 6th instant, says that upon the issuing of an injunction by the United States court in San Francisco, May 28, any measure that might be construed as a discrimination against any race was forbidden by his bureau in terms; that later, upon an order of the same court, all quarantine restrictions were removed by the local authorities of San Francisco within that State, and that subsequently, upon the advice of the United States district attorney, the bureau directed Surgeon Kinyoun to remove all quarantine restrictions of any character whatsoever which were in force against the State of California.

The Surgeon-General adds that there remains, therefore, so far as the Marine-Hospital Service is concerned, no quarantine restriction imposed upon travel within the State of California or from California to any other State.

With reference to the statements in your note of the 7th instant to the effect that the action of the health authorities of Colorado is most extraordinary and unusual, and that the rule adopted by them is an unjustifiable discrimination against Japanese subjects, the Surgeon-General says that the health regulations of Colorado, as well as those of Texas and Louisiana, have been adopted by those States in their independent capacity, and that his bureau has no connection therewith.

Accept, etc.,

JOHN HAY.

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*Mr. Nabeshima to Mr. Hay.*

No. 25.]

LEGATION OF JAPAN,  
*Washington, June 26, 1900.*

SIR: I have the honor to acknowledge the receipt of your communication, dated the 25th instant, in reply to my Nos. 22 and 23, dated the 7th and 12th instant, respectively, and having reference to the discrimination against Japanese subjects in the enforcement of quarantine measures at San Francisco and in Colorado.

The letter of the Surgeon-General of the Marine-Hospital Service, dated the 3d instant, to which allusion is made in the communication under reply, disclosed the gratifying fact that in issuing the orders promulgated by him regarding the quarantine measures to be adopted at San Francisco he had no intention of discriminating against Japanese

subjects. Nevertheless, whatever may have been the Surgeon-General's intention, the directions he originally gave to Surgeon Kinyoun logically entailed such discrimination, as is plainly shown by the action he found it necessary to take after the United States court at San Francisco issued its injunction of May 28. I have no desire to dwell upon this phase of the subject, however, further than to express my deep regret that in a case involving such grave personal injustice to Japanese subjects, and so manifest a violation of their treaty rights, no measure of relief was afforded them until the court intervened and affirmed the illegality of the quarantine measures adopted by the national and local health authorities at San Francisco.

To the statement of the Surgeon-General, which you do me the favor to quote, regarding the quarantine measures adopted in Colorado, Louisiana, and Texas, I beg to reply that I was already aware of the fact that his board had no connection with the action taken by the health authorities of those States. The matter to which I sought to draw attention in my note of the 7th instant was the order issued by the State board of health of Colorado permitting Japanese subjects to travel in Colorado only upon a condition not made applicable to citizens of the United States, or, with the exception of Chinese subjects, to other persons of foreign nationality. The quarantine restrictions reported to have been established by the health authorities of Louisiana and Texas were general in character, and therefore presented an entirely different condition of affairs. But inasmuch as the treaty between Japan and the United States expressly provides that Japanese subjects in the United States and citizens of the United States in Japan shall enjoy the same privileges, liberties, and rights of travel as native citizens and subjects, respectively, or as the subjects or citizens of the most favored nation, I desired by my note of the 7th instant, if the action of the board of health of Colorado was as reported, to obtain the prompt remedy which action so manifestly ultra vires and so gravely violative of rights guaranteed to Japanese subjects by solemn treaty pledge seemed to imperatively demand. Your communication dated the 11th instant, covering a copy of a telegram from the governor of Colorado, showed that the information which prompted my note of the 7th instant was correct. It thus appearing that the facts in this case (as well as those of the quarantine at San Francisco) have been fully ascertained, I must confess to disappointment at not discovering in the note under reply any intimation of redress or any assurance against the recurrence of what amount to serious violations of a principle the observance of which I had ventured to hope would be regarded as a matter of equal concern to both our governments.

Accept, etc.,

K. NABESHIMA.

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*Mr. Hill to Mr. Nabeshima.*

No. 44.]

DEPARTMENT OF STATE,  
Washington, June 29, 1900.

SIR: I have the honor to acknowledge the receipt of your note No. 25, of the 26th instant, in reply to Mr. Hay's of the 25th instant, on the subject of alleged discrimination against Japanese subjects in the enforcement of quarantine measures at San Francisco and in Colorado as a precaution against bubonic plague.

You say that you desired, by your note of the 7th instant, "if the



action of the board of health of Colorado was as reported, to obtain the prompt remedy which action so manifestly ultra vires and so gravely violative of rights guaranteed to Japanese subjects by solemn treaty pledge seemed to imperatively demand," and that it appearing to you that the facts in the case of the quarantine in Colorado, as well as those in the case of the quarantine at San Francisco, have been fully ascertained, you must confess to disappointment at not discovering in my note of the 25th instant any intimation of redress, or any assurance against the recurrence of what amount to serious violations of a principle the observance of which, you had ventured to hope, would be regarded as a matter of equal concern to both our Governments.

It was hoped that the letter of the Surgeon-General of the Marine-Hospital Service would sufficiently explain the motives which inspired the orders promulgated by him regarding the quarantine measures to be adopted at San Francisco, and that the inconvenience occasioned by those orders would not be considered as directed against Japanese subjects.

The Government of the United States desires to observe and protect all the treaty rights of the Japanese subjects resident in the United States, and contemplates with regret the inconvenience which may have been caused to some of them by general orders intended to prevent the spread of a dangerous form of disease.

Regarding the measures adopted in Colorado, I have the honor to transmit the following, contained in a letter from the governor of Colorado, dated June 23, 1900:

I have the honor to acknowledge the receipt of your communication of the 18th instant, inclosing copies of correspondence with your Department, by the honorable the Japanese minister, relative to the recent action of the board of health of the State of Colorado, complaining of its unjustifiable discrimination against the subjects of His Japanese Majesty.

I have transmitted your letter with accompanying documents to the secretary of the board, and have instructed him to report the proceedings of the board concerning this matter to me in full. He is now engaged in the preparation thereof, and notifies me that it will be ready for delivery early in the ensuing week. As soon as I receive it I will forward it to you, together with such additional information as I may be able to secure upon the subject.

In view of the fact that the suppression of the plague is a matter of common interest to all nations, and considering the oriental origin of this disease, which implies that its diffusion is chiefly through the movements of persons connected with the Orient, the representatives of the Japanese Government will certainly not be disposed to interpret precautions which have primarily a geographic bearing as possessing a national significance. The avowal of the medical officers of this Government that they have not intended to discriminate against subjects of the Japanese Empire should, therefore, be received as a pledge of the good faith and friendliness of this Government in observing its treaty obligations.

If you would kindly represent to your Government the motives of the United States authorities as purely hygienic, pointing out that the inconvenience to your countrymen resulting from quarantine regulations in the consequence not of their nationality, but on their geographic origin, such representations might aid in the preservation of that good understanding which the Government of the United States desires always to maintain.

Accept, etc.,

DAVID J. HILL,  
*Acting Secretary*

*Mr. Hay to Mr. Nabeshima.*

No. 45.]

DEPARTMENT OF STATE,  
*Washington, July 6, 1900.*

SIR: Referring to previous correspondence, especially to the Department's note No. 44, of the 29th ultimo, in relation to the alleged discrimination against Japanese subjects by the health authorities of Colorado, in the enforcement of quarantine measures as a precaution against bubonic plague, I have the honor to inform you that the governor of Colorado has sent to this Department, with his letter of the 28th ultimo, the report on the subject by Dr. G. E. Tyler, the secretary of the Colorado State board of health, promised in his letter of the 23d ultimo.

After quoting the information received from the health authorities in San Francisco, both Federal and local, which convinced the State board of health of Colorado of the existence of bubonic plague in San Francisco, and that sufficient precautions were not being taken there to prevent the spread of the disease, Dr. Tyler states that the board decided that its only course was to prevent the entrance of those persons who were likely to have been exposed to the disease, and who were most likely to present walking cases of the disease, and thereby cause its introduction into Colorado, and that, therefore, as the danger was not yet (June 26) passed, quarantine must be maintained.

With respect to the alleged discrimination against Japanese, Dr. Tyler says:

Though the quarantine apparently makes racial distinction, and discriminates against Chinese and Japanese, this discrimination is only apparent, the actual discrimination being not because of race solely, but because these two races are the only ones known to have been exposed to this disease. The outbreak of plague in San Francisco has been, so far as can be ascertained, confined to the Chinese quarter. This Chinese quarter is, as is well known, made up of both Chinese and Japanese. The reason for proclaiming quarantine against these two races is because of the fact that they are certainly more exposed to the disease and hence more likely to be a source of danger.

It would be an impossibility to protect Colorado by quarantine against Chinese and Japanese from San Francisco only, for the reason that an exposed Chinaman or Japanese might buy a ticket to St. Louis, Mo., or Kansas City, or some other place, and there rebuy a ticket to some Colorado point. It therefore became necessary to require all Chinese and Japanese to furnish health certificates. Any course short of this would have been absolutely insufficient.

In his letter transmitting Dr. Tyler's report the governor of Colorado says:

I think you will concede the general proposition that each State has in the exercise of a general police power the authority to protect its interests from the invasion of contagious diseases. I know of no provision of the Federal Constitution or act of Congress pursuant thereto which shows, even indirectly, authority to deprive the States of this power, which may and does sometimes become absolutely essential to their general welfare.

It is true that the quarantine is declared against Chinese and Japanese, but this is due to no deliberate purpose of confining the order to racial distinctions. The fact is that the Chinese and Japanese residents of the country have been more exposed to the ravages of the plague than any other people, and so far all who have died or have been reported as infected with the plague have been of these nationalities. We have no desire to do anything which is contrary to our powers or that will involve any international complications, but as matters stand we must insist upon our right to establish quarantine regulations to protect the people of Colorado against the invasion of the plague, and that the quarantine heretofore declared and now in operation shall remain in force until set aside by a higher authority or until the cause of its establishment shall have disappeared.

Accept, etc.,

JOHN HAY.

*Mr. Nabeshima to Mr. Hay.*

No. 29.]

LEGATION OF JAPAN,  
*Washington, July 12, 1900.*

SIR: I have the honor to acknowledge receipt of the communications from yourself and the honorable Acting Secretary, of date the 6th instant and the 29th ultimo, respectively, regarding the quarantine regulations enforced in California and Colorado.

The Imperial Government will undoubtedly be gratified by the assurance contained in the latter note that "the Government of the United States desires to observe and protect all the treaty rights of the Japanese subjects resident in the United States." But while reposing in that assurance the profound confidence which is its due, my Government, I am certain, will think it desirable to have a clearer and more perfect understanding regarding the subject-matter of this correspondence than has yet been reached.

This feeling will in all probability be strengthened by the quotation in your note of the 7th instant from the answers of the governor of Colorado and the secretary of the State board of health to the representations I have had the honor to make concerning the treatment of Japanese subjects enjoined by authority of that body in the quarantine regulations it recently promulgated. Although the Imperial Government will naturally be pleased to note that Governor Thomas and Dr. Tyler disclaim any intention of establishing racial discrimination by means of the regulations in question, I fear that the facts which those gentlemen cite in explanation of the action of the board will not be regarded as adding force to their declaration of impartiality.

They claim, in brief, that because it was supposed that cases of bubonic plague have occurred in the Chinese quarter of San Francisco, which, in Dr. Tyler's words, "is made up of both Chinese and Japanese," because, as he further alleges, "these two races are the only ones known to have been exposed to this disease," and because (quoting Governor Thomas) "the Chinese and Japanese residents of the country have been more exposed to the ravages of the plague than any other people, and so far all who have died or have been reported as infected have been of those nationalities," therefore it was necessary to impose restrictions upon all Japanese travelers, no matter whence they came or whither they were going.

Without considering for the moment whether this was an exercise of competent authority, the necessity and reasonableness of such a sweeping interdiction may be seriously doubted if these are the only reasons which can be adduced in its support. Its efficiency as a protective measure appears equally open to question when the foregoing statements are carefully examined.

The supposed occurrence of cases of bubonic plague in the Chinese quarter of San Francisco is given by Governor Thomas and Dr. Tyler as primarily the reason for the adoption of the Colorado quarantine regulations. That quarter is not occupied exclusively by Japanese and Chinese, however, as might be inferred from what Dr. Tyler says. A comparatively small number of the Japanese residents of San Francisco live there, it is true, but so, also, do some Americans, as well as persons of other nationalities. If, therefore, that particular locality could properly be regarded as the breeding place of the disease, and if residence there was a reasonable cause for suspicion, it is difficult to

understand why the Colorado board of health did not subject all persons coming thence to the restrictions it imposed upon two nationalities exclusively. Speaking for my countrymen only, and confining my remarks to recent events in San Francisco, I am confident that it can be asserted without fear of refutation that there is not the slightest proof that Japanese subjects resident in that city have been exposed, either as a community or as individuals, to infection from the plague to any greater extent than any other class of residents.

Governor Thomas is also mistaken when he intimates that any Japanese subject died or was reported as infected during the recent excitement concerning the plague in San Francisco. The only case of the kind that ever occurred there, to my knowledge, was that of the two stowaways on the steamer *Nippon Maru*, who were drowned in an attempt to escape from that vessel when she was quarantined in June, 1899. After a confessedly superficial examination the local health authorities stated that they had discovered "bacilli resembling the bacilli of bubonic plague," but this statement was not treated seriously by the expert of the Marine-Hospital Service stationed at San Francisco, and he did not hesitate to publicly declare disbelief in the assumption that the deceased had been afflicted with bubonic plague.

This review of the facts seems to me to demonstrate that nothing which has occurred in San Francisco justifies the action of the Colorado board of health or adequately explains the discrimination it imposed upon Japanese subjects. Moreover, as already stated, the discrimination extended not only to Japanese travelers from San Francisco, but also to those from all other points. Without intending any disrespect to Dr. Tyler, I beg to say that his explanation of the danger to be apprehended from persons afflicted by the plague traveling to Colorado by circuitous routes lacks reasonable probability, and only serves to accentuate the apparent intention of the board of health to exclude all Japanese subjects from Colorado except upon conditions not made applicable to Americans or Europeans. This, I respectfully submit, is most distinctly racial discrimination.

The question whether it was competent for the State of Colorado to discriminate in any manner against Japanese subjects, no matter upon what pretext, is one upon which I have no desire to enlarge further than to again call attention to the treaty stipulation which guarantees to Japanese subjects in the United States the same liberty of travel as is enjoyed by its citizens. Acts, however originating, which abridge or abrogate that right are, it seems to me, violations of the stipulation guaranteeing it, and to that extent unlawful so long as the treaty remains in force.

Governor Thomas remarks, in the communication from which you do me the favor to quote, that the authorities of Colorado have no desire to do anything which is contrary to their powers, but that they must insist upon their right to establish quarantine regulations to protect the people of Colorado against the invasion of the plague. Permit me to say in reply that the Imperial Government has no wish, and certainly claims no right, to express an opinion regarding quarantine measures adopted by the State of Colorado for the protection of its citizens when such measures do not interfere with the exercise of rights guaranteed to Japanese subjects by the Government of the United States. It is not out of place, however, in this connection to ask the attention of Governor Thomas to the decision rendered by the circuit court of the

United States in California with reference to the quarantine regulations recently enforced at San Francisco, for that decision proceeds upon even broader grounds than that upon which my representations rest.

The Imperial Government, I hardly need add, has no intention of demanding any privilege for Japanese subjects which will endanger the safety of the citizens of Colorado, and asks for them no other or more favorable treatment than is accorded to citizens of the United States and to aliens generally. But the Imperial Government will unquestionably consider that through the action taken by the Colorado board of health a right guaranteed to Japanese subjects has been rendered temporarily inoperative for unsatisfactory reasons and upon insufficient authority. And although the present cause of complaint may have been removed, it will, I am convinced, regard it as occasion for sincere regret if the present correspondence is terminated without arriving at a distinct understanding on this and all the other points involved. I may add that, bearing in mind the scrupulous regard for treaty obligations which has always characterized the intercourse of our countries, as well as the specific assurance to which I had the honor to allude in beginning this note, the Imperial Government will hopefully anticipate that all possible steps will be taken to prevent the recurrence of action like that of the Colorado authorities.

Referring to the concluding paragraph of Mr. Hill's note of the 29th ultimo, I beg to say that I shall take pleasure in informing my Government of the friendly sentiments it expresses. At the same time it is only proper that I should state that, in my opinion, the Imperial Government, while cordially reciprocating those sentiments, will not find it possible to agree to the proposition that the geographic origin of the Japanese people affords adequate reason for the treatment to which our countrymen have been subjected in California and Colorado. The bubonic plague did not appear in Japan until about two years ago, and has never been seriously epidemic. The successful efforts which have been made to hold it in check, as well as the hygienic precautions taken, give ample promise that it will never become endemic. In this age of rapid communication Japan is in no greater danger from the original source of infection than the world in general, and there is certainly nothing to show that her people are more susceptible to the ravages of the disease than the peoples of other countries. The plague makes no distinctions in nationalities, as its history proves and as has been shown by the experience of every country where unhappily it has found lodgment. In Sydney, for example, where there have been 200 cases since January of this year, there have been only three victims among the relatively large number of residents of Asiatic origin.

Accept, etc.,

K. NABESHIMA.

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*Mr. Hay to Mr. Nabeshima.*

No. 48.]

DEPARTMENT OF STATE,  
*Washington, July 16, 1900.*

SIR: I have the honor to acknowledge the receipt of your note, No. 29, of the 12th instant, replying to the report of the secretary of the Colorado State board of health, and the comments of the governor of

that State thereon, touching the alleged discrimination against Japanese subjects in the enforcement of quarantine against bubonic plague.

In reply I beg to inform you that your note has been communicated to the governor of Colorado for his appropriate consideration.

Accept, etc.,

JOHN HAY.

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*Memorandum.*

JAPANESE LEGATION, *October 4, 1900.*

It is understood from the conversation with Dr. Hill on October 1 that the Government of the United States do not find it convenient to take any punitive measure against the medical officials at San Francisco, inasmuch as they acted on the directions of the superior authorities; nor can they guarantee against the recurrence of the like event, owing to the peculiar relations between the Federal and State governments, which are based on their respective constitutions.

It is, however, desirable to know, for the information of the Japanese Government, whether the United States Government are prepared to assure officially that because they had no intention in the enforcement of the quarantine to discriminate against Japanese subjects, and, moreover, because the action of the medical officials at San Francisco was found illegal by the judgment of the district court, which judgment was accepted by the authorities concerned, these facts may be looked upon as a sufficient proof that the United States Government have now concurred with the Japanese Government in the views as represented through the legation in the question of the treaty rights of Japanese subjects in this country.

As regards the quarantine in Colorado, it is also necessary to know whether the United States Government desire that the Japanese Government will be satisfied with the fact that by inviting "appropriate consideration" of the governor of that State to the representations of the Japanese legation, as stated in the note of the State Department of the 16th July last, the Federal Government had meant to suggest him to restrain from the action unfit to a reasonable solution of the question and that the governor has not since then raised any objection in the matter until the quarantine was at last raised.

It seems, furthermore, not to be unreasonable on the part of the Japanese Government to expect that if the United States Government can not, for the constitutional reasons, guarantee absolutely against the recurrence of such event as referred to, they may assure to omit no effort as far as lies in their power to prevent its repetition.

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*Memorandum in response to the memorandum of the Japanese minister, dated October 4, 1900, in regard to Federal and State measures of quarantine in as far as they say affect Japanese subjects.*

1. As to the complaints growing out of the enforcement of certain quarantine measures against Japanese at San Francisco.

The United States Government can with pleasure assure the Japanese Government that there was no intention, in the enforcement of those measures, to discriminate against Japanese subjects.

The treaty rights of Japanese subjects in the United States, as defined in Article I of the treaty of 1894, are subject to the proviso of Article II—

That the stipulations contained in \* \* \* the preceding article do not in any way affect the laws, ordinances, and regulations with regard to trade, the immigration of laborers, police, and public security, which are in force or which may hereafter be enacted in either of the two countries.

In the California case the decision of the Federal court did not touch upon the question of violation of treaty rights, but was based upon the ground that the regulations discriminated against the Asiatic races exclusively, among other things denying them the privilege of traveling from one place to another, except upon conditions not enforced against any other class of people. This was held by the court to be unconstitutional. The action of the Federal and State authorities there since has been shaped accordingly.

As the decision of the court is consistent, but on a different line, with the Japanese contention that the treaty rights of Japanese in California have been violated, and as this Government is bound by the decision (unless the Supreme Court, in last resort, should in some future case determine differently), its course, both as regards its own acts and the representations it may appropriately make to the State governments in any given case, would necessarily coincide with the view of the Japanese Government as to the treaty rights of Japanese subjects in this country in the matter which gave rise to the recent discussion.

2. As to the Colorado case, in inviting the governor of that State to give appropriate consideration to the representations of the Japanese legation, as stated in the note of the State Department of July 16 last, it was the intention of this Department to suggest to the governor to refrain from any further action inappropriate to a reasonable solution of the question. No case has arisen since that time requiring the governor's action.

While the Government of the United States can not, for the constitutional reasons heretofore explained, give guarantee against the recurrence of cases like that in Colorado, it will continue, as in the past, to use all efforts in its power to prevent their occurrence and bring about their reasonable solution in Colorado or elsewhere.

DEPARTMENT OF STATE,

*Washington, October 13, 1900.*

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**LANDING, BY COURTESY, OF UNITED STATES TROOPS IN JAPAN.**

*Mr. Buck to Mr. Hay.*

UNITED STATES LEGATION,  
*Tokyo, January 16, 1900.*

SIR: As a matter of some interest, I have the honor to report that the steamship transport *Grant*, with the Forty-eighth Regiment United States Infantry (colored), under command of Col. William P. Duvall, arrived in Yokohama on the 11th instant, remaining some days to coal, and departing yesterday for Manila.

By the courtesy of the Japanese Government Colonel Duvall was permitted, on Saturday, the 13th instant, to take his regiment ashore

with arms and hold a dress parade and drill on one of the public squares of the city, much to the gratification of American citizens there and to the pleasure of the people of Yokohama of all nationalities. I had the pleasure of witnessing the parade and drill. Considering the fact, as stated by Colonel Duvall, that his men had not had their rifles in hand since leaving San Francisco, twenty-two days before, and of course had done no regimental marching or drilling, the execution of the march and manual of arms was astonishingly good. The regiment was in good health and spirits, and the soldierly bearing and general appearance of the men were all that could be desired.

This, as I am informed, is the first armed body of soldiers of any nationality ever permitted to land and parade at any port in Japan. Such a marked courtesy extended to our troops is very gratifying, and it was hardly to be expected.

I have, etc.,

A. E. BUCK.

**PASSPORT APPLICATION OF A. M. TRACEY WOODWARD, BORN ABROAD OF AMERICAN PARENTS, AND STILL RESIDING WITHOUT THE UNITED STATES.**

*Mr. Buck to Mr. Hay.*

No. 404.]

UNITED STATES LEGATION,  
*Tokyo, February 21, 1900.*

SIR: I have the honor to state that on December 26 last I received from the United States consul at Kobe an application in duplicate for a citizen's passport for Mr. A. M. Tracey Woodward, of date the 22d of that month.

The application showed that Mr. Woodward was born in South Africa, of American parents, and is now 24 years of age; that he had never been in the United States and had no domicile there; his occupation was not mentioned, and his intention to return to the United States was stated to be "within my (his) lifetime." The seal of the consulate had not been affixed to the application, presumably by oversight.

The application was accompanied by an expired passport issued by the United States minister at Pekin, apparently soon after Mr. Woodward had reached his majority.

On returning the application to Mr. Lyon I pointed out the above-mentioned deficiencies in the evidence, and expressed the hope that Mr. Woodward might be able to renew his application in harmony with the requirements of the Department of State, as set forth in the application forms, which I had no authority to change.

On the 10th ultimo I received a second dispatch from Mr. Lyon, inclosing a letter to me from Mr. Woodward (inclosed), from which I inferred that the latter was acting in good faith, and upon the strength of which I invited him to renew his application on the lines indicated therein.

On the 8th instant I received another application in duplicate, through Mr. Lyon, made out in the same form as the first application



which had been refused by me. Upon referring the application again back to Mr. Lyon for an explanation, he informed me that—

in making out this second application Mr. Woodward concluded that as the spaces had been filled at the legation by dashes you (I) did not require any entry therein. The facts are Mr. Woodward can not make affidavit that he is domiciled in the United States, that his permanent residence is in any one of the States, etc., as he has never even been in the United States.

My attention has since been called to the fact that the business letter head used by Mr. Woodward in his communication to me is that of an English firm, which to my mind is suggestive as to the value of the statements made in the said communication.

I therefore have the honor to report the case to the Department, taking no further action unless instructed to do so.

I have, etc.,

A. E. BUCK.

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[Inclosure.]

*Mr. Woodward to Mr. Buck.*

KOBE, *January 5, 1899.*

SIR: Having been informed by Mr. S. S. Lyon, United States consul here, that my application for a citizenship passport was not in complete order, I beg to say that with regard to my permanent residence in the United States I am at a loss what to state. I was born of American parents in South Africa, and have never been over to the United States, although expecting to go there shortly. My relatives all come from Boston, and notwithstanding that I can not arbitrarily say my permanent residence is in Boston, yet it is my desire when I go over to the States to domicile there. I can not say how the last application was made in Shanghai, as the vice-consul there filled the required items.

I would therefore be under a great obligation if you would kindly make a suggestion to overcome the above difficulty.

I am, etc.,

A. M. TRACEY WOODWARD.

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*Mr. Hay to Mr. Buck.*

No. 279.]

DEPARTMENT OF STATE,

*Washington, March 21, 1900.*

SIR: Your dispatch No. 404, of the 21st ultimo, reporting Mr. A. M. Tracey Woodward's application to your legation for a United States passport, has been received. It appears that the applicant, now 24 years of age, was born in South Africa of American parents; that he has never been in the United States, and that he declares in his application his intention to return to the United States "within my (his) lifetime." In view of these circumstances you await the Department's instructions before acting in the case.

Unless Mr. Woodward satisfies you of his intention to come in the reasonably near future to reside in the United States and perform the duties pertaining to American citizenship, he would not appear to be entitled to a passport. He was, on your statement, one of those persons described in the statute (R. S., 1993) as "children" born abroad to citizens of the United States, and defined as citizens in virtue of such parentage. The Department does not construe this section as entitling one so born to disregard all duties of citizenship indefinitely and to live abroad permanently without imputation of his nationality.

It treats the statute as expressly covering the status of the "child" during legal infancy; but it justly expects that on coming of age a "child" so situated will, of his independent volition and acting *sui juris*, testify in all proper ways—just as any other American citizen temporarily sojourning abroad—his purpose to conserve and live up to his American status. Mr. Woodward's assertion of his nationality has apparently been so far limited to taking out a passport in 1897, when he was 22 years old, and when the possession of a passport was necessary to secure extraterritorial rights pertaining to American citizenship in China, where he then resided. He is now, it seems, resident, if not domiciled, in Japan, where the privileges of alien extraterritoriality have been *abrogat d.* His status in Japan is substantially the same as would be that of any American going to and residing indefinitely in a European state. The point to be determined is whether by domicile, occupation, and domestic ties Mr. Woodward has so far permanently identified himself with the country of his residence as to create a presumption of abandonment of his American status strong enough to outweigh any merely floating intention he may have of eventually making the United States his home.

It is, as a general thing, the Department's desire to deal as broadly as possible with questions affecting the rights of Americans sojourning in the far Orient, and to consider whether, if the protection of the United States should be withdrawn, the individual can obtain any other.

I am, etc.,

JOHN HAY.

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**INCOME TAX, MISSIONARIES' SALARIES HELD TO BE SUBJECT TO PAYMENT OF.**

*Mr. Buck to Mr. Hay.*

No. 424.]

LEGATION OF THE UNITED STATES,  
*Tokyo, Japan, May 9, 1900.*

SIR: As a matter of some interest, I have the honor to inclose herewith a copy of a communication from Rev. James W. Doughty, an American missionary, together with a copy of my reply thereto, upon the subject of payment of income tax by our missionaries in Japan. I also inclose copies of instructions of the revenue officials of Yokohama concerning payment of income tax, published in the Japan Mail on the 13th ultimo.

There has been much inquiry from missionaries concerning this subject. Some of them are of the opinion that, because their incomes are derived from the United States in the form of salary for mission work, a proper construction of the provisions of law in respect to income tax would exempt them from that tax, while others take the view that a reasonable interpretation of the law makes salaries of missionaries subject to tax, and that, even if, through any technicality, the payment of such tax could be avoided, it would be unwise to make serious opposition to payment, because the irritation of the Japanese officials, whose friendship it is important to cultivate in all proper ways, that a contest would naturally cause might result in injury to the successful prosecution of their work.

After a careful examination of the law, I see no reasonable interpre-

tation that will warrant objection to pay the tax and bringing the question into the courts, as some have proposed; and I have uniformly advised payment on the grounds set out in my reply to Mr. Doughty herewith.

In closing it may be proper to add that there is no discrimination against foreign missionaries complained of or made. Buddhist and Shinto priests are, I am told, also subject to tax on their incomes, the only question raised being whether incomes received by missionaries from abroad should be taxed as are incomes derived from local sources.

I have, etc.,

A. E. BUCK.

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[Inclosure 1.]

*Mr. Doughty to Mr. Buck.*

HIROSHIMA, April 30, 1900.

DEAR SIR: I am sorry to trouble you, but I am uncertain as to the matter of income tax. I understand that you have stated that you think the missionaries come under the law. I have been reading over the law and came across the following passage:

"5. Although all incomes realized from property, trades, businesses, or occupations in places where the income-tax law is in force must be reported, the incomes falling under any of the following heads need not be reported, as they are not taxable incomes:

"3. Incomes realized from property, trade, business, or occupations in a foreign country or in places where the income-tax law is not in force."

The above, I observe, is not the law itself, but instructions issued as explanation of the law, and was published in the Japan Mail of April 14, and also in a recent issue of the Kobe Chronicle. I presume you have seen the above, but if I had not heard that you think we will have to pay the tax I should have assumed that the above exempted us. If not too much trouble, will you kindly let me know why you think we are not exempt under the above instruction.

JAS. W. DOUGHTY.

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[Inclosure 2.]

*Mr. Buck to Rev. Doughty.*

UNITED STATES LEGATION,  
Tokyo, Japan, May 7, 1900.

DEAR SIR: I have to acknowledge the receipt of your letter of the 30th ultimo, in which you express the opinion that missionaries should be exempted from the income tax under the instructions issued by the revenue officials of Yokohama, as reported in the Japan Mail of April 14, and requesting me to let you know why I think differently.

The portion of the regulations referred to, quoted by you, reads as follows:

"8. \* \* \* Incomes falling under any of the following heads need not be reported, as they are not taxable incomes:

"3. Incomes realized from property, trade, businesses, or occupations in a foreign country or in places where the income-tax law is not in force."

I fail to see how the above sections apply in any way to a missionary laboring in Japan. The obvious and only possible meaning of the instruction is that "incomes realized from property, trade, etc., in a foreign country (America, Europe, etc.) or in places where the income-tax law is not in force (Formosa, the Loo Choo and Bonin Islands)" are not taxable incomes. But the occupation of the missionaries in question is *in Japan*, where the income tax *is* in force, and they therefore are included under the first paragraph of the instructions referred to, which reads in part as follows:

"Any person who has in any part of this country, where the income-tax law is in

force, a residence or place of abode, or who resides in a fixed place for one year or more, and has an income of 300 yen or more per annum, is under obligation to pay income tax."

Under paragraph 7, section 8, income derived from a business or profession, is defined to mean "income derived from commercial, industrial, and other businesses or professions or scientific and technical occupations, and from all classes of labor not otherwise enumerated," which certainly is comprehensive enough to include the missionary profession; and much as I wish that the missionaries in Japan may be relieved of all possible financial burdens, I can see no ground, under my own interpretation of the law or that of the Japanese Government furnished me by the finance department at my request—which coincides with my opinion—for a claim by the missionaries for exemption from the income tax. Moreover, it is my opinion that, even if there were a technical ground for such a claim—which I can not find—it would be better as a matter of policy for the missionaries to pay the tax than to make objections that might prejudice their work in the eyes of the Japanese officials under whose protection, in a large measure, they now are.

By section 5 of paragraph 5 of the regulations quoted, "traveling expenses, educational funds," etc., are declared to be exempt from the income tax. Accordingly it is my opinion that special allowance made by the missionary boards for the purposes mentioned, distinct from the salary, need not be included in the report of income made to the officials, though I am not aware what interpretation the Japanese authorities put upon that section.

A. E. BUCK.

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*Mr. Adee to Mr. Buck.*

No. 306.]

DEPARTMENT OF STATE,  
*Washington, August 20, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 424, of May 9 last, reporting that some American missionaries residing in Japan claim exemption from the payment of an income tax to the Japanese Government on the ground that their incomes are derived from the United States in the form of salaries for mission work. You add that you have uniformly advised payment by them of such tax for the reasons set forth in your letter to the Rev. James W. Doughty, a copy of which accompanies the dispatch.

On the statements contained in your dispatch and its inclosures the Department concurs in your view that salaries paid to missionaries regularly engaged in the work of their missions in Japan are subject to the payment of an income tax the same as the salaries of the native priests.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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**INCOME TAX NOT REQUIRED OF OFFICERS AND MEN OF UNITED STATES NAVY AND MARINE CORPS STATIONED AT UNITED STATES NAVAL HOSPITAL AT YOKOHAMA.**

*Mr. Buck to Mr. Hay.*

No. 444.]

UNITED STATES LEGATION,  
*Tokio, Japan, June 29, 1900.*

SIR: I have the honor to inclose herewith a copy of a communication to me from Dr. F. Anderson, surgeon in charge of the United States naval hospital at Yokohama, date of the 17th instant, with copies of

correspondence between him and the chief of the Yokohama revenue administration bureau, concerning making returns and paying income tax by the officers and enlisted men of the United States Navy and Marine Corps stationed at the hospital. I also inclose a copy of a note addressed by me to the Japanese minister for foreign affairs upon that subject.

In conversation with the minister in respect to the officers and enlisted men at the hospital being subject to the income tax, he expressed the desire, in determining the matter, to take into consideration also the claims of a like nature made by the surgeons in charge of the German and British hospitals, which would cause some delay.

While I, as yet, have no response to my note, I am of opinion that the chief of the revenue officials of Yokohama will not further press the matter of obtaining return of the incomes in question pending the decision of the Government, as I presume instructions have been given to that effect.

I have, etc.,

A. E. BUCK.

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[Inclosure 1.]

*Dr. Anderson to Mr. Buck.*

UNITED STATES NAVAL HOSPITAL,  
Yokohama, Japan, June 17, 1900.

SIR: I have the honor to submit for your consideration the question of the obligation of officers and enlisted men of the United States Navy and Marine Corps stationed at this hospital to make returns of income and pay taxes thereon in accordance with the provisions of the income-tax law of the Japanese Empire, now in operation.

In April last some blank forms for making return of income were left at this hospital, together with printed explanatory remarks. According to these "remarks," it seemed to me evident that no person connected with the hospital came within the provisions of this law, and therefore none of these blank forms were filled out. Some weeks later some officers and men on duty at this hospital and in the active service of our Government received postal cards requesting them to fill out at once these blank forms and make return of income.

As the officer in charge of the hospital, I accordingly addressed the letter, a copy of which is hereto appended and marked "A," to the director of the Yokohama revenue administration bureau. In response to this letter I was called upon by Mr. Tojo, the chief of the Yokohama taxation office, who stated that the translation of the word "active" as used in the "Remarks" was not a correct translation of the Japanese word, and that only officers and men in "actual" service would be exempt from taxation. I therefore requested that an official letter be sent me stating clearly the meaning of the law. On June 15 the letter, in Japanese, a translation of which I have obtained and appended hereto, marked "B," was sent to me. A copy of my reply is appended and marked "C." According to this translation, officers and men, during war time only and at the seat of war, are exempt from taxation. This interpretation practically excludes all foreign officers and men from exemption.

In my opinion, officers and enlisted men on duty at this hospital are not legally subject to an income tax, and I do not feel justified in complying with the provisions of the law myself, nor authorizing those under my charge to do so, in the absence of any definite instructions from my Government. The officers and men on duty here are not here voluntarily, but in accordance with orders from the Navy Department, which they are compelled to obey.

In conclusion, permit me to call your excellency's attention to the text of article 5, subscription 1, of the income-tax law of Japan, and to article 1, paragraph 4, of the treaty now in force between the United States and Japan. I have the honor to inclose copies of the extracts above referred to.

F. ANDERSON,  
*Surgeon, U. S. Navy, in charge of Hospital.*

[Subinclosure A.]

*Mr. Anderson to Mr. Saito.*YOKOHAMA, JAPAN, *May 23, 1900.*

SIR: Some time ago blank forms for return of income were left at this hospital, and to-day postal cards were received addressed to officers and men stationed here requesting that these blank forms be filled out and returned.

All the persons so addressed are officers or enlisted men in the naval service of the United States on active duty. They are stationed here by orders of the United States Government, and are liable to be ordered away at any time.

According to paragraph 6, article 5, of "Remarks" accompanying these blank forms, being naval men in active service, their incomes are not taxable, nor are they required to make return of salary.

F. ANDERSON, *Surgeon, etc.*

[Subinclosure B.—Translation.]

*Mr. Saito to Mr. Anderson.*

JUNE 15, 1900.

SIR: I am in receipt of your communication under date of May 23, relative to a notice of the amount of income. Salaries to be received by military men (army and navy) while in active service, as provided in item 1, article 5, of the income-tax law, means the salaries to be received by the army and navy men at the seat of war or at the places to be considered as the seats of war, and while the rendering of "Jungun" into the English "active service," in the remarks appended to the paper of notice lately distributed by the Yokohama tax office, may not be a proper rendering, still the spirit of the revenue law is that no tax will be levied upon the salaries to be receivable in the cases as indicated above. Military men (army and naval), although under commission, unless they come under the cases above stated, are under obligation to pay taxes as officials in civil service, as provided in articles 1 and 2 of the revenue law.

I have, etc.,

S. SAITO.

[Subinclosure C.]

*Mr. Anderson to Mr. Saito.*YOKOHAMA, *June 17, 1900.*

SIR: I am in receipt of your communication of the 15th instant, relative to the construction which your bureau places upon the wording of that portion of the income-tax law of Japan which exempts the salaries of persons in the army or navy while on active service.

I understand you now to hold that this exemption applies to such persons only when they are engaged in active hostilities. My understanding of the provisions of this law has been that the exemption applied to all in active service under a commission or under the orders of the military departments of any government.

In view of the provisions of the treaty between the United States and Japan, the question is one of such importance that I have considered it necessary to refer it to the United States minister at Tokyo and the Navy Department of the United States at Washington, and I would ask you to be good enough to suspend all action in the matter until I receive the instructions of my Government.

[Subinclosure D.]

*Extract from translation of income-tax law of Japan, as published by the Yokohama tax bureau.*

Art. V. Income tax is not levied on the following incomes:  
1. Salaries of persons in the army or navy while on active service.

*Extract from treaty between the United States and Japan, signed November 22, 1894.*

Art. 1, par. 4. They (the subjects or citizens of each of the two high contracting parties) shall not be compelled, under any pretext whatever, to pay any charges or taxes other or higher than those that are, or may be, paid by native subjects or citizens or subjects or citizens of the most favored nation.

[Inclosure 2.]

*Mr. Buck to Mr. Siuzo.*

No. 211.]

UNITED STATES LEGATION,  
*Tokyo, June 25, 1900.*

SIR: Referring to our conversation on the 21st instant respecting the question whether an income tax should be levied upon the salaries of the surgeons and enlisted men of the United States Navy now assigned to duty at the United States marine hospital at Yokohama, in order that this question raised by the surgeon in charge of the hospital may be presented with more particularity, I have the honor to respectfully submit for the consideration of your excellency the grounds upon which the claim of exemption from income tax is based.

It is claimed that the surgeon in charge, assistant surgeon, and enlisted men of the Navy, temporarily on duty at the hospital in Yokohama, are on active service there by assignment of the United States Navy Department, subject to transfer to some other hospital or to some naval vessel at any time by the order of the Department, as much so as if they were on duty on a ship of war or in the discharge of their official duties at some United States naval hospital in some foreign country at the seat of war; that they are, strictly speaking, not domiciled in Japan and have acquired no residence here; that the hospital is the property of the United States, erected on land held under perpetual lease granted by the Imperial Government to the United States for hospital purposes, and that the surgeons and enlisted men now on duty there are to be regarded as free from any legal requirement to pay an income tax as though they were on board a United States ship of war in the harbor; that they have no business or occupation in Japan other than their official duties at the hospital and derive no income because of their being stationed for the time and on duty in Japan, their only income being their salaries from their Government, and that it is believed that under the circumstances the income-tax law of the Imperial Government was not intended to apply in such case.

Article V, paragraph 1, of the income-tax law, under which levy is sought to be made upon the officers and men at the hospital, provides that the income tax is not to be levied on "Salaries of persons in the army or navy while on active service." While it would seem that this provision was intended to apply to persons in the army and navy of the Imperial Government only, as it could not be contemplated that officers and enlisted men of the army or navy of any other power could, while in service in the discharge of any official duties whatever, have their residence and be domiciled in legal sense within the territory of the Empire—yet should it be contended that the law does so apply, since the surgeon and men are really "on active service," exemption is claimed.

For these reasons the surgeon in charge does not feel justified in complying with the request made by the tax officials to make return of income for himself or authorizing the officers and men under his charge to do so in the absence of instructions from his Government, and he has consequently informed the chief of the Yokohama revenue administration bureau that the question is one of such importance that he has to request that no further steps be taken to enforce the levy of the tax pending instructions for which he has applied.

Whatever may be the conclusion of the Imperial Government respecting the question raised I venture to respectfully suggest that pending such conclusion, and as also pending instructions from my Government, the levy of the income tax upon the surgeons and enlisted men at the United States marine hospital be stayed, if consistent.

I avail, etc.,

A. E. BUCK.

*Mr. Buck to Mr. Hay.*

No. 453.]

LEGATION OF THE UNITED STATES,  
*Tokyo, Japan, July 19, 1900.*

SIR: Referring to my dispatch No. 444 of the 27th ultimo, concerning the income tax sought to be levied by the Japanese tax officials at Yokohama on the incomes of the surgeon in charge of the United States naval hospital at Yokohama and the other officers and the enlisted men on duty there, I now have the honor to report that I

have been waited upon by an official of the treasury department who stated that, as a result of my representation through the foreign office, it has been decided not to press the matter of the return of incomes of the officers and men of the hospital and the payment of such tax; that while they were disposed to let the matter drop they did not care to announce their decision publicly, and asked that I would consent to let the matter rest as it is with their explanation, without a formal reply to my note to the minister of foreign affairs.

I assured the officer that the result was the important thing, and if the return of incomes and levy of the tax was not to be insisted upon, I would accept his statement without a formal note from the minister for foreign affairs.

I now consider the matter settled satisfactorily.

I have, etc.,

A. E. BUCK.

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*Mr. Hay to Mr. Buck.*

No. 299.]

DEPARTMENT OF STATE,  
*Washington, July 27, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 444, of the 29th ultimo, inclosing a copy of correspondence in relation to the claim of the Yokohama revenue administration bureau that officers and enlisted men of the United States Navy and Marine Corps stationed at the United States naval hospital at that place should pay an income tax to the Japanese Government on their salaries and pay.

Your course in the matter is cordially approved by the Department.

Copies of the dispatch and its inclosures have been sent to the Secretary of the Navy for any additional views or arguments that he may desire to communicate on the subject.

I am, etc.,

JOHN HAY.

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*Mr. Hill to Mr. Buck.*

No. 309.]

DEPARTMENT OF STATE,  
*Washington, September 5, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 453, of July 19 last, reporting that the Japanese Government has expressed its desire to drop the question of levying a tax on the salaries and pay of the officers and enlisted men at the United States naval hospital at Yokohama.

In a letter of the 28th ultimo the Acting Secretary of the Navy expresses his concurrence in the Department's suggestion that the incident be considered as satisfactorily closed.

I am, etc.,

DAVID J. HILL, *Acting Secretary.*



**EXPRESSIONS OF SYMPATHY BY EMPEROR AND EMPRESS OF  
JAPAN FOR SICK AND WOUNDED UNITED STATES SOLDIERS  
AND SAILORS IN MARINE HOSPITAL AT YOKOHAMA.**

*Mr. Buck to Mr. Hay.*

No. 474.]

LEGATION OF THE UNITED STATES,  
*Tokyo, August 17, 1900.*

SIR: I have the honor to report that Their Majesties the Emperor and Empress have each sent a representative to visit our marine hospital in Yokohama to convey sympathy for the sick and wounded sailors and soldiers there, the Empress conveying, by a lady in waiting, not only the sympathy of Her Majesty but also presents of delicacies conducive to comfort.

These gracious acts of Their Majesties have been duly acknowledged by me, through the minister of the household department, with the assurance that the President, on being informed of these kind expressions of the solicitude and sympathy of Their Majesties for the unfortunate inmates of the hospital, would be highly gratified and would doubtless convey his acknowledgments for their sympathetic interest in the welfare of our sick and wounded so graciously manifested.

I have, etc.,

A. E. BUCK.

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*Mr. Adee to Mr. Buck.*

No. 314.]

DEPARTMENT OF STATE,  
*Washington, September 14, 1900.*

SIR: I have to acknowledge the receipt of your No. 474, of the 17th ultimo, reporting that Their Majesties the Emperor and Empress had each sent a representative to visit the United States marine hospital in Yokohama to convey sympathy for the sick and wounded sailors and soldiers there, the Empress conveying, by a lady in waiting, not only the sympathy of Her Majesty but also presents of delicacies conducive of comfort.

Copies of your dispatch were at once communicated to the President, and I am directed by him to instruct you to express in such manner as you may deem most fitting his sincere appreciation of this gracious and sympathetic action on the part of Their Majesties, which can not fail to impress itself upon the people of the United States.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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**CONDOLENCES ON GALVESTON DISASTER.**

*Mr. Takahira to Mr. Hill.*

No. 46.]

JAPANESE LEGATION,  
*Washington, September 21, 1900.*

SIR: Information having reached Japan of the appalling extent of the misfortune which has overtaken the people of Galveston, His

Imperial Majesty's minister for foreign affairs has directed me by telegraph to assure the Government of the United States of the profound sympathy of the Imperial Government with those who suffered directly by this terrible calamity, as well as with those indirectly affected by its wide-reaching results, and to tender to them the sincere condolence of the Government and people of Japan.

Accept, etc.,

K. TAKAHIRA.

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*Mr. Hill to Mr. Takahira.*

No. 9.]

DEPARTMENT OF STATE,  
*Washington, September 26, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 21st instant expressing, by direction of His Imperial Majesty's Government, their profound sympathy and sincere condolence on account of the disaster at Galveston.

I beg you to assure your Government that this sympathetic message is highly appreciated by the Government of the United States.

Accept, etc.,

DAVID J. HILL,  
*Acting Secretary.*

## KOREA.

### RIGHT TO HOLD PROPERTY IN JAPANESE SETTLEMENTS IN KOREA DENIED TO AMERICANS.

*Mr. Allen to Mr. Hay.*

No. 232.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, March 13, 1900.*

SIR: I have the honor to hand you inclosed copies of a correspondence I have had with Minister Buck, of Tokyo, regarding the right of Americans to own land, under the new treaties, in Japanese settlements in Korea.

I have embodied the substance of this in a short report, which I inclose for use in case you consider the matter worthy of publication.

Japanese enjoy equal rights with all other foreigners in the general foreign settlements at the Korean ports, and in addition they have their own exclusive settlements, which usually occupy the best sites for business.

In the course of business Americans come into possession of some of this Japanese property, which they often desire to hold, but have hitherto not been allowed to do so. Also, they must sell only to a Japanese, which sometimes works to the injury of the American owner. It was thought that the new treaties now in force in Japan might afford some relief in this matter, and having been asked for an opinion on this subject I wrote to Minister Buck, of Tokyo, to ask him to secure an expression from the Japanese Government concerning the matter.

Mr. Buck promptly secured such expression from the Japanese minister for foreign affairs to the effect that the new treaties do not in any way apply to the exclusive Japanese settlements in Korea.

I have, etc.,

HORACE N. ALLEN.

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[Inclosure 1.]

*Mr. Buck to Mr. Allen.*

LEGATION OF THE UNITED STATES,  
*Tokyo, February 25, 1900.*

DEAR MR. ALLEN: On receipt of your communication concerning the Japanese concession in Seoul, suggesting that I obtain from the Japanese Government information in respect to whether foreigners could hold lands in that settlement, etc., under the treaty provisions or concessions to the Japanese of such settlement, I submitted the matter to the minister for foreign affairs, with the promise from him to look into the matter and report. Some two weeks ago he told me that the matter had been investigated, and it was found that the concession confined the holding of property in that settlement to Japanese alone; that foreigners could not buy or in any way hold title to any piece of property within the settlement, though an American or

other foreigner could take a mortgage on such property; but in enforcing a lien for nonpayment of a debt the property would be sold only at auction, and only a Japanese could buy it in, and that these conditions in respect to the Japanese settlement were different from those of other foreign settlements except in the Chinese concession. Other foreign settlements were not so restricted as to sale of property, and any foreigner could buy and hold property in them.

The minister promised to give me in writing a statement covering the matter of your inquiry more particularly, but having not received it yet I thought it best to write you without longer delay, and when the promised note is received I will communicate it to you.

From the above you will understand the delay in acknowledging your letter and furnishing the information sought.

Yours, sincerely,

A. E. BUCK.

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[Inclosure 2.]

*Mr. Buck to Mr. Allen.*

LEGATION OF THE UNITED STATES,  
*Tokyo, March 2, 1900.*

DEAR SIR: I inclose herewith a copy of a verbal note from the Japanese minister for foreign affairs in reply to my inquiry in respect to rights of American citizens to hold property in the Japanese settlement at Seoul.

You will observe that it does not give the particulars which the minister gave me in conversation some weeks ago, as I reported to you by letter of February 25 last, though it covers the question, I think, as presented by you sufficiently for your purposes.

Your obedient servant,

A. E. BUCK.

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[Subinclosure.]

NOTE VERBALE.

On the perusal of the two letters shown by his excellency the United States minister in Tokyo, it is found that the one relates to the question addressed to Mr. Yamasao Enjiro, His Imperial Majesty's chargé d'affaires ad interim, by the United States minister at Seoul, asking whether it is possible for foreigners, under the new treaties, to own or lease land for long periods in the exclusive Japanese settlements in Korea, and that the other relates to the request made to his excellency the United States minister in Tokyo to obtain from the foreign office a definite information with regard to that question.

In reference to the above it is to be stated that the exclusive Japanese settlements in Korea have no relation whatever with the new treaties; that the rights relating to land in the Japanese settlements created by the treaty between Japan and Korea are of a different nature from the rights in real property established by the laws of the Empire, and that consequently they are of an entirely different nature from the rights in real property which are enjoyed by the United States citizens residing in Japan, and that for these reasons it is not possible for the United States citizens to enjoy rights in real property in the exclusive Japanese settlements in Korea by virtue of the stipulations of the treaty between Japan and the United States.

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[Inclosure 3.]

*Report of Mr. Allen.*

OWNERSHIP OF LAND IN THE JAPANESE SETTLEMENTS IN KOREA.

The question of the right of non-Japanese to own land in the exclusive Japanese settlements in Korea has been a subject of interest to Americans, as land so situated is often very valuable for business purposes, since the Japanese settlements usually

occupy the most favorable site at these ports. Also Americans must occasionally come into possession of such property through the foreclosure of mortgage, and if it can only be disposed of to Japanese its value is lessened.

In response to inquiries on the subject I secured from the Japanese Government, through Minister Buck, of Tokyo, the following expressions:

*Note verbale.*—Communicated to United States Minister Buck by the minister for foreign affairs of Japan, March 2, 1900.

\* \* \* "In reference to the above it is to be stated that the exclusive Japanese settlements in Korea have no relation whatever with the new treaties; that the rights relating to land in the Japanese settlements created by the treaty between Japan and Korea are of a different nature from the rights in real property established by the laws of the Empire, and that consequently they are of an entirely different nature from the rights in real property which are enjoyed by the United States citizens residing in Japan, and that for these reasons it is not possible for the United States citizens to enjoy rights in real property in the exclusive Japanese settlement in Korea by virtue of the stipulations of the treaty between Japan and the United States."

Which was further explained to mean that—

"The concession confined the holding of property in that settlement to Japanese alone; that foreigners could not buy or in any way hold title to any piece of property within the settlement, though an American or other foreigner could take a mortgage on such property; but in enforcing a lien for nonpayment of a debt the property would be sold only at auction, and only a Japanese could buy it in, and that these conditions in respect to the Japanese settlement were different from those of other foreign settlements except in the Chinese concession."

HORACE N. ALLEN,

*United States Minister and Consul-General.*

SEOUL, KOREA, *March, 1900.*

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**PROTECTION OF AMERICAN INTERESTS. (SEOUL ELECTRIC RAILROAD.)**

*Mr. Allen to Mr. Hay.*

No. 241.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, April 14, 1900.*

SIR: I have the honor to call your attention to a correspondence I have had regarding the Seoul Electric Railroad.

This road was built for a native organization known as the Seoul Electric Company by an American firm, Messrs. Collbran & Bostwick. The Korean company have a definite and legal franchise for the same, including an extensive electric lighting plant. The Emperor is personally a member of the electric company and furnished most of its capital. An advance payment was made to the American contractors, who were given a contract for the construction as well as one for the operation of the road until such time as the indebtedness of the Korean company should be liquidated. This contract was secured by a proper mortgage upon the road and its properties as securities for the heavy sums advanced by the contractors. The work of construction was accomplished and the road has been in successful operation since last summer. An extension has recently been made in accordance with the provisions of the franchise and contract, and the materials for the lighting plant have been ordered. The road has met with general approval and is a credit to American enterprise.

Last summer it was said that the Japanese minister made overtures to the Korean Government for the purchase of the extension of the

road then under construction through the main street of the city 3 miles out to the river landing in the suburbs, for which franchise a sum of 100,000 yen was said to have been offered. As this was the most important part of the system, and as its ownership by a rival company would have made the rest of the line of little commercial value, such transfer could not be allowed, nor did the Koreans desire it. Later the Japanese made much trouble over the crossing of this street railroad extension and their Seoul-Chemulpo Railroad. The Japanese legation was also reported as desirous of obtaining the electric lighting part of the franchise away from the Americans, their insistence in this matter having actually caused the Koreans to hasten in making an advance payment that had to precede the ordering of machinery for this part of the electric plant.

On April 9 last the Japanese demanded of the Korean company that they remove this river extension of the street railroad from its present suitable site, through a long suburban street densely lined with habitations, to a line far off in the hilly fields to one side, away from the street, and where it would be quite out of place for the purposes for which it was built.

Their reason for this is that they have demanded of the Korean Government, and claim to have obtained, a very extensive area of ground situated just outside the south gate of Seoul, the main approach to the city. This area is mostly covered with houses and is pierced by the main street from the river to the city, through which street the electric road now runs. The alleged reason for demanding this ground was for its use as a site for the Seoul-Fusan Railroad, which is now being surveyed. It is well known and has been said by Japanese railroad engineers that the Seoul-Fusan Railroad will cross the river on the bridge of of the Seoul-Chemulpo Railroad and come to the city on the tracks of the latter road, using the fine, large station terminus prepared for the latter road, and which lies just beyond the south gate and adjoining the tract of land now newly demanded. As it would cost hundreds of thousands of dollars to remove all the habitations from this area in question, and as it is entirely unnecessary for railroad purposes, it is generally thought that the ground is desired for an exclusive Japanese settlement and barracks and fortifications for the protection of the railroad terminus and line to the river as well as to control the approaches to the city of Seoul. Many things not as yet necessary to report seem to point to this as the real object for which this land is desired; as, for instance, were it not that the Japanese desire exclusive control and public supervision over this area, which is reported as one of their demands, they would probably not object to having the street railroad pass through. As it is, they seem to want no foreign property there to complicate their operations, and have even laid out a wagon road around the section by a difficult and circuitous route, so as to make it unnecessary for traffic to pass through it as at present.

The Japanese citizen in charge of the matters of the Seoul-Fusan Railroad has just been appointed "superintendent of railroads" in connection with a newly organized railroad bureau. The governor of Seoul has for some years held the position of commissioner of railroads and has done good service. For a year past Mr. J. McLeavy Brown, the Englishman in charge of the customs, has been "superintendent

of railroads," so the new office seems scarcely to be necessary, and is supposed to have been sought in order to facilitate such transactions as the one I am now describing.

In order to secure a crossing last summer the Seoul Electric Railroad Company placed down several lengths of rails at the spot where the Seoul-Chemulpo Railroad has to cross their line. This was done some time before the actual laying of the electric extension. This Seoul-Chamulpo Railroad is only completed from Chemulpo to the river, 4 miles distant from Seoul, and owing to difficulties with the construction of the bridge at that point the portion from the river to the city can not be completed for some time. In view of the present Japanese demands, however, the Seoul Electric Railroad Company decided to lay down other lengths of rails at another crossing near the future station of the Seoul-Chemulpo Railroad, where the electric road must make a loop in order to come within reach of the passenger traffic from the steam railroad. This was done so as to indicate their right to insist upon a crossing at this point when the steam railroad shall be completed to Seoul.

As it stands at present this electric street railroad is practically the property of an American firm. They hold and operate it upon a mortgage which has long been on file at this office. They can not allow their property to be redeemed at present, as the work can not be completed for nearly two years, they having received an advance payment on the extensive lighting plant and a contract for a doubling of the extent of the railroad. I can not consent to their being shelved off to one side away from their proper position by a Japanese arrangement that has come up since this road was laid down. Even if the Japanese offer to pay the cost of removal the injury remains the same, as the position proposed is not suitable. Further, we can not afford to let the Koreans see us brushed aside by the Japanese in any such manner.

I refer you to inclosure No. 1, a copy of a letter from H. R. Bostwick, contractor and mortgagee of the electric road, inclosing a letter to him from the governor of Seoul, explaining the demands of the Japanese regarding the removal of the street railroad. I also send you a copy of my letter to Mr. Hayashi, His Imperial Japanese Majesty's envoy extraordinary and minister plenipotentiary at Seoul, explaining to him distinctly that the street railroad is the property of Americans, and that I can consent to no change that will affect its value as a security without the full and free consent of the mortgagees and operators; also expressing my approval of the act of the electric railroad company in securing a right to the necessary crossing by laying down a length of track at that point in advance of the actual construction of the necessary extension, which work is delayed by the nonarrival of rails from America.

Although five days have elapsed since the date of my letter to Mr. Hayashi, I have had no reply, but the Korean newspapers of to-day, Che Kuk Sin Mun and Hwang Sung Sin Mun, state that the Japanese minister has asked for the removal of the electric railroad and that the foreign minister has ordered the removal.

I can not learn from the foreign office if any action has been taken.

I have, etc.,

HORACE N. ALLEN.

[Inclosure 1.]

*Mr. Bostwick to Mr. Allen.*SEOUL, KOREA, *April 9, 1900.*

DEAR SIR: I beg to call your attention to the threatened injury to property held by us by virtue of a mortgage signed with us by the Seoul Electric Company, on August 22, 1899, and to ask your assistance in preventing such injury.

I, this morning, received from the vice-governor of Seoul the attached document, calling my attention to certain propositions by the Japanese company having in hand the construction of a railway from Seoul to Fusan. These cover the removal of our present line of electric railway from the present advantageous situation along the main roadway from the city of Seoul to the river of Riong San, to a new situation away from the roadway and the towns bordering it, and on the side of the hills lying between the city wall and the roadway we now occupy. This will work us an injury by reason of our not securing as advantageous gradients and curvatures as we now enjoy, and by taking away from us the traffic of the villages lying along the main roadway as it lies at present.

As this property, in fact all the property standing in the name of the Seoul Electric Company, with its right of way, its franchises, concessions, and privileges have been mortgaged to us, and the mortgage is not yet satisfied, I claim that the removal of our tracks as above outlined will work an injury to the security or securities in our possession, and so directly injure us.

I also attach a plan of the proposed territory to be taken by the Japanese, which will give you a better idea of the situation. I also inclose a copy of my letter to the vice-governor in reply to his dispatch to me of even date. And you will note that I call to his attention that this property is held by Americans, and that the consent of the Americans must be obtained before any of the proposed changes can be made. This consent we can not grant without injury to ourselves, and I would most respectfully beg your protection in preserving our rights.

I have, etc.,

H. R. BOSTWICK, for Collbran &amp; Bostwick.

[Subinclosure 1.—Translation]

*Ye Kai Field to Mr. Bostwick.*

APRIL 9, 1901.

DEAR SIR: I have the honor to inform you that the Japanese company's engineer is putting the marked sticks for Seoul-Fusan Railway station yard outside the south gate, in which ground your company's road line is included, and hope that you will consider on the matter.

Yours, sincerely,

YE KAI FIELD,  
*Vice-Governor of Seoul, Seoul.*

[Subinclosure 2.]

*Mr. Bostwick to Ye Kai Field.*SEOUL, KOREA, *April 9, 1900.*

DEAR SIR: I beg to acknowledge receipt of your dispatch of this morning informing me that it is the intention of the Seoul-Fusan Railway Company to take possession of certain lands and roads outside the South Gate of the city and including the main roadway between the city and the river port of Yong-San, along which our electric railway line is laid.

I have the honor to inform your excellency that this electric railway and all of its property, rights of way, franchises, and privileges are mortgaged to an American firm, Collbran & Bostwick, and any change in the roadway as at present laid, or removal to another point, can only be done with the consent of this American firm.

This consent must be obtained before any agreement can be entered into, and this company is powerless to act till the Japanese Railway Company have settled the matter with the American firm.

I have, etc.,

H. R. BOSTWICK,  
*Manager the Seoul Electric Company.*



[Inclosure 2.]

*Collbran & Bostwick to Mr. Allen.*SEOUL, KOREA, *April 9, 1900.*

DEAR SIR: I beg to call to your attention that we intend extending the lines of our electric railway from the South Gate along the main thoroughfare running through Kyung Kio, to the present terminus of our tracks just outside the West Gate.

In so doing we find that it will take us across the proposed line of the Seoul and Chemulpo Railway. As this company has not yet laid down its tracks at the point in question, we have equal rights with it, and to gain the advantages accruing to the railway first laying its tracks across a railway crossing, under American law, and for the better protection of our rights, we will lay our tracks at the point in question, without waiting for the balance of the work to be started.

Trusting that this will meet with your approval, we are, etc.,

COLLBRAN & BOSTWICK,  
Per H. R. BOSTWICK.

[Inclosure 3.]

*Mr. Allen to Mr. Hayashi.*

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, April 9, 1900.*

SIR: I have the honor to call your attention to the inclosed copy of a file of correspondence<sup>1</sup> I have received relating to the Seoul Electric Railway.

It seems that the concessionaires of the Seoul-Fusan Railway have asked that the street railway be diverted from its present site along the main street of the suburbs outside the South Gate, to a site far removed from the street and its consequent traffic, as is shown upon a plan submitted to the governor of Seoul by the engineers of the Seoul-Fusan Railway.

I wish to explain very clearly that this street railway and its appurtenances is at present the property of the American firm, Messrs. Collbran & Bostwick, by virtue of a mortgage of long standing, covering the deferred payments for the construction and temporary operation of the same as well as for contracts of more recent date covering an extension of the same, and the erection of an electric-lighting plant for the city of Seoul.

This mortgage was duly executed by authority of the Korean Government, and while it may be canceled by the payment of outstanding obligations, this would not be possible for some time as the mortgage will have to hold until the whole work is completed.

In the meantime I can not consent to the removal of the road from its present appropriate site to one less valuable from a commercial standpoint, without the full and free consent of the mortgagor, as that would be distinctly prejudicial to American interests as represented by this particular firm.

In this connection I also call your attention to the inclosed copy of a letter informing me that the street railway is about to lay down a length of track at a point near the present terminal grounds of the Seoul-Chemulpo Railway, where a loop of the street railway about to be built to give access to the passenger traffic of the steam railway will cross the Seoul-Chemulpo Railway. The object in laying down this length of track is to assert the prior claims of the street railway to its legal right to this crossing and to prevent any future discussion in regard thereto.

I have given my approval to this course.

I have, etc.,

HORACE N. ALLEN.

[Inclosure 4.—Translations.]

*Newspaper clippings.*

[Che Kuk Sin Mun, April 14, 1900.]

The foreign minister instructed the governor of Seoul to remove the electric railway track along the pond outside the south gate to some other place, because the station yard for the Seoul-Fusan Railway had been already discussed and selected by the foreign minister, the minister for works, and the Japanese minister.

[Hwang Sung Sin Mun, April 14, 1900.]

The Japanese minister wrote and asked for the removal of the electric railway track outside the south gate to some other place, so that the Seoul-Chemulpo and the Seoul electric railways would not mutually obstruct one another, and Ye Cha Yun, the governor of Seoul, is going to have a consultation with the Japanese minister and settle the matter.

*Mr. Allen to Mr. Hay.*

No. 242.]

LEGATION OF THE UNITED STATES,  
*Seoul, Korea, April 18, 1900.*

SIR: Continuing the subject of my last dispatch No. 241, of April 14, regarding Japanese interference with the Seoul Electric Railway, which is held by Americans as mortgagees, I have the honor to inform you that on the 15th instant I received a dispatch from Mr. Hayashi, the Japanese minister, replying to mine of the 9th, a copy of which I inclosed in my No. 241. In this dispatch Mr. Hayashi disclaims any intention of demanding a removal of the railway in question.

I am fully aware that he did all he could to secure this removal. His railway people said to the governor of Seoul that he must not heed the Americans, as they amounted to nothing. I was assured that so much pressure was being brought to bear upon the Koreans that but for the fact that Americans were objecting to any move they would have been compelled to yield. On the night of the 14th instant I was informed that the cabinet had definitely refused Mr. Hayashi's request for the removal of the railway and the allotment of the ground in question. I received his letter next day, informing me that he had no intention of demanding the removal of the road.

He further informed me, in the dispatch, that he reserved the prior right of the crossing mentioned to the Seoul-Chemulpo Railway. That same day, the 15th, the official Japanese newspaper, published in Seoul, contained a notice to the effect that the rails laid down by the Americans at this crossing would be removed in the presence of the Japanese minister. I therefore called on Mr. Hayashi on the 16th and explained that after seeing the official plan of his engineers and their proposed changes to this American road I had felt it my duty to distinctly acquaint him with the conditions of our ownership and to assert our right to a crossing by allowing my people to lay down rails in advance of the Japanese railroad people; that I did not wish to appear to be obstructive or to cause trouble to much-needed industries; that if it were a mere matter of the cost of maintenance of the crossing, and if there would be no question as to the right of the electric road to cross the steam road, I felt quite sure we could arrive at a satisfactory arrangement. He agreed that there should be no question of the right to the crossing, and that he was aiming at compelling the electric road to share the cost of maintenance. I assured him they would do so, and that we might leave the matter in the hands of the managers of the two roads. Messrs. Collbran & Bostwick had given me assurances to this effect, as they desired no trouble over the matter.

Being aware of all the representations that were made to the Koreans in this matter, and having seen plans and documents in support of the same, I am entirely confident that prompt and firm action alone prevented grave annoyance and loss to the American firm who hold the Seoul Electric Railway, as well as an unfortunate blow to the prestige of Americans in Korea by the Japanese, who do not seem to take kindly

to the fact that Americans are so influential here in commercial matters.

My relations with the Japanese minister, while they have been entirely cordial all along, are apparently much improved by the above incident.

I have, etc.,

HORACE N. ALLEN.

[Inclosure 1.]

*Mr. Hayashi to Mr. Allen.*

LEGATION OF JAPAN IN KOREA,  
*Seoul, April 14, 1900.*

SIR AND DEAR COLLEAGUE: I have the honor to acknowledge the receipt of your note of April 9, relating to the Seoul Electric Railway. You consider that the concessionaires of the Seoul-Fusan Railway have asked that the street railway be diverted from its present site along the main street of the suburbs outside the south gate to a site which is less valuable. You state that this railway and its appurtenances are at present the property of the American firm, Messrs. Collbran & Bostwick, by virtue of a mortgage of long standing, which can only be canceled by the payment of outstanding obligations. You therefore object to the removal of the road without the full and free consent of the mortgagees.

You have also called my attention to the fact that the street railway is about to lay down a certain length of track at a point near the present terminal grounds of the Seoul-Chemulpo Railway, in order to assert on the part of the street railway prior claim with regard to the crossing at that point of the two railways.

In answer I beg to state that Seoul-Fusan Railway has no intention to remove the street railway from its present site without the consent of the latter.

As to the second point, the course which Seoul-Chemulpo Railway is to take is already fixed, and its road is marked and partly constructed, and the steps to be taken by the street railway can not but injure the right of the former.

I deem it therefore my duty to reserve the right of the Seoul-Chemulpo Railway in this question.

I avail myself, etc.,

G. HAYASHI.

[Inclosure 2.]

[Translation of an article in Japanese newspaper of Sunday, April 15, 1900.]

*Removing of track outside of the south gate.*

As the Japanese minister communicated to the foreign office to remove the track of the electric railway outside of south gate, to avoid the obstruction of Seoul and Chemulpo Railway track, they are going to remove the track in a few days in the presence of the Japanese minister and the governor of the city.

*Mr. Hay to Mr. Allen.*

No. 149.]

DEPARTMENT OF STATE,  
*Washington, June 1, 1900.*

SIR: I have to acknowledge the receipt of your dispatches Nos. 241 and 242, of April 14 and 18 last, respectively, on the subject of Japanese interference with the Seoul Electric Railway, which is held by Americans as mortgagees.

You report that you and the Japanese minister have arranged the matter to the satisfaction of all the parties concerned, and that it was only by prompt action that serious loss to the American firm and injury to American prestige were prevented.

The Department approves your action.

I am, etc.,

JOHN HAY.

## LIBERIA.

### REGULATION OF THE IMPORTATION OF SPIRITUOUS LIQUORS INTO CERTAIN REGIONS OF AFRICA. (SEE ALSO UNDER BEL- GIUM.)

*Mr. Hay to Mr. Smith.*

No. 46.]

DEPARTMENT OF STATE,  
*Washington, March 8, 1900.*

SIR: On July 2, 1890, a general act between the United States and other powers for the suppression of the African slave trade and the restriction of the importation into and sale in a certain defined zone of the African continent of firearms, ammunition, and spirituous liquors was concluded and signed at Brussels, Belgium, to which general act the adhesion of Liberia was given.

Article XCII of the act provides for the revision of the regulations on the importation of spirituous liquors into certain regions of Africa; and for the purpose of such revision a conference of certain powers met at Brussels on April 20 last and closed its labors on June 8 following, by the signing of a convention, whereby the import duty of 15 francs per hectoliter of proof spirits testing 50 per cent of alcohol was raised to 70 francs per hectoliter. Article III of this convention provides for the adhesion thereto of the powers who signed the general act of Brussels, or who adhered to it.

With this explanation I inclose herewith a copy of a dispatch<sup>1</sup> from the minister of the United States at Brussels, transmitting a translation of a note from the Belgian minister for foreign affairs requesting the United States to use its good offices to the end that the Government of Liberia, having adhered to the general act of July 2, 1890, should signify likewise its adhesion to the convention of June 8, 1899.

You will communicate the Belgian request to the Liberian Government for such action as it may be pleased to take. While disclaiming any purpose on our part to advise or influence Liberia's course, you will let it be known that the sentiment of the Government of the United States is in favor of the measure, as in fact its influence was largely instrumental in bringing about the modification of the general act of July 2, 1890, in a more restrictive sense than it was first found practicable to agree upon.

I inclose copies of the general act of July 2, 1890,<sup>2</sup> and the convention of June 8, 1899.<sup>3</sup>

I am, etc.,

JOHN HAY.

<sup>1</sup>Printed, p. 34.

<sup>2</sup>Not printed.

<sup>3</sup>Printed, p. 41.

*Mr. Spurgeon to Mr. Hay.*

No. 81, diplomatic series.] LEGATION OF THE UNITED STATES,  
*Monrovia, Liberia, April 18, 1900.*

SIR: I have the honor to acknowledge the receipt April 12, 1900, of your No. 46, of March 8, 1900, relative to the request of the Belgian Government for the adhesion of the Government of Liberia to the convention of June 8, 1899. In regard to the above, it is my pleasure to transmit to you the original dispatch from the secretary of state at Monrovia, in reply to mine (a copy of which is also inclosed), acknowledging the ratification by the Liberian Government of the said act, and requesting the Government of the United States to notify the Belgian Government of Liberia's adhesion.

During a personal interview with the secretary of state I was informed that the matter had not before been brought to the attention of the Liberian Government.

I have, etc.,

JAMES ROBERT SPURGEON.

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[Inclosure 1.]

*Mr. Spurgeon to Mr. Gibson.*

LEGATION OF THE UNITED STATES,  
*Monrovia, Liberia, April 12, 1900.*

SIR: I have the honor to say that in view of the fact that on June 8, 1900, the limit of time fixed for the exchange of ratifications of the convention of June 8, 1899, regulating the importation of spirituous liquors into certain regions of Africa will have expired, the Government of the United States authorizes me, in the use of its good offices, to communicate to the Liberian Government the request of the Belgian Government for Liberia's adhesion to the convention of June 8, 1899. While the Government of the United States communicates the Belgian Government's request for such action as the Liberian Government may be pleased to take, and while the Government of the United States disclaims any purpose to advise or influence Liberia's course, yet, Mr. Secretary of State, I am glad to inform you that in the interest of Africa and its people the sentiment of the Government of the United States is in favor of the measure, as in fact its influence was largely instrumental in bringing about the modification of the general act of July 2, 1890, in a more restrictive sense than it was first found practicable to agree upon.

Your excellency will permit me to suggest that inasmuch as it was at the instance of the delegates of the United States to the conference of 1889-90 that the Republic of Liberia was invited to adhere to the general act signed on July 2, 1890, the Government of the United States should know on an early date the will and pleasure of the Liberian Government relative to its adhesion to the court of June 8, 1899.

I have, etc.,

JAMES ROBERT SPURGEON.

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[Inclosure 2.]

*Mr. Spurgeon to Mr. Gibson.*

LEGATION OF THE UNITED STATES,  
*Monrovia, Liberia, April 13, 1900.*

SIR: I have the honor to herewith transmit to you, in keeping with your verbal request of even date, the copy of the convention of June 8, 1899, on which I have previously communicated with you.

I have, etc.,

JAMES ROBERT SPURGEON.

## FOREIGN RELATIONS.

[Subinclosure.]

*Mr. Gibson to Mr. Spurgeon.*DEPARTMENT OF STATE,  
*Monrovia, Liberia, April 17, 1900.*

SIR: I have the honor to acknowledge the receipt of your communication of the 12th instant, referring to the convention of June, 1899, regulating the importation of spirituous liquors into certain regions of Africa and inquiring whether or not the Government of Liberia adheres to the said convention.

In reply I have to say that the subject of your dispatch has had the careful consideration of the Executive Government and I have the pleasure of recording the adhesion of this State to a measure that has so important a bearing upon the welfare of Africa and the negro race.

Your excellency will please transmit this information to the Belgian Government having charge of collecting the adhesions of the Governments to the said convention.

I have, etc.,

G. W. GIBSON, *Secretary of State.*

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*Mr. Hay to Mr. Spurgeon.*

No. 49.]

DEPARTMENT OF STATE,  
*Washington, May 19, 1900.*

SIR: I have to acknowledge the receipt of your No. 81, diplomatic series, of the 18th ultimo, inclosing a communication from the secretary of state of Liberia, announcing the adhesion of that Government to the convention of June 8, 1899, governing the sale of spirituous liquors in certain portions of Africa.

As requested by Mr. Gibson, I have instructed the United States minister at Brussels to inform the Belgian Government of this notification, but you will say to the secretary that it is proper for the Liberian Government to announce its adhesion directly to the Government of Belgium.

I am, etc.,

JOHN HAY.

# MEXICO.

## CLAIM OF LA ABRA SILVER MINING COMPANY V. MEXICO. RETURN TO GOVERNMENT OF MEXICO OF AMOUNT AWARDED TO THE COMPANY.

*Mr. Hay to Señor Azpiroz.*

No. 78.]

DEPARTMENT OF STATE,  
*Washington, March 28, 1900.*

EXCELLENCY: As you are advised, the Congress of the United States, acting upon the recommendation of this Department, passed an act<sup>1</sup> which took effect December 28, 1892, authorizing and directing the Attorney-General to bring a suit in the Court of Claims against La Abra Silver Mining Company to determine whether the award made by the United States and Mexican mixed commission in respect to the claim of the said La Abra Company was obtained by fraud; and in case it should be so determined, to bar and foreclose all claims in law or equity on the part of said company, its representatives and assigns, to the money received from the Republic of Mexico on account of such award.

In accordance with the terms of the act of Congress of 1892, the Attorney-General brought suit in the name of the United States against said La Abra Company, and, after a patient and careful hearing of the case, the Court of Claims decided that the award made by the mixed commission was obtained by fraud, and a decree was rendered barring and foreclosing all claim on the part of said company, its agents, attorneys, or assigns, to the money received from the Republic of Mexico on account of said award; and, on an appeal being taken to the Supreme Court of the United States, this latter tribunal affirmed in full the decision of the Court of Claims.

Of the sum paid by the Government of Mexico on account of La Abra award, it appears that there is remaining under the control of this Department \$403,030.08, which, in accordance with the legislative and judicial proceedings above cited, it is now within my power to return to the Government of Mexico. Acting under the direction of the President, and in pursuance of the spirit of equity and fair dealing which controls the conduct of this Government in its relations with the neighboring republics, it is now my very agreeable duty to inclose to you herewith a check for the amount above named drawn upon the assistant treasurer of the United States at New York and made payable to your order.

Accept, etc.,

JOHN HAY.

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<sup>1</sup> See Statutes at Large, vol. 27, p. 409, et seq.

*Señor Aspíroz to Mr. Hay.*

[Translation.]

No. 85.]

MEXICAN EMBASSY,  
*Washington, March 28, 1900.*

EXCELLENCY: I have the honor to acknowledge the receipt of the note No. 78 of to-day's date, in which—after referring to the legislative and judicial proceedings which resulted in the affirmation by the Supreme Court of this country of the judgment rendered by the Court of Claims, in virtue of which it was determined that the award of the mixed claims commission in favor of La Abra Silver Mining Company was obtained by means of fraud and that neither that company, its representatives, nor assigns are entitled to receive any part of the amount which the Government of Mexico delivered to the Government of the United States in payment of that claim—your excellency informs me that of said sum there remains in the control of your Department the sum of \$403,030.08, and that, by direction of His Excellency the President of the United States such sum is at my disposition by means of the check inclosed with your excellency's note, payable by the United States treasurer at New York.

I hasten to express to your excellency my most sincere recognition of the high principles of justice and equity which have guided the Government of the United States in returning to Mexico the aforesaid sum so soon as the obstacles to such action were removed. I do not doubt that my Government, on receiving this agreeable intelligence, will see in this act a new proof of the friendly spirit with which the illustrious Chief Magistrate of this country and your excellency personally cultivate the pacific relations happily existing between our two Republics upon the basis of honor, morality, and benevolence, with the wise cooperation of the legislative and judicial branches, which is illustrated particularly in the act of exemplary probity to which I have just referred, and for which to a singular degree the Mexican people will always be grateful.

I return to your excellency the copies, in original and duplicate, of the receipt of the check referred to, bearing my signature and official seal, and I retain the third copy.

Be pleased, etc.,

M. DE AZPÍROZ.

[Inclosure.]

Received of the Secretary of State of the United States the sum of \$403,030.08, being the balance of the award given in favor of the La Abra Silver Mining Company by the United States and Mexican Mixed Claims Commission, under the convention of July 4, 1868, which award by the decision of the Court of Claims, and, upon appeal, by the decision of the Supreme Court of the United States, upon action brought by the Attorney-General of the United States under the authority of an act which took effect December 28, 1892, was declared to be obtained by fraud. This amount is paid by check No. 4015, drawn upon the assistant treasurer of the United States at New York, dated March 28, 1900, and made payable to my order.

Signed in triplicate this 28th day of March, 1900, at Washington, D. C.

[SEAL.]

M. DE AZPÍROZ.



CLAIM OF BENJAMIN WEIL V. MEXICO. RETURN TO GOVERNMENT OF MEXICO OF AMOUNT AWARDED TO WEIL.

*Mr. Hay to Señor Aspíroz.*

No. 130.]

DEPARTMENT OF STATE,  
*Washington, November 10, 1900.*

EXCELLENCY: It is my agreeable duty to inclose to you herewith a check drawn on the assistant treasurer of the United States at New York to your order for \$287,833.77, the amount of the unpaid balance of the award in favor of Benjamin Weil, made by the United States and Mexican claims commission, established under the convention of July 4, 1868, which award, by the decision of the Court of Claims, and upon appeal by the decision of the Supreme Court of the United States upon action brought by the Attorney-General of the United States under authority of an act of Congress,<sup>1</sup> which took effect December 28, 1892, was declared to have been obtained by fraud.

I beg that you will do me the favor to sign the inclosed receipt, in triplicate, and to return the original and duplicate copies thereof, when signed, to the Department.

Accept, etc.,

JOHN HAY.

*Señor Aspíroz to Mr. Hay.*

[Translation.]

No. 147.]

MEXICAN EMBASSY,  
*Washington, November 12, 1900.*

EXCELLENCY: With your note No. 130 of the 10th instant I received the check therein inclosed for \$287,833.77, being the unpaid balance in the claim against Mexico decided in favor of Benjamin Weil by the mixed commission created under the convention of July 4, 1868, and declared fraudulent by the Court of Claims, and, on appeal, by the Supreme Court of the United States, on the motion of the Executive and by virtue of Congressional legislation authorizing the revision of the arbitral sentence referred to.

It gives me pleasure to renew, in the name of my Government, the expression of the sentiments which I had the honor to offer you on the occasion of the restitution of the sum deposited in the Treasury of the United States for the award of La Abra Mining Company, also nullified, assuring you that this second proof of judicial equity will be another pledge of the cordial friendship so happily cultivated by our two Republics.

I inclose two official copies of my receipt for the above-mentioned check, and avail myself of this opportunity, etc.,

M. DE AZPÍROZ.

[Inclosure.]

Received from the Secretary of State of the United States the sum of \$287,833.77, being the unpaid balance of the award in favor of Benjamin Weil, by the United States and Mexican Mixed Claims Commission under the convention of July 4, 1868, which award by the decision of the Court of Claims, and, upon appeal, by the decision

<sup>1</sup>See Statutes at Large, vol. 27, p. 410, et seq.

of the Supreme Court of the United States, upon action brought by the Attorney-General of the United States under the authority of an act of Congress which took effect December 28, 1892, was declared to be obtained by fraud.

This amount is paid by check No. 4017, drawn upon the assistant treasurer of the United States at New York, dated November 10, 1900, and made payable to my order. Signed in triplicate this 10th day of November, 1900, at Washington, D. C.

[SEAL.]

M. DE AZPIROZ.

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**CONDOLENCES ON GALVESTON DISASTER—APPROPRIATION OF \$30,000 BY MEXICAN CONGRESS FOR RELIEF OF SUFFERERS.**

*Señor Azpíroz to Mr. Hay.*

[Telegram.]

SPRING LAKE, N. J., *September 14, 1900.*

The Secretary of Foreign Relations instructs me to transmit the deep sympathy of the President and Government and people of Mexico with the President and Government of the United States of America on occasion of the recent calamity at Galveston. In doing so through you, I beg to add my own sympathy.

M. DE AZPIROZ.

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*Mr. Adee to Señor Azpíroz.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, September 15, 1900.*

In the name of the President, of the sufferers by the Galveston calamity, and of the people of the United States, I return thanks for your message expressing the deep sympathy of the President, Government, and people of Mexico as well as your own.

ALVEY A. ADEE,  
*Acting Secretary.*

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*Señor Azpíroz to Mr. Hay.*

[Translation.]

No. 123.]

EMBASSY OF MEXICO,  
*Washington, D. C., October 2, 1900.*

EXCELLENCY: The Congress of the United Mexican States, moved by the sentiments of sympathy of the people of Mexico, of which I lately took occasion to convey to your excellency a fitting expression by reason of the terrible catastrophe of which the city of Galveston has been the victim, has authorized the Executive of my country to contribute the sum of \$30,000 in aid of the needy inhabitants of that city.

I have just received a bill of exchange for \$14,851.48 in United States gold, being the present equivalent of the sum of \$30,000 in the current money of my country, with instructions from the Secretary of Foreign Relations to place the same in your hands, to the end that you

may have the goodness to cause the proceeds thereof to reach their destination.

I have the honor to send to you herewith the bill of exchange in question indorsed to your order, thus fulfilling the charge given me by my Government, and I renew, etc.,

M. DE AZPÍROZ.

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*Mr. Hay to Señor Azpíroz.*

No. 116.]

DEPARTMENT OF STATE,  
*Washington, October 5, 1900.*

EXCELLENCY: I had the honor to receive, from your own hands, on the 2d instant, your note of that date, by which you advised me of the generous action of the Congress of the United Mexican States in voting the sum of \$30,000 toward the relief of the suffering caused at Galveston by the recent calamitous tornado.

In thus giving expression, as the Congress of your country has done, to the sentiments of earnest sympathy which the people of Mexico have manifested for their deeply afflicted and sorrowing neighbors, the existing tie of friendship between the two communities has been given a shape and strength to which the gratitude of my countrymen lends even greater force. The President, on being informed of this noble act, charges me, in the name of this Government and of the thousands left bereaved and destitute by the awful visitation, to thank the Congress and the people of Mexico for the large-hearted charity that has prompted their contribution, the memory of which, he is pleased to hope, will long endure in the hearts of all true Americans.

The proceeds of the bill of exchange for \$14,851.48, in United States gold, which you send me as the equivalent of the \$30,000 voted by the Mexican Congress, and the receipt of which I hereby acknowledge, will be sent to the governor of the State of Texas, who has charge of the funds contributed for the relief of the Galveston sufferers, and I promise myself the pleasure of communicating to you his acknowledgment thereof in due course.

Be pleased, etc.,

JOHN HAY.

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*Mr. Hay to Señor Azpíroz.*

No. 121.]

DEPARTMENT OF STATE,  
*Washington, October 17, 1900.*

EXCELLENCY: I have the honor to inclose herewith copy of a letter from the governor of Texas acknowledging the receipt of the draft for \$14,851.48 which you inclosed to this Department with your note of the 2d instant and expressing to the President, the Congress, and the people of Mexico the most grateful appreciation of himself and of the people of Texas for this generous contribution to the relief of the storm sufferers at Galveston.

Accept, etc.,

JOHN HAY

[Inclosure.]

*Governor Sayers to Mr. Hay.*EXECUTIVE OFFICE, STATE OF TEXAS,  
*Austin, October 10, 1900.*

DEAR SIR: I have the honor to acknowledge the receipt of your favor of the 6th instant with the inclosure of a draft for \$14,851.48, the same being the equivalent in United States gold of \$30,000 Mexican money, voted by the Congress of the United Mexican States toward the relief of the suffering caused at Galveston by the recent storm; also copies of the note to you by the Mexican ambassador, inclosing the same, and of your reply thereto.

You will please convey, through the Mexican ambassador, to the President, the Congress, and the people of Mexico the most grateful acknowledgments of myself and of the people of this State for the prompt, unsolicited, and generous contribution to the relief of the storm sufferers at Galveston.

I can only indicate my appreciation of this generous exhibition of kindly feeling upon the part of our neighboring Republic by expressing the sincere hope that prosperity, peace, and happiness may forever abide within its borders.

I have, etc.,

JOSEPH D. SAYERS,  
*Governor of Texas.*

**WATER BOUNDARY CONVENTION BETWEEN THE UNITED STATES  
AND MEXICO—EXTENSION, FOR AN INDEFINITE PERIOD, OF  
THE TREATY OF MARCH 1, 1889.**

*Señor Azpiroz to Mr. Hay.*

[Translation.]

No. 127.]

EMBASSY OF MEXICO,  
*Washington, October 8, 1900.*

EXCELLENCY: As the term fixed between Mexico and the United States on the 24th of December, 1899, for the extension of the water-boundary convention under which the International Boundary Commission is in existence will expire on the 23d of December next, my Government has instructed me to propose to you that a new convention be concluded between the two countries to supersede that concluded on March 1, 1889, said convention to be of a permanent character, or at least to stipulate a longer term for its duration.

Inasmuch as this international agreement, if brought to a conclusion, shall have to be referred to the approval of the Mexican Senate before the 15th of December, when its present session will close, so that it may go into effect on the expiration of the convention now in force, my Government impresses me with the urgency of a prompt solution.

I therefore beg that you will be pleased to inform me whether the Government of the United States would be inclined to conclude the new convention as above indicated, so that we may agree in that case on the provisions of the agreement, to which end it will give me pleasure to confer with you in that regard at any time that may suit your convenience.

Be pleased, etc.,

M. DE AZPIROZ.

*Mr. Hay to Señor Azpiroz.*

No. 127.]

DEPARTMENT OF STATE,  
*Washington, October 31, 1900.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 8th instant, in which, after referring to the fact that the

term fixed between the United States and Mexico on December 24 last for the extension of the water boundary convention of March 1, 1889, will expire on the 23d of the coming December, you propose, on behalf of your Government, that a new convention be concluded between the two countries to supersede that of March 1, 1889, and which shall be of a permanent character, or at least shall stipulate a longer term than one year for its duration.

This Government understands that that of Mexico is not ready to give its decision in the matter of the proposed treaty for the elimination of the bancos; that the question of the equitable distribution of the waters of the Rio Grande is still before the International Boundary Commission, and that the important case known as the "Chamizal case" remains undecided. Even if no new cases arise, it would seem that there will be a necessity for a commission between the two countries for some years to come.

This Government is, therefore, willing to enter into a convention continuing the said convention of March 1, 1889, and the commission established thereunder indefinitely, subject to the right of either contracting party to dissolve the commission by giving six months' notice to the other.

I inclose a draft of such convention.<sup>1</sup> If it shall meet with the approval of your Government, I shall be pleased to have it prepared for signature upon the receipt from you of the Spanish text.

Accept, etc.,

JOHN HAY.

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*Señor Azpíroz to Mr. Hay.*

[Translation.]

No. 153.]

MEXICAN EMBASSY,  
*Washington, November 15, 1900.*

ESTEEMED SIR: I have had the honor to receive your note No. 127, of October 31 last, with which you transmitted a draft in English of a new water boundary convention which shall be permanent in character.

I am ready to sign the new convention in the terms set forth in the said draft; therefore I inclose herewith the text<sup>2</sup> in Spanish which you were pleased to request of me.

I beg you to be good enough to inform me of the day and hour when we shall sign the aforesaid treaty, and to accept, etc.,

M. DE AZPÍROZ.

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*Mr. Hay to Señor Azpíroz.*

No. 134.]

DEPARTMENT OF STATE,  
*Washington, November 20, 1900.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 153, of the 15th instant, furnishing the Spanish text of the draft of a convention submitted with my note No. 127, of the 31st

<sup>1</sup>Printed, p. 788.

<sup>2</sup>Not printed.

ultimo, continuing in force and effect for an indefinite period the water boundary convention of March 1, 1889, and the commission established thereunder.

I have had the two texts prepared for signature and beg to inclose for your inspection the United States and Mexican copies of the convention. If found correct, I shall be pleased to sign the convention with you to-morrow morning at 11 o'clock, if you can find it convenient to call at that hour.

Accept, etc.,

JOHN HAY.

**CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED STATES OF MEXICO EXTENDING FOR AN INDEFINITE PERIOD THE TREATY OF MARCH 1, 1889, BETWEEN THE TWO GOVERNMENTS, KNOWN AS THE WATER BOUNDARY CONVENTION.**

*Signed at Washington November 21, 1900.*

*Ratified by Mexico December 12, 1900.*

*Ratification advised by the Senate December 15, 1900.*

*Ratified by the President December 24, 1900.*

*Ratifications exchanged December 24, 1900.*

*Proclaimed December 24, 1900.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

**A PROCLAMATION.**

Whereas, a Convention between the United States of America and the United States of Mexico extending for an indefinite period from December 24, 1900, the duration of the Convention between the two High Contracting Parties of March 1, 1889, concerning the water-boundary between the two countries, was concluded and signed by their respective plenipotentiaries at the City of Washington, on the 21st day of November, 1900, the original of which Convention, being in the English and Spanish languages, is word for word as follows:

Whereas the United States of America and the United States of Mexico desire to give full effect to the provisions of the Convention concluded and signed in Washington March 1, 1889, to facilitate the execution of the provisions contained in the Treaty signed by the two High Contracting Parties on the 12th of November 1884, and to avoid the difficulties arising from the changes which are taking place in the beds of the Bravo del Norte and Colorado Rivers in those parts which serve as a boundary between the two Republics;

And whereas the period fixed by Article IX of the Convention of March 1, 1889, extended by the Conventions of October 1, 1895, November 6, 1896, October 29, 1897, December 2, 1898, and December 22, 1899, expires on the 24th of December 1900;

And whereas the two High Contracting Parties deem it expedient to indefinitely continue the period fixed by Article IX of the Convention of March 1, 1889, and by the sole article of the Convention of October 1, 1895, that of November 6, 1896, that of October 29, 1897, that of December 2, 1898, and that of December 22, 1899, in order that the International Boundary Commission may be able to continue the examination and decision of the cases submitted to it, they have

for that purpose, appointed their respective Plenipotentiaries, to wit:

The President of the United States of America, John Hay, Secretary of State of the United States of America; and

The President of the United States of Mexico, Manuel de Azpíroz, Ambassador Extraordinary and Plenipotentiary of the United States of Mexico at Washington;

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

ARTICLE.

The said Convention of March 1, 1889, as extended on the several dates above mentioned, and the Commission established thereunder shall continue in force and effect indefinitely, subject, however, to the right of either contracting party to dissolve the said Commission by giving six months' notice to the other; but such dissolution of the Commission shall not prevent the two governments from thereafter agreeing to revive the said Commission, or to reconstitute the same, according to the terms of the said Convention; and the said convention of March 1, 1889, as hereby continued, may be terminated twelve months after notice of a desire for its termination shall have been given in due form by one of the two contracting parties to the other.

This Convention shall be ratified by the two High Contracting Parties in conformity with their respective Constitutions, and the ratifications shall be exchanged in Washington as soon as possible.

In testimony whereof, we, the undersigned, by virtue of our respective powers, have signed this Convention in duplicate, in the English and Spanish languages, and have affixed our respective seals.

Done in the City of Washington on the 21st day of November, one thousand nine hundred.

JOHN HAY [SEAL.]  
M. DE AZPÍROZ [SEAL.]

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the City of Washington, on the twenty-fourth day of December, one thousand nine hundred;

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 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 of America to be affixed.

[SEAL.] Done at the City of Washington this 24th day of December in the year of Our Lord one thousand nine hundred and of the Independence of the United States the one hundred and twenty-fifth.

WILLIAM MCKINLEY.

By the President:

DAVID J. HILL,  
*Acting Secretary of State.*

## NETHERLANDS.

### ORGANIZATION OF THE PERMANENT COURT OF ARBITRATION PROVIDED FOR BY THE CONVENTION SIGNED AT THE HAGUE, JULY 29, 1899.

*Mr. Newel to Mr. Hay.*

No. 283.]

LEGATION OF THE UNITED STATES,  
*The Hague, March 17, 1900.*

SIR: With reference to the court of arbitration to be organized as a result of the late peace conference by the signatory powers accredited to this court, I have the honor to state that some of my colleagues have commenced to discuss the apparent necessity of each power understanding thoroughly all details of any plan to be proposed for the organization of such court, in order that it may instruct properly its representative in advance of final action.

Some plan will be proposed at the first meeting, to be called some time in June next, by the minister of foreign affairs, and there will probably be a president, secretary-general, and some clerks agreed upon.

It is thought by some that the president will naturally be a Dutchman, and that the clerks, because of the probable small salaries, will necessarily be Dutch also. As to the secretary-general, who will be paid, it is expected, a sufficient salary, some of my colleagues do not seem to think that he should be a Dutchman; some think he should be chosen for his qualifications for the office, whether Dutch or not, and all with whom I have talked feel that there should at least be several names proposed from which to choose.

The minister of foreign affairs informed me on Wednesday last that a house had been hired, No. 71 Prinsegracht, in this city, and while some comment has been made about the want of authority, as yet, for such an act, I think all are disposed to regard that as a pardonable assumption of authority for the convenience of the preliminary meetings.

I ventured to say to the minister that as each signatory power is to pay its proportion of the expenses of maintaining the court or bureau, or whatever it may be called, I shall expect to be informed long enough in advance of any proposed action to enable my Government to instruct me intelligently.

He assured me that he agreed with me and that each minister should have an opportunity to consult his Government.

From time to time I shall report the progress of discussion among my colleagues on this subject.

I have, etc.,

STANFORD NEWEL.



*Mr. Newel to Mr. Hay.*

No. 285.]

LEGATION OF THE UNITED STATES,  
*The Hague, March 19, 1900.*

SIR: Referring to my dispatch No. 283 of the 17th instant in regard to the proposed court of arbitration, I have the honor to report that I have since been spoken to by several of my colleagues, some of whom do not seem at all satisfied with the selection of permanent quarters for the court, for two reasons: First, that such selection is unauthorized, and secondly, the house is too remote from the quarter where the diplomats live.

As I wrote in my former dispatch on this subject, I think most of my colleagues are disposed to pardon the assumption of authority, as it provides a place for preliminary meetings and headquarters, saving delay.

The objections urged to the house itself, on account of its location, may be more general. One argument urged in its favor is that the rent is low, less than £200 (\$1,000) per annum. That is answered by the statement that the twenty-six signatory powers will not instruct their ministers to select a cheap but a suitable building.

I learn also that it is thought that in addition to the president there will be a secretary-general, at a salary, say, of £1,000 (or \$5,000) per annum; an assistant secretary, at a salary of, say, £500 (or \$2,500) per annum, and two clerks, at from £100 to £150 (\$500 to \$750) each.

As to the selections for these positions, I shall endeavor to inform myself about the various candidates when proposed, and will forward such information to you when obtained.

I have, etc.,

STANFORD NEWEL.

*Mr. Newel to Mr. Hay.*

No. 324.]

LEGATION OF THE UNITED STATES,  
*The Hague, September 24, 1900.*

SIR: Referring to my No. 320,<sup>1</sup> dated September 20, 1900, relating to the opening session of the administrative council of the international arbitration bureau, I have the honor to advise you that at its adjourned meeting, held at the bureau quarters at 11 a. m on Friday, the 21st of September, there were fourteen powers represented, namely, Germany, Austria-Hungary, Belgium, France, Spain, Great Britain, Italy, Portugal, the Netherlands, Japan, Roumania, Russia, Siam, and the United States of America, and that the rules of the council were approved and passed.

Herewith I inclose a copy of the rules, together with translation.

Referring to Article II of the inclosed rules, I would add that the representatives of Russia, Germany, and Austria were drawn by lot, in the order given, to act as the first committee.

I have, etc.,

STANFORD NEWEL.

<sup>1</sup> Not printed.

[Inclosure.—Translation.]

In compliance with article 28 of the convention for the pacific settlement of international disputes, the diplomatic representatives of the signatory powers accredited to The Hague constitute the administrative council, under the presidency of the minister for foreign affairs of the Netherlands.

The council, in full session, has approved and adopted its rules, as follows:

ARTICLE I. Every proposition belonging to the court of arbitration shall be communicated to the members of the council by the president.

ART. II. The convocation of the members of the council shall be done by the president and that at least forty-eight hours in advance.

At any time any member of the council, should he deem it necessary, has the right to call for a meeting of the council through the intervention of the president.

ART. III. In the president's absence the council shall be presided over by the member who is at the head of the list of the diplomatic corps in order of seniority.

ART. IV. As was agreed in the session of the 15th of July, 1899, of the third commission of the peace conference, the chiefs of missions not having a fixed residence in The Hague shall choose such a domicile, in order that all communications or convocations concerning them may be addressed thereto.

ART. V. The convocation note shall contain the agenda. No decision can be taken on matters which are not mentioned in the agenda.

ART. VI. The vote shall be taken by word of mouth. In matters concerning the appointment, suspension, and dismissal of the functionaries and employes, the vote of the council shall be taken by ballot.

A decision shall be arrived at by a majority of votes.

In the case of a tie the proposition shall be regarded as rejected.

ART. VII. The order of voting shall be regulated by the alphabetical order of the signatory powers of the convention. The president shall vote last.

ART. VIII. The international bureau, under the control and the direction of the council, is permanently established.

It shall serve as intermediary to the powers and record office to the court in the circumstances provided for by the convention, and shall dispatch the business of the council.

The secretary-general placed at the head thereof is appointed by the council for a period of five years.

ART. IX. The secretary-general shall receive his instructions from the president, in the name of the administrative council.

He shall have the care of the archives and the direction of the staff.

He shall have his fixed residence in The Hague.

ART. X. The appointment and dismissal of the secretary-general shall be effected in a meeting called at least fifteen days in advance.

ART. XI. A committee shall be charged with the examination of the financial affairs of the international bureau.

This committee is composed of three members of the administrative council residing in The Hague. It shall be renewed on the 1st of January of every year, one by one, and in alphabetical order of the powers.

It shall hold its meetings at the quarters of the international bureau. The president has the right to attend its meetings.

The financial administration of the secretary-general and the budget shall be examined by the committee, which shall report annually to the administrative council.

ART. XII. The budget, as well as the approval of the accounts of the secretary-general, shall be passed in a session of the council after having been communicated to the members of the council at least fifteen days prior to their meeting.

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*Mr. Hill to Mr. Newel.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, November 24, 1900.

[Mr. Hill directs that the Government of the Netherlands and the international bureau of The Hague be notified that, in conformity with article 23 of Hague convention for the pacific settlement of interna-

tional disputes, the President designates as members of the court of arbitration ex-President Benjamin Harrison, Chief Justice Melville W. Fuller, Attorney-General John W. Griggs, and Judge George Gray.]

*Mr. Newel to Mr. Hay.*

No. 351.]

LEGATION OF THE UNITED STATES,  
*The Hague, December 13, 1900.*

SIR: Referring to my dispatch No. 347,<sup>1</sup> dated November 30, 1900, relating to the court of arbitration:

I have the honor to report that the following members of the administrative council of the court, viz: The chiefs of mission of the Netherlands, Germany, Belgium, Spain, the United States, Japan, Portugal, and Russia, and the chargés d'affaires of Austria-Hungary, France, Great Britain, and Italy—twelve representatives in all—met at 2 o'clock p. m. on Saturday, the 8th instant, at the Treves Salle in the Binnenhof, pursuant to due notice given, to consider:

First. The budget of the international bureau.

Second. Further consideration of the by-laws or rules of the bureau.

Third. The nomination of a second secretary in place of Jonkheer W. Roell, who had declined his election to that position.

The budget, which is for this year only, 1900, was presented by the secretary-general, with the approval of the financial committee, and was adopted unanimously, amounting to 49,500 florins. The premises No. 71 Prinsegracht, secured for the permanent location of the bureau, one of the fine old mansions of The Hague, will be very suitable for that purpose, with the proper changes and furnishing, for which the principal items in the budget of 10,000 florins for repairs and improvements and 30,000 florins for furnishings, etc., are intended to provide.

There was no criticism of the amount of these items, except a suggestion that perhaps in putting the house in order a desire to economize might have induced a too meager expenditure for those purposes to insure comfort. I thoroughly sympathize with that suggestion, and shall join with my colleagues in any effort to have the house thoroughly warmed and properly furnished, as in this climate any of our arbitrators who may be engaged in a lengthy case will certainly suffer in health if that is not properly attended to.

It is proposed to have a chair for each member of the administrative council upholstered with the arms of his country on the back, and each member was requested to ask his government to send a design, so that there may be no mistake made in executing it here.

I make that request.

Some further changes were made in the by-laws,<sup>2</sup> which when printed I will forward.

The nomination of a second secretary was adjourned till such time as the business of the bureau shall make such an officer necessary.

Perhaps it is not necessary to add that the Netherlands Government will thankfully receive from each of the signatory powers its share of the amount of the budget at an early date.

<sup>1</sup> Not printed.

<sup>2</sup> Printed, p. 797.

I inclose herewith a copy of the budget as presented to the council on the 8th instant, together with a translation of the same.

An official list has been issued by the Netherlands Government showing that all but four of the signatory powers have designated their delegates to the court of arbitration. The Government informs me, however, that there are to be some slight changes made as yet, but that at an early date a complete list may be expected. As promptly as possible I propose forwarding this list to the Department.

I have, etc.,

STANFORD NEWEL.

[Inclosure.—Translation.]

The financial committee for 1900–1901 approves the budget of the International Bureau of the Permanent Court of Arbitration that the secretary-general of the court has presented for its approval through the president of the administrative council.

F. POURTALES.  
C. STRUVE.  
FORBACH.

THE HAGUE, *November 21, 1900.*

*Budget of the International Bureau of the Permanent Court of Arbitration for the year 1900.*

RECEIPTS.

	Florins.
Sums that the Netherlands Government has undertaken to advance toward the payment of the expenses, under condition that it be refunded in the course of the year 1901 by the signatory powers of the convention of the 29th of July, 1899, for the pacific settlement of the international conflicts, in the proposition fixed by article 29 of the said convention.....	49,500

EXPENDITURES.

Salaries, remunerations, and indemnities.....	5,050
Rent.....	1,050
Repairs and improvement of house Prinsegracht 71, The Hague, and laying out of the garden.....	10,000
Purchase and making of the furniture; lease of furniture.....	30,000
Warming, lighting, and cleaning.....	550
Office furniture, letter and telegram boxes, dispatch and traveling expenses..	350
Library and archives.....	1,500
Printing and copying expenses.....	150
Miscellaneous.....	850
	49,500

Presented to the council November 17, 1900.

The secretary-general:

MELVIL BARON DE LYNDEN.

*Mr. Newel to Mr. Hay.*

No. 357.]

LEGATION OF THE UNITED STATES,  
*The Hague, December 24, 1900.*

SIR: Referring to my No. 351, dated December 13, 1900, relating to the court of arbitration, I have the honor to transmit, under separate cover of this date, six copies of the list of the members of the permanent court of arbitration, which I have just received from the secretary-general of the court, together with the request that I would transmit the same to my Government and to the United States delegates to that court.

I have, etc.,

STANFORD NEWEL.

[Inclosure.]

*Permanent court of arbitration provided for by the convention signed at The Hague July 29, 1899.*

## AUSTRIA-HUNGARY.

His Excellency Count Frederic Schönborn, LL. D., president of the imperial royal court of administrative justice, ex-Austrian minister of justice, member of the House of Lords of the Austrian Parliament, etc.

His Excellency Mr. D. de Szilagyí, ex-minister of justice, member of the House of Deputies of the Hungarian Parliament.

Count Albert Apponyi, member of the Chamber of Magnates and of the Chamber of Deputies of the Hungarian Parliament, etc.

Mr. Henri Lammasch, LL. D., member of the House of Lords of the Austrian Parliament, etc.

## BELGIUM.

His Excellency Mr. Beernaert, minister of state, member of the Chamber of Representatives, etc.

His Excellency Baron Lambertmont, minister of state, envoy extraordinary and minister plenipotentiary, secretary-general of the ministry of foreign affairs.

The Chevalier Descamps, senator.

Mr. Rolin Jacquemyns, ex-minister of the interior.

## BULGARIA.

(No appointments have been made.)

## DENMARK.

Prof. H. Matzen, LL. D., professor of the Copenhagen University, counselor extraordinary of the supreme court, president of the Landsthing.

## FRANCE.

Mr. Leon Bourgeois, deputy, ex-president of the cabinet council, ex-minister for foreign affairs.

Mr. de Laboulaye, ex-ambassador.

Baron D'Estournelles de Constant, minister plenipotentiary, deputy.

Mr. Louis Renault, minister plenipotentiary, professor in the faculty of law at Paris, law officer of the department of foreign affairs.

## GERMANY.

His Excellency Mr. Bingner, LL. D., privy counselor, senate president of the imperial high court at Leipzig.

Mr. von Frantzius, privy counselor, solicitor of the department of foreign affairs at Berlin.

Mr. von Martitz, LL. D., associate justice of the superior court of administrative justice in Prussia, professor of law at the Berlin University.

Mr. von Bar, LL. D., judicial privy counselor, professor of law at the Göttingen University.

## GREAT BRITAIN.

His Excellency the Right Honorable Lord Pauncefote of Preston, G. C. B., G. C. M. G., privy counselor of Her Majesty the Queen, ambassador at Washington.

The Right Honorable Sir Edward Baldwin Malet, ex-ambassador.

The Right Honorable Sir Edward Fry, member of the privy council of Her Majesty the Queen, Q. C.

Professor John Westlake, LL. D., Q. C.

## ITALY.

His Excellency Count Constantin Nigra, senator of the Kingdom, ambassador at Vienna.

His Excellency Commander Jean Baptiste Pagano Guarnaschelli, senator of the Kingdom, first president of the court of cassation at Rome.

His Excellency Count Tornielli Brusati di Vergano, senator of the Kingdom, ambassador at Paris.

Commander Joseph Zanardelli, attorney at law, deputy to the National Parliament.

## JAPAN.

Mr. I. Motono, envoy extraordinary and minister plenipotentiary at Brussels.  
Mr. H. Willard Denison, law officer of the minister for foreign affairs at Tokyo.

## MONTENEGRO.

(No appointments have been made.)

## NETHERLANDS.

Mr. T. M. C. Asser, LL.D., member of the council of state, ex-professor of the University of Amsterdam.

Mr. F. B. Coninck Liefsting, LL.D., president of the court of cassation.

Mr. Jonkheer A. F. de Savornin Lohman, LL.D., ex-minister of the interior, ex-professor of the Free University of Amsterdam, member of the Lower House of the States-General.

Mr. Jonkheer G. L. M. H. Ruys de Beerenbrouck, ex-minister of justice, commissioner of the Queen in the province of Limbourg.

## PERSIA.

(No appointments have been made.)

## PORTUGAL.

Count de Macedo, peer of the realm, ex-minister of marine and colonies, envoy extraordinary and minister plenipotentiary at Madrid.

## ROUMANIA.

Mr. Theodore Rosetti, senator, ex-president of the cabinet council, ex-president of the high court of cassation and justice.

Mr. Jean Kalindéro, administrator of the crown domain, ex-judge of the high court of cassation and justice.

Mr. Eugene Stasesco, ex-president of the senate, ex-minister of justice and foreign affairs.

Mr. Jean N. Lahovari, deputy, ex-envoy extraordinary and minister plenipotentiary, ex-minister of foreign affairs.

## RUSSIA.

Mr. N. V. Mouravieff, minister of justice, active privy councilor, secretary of state of His Majesty the Emperor.

Mr. C. P. Pobedonostzeff, attorney-general of the most holy synod, active privy councilor, secretary of state of His Majesty the Emperor.

Mr. E. V. Frisch, president of the department of legislation of the imperial council, active privy councilor, secretary of state of His Majesty the Emperor.

Mr. de Martens, privy councilor, permanent member of the council of the ministry of foreign affairs.

## SIAM.

(No appointments have been made.)

## SPAIN.

His Excellency the Duke of Tetuan, ex-minister of foreign affairs, senator of the Kingdom, grandee of Spain.

Mr. Bienvenido Oliver, director-general of the ministry of justice, ex-delegate of Spain to the conference on private international law at The Hague.

Dr. Manuel Torres Campos, professor of international law at the University of Grenada, associate member of the Institute of International Law.

## SWEDEN AND NORWAY.

Mr. S. R. D. K. D'Olivecrona, member of the International Law Institute, ex-associate justice of the supreme court of the Kingdom of Sweden, doctor of laws and letters at Stockholm.

Mr. G. Gram, ex-minister of state of Norway, governor of the province of Hamar, Norway.

## SWITZERLAND.

(No appointments have been made.)

## UNITED STATES.

Mr. Benjamin Harrison, ex-President of the United States.  
 Mr. Melville W. Fuller, Chief Justice of the United States.  
 Mr. John W. Griggs, Attorney-General of the United States.  
 Mr. George Gray, United States circuit judge.

*First secretary of the court.*—J. J. Rochussen.

*Second secretary of the court.*—Mr. Jonkheer W. Roell.

*The administrative council.*—The administrative council consists of the minister for foreign affairs of the Netherlands and the diplomatic representatives at The Hague of the ratifying powers.

*Secretary-general.*—Mr. R. Melvil Baron van Lynden, judge of the district court of Utrecht and a member of the First Chamber of the States-General.

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*Mr. Newel to Mr. Hay.*

LEGATION OF THE UNITED STATES,  
*The Hague, January 2, 1901.*

SIR: Referring to my No. 345,<sup>1</sup> dated November 26, 1900, relating to the meeting of the administrative council of the court of arbitration of the 22d of November, I have the honor to inclose herewith a copy of the official report<sup>1</sup> of the proceedings of that meeting, together with a translation of the same; and further, a copy, with translation, of the rules adopted at the subsequent meeting on the 8th of December last, and referred to in my No. 351, dated December 13 last.

I have, etc.,

STANFORD NEWEL.

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[Inclosure—Translation.]

*Rules relating to the organization and the internal functions of the international arbitration bureau of the permanent court of arbitration.*

ARTICLE I. The secretary-general of the permanent court of arbitration shall exercise the functions of the chief of the international bureau and, under the same title, those of recorder of the court.

He shall have the care of all the correspondence of the bureau.

He shall annually submit the budget of receipts and expenditures of the bureau; which he shall lay before the administrative council for their examination and approval. He shall act in the same manner with regard to the settlement of the annual accounts of the bureau, and in accordance with the order of the budget.

He shall have the direction of all the staff of the bureau.

ART. II. The staff of the bureau shall consist of a first secretary, a second secretary, 1 clerk, 1 care taker, 1 messenger.

ART. III. The work of the bureau shall be entirely under the authority of the secretary-general.

ART. IV. In case of leave of absence or prevention the secretary-general shall be represented by the first secretary.

ART. V. The staff of the international bureau are forbidden to make known to strangers of the work intrusted to them or to permit them to gain any knowledge from the documents relating to the work of the bureau.

Done at The Hague this 8th day of December, 1900.

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<sup>1</sup> Not printed.

ARBITRATION OF CLAIMS OF AMERICAN SEALING VESSELS v.  
RUSSIA. SELECTION OF MR. ASSER, MEMBER OF COUNCIL  
OF STATE OF THE NETHERLANDS, TO ACT AS ARBITRATOR.  
(SEE ALSO UNDER RUSSIA.)

*Mr. Hill to Mr. Newel.*

No. 255.]

DEPARTMENT OF STATE,  
*Washington, September 25, 1900.*

SIR: I inclose a copy of a dispatch<sup>1</sup> from the chargé d'affaires ad interim of the United States in Russia, in which he reports that a convention has been signed, a copy of which is likewise inclosed, providing for the submission to arbitration of the claims of certain American vessels against the Russian Government.

You will observe that this Government and that of Russia have agreed that Mr. Asser, member of the council of state of the Netherlands, should act as arbitrator.

You will therefore confer with the Russian minister at The Hague and act concurrently with him in endeavoring to secure the consent of Mr. Asser to assume the office of arbitrator, and in the event of his acceptance you will notify the Department by cable.

Accept, etc.,

DAVID J. HILL,  
*Acting Secretary.*

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*Mr. Newel to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,  
*The Hague, October 5, 1900.*

[Mr. Newel reports having to-day seen the Russian minister, who has not received instructions from his Government, in the absence of which he can not act, and does not consider it proper for him to hurry them. When instructions are received Mr. Newel will be notified.]

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*Mr. Newel to Mr. Hay.*

No. 327.]

LEGATION OF THE UNITED STATES,  
*The Hague, October 5, 1900.*

SIR: Referring to Department instruction No. 255, dated September 25, 1900, relating to the submission to arbitration of the claims of certain American vessels against the Russian Government, I have the honor to confirm on the overleaf my cablegram<sup>2</sup> of this date, and in this regard to state that immediately upon receipt of the instruction I communicated with the Russian minister and in response thereto his excellency made an appointment with me for this morning.

The Russian minister informs me this morning that he has had no instructions in the matter from his Government, nor has he heard any-

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<sup>1</sup> Printed under Russia, p. 883.

<sup>2</sup> Printed ante.



thing on the subject; that he attributes this to the absence of the Czar with the minister for foreign affairs from St. Petersburg, that he does not feel it right for him to take any steps in the premises, but that immediately upon the receipt of any instruction from his Government he will advise me thereof. He does not consider it proper for him even to communicate with his Government on the matter before it has communicated with him.

I have, etc.,

STANFORD NEWEL.

*Mr. Hay to Mr. Newel.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, October 9, 1900.*

[Mr. Hay states that advices have been received by cable from the chargé d'affaires at St. Petersburg that instructions relative to the arbitrator of sealing claims were sent by courier on October 4 to the Russian minister.]

*Mr. Newel to Mr. Hay.*

No. 328.]

LEGATION OF THE UNITED STATES,  
*The Hague, October 12, 1900.*

SIR: Referring to my No. 327, dated October 5, 1900, relating to the United States-Russian arbitration case, I have the honor to confirm on the overleaf Department's cipher cablegram<sup>1</sup> of the 9th instant, and to state that the Russian minister having received his instructions from his Government called upon me yesterday (Thursday) afternoon, and that a joint note has been addressed to Mr. Asser to ask that he would appoint an hour at which we can jointly ask him to act as arbitrator in the case in question and know his decision.

I have, etc.,

STANFORD NEWEL.

*Mr. Newel to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,  
*The Hague, October 13, 1900.*

[Mr. Newel reports that, in company with the Russian minister, he called at noon to-day on Mr. Asser, who very cordially consents to act as arbitrator if appointed. Mr. Asser would prefer to leave the compensation to be determined by parties to the convention.]

<sup>1</sup> Printed ante.

*Mr. Hay to Mr. Newel.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, October 13, 1900.*

[Mr. Hay instructs Mr. Newel to formally invite Mr. Asser to act as arbitrator, acting concurrently with Russian minister. The two Governments will determine upon his compensation.]

*Mr. Newel to Mr. Hay.*

No. 331.]

LEGATION OF THE UNITED STATES,  
*The Hague, October 13, 1900.*

SIR: I am pleased to be able to report that I called with the Russian minister at noon to-day upon Mr. Asser, member of the council of state of the Netherlands, and we asked him if he would assume the office of arbitrator in the matter of the claims of American citizens for the seizure of their vessels in the northern Pacific Ocean by Russia if it should be offered to him, and then what amount of compensation he would deem adequate.

He consented to act as arbitrator with great cordiality, but as to the compensation he could not have any idea at this time, as it is impossible to know how much labor and time may be necessarily employed. He assured us he regarded it as a great honor to be selected, and that the honor was more to him than any consideration of money, and that he preferred to leave the amount of his compensation to be determined by the parties to the convention.

Both the Russian minister and myself appreciated the importance of settling this question of compensation at this time, but we were obliged to leave it undetermined.

I have, etc.,

STANFORD NEWEL.

*Mr. Newel to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,  
*The Hague, October 18, 1900.*

[Mr. Newel reports the simultaneous delivery by the Russian minister and himself of an identical note inviting Mr. Asser to act as arbitrator.]

*Mr. Newel to Mr. Hay.*

No. 338.]

LEGATION OF THE UNITED STATES,  
*The Hague, October 18, 1900.*

SIR: I have the honor to report that I met the Russian minister at 2 o'clock to-day and we wrote identical notes inviting Mr. Asser, member of the council of state of the Netherlands, to act as arbitrator in connection with the claims of American citizens for the seizure of their vessels in the North Pacific Ocean by Russia, and at 3 o'clock this afternoon we called together upon Mr. Asser and simultaneously left these invitations.

The Russian minister had been instructed by Count Lamsdorff, as Russian minister of foreign affairs, to deliver with his invitation a copy of the protocol in French, and after carefully comparing his copy with the copy in English which I had, we agreed that he should leave his copy in French with his note and I should leave my copy in English with my note, and then each furnish the other with a copy of that sent by him, which we did.

I append on the overleaf a copy of my note of invitation to Mr. Asser in French, with a translation thereof.

I will add that Mr. Asser hopes to receive the first memorandum soon, as he will have some leisure time during the next two months which he will gladly devote to this matter.

I have, etc.,

STANFORD NEWEL.

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[Inclosure.—Translation.]

*Mr. Newel to Mr. Asser.*

LEGATION OF THE UNITED STATES,  
*The Hague, October 18, 1900.*

MR. COUNCILOR: Referring to the interview which the Russian minister and myself had with you on September 26 (October 9) of the current year, I have the honor, at the instruction of my Government and in agreement with the Russian minister, to send you the invitation from my Government to act as arbitrator in connection with the claims of the schooners *James Hamilton Lewis, C. H. White, Kate and Anna*, their charterers, owners, officers, and crews, arising out of their detention or seizure by Russian cruisers on the charge of having been illegally engaged in fur-seal fishing, and the claim of the whaling bark *Cape Horn Pigeon*, its charterers, owners, officers, and crew, arising out of their detention or seizure by a Russian vessel.

I have the honor at the same time to hand you a copy of the identical declaration<sup>1</sup> exchanged by our Governments at St. Petersburg on August 26 (September 8) of the current year.

Accept, etc.,

STANFORD NEWEL.

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*Mr. Newel to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,  
*The Hague, October 20, 1900.*

[Mr. Newel reports the receipt of Mr. Asser's acceptance in writing; and that for two months Mr. Asser will be without any engagement.]

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*Mr. Newel to Mr. Hay.*

No. 339.]

LEGATION OF THE UNITED STATES,  
*The Hague, October 20, 1900*

SIR: I have the honor to confirm on the overleaf my cablegram<sup>2</sup> of this date, advising of Mr. Asser's acceptance of invitation to act as arbitrator in the United States-Russian arbitration case, and to inclose herewith a copy, together with translation, of Mr. Asser's note of yesterday, officially notifying me of that fact.

I have, etc.,

STANFORD NEWEL.

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<sup>1</sup>Printed under Russia, p. 883.

<sup>2</sup>Printed ante.

[Inclosure.—Translation.]

*Mr. Asser to Mr. Newel.*

THE HAGUE, *October 19, 1900.*

MR. MINISTER: I have had the honor to receive your esteemed letter of the 16th instant conveying the invitation of your Government to act as arbitrator in connection with the claims against the Russian Government of the vessels *James Hamilton Lewis*, *C. H. White*, and *Kate and Anna*, as well as the vessel *Cape Horn Pigeon*.

Having read the identical declarations exchanged between the two Governments on August 26 (September 8) of the current year, that your excellency kindly sent me, I hasten to notify your excellency, as I have already done in our interview that I had the honor of having with you and with the Russian minister, on the 13th instant, that I feel greatly honored by this invitation, which I accept with the greatest pleasure, and that I shall do my utmost to show myself not too unworthy of the confidence the two Governments desire to place in me.

Accept, etc.,

T. M. C. ASSER.

## NICARAGUA, SALVADOR, AND COSTA RICA.

### CUSTOMS DUTIES COLLECTED BY INSURGENTS WHILE IN TEMPORARY POSSESSION OF BLUEFIELDS, AND RETURN OF SAME TO AMERICAN MERCHANTS.

*Mr. Hay to Mr. Merry.*

No. 256.]

DEPARTMENT OF STATE,  
*Washington, July 26, 1899.*

SIR: Only recently has the Department been placed in full possession of the evidence showing the circumstances of the payment of customs duties to the revolutionary authorities under General Reyes by the American merchants mentioned in the agreement<sup>1</sup> between yourself and Mr. Sanson of April 29 ultimo. The evidence submitted to the Department, consisting in part of the sworn statements of said merchants, seems to establish the following facts:

1. The bona fide neutrality of said merchants preceding and during the revolutionary movement led by General Reyes, and their absolute freedom from complicity in that movement.

2. That the merchants paid none of the current customs duties during the period of February 3 to 23 last, but only certain bonds or notes which had matured and which had been given for duties on goods imported during the months of December, 1898, and January, 1899, and that those bonds when paid were in the hands of Mr. A. Salter, who had been appointed by the titular government and continued by General Reyes as treasurer at Bluefields.

3. That those customs bonds or notes bore a penalty of 5 per cent per month if not paid when due; that they were in the possession of said treasurer, who demanded their payment, and under fear of incurring this penalty and under threats by General Reyes that unless the merchants paid the same they would not be allowed to receive importations, they were constrained to make said payments involuntarily and at the risk of serious injury and loss if they refused.

4. That General Reyes was in full control and exercise of all the military and civil offices, functions, and agencies of government in the Bluefields district during that period, which seems to be proven demonstratively by the fact that prior to February 3 General Estrada had been appointed by the titular government the successor in office to General Reyes as governor intendente of the district of Zelaya and inspector-general of the Atlantic coast of Nicaragua, and had come to Bluefields to assume his official functions; that he was unable to do so by reason of the supreme control of General Reyes in the Bluefields district, in consequence of which General Estrada sought and received asylum and protection in the American consulate during the entire

<sup>1</sup> See Foreign Relations, 1899, p. 576.

period of February 2 to February 25, until after the surrender of General Reyes and the collapse of the revolutionary movement.

Under the circumstances stated which have been shown to exist, the Government of the United States feels that it would be an act of international injustice for the Nicaraguan Government to exact the repayment of the customs bonds or notes thus paid by said merchants and which are in their possession. You are therefore instructed to request of the Nicaraguan Government its assent to the refunding to said merchants of the moneys which were deposited by them in the hands of the British consul to be held pending the consideration and solution of the question by the two Governments. You will furnish to the minister of foreign affairs a copy of this instruction, should he request it.

I am, etc.,

JOHN HAY.

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*Mr. Merry to Mr. Hay.*

No. 295.] LEGATION OF THE UNITED STATES OF AMERICA,  
*San José, Costa Rica, August 11, 1899.*

SIR: I have the honor to acknowledge the receipt of your No. 256, dated July 26, and in accordance with instructions therein shall promptly forward copy thereof to the minister of foreign affairs of the Republic of Nicaragua. The position assumed by the Department of State is so obviously just and the arguments presented so entirely conclusive that I sincerely hope the Nicaraguan Government will permit the funds now held in trust by Her Britannic Majesty's consul at San Juan del Norte to be at once returned to the parties who paid them over, under my agreement with Señor Sanson, minister of foreign affairs. The next mail for Managua via Puntarenas leaves here on the 15th instant and should reach there on the 20th instant. I shall, in a friendly manner, urge prompt action, but no additional arguments should be necessary.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

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*Mr. Merry to Mr. Hay.*

No. 308.] LEGATION OF THE UNITED STATES OF AMERICA,  
*San José, Costa Rica, September 7, 1899.*

SIR: I have the honor to inclose herewith copy of my No. 70, dated August 14, addressed to Hon. Joaquin Sanson, minister of foreign affairs of Nicaragua; copy of his reply, dated August 25, and copy of my No. 76, of this date, replying to him. There is little for me to add, as the letters are self-explanatory. There are two points upon which Señor Sanson and myself differed radically in connection with the Bluefields revolutionary uprising. He insisted that President Zelaya's proclamation closed the port to all commerce, even though he had no force afloat or on shore during the period of the Reyes revolt (February 3 to 25, 1899) with which to enforce the decree. I persistently claimed that the President's proclamation, without force afloat or on shore to

give effect, could not close a port against peaceable commerce. He insisted that the Reyes revolutionary government was not a de facto government; that the merchants at Bluefields had aided a revolutionary movement by paying to the leaders thereof any money whatever, and consequently deserved to lose it. My argument to the contrary will be found in inclosure No. 3.

Gen. Tiburcio Bonilla, who succeeds General Estrada, is a military lawyer, ex-judge of the supreme court at Managua, personally known to me as a man of good character, educated two years in the United States and afterwards in France, and a friend to Americans. I think that with his arrival at Bluefields and the commercial reciprocity treaty effective, matters there will proceed peaceably, if the Managua government will permit it. As the newly appointed governor and Judge Roman, newly appointed district judge at Bluefields, may summon the merchants to give evidence before his court in reference to their participation in the Bluefields revolt, may I request that the Department will cable me on receipt hereof, a reply to the following inquiries:

1. Does the Department consent that the merchants shall attend the court in person and give their evidence on the question?

2. Does the Department permit that the copies of the affidavits now in its possession, testifying to the neutrality of the merchants in the Bluefields revolt and such other papers appertaining as may be selected from those sent to Washington by Consul Sorsby, shall be presented to said court as evidence? These inquiries are now necessary, because I am not certain that the Department will now permit the case to go before a Nicaraguan court. I await your instructions on the above points.

Consul Sorsby writes me that Mr. Joaquin Sanson has been appointed Nicaraguan consul at New Orleans, at which I am surprised, as it would indicate that his management of foreign affairs at Managua and Bluefields has not been satisfactory to General Zelaya.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

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[Inclosure 1.]

*Mr. Merry to Mr. Sanson.*

LEGATION OF THE UNITED STATES,  
*San José, Costa Rica, August 14, 1899.*

ESTEEMED SIR: I have the honor to forward herewith for the consideration and action of your excellency's Government, an official letter from the Department of State of the United States relating to the funds now in the custody of Her Britannic Majesty's consul at San Juan del Norte, by agreement between your excellency and myself, dated April 29, 1899. It will occur to your excellency that, while under said agreement we are not bound to reach a decision regarding the final disposition of said funds within a stated period, we promise therein our best efforts to settle the matter within four months, which period will expire on 29th instant. For this reason and because it is my special desire, in which I am confident your excellency will join me, to remove all causes of friction between our respective Governments, it is very desirable that this matter shall be promptly decided. The facts as stated by the honorable Secretary of State of the United States appear conclusive as to the justice of permitting the repayment by Consul Bingham to the parties in trust for your excellency's Government and that which I have the honor to represent. Its repayment will be an evidence of justice which will have a moral effect upon the foreign

residents of the Department of Zelaya far more valuable than the amount at stake, tending to the public prosperity and development of that fertile section of the Republic of Nicaragua.

Confidently awaiting the favorable action of your excellency's Government, and with assurances, etc.

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

[Inclosure 2.]

*Mr. Sanson to Mr. Merry.*

[Translation.]

NATIONAL PALACE, *Managua, August 25, 1899.*

MR. MINISTER: Annexed to your communication of the 14th instant I had the honor to receive authorized copy of that which the honorable Mr. Secretary of State of the United States addressed to your excellency the 26th of July last relative to the Bluefields matters, which were the object of a long discussion between ourselves that terminated with the agreement of the 29th of April of this year.

Your excellency calls the attention of my Government to the opinion of that of the United States in this respect and hopes that in consequence the money that the American merchants deposited with the consul of Her Britannic Majesty in San Juan del Norte may be returned, which act of justice will be highly appreciated by those citizens, contributing thus to the most friendly relations between the countries interested.

Your excellency admits that although in the referred to agreement no fixed date was stipulated for the termination of the business, we nevertheless offered to do everything possible to bring about the arrangement within the following four months.

With all the interest that the matter calls for and with special instructions from the President of the Republic, I proceed to answer your excellency with reference also to that expressed by the Secretary of State.

The agreement at Bluefields accepted by my Government it does not believe it just to fail in complying strictly, and if before now it had not begun the respective judicial action it has only been because the judge of that city had not been able to take possession of his post since the rebellion. By this date it is certain that the question has been placed before his authority and by whom it corresponds. It is there, then, that the merchants interested may present the proofs that excuse them from the unwarranted payments that were made to the revolutionary agents of General Reyes.

I respectfully call to the remembrance of your excellency that the question was remitted in the first place to the knowledge of the authorities before whom it might correspond, and it could be no other than the judiciary of Bluefields, with the power to carry it in last resort to the attention of the respective chancellorships.

Now, if none of these appeals has been carried out, how is it possible that the Government of Nicaragua may order the return of the deposit only because the American Government, on studying the matter, has thought to find justifiable motives in the acts of the Bluefields merchants.

The solicitude of the Secretary of State regarding the return I find very premature since the matter has not been ventilated, and besides with little foundation, because the attested proofs of the interested parties can not be admitted as the only source of investigation.

The idea of a discussion in this respect does not enter to-day into my proposition, nor much less regarding the culpability the Americans may have incurred that aided the revolt of General Reyes, a circumstance that the Government of Nicaragua has desired to forget in order not to give the matter greater proportions and as a friendly act toward the United States of North America, but I will not abstain from making some reflections upon the note that the Secretary of State of that country directed to your excellency and to which I come, referring—

1. The neutrality of the merchants far from being demonstrated is inferred from the active participation of their principal clerks and by the gifts which they made to the column organized under the denomination of rough riders, besides the public testimony of all those who witnessed the events.

2. If it is true that no new entries of goods were made during the time of the insurrection they nevertheless paid the duties that they owed to a rebel agent, notwith-



standing that their consuls proclaimed the principle of neutrality and the revolutionists exercised on them no acts of violence. There is more—some paid and others did not, without these last being compelled to pay by force the payment refused, and even upon those who afterwards did not care to pay further dues no violence was enacted.

3. The fact that Mr. A. Salter, who had been before collector of revenue for the legitimate Government, was he who made the collection, can not be an excuse since everybody knew that this gentleman had become revolutionary agent no longer obeyed the Government of Nicaragua, and the fine of 5 per cent to which they refer could not be a motive of compulsion, since they were not threatened with force.

4. With regard to General Reyes being he who commanded absolutely in the department of Zelaya between the 2d and 23d of February last because Gen. Aurelio Estrada, named successor, could not take possession of the post, and even took refuge in the American consulate—that is no argument that excuses the payment of duties due to the custom-house because the rule of Mr. Reyes was illegal, not sanctioned by any law of right or recognized by any other foreign power. The very captains of the American and English war vessels were the first in denying the character of a *de facto* government.

Outside of all the considerations that I have laid down, and which I do not doubt will be duly appreciated by your excellency, permit me to call your attention to an important point of the question.

Your excellency well knows that not only American citizens have been included in the lists of the reluctants, but also English and Germans. The British subjects paid without resistance or protest, among them the vice-consul, Mr. T. A. Bellanger, doubtless because they recognized the justice of the Government's claim or through express reproof from their superiors for their acts in helping in this way General Reyes.

If to-day the Government of Nicaragua, after having made a solemn agreement in which is concerned the honor of the nation, should order the return of those deposits without the previous given judgment and without having discussed the matter in the last resort on diplomatic grounds, it would be a reason for the other foreign subjects to claim in their favor an equal prerogative.

After all the foregoing, and by reason of the change in the person of the first of the Government employees on that coast who has been substituted by an old magistrate of the supreme court, I believe that the question will soon be ended and according to the high ruling of the law.

For the rest the Government of Nicaragua holds the conviction that the Government of the United States will be willing to see in this determination, not a mere capricious resistance to its demands, but a strict fulfillment of its duty and the best public advantages, without through this lessening its high conception that the opinions of that illustrious Government merit.

I repeat, etc.,

J. SANSON.

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[Inclosure 3.]

*Mr. Merry to Mr. Sanson.*

LEGATION OF THE UNITED STATES,  
*San José, Costa Rica, September 7, 1899.*

SIR: I have the honor to acknowledge the receipt of your No. 579, dated August 25, in reply to my No. 70, of August 14, inclosing dispatch from my Government in relation to the funds now held subject to the joint action of our respective Governments by the British consul at San Juan del Norte. It is proper that I should hesitate to again discuss this question which occupied so much of your excellency's attention and mine at Bluefields. There is little that I can add to the arguments I then presented verbally, and, as the matter was then referred by us to the Governments at Managua and Washington, I do not feel at liberty to commence a discussion "de novo." But, inasmuch as I am jointly responsible for the agreement, I feel at liberty to discuss my action in accepting it, in order, as I hoped, to settle a disagreeable contention, which at one time threatened to create serious difficulty.

First, permit me to express my surprise that your excellency deems the action of the honorable Secretary of State at Washington "very premature." His dispatch, which I inclosed to you with mine of August 14, was dated July 26, nearly three

months after we had signed a joint agreement, dated April 29, requesting our respective Governments to "the end that it may be decided within four months." I do not think it possible that your excellency will, upon mature consideration, deem his action premature, and that a written agreement making a specified promise has no value. To comply with the agreement it is obvious that the subject was by no means taken up prematurely. The section of the agreement which you rely upon to delay action reads as follows:

"3. The difficulty overcome, once that it has been discussed by whom it may appertain and, as a last resort, by the secretary of foreign relations of Nicaragua and the Department of State of the United States, the deposit shall be paid," etc. This clause, as all the others, received my careful attention, and I found no fault therewith then, any more than to-day. Its terms are plainly an admission that the question could be further discussed before being submitted to the respective Governments, limited by the language in clause 5 conveying the request for a settlement within four months. I accepted it for the special reason that a friendly settlement appeared possible between General Estrada and the merchants after Colonel Torres had completed his court-martial, your excellency having, as you must recollect, assured me that he would leave Bluefields for Managua on May 10, six days after our departure, although he remained there until May 24. Your excellency is well aware that a second submission to a court was never mentioned verbally and no such idea is expressed or understood in the agreement. In fact, the agreement withdrew the case from Colonel Torres's "court-martial;" why, then, should it even indirectly stipulate to refer it to another court? Who are the parties to "whom it may appertain," as specified in clause 3 quoted above? Obviously and necessarily the Nicaraguan Government, the Bluefield merchants, and the United States Government as an intervener. The Nicaraguan executive Government, through a coordinate branch, exercises its right to investigate the question, obtaining all valid information possible before presenting the matter to the Washington Government. It has already, through an executive delegate, held a prolonged "court-martial" with closed doors for this purpose. That the United States Government shall submit itself to the decision of a Nicaraguan court not named in the agreement is a proposition so indefensible that it does not merit discussion.

Having, under the agreement with your excellency, referred the matter to my Government after prolonged verbal discussion with yourself, I deem it proper to leave the case in the hands of my superiors, and shall only further briefly allude to the gist of the whole question. Your excellency has repeatedly asserted that the Reyes government was not at any time a government "de facto." I contend that between February 3 and 25 it was a "de facto" government and the only effective government at Bluefields; there was most positively no other. True, it was revolutionary in character, and established "pro tem." by the faithlessness of your highest official on the Atlantic coast. During the period stated it had absolute and uncontested possession of the port and city of Bluefields, of the Government treasury, arms and war munitions, post-office, custom-house, police force, army, gunboat, executive mansion, and all public buildings. It exercised all governmental functions and even obliged your highest officer to obtain asylum in the United States consular office. These facts you do not contest, and they fully prove beyond question the "de facto" character of the Reyes government during the period above stated. The consular proclamations of neutrality have not the slightest bearing upon the case, the neutrality of foreigners being a duty in all cases of local political and military conflict. The action of the commanders of the English and American war vessels was also a proof of the existing of a "de facto" government, under the revolutionary leader Reyes, since those officers found no other existent government with which they could deal, in aiding the security of life and property, the return of peace and restoration of the Nicaraguan Government, enabling your highest officer to leave his asylum and assume his official duties, after three weeks. It was, I am free to admit, a revolutionary government, successful in maintaining its authority for about three weeks only, but its "de facto" character during that period, especially in its relations to foreign residents, can not be successfully refuted.

I am pleased to be informed by your excellency of the appointment of Gen. Tiburcio Bonilla as governor of the department of Yelaya. The gentleman is known to me as bearing the reputation of being just, honest, patriotic, and able. This I may state without detracting from the merits of his predecessor.

A copy of this correspondence goes forward to the Government at Washington by mail of 9th instant.

With assurance, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

*Mr. Hill to Mr. Merry.*

No. 270.]

DEPARTMENT OF STATE,  
*Washington, September 29, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 308, of the 7th instant, inclosing a copy of the reply of the Nicaraguan Government to your request that it assent to the refunding to the American merchants in Bluefields of the money deposited by them with the British consul at San Juan del Norte, pursuant to the agreement between yourself and Mr. Sanson of April 29 last.

In refutation of the position assumed by the Nicaraguan Government on the subject, I have to say that the question of the double payment of customs dues by the American merchants is a diplomatic one.

The facts that the controversy, and the agreement made April 29, 1899, for its adjustment, are of a diplomatic character, imply that the discussion, consideration, and determination of the question are to be governed by the diplomatic procedure, in the absence of any express stipulation to the contrary. There is no stipulation in the agreement, on the part of this Government, to waive at any stage of the controversy the diplomatic jurisdiction it has thus far exercised, or to remit the question to the Nicaraguan authorities for their determination.

The Government of the United States does not admit the competency of any Nicaraguan court or tribunal to determine the rights of American citizens in Nicaragua when they have appealed to their Government for protection, and when it has taken up and made their cause its own; and the contention that it has agreed or consented to submit to the assumption and exercise of jurisdiction over such cause by any local Nicaraguan court or tribunal is so extraordinary that it can not be considered or discussed. If, in the face of the said agreement, the Government of Nicaragua persists in its indicated purpose to submit the question at any stage or in any form to its own tribunals for determination as between the two Governments, the Government of the United States will not only ignore the proceedings but will deem it a sufficient reason for it to proceed to determine the question in the proper way, and to use the necessary measures to enforce its decision.

Neither you nor any American consul will furnish any evidence whatever from the files of the legation or of any consulate for the use of the Nicaraguan authorities. All such evidence, whether in the form of affidavits or in whatever other form as has been taken in relation to the controversy, has been taken by the authority of this Government to enable it to discuss the question with the Government of Nicaragua; and the use to be made of that evidence rests exclusively in the discretion of the Government of the United States.

No evidence will be considered by this Government unless presented through the ordinary diplomatic channels.

You may furnish the Nicaraguan Government a copy of this instruction.

I am, etc.

DAVID J. HILL,  
*Acting Secretary.*

*Mr. Hay to Mr. Merry.*

No. 272.]

DEPARTMENT OF STATE,

*Washington, October 2, 1899.*

SIR: Referring to the question of the repayment to the American merchants at Bluefields of the moneys deposited by them in trust with the British consul at San Juan del Norte, I have to observe, in further acknowledgment of your dispatch No. 308, of the 7th ultimo, that Mr. Sanson, in his note inclosed in that dispatch, bases his argument in the first place on the bare inference that said merchants were in complicity with the Reyes movement because of the alleged—

active participation of their principal clerks and by the gifts which they made to the column organized under the denomination of "rough riders," besides the public testimony of all those who witnessed the events.

The position thus assumed is untenable, because—

1. Every man is presumed to be innocent of criminal conduct until the contrary is proven. No evidence is adduced by the Nicaraguan Government in support of the charge against the merchants themselves. If the Nicaraguan Government will produce to the Government of the United States any competent evidence in support of the charge, it will receive most careful consideration. But the Government of the United States can not accept the bare assertion of their guilt. If proofs were submitted of their guilt it would, unless met by counterproofs, terminate the controversy.

2. The evidence submitted to the Department of State shows that the customs dues were not voluntarily paid, but were paid under threats, menacing the merchants with the detention of their goods in the custom-house, inflicting serious injury upon their property and business interests and subjecting them to a monthly payment of 5 per cent for delay beyond maturity in the payment of the said notes. No evidence has been submitted to this Government that such payments were voluntary. On the other hand, it stands ready to submit proofs to the contrary. The fact that actual violence was not used against those who did not pay is not evidence that those who did pay did so voluntarily.

3. The customs dues were paid to Mr. A. Salter, who was the collector of revenue appointed by the titular government, and who, before and at the time said payments were made, was continuously exercising his functions as such. When the payments were made he had not been removed from his office, nor had any notice of his removal been given by the titular government.

The statements contained in the paragraphs of said note numbered 3 and 4 amount to an admission that General Reyes was exercising by paramount force during the period from February 3 to 23 last all the functions of government in the Bluefields district. It does not seem just that American citizens should be subjected to oppression by the refusal or neglect of the titular government to afford protection to them, and to punish them for the consequences of its own inability or neglect to afford such protection.

That the notes given for customs had matured, that they were lawfully in the hands of the said collector of revenue, and were collected through menaces by General Reyes, which he was able to enforce to the great injury and possible ruin of the business of the merchants, are incontrovertible facts.

The Government of the United States does not admit that the captain of the American war vessel did or could recognize or determine the character of the Reyes régime. He was not clothed with such authority, and the statement in said note that the captains of the American and British war vessels said that the Reyes government was not a de facto government is irrelevant to the question. What the British captain did or omitted to do in that regard, and whether the vice-consul and subjects of Great Britain have or have not paid the duties, are matters foreign to the question.

The attitude taken by this Government is in harmony with that assumed by it resulting from the civil war which raged in the United States from 1861 to 1865. After its authority was reestablished it collected no duties on goods imported during the insurrection which had been once paid to the insurgent authorities. The Supreme Court of the United States has decided that a de facto government, or a government of paramount force, exists where it is maintained by active military power within the territories and against the rightful authority of the titular government; but that while it exists it must be obeyed in civil matters by private citizens. In view of this obligation on the part of private citizens to obey such authority existing by paramount force and which exercises supreme authority over a large district or territory and is in the exercise of all the functions of government there, no penalty can be equitably inflicted upon them for such obedience by requiring of them a second payment of debts or dues which have already been lawfully discharged under such circumstances.

It is therefore confidently hoped that the Nicaraguan Government will not be unwilling, in the enlightened consideration of the principles of international justice and of all the circumstances and equities of the case, to consent to the return of said moneys.

You will furnish Mr. Sanson with a copy of this instruction.

I am, etc.,

JOHN HAY.

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*Mr. Merry to Mr. Hay.*

No. 343.] LEGATION OF THE UNITED STATES OF AMERICA,  
*San José, Costa Rica, November 11, 1899.*

SIR: I have the honor to forward herewith copy and translation of excerpts from a personal letter just received from Mr. Sanson, late Nicaraguan minister of foreign affairs, relating to the trust fund now held by the British consul at San Juan del Norte. You will note that Mr. Sanson "has good reasons to expect" that Judge Romans will absolve the Bluefields merchants from the second payment of duties and will "order" the money in the hands of the British consul returned to them. How he expects to "order" the consul is a question; but I presume he intends me to understand that the Nicaraguan Government will consent to the return of the fund to parties from whom it was received. This practically conceding the question at issue, I presume the Department will not object to repayment through decision of the court, inasmuch as Judge Roman's court may be considered a part of the Nicaraguan Government, and doubtless acting under its instructions. If the honorable Secretary approves, I will write Mr. Bingham, the

British consul at San Juan del Norte, that we request the fund shall be repaid by him in his official capacity to each of the owners thereof and their receipts taken in triplicate, one copy each for the Department, Judge Roman's court, and the consul. This will tend to avoid future complications and is in accordance with the terms of the trust.

Awaiting your instructions in this particular and with assurances of my highest esteem, I remain, etc.

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

[Inclosure.]

*Translation of excerpts in letter from Señor Don Joaquin Sanson, late minister of foreign affairs, Republic of Nicaragua, to Mr. Merry.*

MINISTRY OF FOREIGN RELATIONS, REPUBLIC OF NICARAGUA,  
*Managua, October 27, 1899.*

ESTEEMED SIR:

\* \* \* \* \*  
My successor, who will probably be for the present the assistant secretary, Mr. Lugo, as temporarily in charge of the department, will officially reply to all of your latest important communications. I limit myself now to say to you that we have good reasons to expect that the Señor Judge Roman will absolve the merchants of Bluefields from the payment of duties, and that he will order returned to them the money deposited.

This solution puts an end to all discussion between our Governments and saves the legal rights of our legislation.

\* \* \* \* \*  
I am happy to have had the honor of personal relations with you and to offer you the assurances of my distinguished consideration, subscribing myself,

Your attentive and obedient servant,

J. SANSON.

*Mr. Merry to Mr. Hay.*

No. 347.] LEGATION OF THE UNITED STATES OF AMERICA,  
*San José, Costa Rica, November 23, 1899.*

SIR: I have the honor to forward herewith (inclosure No. 1) excerpt from a dispatch just received from Consular Agent Clancy at Bluefields, relating to the trust fund now in possession of the British consul at San Juan del Norte, Nicaragua. I had instructed Mr. Clancy that under no circumstances must he appear at court or furnish any evidence in connection with the case. But he has gone beyond instructions and has advised our citizens interested therein to refuse doing so. Respectfully referring to my No. 343, dated November 11, it will be noted that Mr. Sanson, late secretary of foreign affairs of Nicaragua, writes me confidentially that Judge Roman intends to acquit the Bluefields merchants of complicity in the Reyes revolt, thus securing prompt repayment to them of the trust fund. The assertion of Judge Roman to Mr. Weil clearly indicates the same idea, and it appears to me that Mr. Weil should, under the circumstances, have accepted the summons of the court. Even if the promise of Judge Roman made to him were violated (which appears improbable) it would not detrimentally affect the interests of the merchants, as they could decline to accept

the adverse verdict of the court, and the matter would still, under the agreement, be finally referred to the two Governments for decision. I do not see that we can justly complain if Nicaragua deems it proper to investigate the matter through Judge Roman's court, and in so doing cites our citizens to give evidence in their own behalf, especially with their acquittal already privately promised by the judge in charge of the inquiry. I am uncertain as to the result of the refusal from Mr. Weil, but regret that an easy way out of the difficulty may have been thwarted by the action of the consular agent, who appears not to have recognized the difference between his official attendance and evidence in court and that of a private citizen in his own behalf.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,  
*United States Minister.*

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[Inclosure.]

*Mr. Clancy to Mr. Merry.*

UNITED STATES CONSULAR AGENCY,  
*Bluefields, Nicaragua, November 15, 1899.*

SIR: On Thursday (November 9) afternoon last the secretary and official interpreter of district, Judge Roman, called on Mr. Samuel Weil, the resident manager and partner of the firm of Samuel Weil & Co., and read to him the contents of a suit brought by T. Infante, treasurer of the department of Zelaya, against S. Weil & Co., The New Orleans and Central American Trading Company, J. A. Peterson, Allen & Caldwell (now Allen & Barberot), Sam. D. Spellman, and Orr & Laubenheimer, jointly, for the recovery of the duties paid by the said parties from February 3 to 26, inclusive, of this year, to General Reyes's revolutionary government, and asking that Mr. Weil accept service for the other parties as well as to act as their attorney in the case, at the same time informing him that unless immediate attention was given the case he and the other defendants would be liable to all the penalties mentioned in S. 1112, Pv. N. E., and they would have nine days' time to answer jointly, otherwise they must suffer the consequences.

Mr. Weil asked time for consideration before giving a definite answer, and at once notified me of the condition of affairs. I advised him to pay no attention to the summons; not to appear either in person or by attorney, and if Judge Roman insisted on his defending the present suit to deny the jurisdiction of the court in this case, as the question of settlement was in the hands of the Government of the United States for adjudication.

Nothing further, to my knowledge, has been done by Judge Roman up to the time of this writing, 3 p. m.

In private conversation on the subject between Judge Roman and Mr. Weil, the former said that the voluntary appearance of Mr. Weil would be certain to result in the merchants' favor, and that by the article of agreement between Minister Sanson and yourself the Nicaraguan Government was not precluded from having the question determined judicially, and he reminded Mr. Weil that more than four months have elapsed since the agreement was entered into without any definite action on the part of the United States Government.

I am, etc.,

M. J. CLANCY, *Consular Agent.*

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*Mr. Hay to Mr. Merry.*

No. 292.]

DEPARTMENT OF STATE,  
*Washington, December 15, 1899.*

SIR: I have to acknowledge the receipt of your dispatch No. 347, of the 25th ultimo, reporting that Mr. Clancy, the United States consular agent at Bluefields, has advised American merchants to refuse to com-

ply with the summons to appear in the Nicaraguan district court in the Bluefields trust-fund case.

You state that Mr. Clancy has gone beyond his instructions, and you express the opinion that he has acted injudiciously in giving such advice.

If the American merchants are summoned as witnesses before Judge Roman they must obey and testify as to the facts. The Nicaraguan Government has a right to investigate the facts connected with the Reyes movement and to ascertain whether the merchants participated in and aided the movement. While the Government of the United States protects its citizens in the enjoyment of their lawful rights it does not protect them in the prosecution of unlawful acts and enterprises.

The Government of the United States is disposed to respect the dignity of the Government of Nicaragua, which maintains that controversies over the payment of customs duties are ordinarily to be determined in the first instance by the local tribunals. The Government of the United States is not inclined to dispute the general principle; but in the present case, having taken diplomatic jurisdiction, it is constrained to adhere to its position. But I am happy to say that the controversy over the claims of the Bluefields merchants, as well as over the Orr and Laubenheimer and the Post-Glover Electric Company's claims is in course of satisfactory adjustment, which will be favorable to those merchants not shown to be in complicity with the Reyes movement.

The anticipated satisfactory solution of these controversies is due in large measure to the ability, skill, and courtesy displayed by Dr. Corea, the Nicaraguan minister, who has manifested a just disposition toward all, while at the same time tenaciously upholding the rights and dignity of his own Government, and who has deepened the respect already entertained by this Government for the ability, integrity, and high character of President Zelaya.

You will congratulate the Nicaraguan Government on the happy solution of these controversies already negotiated and arranged between Dr. Corea and the Department of State, and you will furnish it a copy of this instruction.

I am, etc.,

JOHN HAY.

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*Mr. Merry to Mr. Hay.*

No. 439.] LEGATION OF THE UNITED STATES OF AMERICA,  
*San José, Costa Rica, June 25, 1900.*

SIR: I beg reference herewith to a communication from Hon. H. F. Bingham, Her Britannic Majesty's consul at San Juan del Norte, Nicaragua, which is self-explanatory. When last at Managua I was assured by Señor Sanchez, minister of foreign affairs, that instructions had been sent Judge Roman to arrange for the repayment of the Bingham trust fund to the American merchants at Bluefields. This assurance, added to what I had received from the Department in relation to the matter, caused me to consider it satisfactorily settled, and the consul's letter comes to me in the nature of a surprise. I have written to him in reply that any decision of a local judge can not affect him as the



custodian of the fund, which can not be demanded of him except by joint request of the two Governments.

I beg to respectfully suggest that if the Nicaraguan Government, regardless of the agreement between its foreign minister, Mr. Sanson, and myself, should now demand payment of that trust fund without reference to the United States Government, a decisive note, regarding which there can be no misunderstanding, will become necessary.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

[Inclosure.]

No. 439.]

BRITISH CONSULATE,  
*Greytown, May 30, 1900.*

MY DEAR CAPTAIN MERRY: You wrote me in January last that you had been informed by the State Department at Washington that repayment of the trust fund placed in my keeping by the American merchants at Bluefields was in process of adjustment, and that you presumed I should soon receive a joint request from the two Governments interested that would satisfactorily close the incident.

I have not up to the present received this request, but I hear that the local judge of Bluefields has taken legal action against the different merchants to recover the amount of the duties paid to Reyes, and has notified them that he has decided that the amount of the duties must be refunded to the Nicaraguan Government, and condemning them to the payment of costs.

This decision of the local judge does not, I presume, affect me, as the money was placed in my keeping by the representatives of the United States and Nicaragua, and can therefore, I consider, be only paid out by me at the joint request of the representatives of the same nations.

Would you kindly give me your opinion in this matter and believe me to be,

Yours, very sincerely,

H. F. BINGHAM.

*Mr. Merry to Mr. Hay.*

No. 446.] LEGATION OF THE UNITED STATES OF AMERICA,  
*San José, Costa Rica, July 7, 1900.*

SIR: I beg to inclose herewith excerpt from a letter dated June 28, received from Acting Consular Agent D. W. Goodman, at Bluefields, Nicaragua, relating to the censurable action of Judge Roman in connection with the Bingham trust fund.

In accordance with advice in Department dispatch No. 292, dated December 15, 1899, I presumed that the case was being satisfactorily settled at Washington. This, with the assurances of Messrs. Sanchez and Salcedo, secretary and subsecretary of foreign affairs, personally given me at Managua, that instructions had been sent Judge Roman to consent to the repayment of the fund to the Bluefields merchants, appeared to me a final and satisfactory conclusion. The unexpected action of Judge Roman impresses me as a slight to the United States Government which deserves severe censure. I had the honor in my No. 439, dated June 25, to call the attention of the honorable Secretary to the recent letter of Her Britannic Majesty's Consul Bingham in connection herewith, and respectfully beg reference thereto.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

[Inclosure.]

*Mr. Goodman to Mr. Merry.*

No. 446.]

CONSULAR AGENCY OF THE UNITED STATES OF AMERICA,  
*Bluefields, Nicaragua, June 28, 1900.*

SIR:

\* \* \* \* \*

Some time ago, before I assumed the duties of this office, a suit was brought by the Nicaraguan Government against the American merchants in the court of Judge Roman of this place anent the Bingham fund. Three weeks ago an officer of that court visited each merchant and read to him a "sentence" to the effect that the court had decided that they must pay the contested duties to the Nicaraguan Government and all charges incurred in the suit. The merchants were asked to sign an acceptance of this sentence, which they properly refused to do. On being informed of the above facts by the merchants, I immediately notified Mr. Sorsby and applied to Judge Roman for a copy of the "sentence." He politely promised it, but so far I have been unable to get it, as each day that I call for it I am asked to call to-morrow. As far as the merchants know, no further action has been taken in the matter.

\* \* \* \* \*

Very respectfully, yours,

DUKE W. GOODMAN,  
*Acting United States Consular Agent.*

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*Mr. Hay to Mr. Merry.*

No. 347.]

DEPARTMENT OF STATE,  
*Washington, July 9, 1900.*

SIR: I have to acknowledge the receipt of your dispatch No. 439, of the 25th ultimo, inclosing a copy of a letter to you from Mr. H. F. Bingham, Her Britannic Majesty's consul at San Juan del Norte, in which he says:

I hear that the local judge at Bluefields has taken legal action against the different merchants to recover the amount of the duties paid to Reyes, and has notified them that he has decided that the amount of the duties must be refunded to the Nicaraguan Government and condemning them to the payment of costs.

This decision of the local judge does not, I presume, affect me, as the money was placed in my keeping by the representatives of the United States and Nicaragua, and can, therefore, I consider, be only paid out by me at the joint request of the representatives of the same nations.

You suggest that if the Nicaraguan Government, regardless of the agreement between its foreign minister and yourself, should now demand payment of the trust fund in the hands of Mr. Bingham without regard to this Government, a decisive note, concerning which there can be no misunderstanding, will become necessary.

The Department approves your suggestion. If it should become necessary, you may notify the Nicaraguan Government in courteous but firm and unmistakable terms that only a straightforward disposition of this matter in accordance with the understanding heretofore existing and reported by you would be acceptable to the Government of the United States.

I am, etc.,

JOHN HAY.

*Mr. Merry to Mr. Hay.*

No. 453.]

LEGATION OF THE UNITED STATES,  
*San José, Costa Rica, July 22, 1900.*

SIR: I have the honor to acknowledge receipt of your No. 347 dated July 9, and in accordance with instruction therein shall address a note to the Nicaraguan foreign office in courteous but decided terms relative to the action of Judge Roman at Bluefields in ignoring the agreement between the Nicaraguan minister of foreign affairs and myself, which was subsequently approved by both Governments, and shall forward the Department a copy thereof.

I much regret the constantly recurring duty of addressing disagreeable dispatches to the Nicaraguan Government, but when the judge of a court presumes to ignore an international agreement and substitute therefor his judicial decision, given on *ex parte* evidence, it appears to me unavoidable. In a letter from Her Britannic Majesty's Consul Bingham, dated San Juan del Norte, July 9, he writes:

The Government (Nicaraguan) has not up to the present asked me for or made mention to me about the money deposited in my hands. I also reported the matter to Her Majesty's minister at Guatemala, and have received a telegram instructing me under no circumstances to pay over the money except at the joint request of the United States and Nicaragua, and further instructing me that should the Nicaraguan Government attempt to bring pressure to bear on me in the matter, to refer them to Her Britannic Majesty's legation.

Judge Roman may possibly ignore the fund in the hands of Consul Bingham and proceed against the merchants by again seizing their property in order to enforce a third payment, in which case I shall promptly advise the Department.

I beg to inclose herewith copy and translation of Judge Roman's "sentence" against the Bluefields merchants, which needs no comment further than that his assurance is equal to any judicial action that he may be ordered to take.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

[Inclosure.—Translation.]

JUDICIARY OF THE BLUEFIELDS DISTRICT,  
*May 25, 1900.*

Considered the present demand instituted by Don Tomas Infante, of legal age, bookkeeper, and of this vicinity, in representation of the Hacienda Publica of Nicaragua as administrator of revenue of the department of Zelaya, the 7th November, 1899, against Samuel Weil & Co., New Orleans Central American Trading Company, and Allen & Caldwell of this vicinity; Jacob Albert Peterson and Samuel Dean Spellman, of legal age and of this vicinity, and Orr & Laubenheimer, residents of Rama, all merchants, for the amount or values that are charged for customs duties that they owe to the national treasury or Hacienda Publica of Nicaragua since before the 25th of February of the aforesaid year.

Procedure in rebellion of the accused because they did not appear in person nor name an attorney, as they were advised to do in act November 7 aforesaid, taken as answered the demand in act of April 2 of this year, and it was opened for evidence the 11th of the same April for the term of thirty days, the which completed, the plaintiff completing the copy of the good proof, committed his conclusions in writing the 12th of the present month of May, on which date copy was sent to the defendants, who made no use of it.

Considered: That the defendants neither alleged nor proved anything, for which reason this authority has to abide by the allegations and proofs of the plaintiff in order to decide article 375, Pr. N. E. Considering that the demand has been inter-

posed without being ignorant that the accused gave the agents of the rebellion, initiated the 3d February, 1899, amounts or values equivalent to the customs dues claimed, but that does not excuse them from payment to the lawful creditor, since it is known that they made no payment after the 3d and before the 24th of February aforesaid, because it is known and proven that Gen. Juan Pablo Reyes Solis, recognized as governor intendente and inspector-general of the Atlantic coast, duty that he was charged with by the Government of Nicaragua, traitorously to this, created himself chief of the same rebellion that Reyes promoted, from which it results that consciously they made delivery of money to an illegal organization.

That as much for this as for the wording of the number one of the agreement of the 29th of April, 1899, the judgment has been instructed upon the basis of the existence of the obligation demanded.

Considering that the proof rendered by the claimant establishes as demonstrated that the rebellion initiated the 3d February, 1899, was not the work of the people, and can not be considered as a revolution, but it was the treason carried out by Gen. Juan Pablo Reyes Solis, who was before the legal authority, and, as such, governed the department of Zelaya; therefore he had no need to employ force to obtain the command or government of this region, since his own treachery was enough, from which it should not be considered a *de facto* government, what was only an ephemera or situation derived from the commission of a crime; that the change of legitimate authority to chief of a rebellion by the aforesaid treachery was notoriously known is shown by the fact of having fixed public notice by the vice consuls and consular agents of England and the United States notifying their fellow-citizens that they should abstain from taking part in the political movements of the country that Gen. Juan Pablo Reyes Solis was effecting, and finally, that North Americans, English, and other foreigners of different nationalities took part in the rebellion in various ways—enlisting in the ranks, furnishing provisions and even steamers to the rebels, and even delivering to the agents of the rebellion amounts of money that they owed to the legitimate Government for customs dues, without their being obliged by force nor embargoes to do so; arts. 254, no book, and 284 P. N. E.

Considering that the reason given that treachery could not give as result a *de facto* government, and that the payment made by the accused merchants, knowing the crime committed by Gen. Juan Pablo Reyes Solis and his subalterns, without the mediation of force nor pressure was not good, which does not exempt them from the obligation which they are under of paying those customs duties to the legitimate creditor, or, that is, the national treasury of Nicaragua; Art 1577 c. C.

Considering that in number three of the agreement of April 29, 1899, between the minister of foreign relations of Nicaragua, Don Joaquin Sanson, and the envoy extraordinary and minister plenipotentiary of the United States of America, Mr. William L. Merry, there is laid down "the difficulty overcome once that it has been discussed before whom it may appertain," respecting which the organic law of tribunals is very clear and conclusive, establishing in its article 70 that the judges of the district shall understand in the judgments in which appears the Hacienda Publica, whose value exceeds \$500. With these grounds and in conformity with articles 198, 369 P. N. E., and 70 of the law of October 3, 1899, I give judgment, declaring that Samuel Weil & Co., Allen & Caldwell, Jacob Albert Peterson, Samuel Dean Spellman, and Orr & Laubenheimer owe to the fiscal or Hacienda Publica of Nicaragua the customs dues of which the agreement of the 29th April of the year cited treats, and that the present demands and condemns them to the payment of the costs of this judgment. Notify them.

S. A. ROMAN AND REYES,  
FRANCO NAVARRO, *Sect.*

This simple copy of the sentence agrees with the original and is extended at the request of Dr. Duke W. Goodman, in Bluefields, July 18, 1900.

S. A. ROMAN AND REYES.

Before me,

FRANCO NAVARRO, *Sect.*

BLUEFIELDS, NICARAGUA, *July 14, 1900.*

I hereby certify that the above and foregoing is a true and exact copy of the original now in the office of the consular agency of the United States at Bluefields, Nicaragua.

DUKE W. GOODMAN,  
*Acting Consular Agent.*

*Mr. Merry to Mr. Hay.*

No. 454.] LEGATION OF THE UNITED STATES OF AMERICA,  
*San José, Costa Rica, July 28, 1900.*

SIR: I have the honor to inclose herewith copy of my No. 115, dated July 28, addressed to Señor Don Dr. Fernando Sanchez, minister of foreign affairs of the Republic of Nicaragua, written in relation to the extraordinary action of Judge Roman at Bluefields in ignoring the agreement of April 29, 1899, approved by both Governments, whereby the Bingham trust fund was placed in the custody of Her Britannic Majesty's consul at San Juan del Norte, and its ultimate disposition referred to the foreign affairs departments of both Governments.

With assurances. etc.,

WILLIAM LAWRENCE MERRY.

[Inclosure.]

*Mr. Merry to Señor Sanchez.*

SAN JOSÉ, COSTA RICA, *July 28, 1900.*

ESTEEMED SIR: I am instructed by the Government of the United States to call the attention of your excellency's Government to the extraordinary procedure of Judge Roman, of the local court at Bluefields, in "sentencing" the American merchants to pay a third time the customs duties already paid to the Bluefield authorities between February 3 and 25, 1899. Your excellency is aware that the first payments were made to the revolutionary government of General Reyes, which was defeated largely by the aid of the British and United States naval forces, to whom General Reyes surrendered.

The second payments were made in trust to Her Britannic Majesty's consul at San Juan del Norte, Mr. Bingham (then at Bluefields), subject to the convention of April 29, 1899, between His Excellency Señor Don Dr. Joaquin Sanson, minister of foreign affairs of Nicaragua, and the undersigned. By the terms of this convention the entire question was removed from the local government at Bluefields to the foreign affairs department of your excellency's Government and that of the United States, to be settled by friendly diplomatic action.

On December 15, 1899, I was officially informed by my Government that the matter was in process of satisfactory adjustment at Washington.

During my visit to Managua last April I was advised both by your excellency and Hon. Mr. Salcedo, subsecretary of foreign affairs, that instructions had been sent to the Bluefields authorities to permit the return of the second payments alluded to by Her Britannic Majesty's Consul Bingham to the merchants, presumably in accord with the result of conferences alluded to at Washington. It now appears that Judge Roman, of the Bluefields local court, has issued his "sentence" ordering a third payment of these duties, regardless and in violation of the international convention of April 29, 1899, which had been approved by both Governments. The mere suggestion that the judge of a local court has the right to violate an international agreement approved by both Governments interested is so subversive of international courtesy and of equity that I am assured your excellency will agree with me that a discussion of the point is superfluous.

My Government consequently instructs me to state that "only a straightforward disposition of this matter, in accordance with the understanding heretofore existing, will be acceptable to the Government of the United States." I may add that I am quite confident that your excellency will not claim for Judge Roman's court the attribute of national sovereignty which he assumes in violating an international convention approved by both Governments and that I shall receive advice from your excellency to that effect. The Government of the United States can not permit itself to recognize his extraordinary and unprecedented action herein as affecting the property or rights of its citizens.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

*Mr. Hay to Mr. Merry.*

No. 352.]

DEPARTMENT OF STATE,  
Washington, August 2, 1900.

SIR: Your dispatch No. 446 of the 7th ultimo, in reference to the judicial decision of the Nicaraguan judge at Bluefields for the payment by the merchants of the contested duties, has been received.

The Department concurs in your view of the matter. The United States Government has not forgotten the understanding between the two Governments with reference to the repayment of the customs dues deposited with the British consul. It expects that understanding to be carried out without delay by the repayment to the American merchants of the moneys deposited by them with the British consul pending the settlement of the controversy. You will, if necessary, now demand of that Government the return of said moneys and notify it that the judgments rendered by Judge Roman, and which he has notified the merchants to pay, are simply null and void and will receive no consideration or respect from the Government of the United States.

This Government has been anxious from the outset to afford a friendly solution to the controversy, in accordance with the principles of plain good faith and honest dealing between government and government, and in so doing has constantly sought to bring about the result which could be least injurious to the Government of Nicaragua. It can not conceive that the Government of Nicaragua is in its turn inspired by any less high and honorable purposes, and it can not therefore admit, even by way of conjecture, that the Government of Nicaragua is privy to the action attempted by Judge Roman. Nevertheless, the course of the proceedings in this matter, in painfully marked contrast with the professions of the Nicaraguan Government, can not pass unnoticed, and the controversy has reached the stage where it can be settled only by action in accordance with the just expectation of the United States.

The interested merchants should be advised that in the event of a renewal of any attempt to enforce the judgment they should still refuse to pay.

In this connection I have also to acknowledge the receipt of your later dispatch, No. 453, of the 22d ultimo. Your proposed intention to address a communication to the foreign office in the sense of the Department's instruction of July 9 is approved. It is hoped that your representations will result in a satisfactory settlement of this troublesome question.

I am, etc.,

JOHN HAY.

*Nicaraguan Minister of Foreign Affairs to Secretary of Chilean Legation, Washington.*

[Telegram.—Translation.]

MANAGUA, August 7, 1900.

I beg of you to communicate to the Secretary of State that the Government has ordered the return of the duties to the American merchants.

COREA.

*Mr. Adee to Mr. Merry.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, August 8, 1900.*

[Mr. Adee states that a report has been received that repayment of duties to merchants has been ordered by the Nicaraguan Government, and directs Mr. Merry, in that case, to ignore the last instruction of the Department.]

*Señor Corea to the Department of State.*

[Telegram.]

MANAGUA, NICARAGUA, *August 8, 1900.*

Government resolved definitively July 30 devolution duties American merchants regards.

COREA.

*Mr. Adee to Señor Corea.*

No. 17.]

DEPARTMENT OF STATE,  
*Washington, August 10, 1900.*

SIR: I have the honor to acknowledge the receipt of your telegram of the 7th instant, a copy of which was left at the Department by the secretary of the Chilean legation, worded as follows:

Suplicole comunica Secretario de Estado Gobierno ordeno devolucion derechos comerciantes americanos Bluefields.

In reply I beg to express the gratifying hope that the incident will be found to be thus completely terminated.

Accept, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Merry to Mr. Hay.*

No. 461.] LEGATION OF THE UNITED STATES OF AMERICA,  
*San Jose, Costa Rica, August 12, 1900.*

SIR: I have the honor to acknowledge receipt of cablegram dated August 8.

I have not thus far received any information of tenor alluded to. On July 28 I sent to the Department copy of my dispatch to Nicaraguan Government, of same date, discussing the action of Judge Roman in sentencing the Bluefields merchants to a third payment of these duties.

This dispatch reached Managua on or about 4th instant, and if any action leading to repayment of the duties to the merchants has been taken it is probably the result of said dispatch. It is also probable that Her Britannic Majesty's Consul Bingham would have notified me had he received such request from the Nicaraguan Government, as his instructions from the British minister are to pay the fund back only

with the knowledge and assent of both Governments. Should I hear that such favorable action as is indicated by your cablegram has been taken by the Managua Government I shall promptly cable the Department of State.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

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*Mr. Merry to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,  
*San José, Costa Rica, August 14, 1900.*

[Mr. Merry reports the receipt of a telegram from minister of foreign affairs of Nicaragua stating that the British consul at San Juan del Norte has been requested to return the funds in his possession.]

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*Mr. Adee to Mr. Merry.*

No. 356.]

DEPARTMENT OF STATE,  
*Washington, August 15, 1900.*

SIR: On the 8th instant I sent you the following telegram.<sup>1</sup>

The instruction referred to is No. 352 of the 2d instant. I inclose herewith for your information a copy of a telegram,<sup>1</sup> dated the 7th instant, from Minister Corea, on which the telegram to you was based, together with a copy of my note<sup>1</sup> to him in reply.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

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*Mr. Merry to Mr. Hay.*

No. 464.]

LEGATION OF THE UNITED STATES OF AMERICA,  
*San José, Costa Rican, August 17, 1900.*

SIR: I have the honor to acknowledge receipt of your No. 352 dated August 2, and have carefully noted contents thereof. I am gratified, in reply, to state that the Bingham trust-fund question appears to have been disposed of in a manner agreeable to the tenor of said dispatch.

I beg to confirm my cable of 14th instant.<sup>1</sup>

On 15th instant I received a cable from Consul Bingham confirming the above.

It is my impression that the action of the Nicaraguan Government is due to my dispatch No. 115, dated July 28, addressed to Minister Sanchez, of which I forwarded copy to you, but in any event I am pleased that said dispatch was sent him, as the tenor thereof properly characterizes the action of the local judge at Bluefields in endeavoring to enforce a third payment, and the moral effect will be good.

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<sup>1</sup>Printed ante.



The Republics of Central America are so accustomed to the infinite friendly patience of the United States Government that an occasional display of firmness enforced by a decisive dispatch comes to them as a surprise that there may be a limit to forbearance.

I respectfully congratulate the Department of State that this unjust demand of the Nicaraguan authorities upon our citizens has been withdrawn. The result will be an increased respect for American interests in Central America.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

*Mr. Hill to Mr. Merry.*

No. 359.]

DEPARTMENT OF STATE,  
Washington, September 8, 1900.

SIR: I have to acknowledge the receipt of your dispatches Nos. 461 and 464, of the 12th and 17th ultimo, respectively, on the subject of the trust fund deposited with the British consul at San Juan del Norte by American merchants at Bluefields.

The latter dispatch reports that the Nicaraguan Government has requested the return of the fund to the merchants.

The Department is gratified at the satisfactory disposition of the matter as indicated by your dispatch.

When you report the return of the money to the merchants you will send to the Department a copy of the confirmatory telegram of August 15 from Mr. Bingham, to which you refer.

I am, etc.,

DAVID J. HILL,  
*Acting Secretary.*

*Mr. Merry to Mr. Hill.*

No. 473.]

SAN JOSÉ, COSTA RICA, September 22, 1900.

SIR: I have the honor to acknowledge receipt of your No. 359, dated September 8.

I beg to forward herewith copy of telegram from Her Britannic Majesty's Consul Bingham, San Juan del Norte, and also a copy of his letter, dated 3d instant, advising that the fund placed in his hands by the American merchants at Bluefields has been returned to them and the matter closed. I have written to Mr. Bingham thanking him for his kindly assistance in settling a vexatious question.

The American merchants at Bluefields should thankfully appreciate the action of the Department of State in their behalf, as only its decisive action has secured to them the return of the money paid into the hands of Consul Bingham in trust.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

## FOREIGN RELATIONS.

[Inclosure 1.]

*Mr. Bingham to Mr. Merry.*

[Telegram.]

SAN JUAN DEL NORTE, NICARAGUA, *August 13, 1900.*

I have the honor of informing you that to-day I have received authorization from the minister of foreign affairs to return to the American merchants, residents of Bluefields, the amounts deposited with me in conformity with the agreement between yourself and Mr. Minister Sanson.

BINGHAM, *Consul.*

[Inclosure 2.]

*Mr. Bingham to Mr. Merry.*BRITISH CONSULATE,  
*Greytown, September 3, 1900.*

SIR: I have the honor to confirm my telegram to you of the 9th ultimo (13th?) and to inform you that I have now received the written authorization from the Nicaraguan minister of foreign affairs to return to the Bluefields merchants the duties deposited with me.

I have therefore remitted the money to the respective depositors.

I have, etc.,

H. P. BINGHAM, *H. B. M. Consul.**Mr. Hay to Mr. Merry.*

No. 365.]

DEPARTMENT OF STATE,  
*Washington, October 6, 1900.*

SIR: I have to acknowledge the receipt of your No. 473 of the 22d ultimo, with inclosure, reporting the final return to the depositors of the duties deposited in trust with Her Majesty's consul at San Juan del Norte by the American merchants at Bluefields.

You will convey to Mr. H. P. Bingham the thanks of the Department for the assistance which he so kindly extended in the adjustment of the question arising out of the desire of the Nicaraguan Government to enforce a third payment of certain duties from the American merchants. The Department appreciates thoroughly the substantial service which Mr. Bingham rendered in the matter.

I am, etc.,

JOHN HAY.

**CLAIMS OF ORR AND LAUBENHEIMER AND THE POST-GLOVER ELECTRIC COMPANY v. NICARAGUA.**

[Signed at Washington, March 22, 1900.]

Protocol of an agreement between the United States and Nicaragua for the arbitration of the amount of damages to be awarded Orr and Laubenheimer and the Post-Glover Electric Company, signed at Washington, March 22, 1900.

The United States of America and the Republic of Nicaragua, through their representatives, John Hay, Secretary of State of the United States of America, and Luis F. Corea, Envoy Extraordinary

and Minister Plenipotentiary of the Republic of Nicaragua, have agreed upon and signed the following protocol:

Whereas, the said Orr and Laubenheimer, citizens of the United States of America, have claimed through the Government of the United States from the Government of Nicaragua indemnity on account of damages sustained through the alleged seizure and detention by Nicaraguan authorities of said Orr and Laubenheimer's steam launches "the Buena Ventura" and "the Alerta;" and

Whereas, the said Post-Glover Electric Company, a citizen of the United States of America, has claimed through the Government of the United States from the Government of Nicaragua indemnity on account of the alleged seizure at Bluefields of certain goods and chattels of the Post-Glover Electric Company:

It is agreed between the two Governments:

I. That the question of the amount of the indemnity in each of said cases shall be referred to General E. P. Alexander, who is hereby appointed as Arbitrator to hear said cases and to determine the respective amounts of said indemnities.

II. The Government of the United States will lay before the arbitrator and before the Nicaraguan Government a copy of all the correspondence sent, received by and on file in the Department of State in relation to said claims.

III. The Government of the United States having declined to submit any matter in dispute herein to arbitration, except the amount of indemnity to be awarded in each of said cases, the Government of Nicaragua, as an act of deference to the United States, waives its denial of liability in said cases and agrees that said arbitrator may award such sum as he believes said Orr and Laubenheimer and said Post-Glover Electric Company may be justly entitled to; but the award shall not exceed the amount claimed in the memorials filed in the Department of State in each case.

IV. The said evidence is to be submitted to the Nicaraguan Government and to the arbitrator on or before the first day of May, 1900, who may, if he deems it necessary in the interests of justice, require the production of further evidence and each Government agrees to comply with said request so far as possible; but he shall not for that purpose delay his decision beyond July 1, 1900.

V. Each Government may furnish to the arbitrator an argument or brief not later than June 1, 1900, but the arbitrator need not for that purpose delay his decision.

VI. The Government of Nicaragua shall pay the indemnity fixed by the arbitrator, if any, in American gold or its equivalent in silver, at the General Treasury at Managua, as soon as the Legislative Assembly of Nicaragua 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 is to be paid in equal moieties by both Governments.

VIII. Any award given by the arbitrator shall be final and conclusive.

Done in duplicate at Washington this 22d day of March, 1900.

JOHN HAY  
LUIS F. COREA

## AWARD OF ARBITRATOR.

AUGUSTA, GA., *June 16, 1900.*

By a protocol signed between the United States and Nicaragua on the 22d day of March, 1900, I have been appointed arbitrator to hear and determine the following cases:

First. Orr & Laubenhaimer, citizens of the United States, through the Government of the United States, claim from the Government of Nicaragua indemnity for damages sustained through the alleged seizure and detention by Nicaraguan authorities of said Orr & Laubenhaimer's steam launches the *Buena Ventura* and the *Alerta*.

Second. The Post-Glover Electric Company, a citizen of the United States, through the Government of the United States, claims from the Government of Nicaragua indemnity for the alleged seizure at Bluefields of certain goods and chattels of the said company.

Article 3 of the protocol limits the question submitted to arbitration in each of these cases to the amount of indemnity to be awarded. The exact language of this article is as follows:

The Government of the United States having declined to submit any matter in dispute herein to arbitration, except the amount of indemnity to be awarded in each of said cases, the Government of Nicaragua, as an act of deference to the United States, waives its denial of liability in said cases, and agrees that said arbitrator may award such sum as he believes said Orr & Laubenhaimer and said Post-Glover Electric Company may be justly entitled to, but the award shall not exceed the amount claimed in the memorials filed in the Department of State in each case.

Having carefully considered the evidence and the arguments submitted in the two cases, I announce my conclusions as follows:

(1) AS TO THE CASE OF ORR & LAUBENHAIMER.

NARRATIVE.

In July, 1894, the Orr & Laubenhaimer Company, Limited, a corporation of the State of Louisiana, was engaged in importing bananas into Mobile from the port of Bluefields, Nicaragua, at the mouth of the Rama River. For this purpose it had under charter several steamships, one of which was called the *Espana*, and it also had under control in the Rama River two small steam launches or tugboats, called *Buena Ventura* and *Alerta*. They were about 42 feet long, 13 feet beam, and 11½ tons net tonnage. Their titles stood in the name of C. P. Laubenhaimer in the records of the custom-house at Mobile, Ala. (where they were built), and they were also recorded as his property in the United States consular agency at Bluefields. They were under the daily orders and control of the local agents in Nicaragua of the Orr & Laubenhaimer Company.

But it is necessary to note here the existence of what seems to have been an auxiliary company, a Nicaraguan corporation, called the Bluefields and Rama Banana Company, which had been specially incorporated in October, 1892, "to proportion cargoes to all steamers which come to this market in search of fruit," and also to acquire two steamers for that object. C. P. Laubenhaimer was one of the incorporators of this company, along with several other Americans and Nicaraguans.

The ordinary conduct of the banana business was as follows: The bananas were cultivated in plantations along the banks of the river and

its tributaries. On the arrival of a steamer at Bluefields the two launches were dispatched up the river to notify the plantations to cut bananas and bring to the wharves or landing places for loading upon lighters. Meanwhile the steamer discharged any cargo she might have for Bluefields, and made ready to receive a cargo of about 12,000 bunches of bananas. She usually took aboard, also, a force of laborers to help load and stow. After perhaps a day thus consumed the steamer followed the launches up the river about 40 miles to the vicinity of a place called Rama, where she anchored and loaded her cargo from lighters towed to her by the launches. Three or four days usually sufficed after arrival for a vessel to discharge, ascend the river, load, descend, and depart.

There is a good deal of variation in the size of the bunches of bananas when collected in thousands from the plantations. They are strictly graded in the trade, and values decrease very rapidly with any decrease in size. For instance, it is testified that a bunch of "eight hands" averages not much more than half the value of one of "nine hands," and one of "seven hands" averages not much more than a fourth. The wholesale value of the best bunches in Mobile at this time, it is testified, was 75 cents a bunch.

Bluefields is the principal town on what is known as the Mosquito Coast, which was at one time recognized by England as an independent country, and there has remained there ever since much jealousy of Nicaraguan jurisdiction and tariffs.

Early in July, 1894, this feeling led to an insurrection. A small Nicaraguan force at Bluefields custom-house was disarmed, three were killed, and it was proposed to set up again an independent government. Nicaragua at once dispatched troops from the interior, marching overland, across the mountains, and down the headwaters of the Rama River, toward Rama and Bluefields, to suppress the insurgents, and also sent other troops by water up from Greytown. Martial law and a "state of siege" was also declared over that territory on July 5.

On July 13 the steamship *Espana* had arrived at Bluefields and gone up the river to Rama and was loading bananas. She had 8,000 bunches loaded, and 4,000 more—enough to complete her cargo—were cut and ready to be loaded when some Nicaraguan troops arrived under General Cabezas, who seized the launches and put them to use in handling his forces. The *Espana*, upon this, steamed down the river to Bluefields and out across the bar to the U. S. S. *Marblehead*, Captain O'Neil, to whom the agents complained. Captain O'Neil came aboard of the *Espana* and was taken back up the river, where he procured the return of the launches. The loading of the vessel was then completed, with loss of two days' delay, and she sailed for Mobile on the 16th, arriving there on July 22.

On her return voyage she sailed from Mobile on the 23d and arrived at Bluefields Sunday morning, July 29. The tugs *Buena Ventura* and *Alerta* were at once sent up the river to notify the plantations to cut bananas for a cargo. All day on the 30th the tugs were employed in picking up bananas at isolated points and bringing them together for loading. But about 9 o'clock Monday night, General Cabezas again seized the tugs, with their crews aboard, and put them to work collecting his troops. Early next morning, with the two tugs and some lighters carrying several hundred soldiers, he descended upon Bluefields, which had been the headquarters of the insurgents. About the

same time another force seems to have threatened Bluefields, approaching by water on the Greytown side, and the insurrection at once collapsed in a panic. Of this I will have more to say later and in more than one connection. At present our concern is with the tugs and the *Espana*.

The tugs had been under charge at Rama of C. H. Ellis, general manager for Orr & Laubenheimer, who seems to have displayed much energy and good judgment in this emergency. Another firm of banana importers, Brown & Harris, had two other tugs available, the *Milton* and the *Rey*. Ellis, next morning (the 31st), chartered these and continued to gather up his bananas to be ready for the *Espana*, which he expected to come up as usual for her cargo. Indeed, on Tuesday morning, July 31, she started up the river, but about half-way up she met the tugs going down with the soldiers. On the *Espana* were the Bluefield agents of Orr & Laubenheimer. They thought it useless to go without boats, and "wished to get back to their families," so they ordered her to turn about and return to Bluefields. Had she gone on Ellis might have loaded her that day, with the *Milton* and the *Rey*.

At the "Bluff," near Bluefields, the troops were landed and the tugs and lighters were released and turned over to the agents of Orr & Laubenheimer. But the coal on the tugs was exhausted, and they were unable to get back up the river to their work until Wednesday, August 1. Meanwhile the *Espana* now found it impossible to return up the river along with them, for, on account of the panic before referred to, she could procure neither laborers nor a pilot. Arrests were now being made by the troops of those who had been prominent in the insurrection, and many persons, including some Americans, ran away, and many of the native population sought protection in the vicinity of 300 British and American marines who were landed in the town. All business was paralyzed, and Ellis wrote that Goodell & Peterson, Bluefields agents of Orr & Laubenheimer, "are scared to death, and do not seem to make any effort to load ship." He even expected Goodell to run away.

It resulted that the *Espana* remained at Bluefields over three days, and that Ellis had to bring his bananas down to Bluefields in lighters and hands along to load them. But this was done promptly, and the vessel sailed for Mobile Friday evening, August 3. Had the tugboats not been interfered with she could scarcely have sailed before Wednesday morning.

One physical feature of the country deserves to be noted. Under the influence of a tropical sun and an enormous rainfall, it is clothed in dense forest, intersected by many hills and swamps. There is little agriculture or cleared land, except the scattered banana plantations. There are no practicable roads, but only difficult trails from one water course to another, nearly all communication being by boats upon the river. It results that in times of war the use of boats is absolutely essential to all military movements, and fear that the boats might be seized either by insurgents or troops led the auxiliary company before referred to (the Rama and Bluefields Banana Company), on July 12, by its secretary, to claim ownership of the *Buena Ventura* and the *Alerta*, and to nominally place them under the protection and custody of the governor of Siquia, the department in which Rama is situated.

## PARTY IN INTEREST.

This act and claim of ownership by the Rama and Bluefields Banana Company is made the basis of an argument on behalf of Nicaragua that the amount of damages awarded Orr & Laubenheimer is practically reduced to nothing, because they were not the real owners of the boats. It is argued that this banana company, a Nicaraguan corporation, was the real owner, and that the liability which Nicaragua admitted in the protocol for the seizure of the tugs is only due to that company, which is not a party to this case. It is further submitted:

That the Government of Nicaragua should not be compelled to discharge that liability twice, and that it is the duty of the arbitrator to determine the identity of the proper claimant.

From all the evidence in the case there is no difficulty in determining the identity of the proper claimant, even apart from the language of the protocol, or from any question which might be raised as to where the legal title to the tugs resided. The proper claimant for the damages is the party who suffered them. It was Orr & Laubenheimer who owned the bananas, and had chartered the *Espana* to transport them, and whose agents actually had the two tugs employed in collecting and loading them at the moment that they were seized. The question who owned the tugs is utterly irrelevant to the issue before me. Orr & Laubenheimer had them in use and were damaged by their seizure. They are the proper claimants, and the only real question in the case is the amount of damages which they sustained.

There is no question of a "solatium," or of punitive damages, for the right of eminent domain and the rights incident to a state of war, and martial law, justify the use by any Government, in an emergency, of any private property found available. Full compensation, however, for all damage suffered by private parties must afterwards be made. But the obligation rests upon every party damaged to do all in his power to reduce his losses to a minimum. That is the law the world over, and on these principles I now proceed to estimate the damages due to Orr & Laubenheimer.

## AMOUNT OF DAMAGES.

The principal item of the damages claimed consists in injury to the bananas by delay in loading. The first delay was for two days, the last was for about two and a half days. But part of the last delay, and perhaps some injury from the employment of new and untrained stevedores were incidents of the state of war and the panic among the agents, pilots, and laborers of all degrees, and can not be entirely ascribed to the seizure of the tugs. I shall therefore estimate the damages as for two days' delay in the case of each cargo.

To form some idea of the deterioration in a cargo of bananas likely to result from a delay of two days it is necessary to refer to some features of the banana trade which appear in the evidence.

This trade is made possible by the fact that the bunches of bananas can be cut when green at various stages of maturity, and will ripen afterwards, anywhere between three days and three weeks, if properly handled and kept. Thus they may not only endure voyages from any Caribbean ports to ports in the United States, even as distant as New York, but after arrival they are distributed by fast railroad trains as far north as the lakes and as far west as Salt Lake. These facts, taken

in connection with the rapid growth and great extension of the banana trade, show that in spite of the delicacy and perishable character of the fruit, there must still be a reasonable margin of safety in the business against moderate delays. In other words, and to be more exact, it seems to me a strong and reasonable presumption that a delay of two or even three days in a voyage, such as might result from very bad weather, could scarcely be expected to destroy more than 50 per cent of the value of a cargo. I feel compelled, therefore, to question such extreme estimates of the damage done to these two cargoes.

In each case the loss is arrived at by subtracting Orr & Laubenhaimer's statement of net sales of the damaged cargo from the value of an ideal cargo of 12,000 bunches, in which every bunch is assumed to bring the highest market price. It is safe to say that such ideal cargoes never occur in actual trade; but we may accept the theory of one as a convenient standard of comparison in the discussion of different cases. Estimated in this manner it is claimed that the damage sustained by the first cargo by reason of its two days' delay was \$7,196.46, or about 80 per cent of its ideal value, and that the second cargo, by reason of its three days' delay, sustained damage of \$8,541.84, or about 95 per cent of its ideal value. I can not accept these figures, and in the testimony submitted to me in behalf of the plaintiffs themselves I find evidence that they are very much exaggerated, coming from two sources, entirely independent, but closely corroborating each other.

First, I find a letter from C. H. Ellis, before mentioned as the efficient general manager of Orr & Laubenhaimer at Rama, to Capt. Charles O'Neil, U. S. N., written July 31, the day after the second seizure of the launches, but referring to the seizure of July 13 as follows:

No doubt you are familiar with the fact that on the last trip of this steamer we lost not less than \$2,000 on account of molestations, and I think if anyone has a claim for damages done by her detention at quarantine in Mobile Bay, resulting from the Nicaraguan Government \$25,000 damages, this being the only resource to check these people.

I shall refer to this letter again in another connection, but here call attention particularly to the estimate made by Mr. Ellis, an expert in the business, as to the actual damage to this cargo, from a two days' delay. His estimate, \$2,000, is about 22 per cent of the value of the ideal cargo.

Next, I find a judicial determination of actual damages suffered by another cargo of bananas in a delay of three days, the circumstances being remarkably like those in the cases before us.

In a brief submitted by the counsel of Messrs. Orr & Laubenhaimer, reference is made to—

the interesting case of the steamship *Nicaragua*, reported in 71 Fed. Rep., 723, and on appeal in 72 Fed. Rep., 207, where a steamship was held to pay nearly \$3,000 for the damage done by her detention at quarantine in Mobile Bay, resulting from the master humanely bringing an agitator, who had made himself disagreeable, and who seemed to be in danger in Nicaragua, contrary to the quarantine regulations of the port.

The case is indeed interesting, not only in the facts that Orr & Laubenhaimer were the plaintiffs in it against the *Nicaragua*, and that it occurred on August 19, 1894, only ten days after the second voyage of the *Espana*, and that the "agitator" who was humanely assisted in his flight was an American citizen who helped bring on the revolution,



which brought the troops, which seized the boats, which delayed the two cargoes we are inquiring about, but also because, in all the circumstances determining the amount of damages, the case of the *Nicaragua* is peculiarly similar to that of the *Espana*.

The vessels were chartered at the same price, \$77 per day, and were therefore presumably about the same size. The voyages were between the same ports, the bananas from the same plantations, and handled by the same people and in the same manner. Season, weather conditions, and market values were practically identical, and the only differences to be discovered are such as should make the damage suffered on the *Nicaragua* materially exceed what we should expect on the *Espana* on either voyage. These points of difference are three:

First. The *Nicaragua* was detained three days, and the *Espana* only two days on the first and two and one-half days on the last occasion.

Second. The *Nicaragua* had her whole cargo aboard during her whole delay, while the *Espana* was only two-thirds loaded on the first occasion and was empty on the last. Bananas not loaded were at the wharves or on lighters, where they were in the open air and might be easily shaded, if necessary. Now, it is a recognized fact that delay injures bananas already loaded in the hold of a ship more rapidly than it does those awaiting loading in more open situations.

The brief of the counsel of Orr & Laubenheimer itself says that—

“8,000 bunches were already laden aboard at the time of the detention of the tugs, and, in that hot climate, this part of the cargo must have deteriorated with great rapidity.”

Third. During the *Nicaragua's* detention she was fumigated. This involves stopping openings and cutting off drafts and the use of smoke or fumes. It must have added to the injury to the fruit.

Clearly, then, we must conclude that the damage to the cargo of the *Nicaragua* in her three days at quarantine while fully loaded must have exceeded any possible damage to the cargo of the *Espana* upon either detention.

The case was contested strongly on the spot by experts upon both sides and was carried to an appeal and confirmed. It fixed the total damages at \$2,833.15. Presumably at least \$231 of this was for three days' demurrage, which would leave about \$2,600 for damage to cargo. This accords well with the Ellis estimate and with general facts shown about the trade, and I shall make it the basis of my allowance.

The claims for 80 and 95 per cent damages have had their origin in the natural annoyance and impatience felt by business men at interruptions to their business, as appears in the letter of Ellis to Captain O'Neil, asking him to demand \$25,000 damages “as the only resource to check these people.”

But there is another side to the case. *Nicaragua* only exercised her sovereign rights under stress of the necessity of war. Individuals doing business in foreign territory have to run the risks of such occurrences. But in these cases between the State and an individual whose property has been taken for the public welfare it seems to me right that the benefit of doubt should be thrown in favor of the individual, and that his damages should be liberally estimated, lest by any error he should be oppressed.

I will not therefore apply the strict figures of the “steamship *Nicaragua*” case, or of the Ellis letter, in assessing the damages to cargo caused by the seizures complained of. These would scarcely

justify awards even of \$2,000 for delays of only two days to a vessel not yet fully loaded. But I shall estimate 30 per cent of the ideal cargo as the possible loss, and shall allow Orr & Laubenheimer \$2,700 damages for each of the two seizures.

The attorneys of Orr & Laubenheimer ask for liberal allowances because interest is barred by the protocol. But no allowance can be made indirectly which is barred directly.

It further remains to examine the claims submitted by Orr & Laubenheimer for various incidental damages. These I will take up in the order of the occurrence of events.

First. On July 13, when the tugs were first seized and the *Espana* went down to the bar and brought up Captain O'Neil, it is claimed that she paid \$130 gold for pilotage and lost two days' demurrage at \$77 per day. These claims are both allowed, amounting to \$284.

Second. Claim is made for two days' wages of the crews of the two tugs and of 30 laborers on the *Espana*, brought up from Bluefields to stow cargo. Each crew of a tug, it is claimed, comprised 10 men, whose united wages were \$18.50 gold per day, beside their food. The wages of the laborers are given as \$1.50 per day and their food. The value of the food, however, is neither estimated nor claimed for.

Nicaragua offers reputable and disinterested testimony that crews of only five men are necessary or customary on such small boats on the Rama River (say of 12 tons net register), and that the customary wages are paid in depreciated paper currency, and that the total expenses for food and wages of such a tug would not exceed \$5 gold per day. The same testimony gives the wages paid the stevedores, or laborers on the ship, as \$2 per day in silver, Mexican, worth 90 cents gold, and their food is estimated at 30 cents gold per day.

These wages are stated as prevailing in 1899. In view of the difference in the time and of the fluctuating values of the paper currency, and desiring to err, if at all, on the side of liberality, I shall allow for the crews of the tugs \$12.50 each per day, and for the stevedores \$1.25, or a total of \$125, instead of the \$164 claimed.

No other claims are presented in exclusive connection with this seizure of July 13, and we next take up the second seizure of July 30. Here the total delay was over two days, but I have already held that the delay of the third day was caused by the state of panic due to the suppression of an insurrection with which the greater part of the population had been in sympathy, and were consequently now in apprehension of danger. The incidental damages to be allowed must therefore be estimated for only two days.

The claims advanced by Orr & Laubenheimer for the second detention are as follows:

First. For demurrage. This is allowed for two days at \$77 per day, \$154.

Second. For charter from Brown & Harris of the two tugs *Milton* and *Rey* (presumably with their lighters), \$700 gold is claimed.

Nicaragua protests that this amount is extravagant. It is in evidence that *Buena Ventura* and *Alerta* cost \$7,000 for the two. The *Milton* and *Rey* were, presumably, only about of equal value, and this rate would pay for the tugs in twenty days. But it may be conceived that Brown & Harris, who had a steamship, the *Rover*, loading at the time, took advantage of their opportunity to exact high figures. So in the absence of any testimony to controvert, I give the benefit of a doubt to Orr & Laubenheimer and allow the \$700 in full.

Third. For the crews of the two tugs, at \$18.50 per crew per day, and for the 30 stevedores at \$45 per day, Orr & Laubenheimer claim three days' lost wages, amounting to \$246. I allow, as before explained, for two days only, and at rates of \$12.50 per day for each tug, and \$37.50 for the gang of stevedores, making a total of \$100.

Fourth. Orr & Laubenheimer claim for three days' consumption of coal at 10 tons per day while lying at Bluefields from Tuesday to Friday. During this period it is claimed that the *Espana* had to keep up steam "because it was uncertain when it would be needed." It is stated that, although the coal cost only \$2.50 per ton at Mobile, it might have been sold to a war vessel at Bluefields at \$6 per ton, and therefore \$180 is claimed on this account.

I must reject this claim on the ground that if the *Espana* did keep up steam during the three days she lay at Bluefields, it was unnecessary and was gross mismanagement. To have banked her fires would have answered all purposes and cost but a trifling sum. Anything done beyond that I can only attribute to the panic among the agents, which has been before referred to. The evidence indicates that some of them contemplated flight, and fires may have been kept in view of some such emergency.

Fifth. Orr & Laubenheimer claim from Nicaragua \$650 for damages to a lighter which it was claimed was broken by overloading while in use by the troops and cost that sum for repairs.

This claim I must reject as barred by the protocol. No reference to any such damage appears in any of the original papers. The first mention of it is in an affidavit by Ellis, dated April 17, 1900. As it has no place in the "memorials filed in the Department of State" at the date of the protocol, it can not be considered here.

Sixth. Lastly, Orr and Laubenheimer claim for the hire of their tugs the sum of \$1,000.

I think it proper to allow liberally for the use of the tugs in view of the military value of their services in Nicaragua's emergency. But after separate compensation has been allowed for the wages of the crew (\$100) and for the hire at extreme rates (\$700) of two other tugs to do their work in their absence, I think an allowance of \$50 per boat per day for minor expenses, wear and tear, and profit, is ample.

I therefore allow under this head the sum of \$200.

#### AWARD.

I therefore announce as my award that Nicaragua shall pay to Orr & Laubenheimer, as indemnity, at the time and in the manner provided in the protocol, the sum of the several amounts above allowed, being \$3,109 for the first seizure and \$3,854 for the second, a total of \$6,963.

#### (2) AS TO THE CASE OF THE POST-GLOVER ELECTRIC COMPANY.

##### NARRATIVE.

On June 26, 1896, one Frank Field, a citizen of the United States, executed a contract to erect an electric-light plant in the town of Bluefields, Nicaragua. It was signed in behalf of the town by Gen. J. P. Reyes, governor of the department of Zelaya, and L. A. Marx, president of the Bluefields council. The single feature of the con-

tract necessary to be noted in this narrative is that Field agreed to erect the plant within three months under penalty of a fine and the forfeiture of a site which had been given him and of all the machinery which might have been erected on it at the time of forfeiture. The time fixed for completion of the plant was afterwards extended to November 26, 1896. On August 20 Field appeared in Cincinnati, and there bought from the Post-Glover Electric Company electrical supplies to the amount of \$1,419.04. In payment he persuaded them, by false and fraudulent representations, to accept a draft on New Orleans, after which he seems to have disappeared and had no further part in the proceedings.

In due course the draft fell due and came back protested, and about October 14 the company sent an agent, Dr. Beck, in pursuit of the goods. Beck followed them to Bluefields, arriving there October 24. The goods were found in possession of one Rogers, acting as agent for Field, and Rogers willingly turned them over to Beck. Beck endeavored in vain to sell the goods to General Reyes. General Reyes endeavored to persuade Beck to wait until November 26, and then to step into Field's contract. Beck declined and decided to carry the goods home, and began to box and deliver them to Brown & Harris, agents of the steamer *Hiram*, billed to sail on November 12 for New Orleans. On that morning Brown & Harris applied to General Reyes for a clearance for the *Hiram*, without which she could not legally prosecute her voyage. General Reyes refused to give it unless they would agree not to transport the electrical supplies in question. The steamer *Hiram*, being loaded with bananas, could not afford to delay and contest the legality of General Reyes's action, and accordingly declined to carry Beck's goods. He had no resource but to return to the United States without them. But he did manage to conceal and carry off in his trunk a few of the small and most valuable pieces. After this, by the regular processes of Nicaraguan law, Field's contract was declared to have been violated and the goods in question forfeited. They have ever since remained in possession of the municipality of Bluefields.

By article 3 of the protocol Nicaragua admits liability to the Post-Glover Electric Company, and the only question before me is as to the amount.

#### AMOUNT OF DAMAGES.

The claim of the Post-Glover Electric Company is made up by taking from the invoice price of the entire bill of goods sold to Field, which was \$1,419.04, the invoice price of these articles recovered by Dr. Beck, which was \$143.64. This leaves \$1,275.40, the principal of the claim. To this was added interest for twenty months, up to the time of a detailed examination into the account by the United States State Department. This interest, \$127.54, made the total claimed in the latest memorials filed in the State Department \$1,402.94.

To this claim Nicaragua offers objection, which may be briefly stated as follows:

First. That the basis of value should not be the market price of the goods in Cincinnati, as that includes a profit to the Post-Glover Company. It should rather be their useful value, in the condition in which they were found, when they came into the possession of General Reyes, at Bluefields.

Second. That Beck's carrying off certain portions of the apparatus wilfully destroyed the useful value of what remained, making it absolutely nothing. There being no value left in this which Bluefields gets, she owes nothing for it, but is herself damaged by her failure to collect \$1,000 fine, liquidated damages from Field, due to her by the contract.

But this argument loses sight entirely of the purpose and the limited scope of this arbitration. It had its origin in General Reyes compelling a common carrier to refuse to serve an agent of the Post-Glover Company. Its purpose is, not that Bluefields may derive some profit from this action, but that the Post-Glover Company may suffer no damage. And in its scope it is strictly limited to estimating the loss of that company. What Bluefields gets or loses is not in the case any more than what Field gets or loses.

Nothing is in order before me but evidence to show that the actual loss suffered by the electric company is less than \$1,402.94. No such evidence is offered. It is beyond doubt that the company could have sold the goods in question in open market in Cincinnati at the prices named in the invoice. Those prices, then, must measure the damage.

As no tender of settlement was ever made, interest is a permissible charge unless barred by the protocol. The protocol does not bar any amount "claimed in the memorials filed in the Department of State" before March 22, 1900, and the \$127.54 is therefore allowed.

AWARD.

I therefore announce as my award that Nicaragua shall pay to the Post-Glover Electric Company as indemnity, at the time and in the manner provided in the protocol, the sum of \$1,402.94.

E. P. ALEXANDER.

# PERU.

## EXTRADITION TREATY WITH PERU.

*Mr. Dudley to Mr. Hay.*

No. 327.]

LEGATION OF THE UNITED STATES,  
*Lima, Peru, December 6, 1899.*

SIR: Referring to your instruction<sup>1</sup> No. 211 of September 13, 1899, and the President's accompanying power to conclude a treaty of extradition between the United States and Peru, I have the honor to transmit by this mail, under separate cover, the copy, duly executed, which was retained for the Government of the United States.

The treaty was transmitted by President Romaña to the Peruvian Congress for ratification a few days since. As Congress is on the eve of adjournment, doubt of course exists as to its being acted upon this session. It is, however, in the same case as three treaties of other countries which have been pending before Congress since last year.

I am endeavoring, within the bounds of a proper discretion, to promote its ratification before the adjournment.

I have, etc.,

IRVING B. DUDLEY.

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*Mr. Hay to Mr. Dudley.*

No. 220.]

DEPARTMENT OF STATE,  
*Washington, January 4, 1900.*

SIR: I have to acknowledge the receipt of your No. 327 of the 6th ultimo, forwarding the United States copy of the treaty providing for the extradition of criminals, signed by yourself and the Peruvian minister for foreign affairs.

The same has been transmitted to the Senate to receive the advice and consent of that body to its ratification.

I am, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Dudley.*

No. 224.]

DEPARTMENT OF STATE,  
*Washington, February 12, 1900.*

SIR: The Senate of the United States, on the 8th instant, gave its advice and consent to the ratification of the treaty between the United

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<sup>1</sup> Not printed.

States and Peru for the extradition of criminals, with the following amendment:

In Article II, at the end of subarticle 6 (being p. 5, line 14), insert, after "larceny," provided that the value of the property or the amount of money so embezzled or stolen is not less than \$200, or 420 soles.

The subarticle in question will, therefore, after amendment, read as follows:

Embezzlement by public officers; embezzlement by persons hired or salaried, to the detriment of their employers; larceny, provided that the value of the property or the amount of money so embezzled or stolen is not less than \$200, or 420 soles.

You will communicate the amendment to the Peruvian Government and advise the Department by telegraph when it shall have been accepted in accordance with the laws and constitution of Peru.

After receiving this notification the Department will prepare the exchange copy and forward it to you with a full power to make the exchange.

I am, etc.,

JOHN HAY.

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*Mr. Dudley to Mr. Hay.*

No. 352.]

LEGATION OF THE UNITED STATES,  
*Lima, Peru, March 10, 1900.*

SIR: I have the honor to acknowledge the receipt of your instruction No. 224, of February 12, 1900, informing me of the ratification, in a slightly amended form, of the treaty of extradition between the United States and Peru by the United States Senate, and beg to submit herewith copy of notes since exchanged in relation thereto between this legation and the Peruvian foreign office.

I regret to state that in the ordinary course the Peruvian Congress will not reconvenè until the 28th of July next.

I have, etc.,

IRVING B. DUDLEY.

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[Inclosure 1.]

*Mr. Dudley to Señor Riva-Aguero.*

No. 132.]

LEGATION OF THE UNITED STATES,  
*Lima, Peru, March 6, 1900.*

MR. MINISTER: The Senate of the United States, on the 8th ultimo, gave its advice and consent to the ratification of the treaty between the United States and Peru for the extradition of criminals, with the following amendment:

"In Article II, at the end of subarticle 6 (being page 5, line 14), insert, after 'larceny,' provided that the value of the property or the amount of money so embezzled or stolen is not less than \$200, or 420 soles."

The subarticle in question will, therefore, after amendment, read as follows:

"Embezzlement by public officers; embezzlement by persons hired or salaried, to the detriment of their employers; larceny, provided that the value of the property or the amount of money so embezzled or stolen is not less than \$200, or 420 soles."

I am instructed to communicate the foregoing amendment to the Peruvian Government, and most respectfully request that your excellency will do me the kindness to inform me when it shall have been accepted in accordance with the laws and constitution of Peru, in order that I may advise the Department of State of the United States by telegraph, it being desired, upon the receipt of such telegraphic notice, to prepare and forward me the exchange copy with a full power to make the exchange.

I improve the opportunity, Mr. Minister, to renew, etc.,

IRVING B. DUDLEY.

[Inclosure 2.]

*Señor Riva-Aguero to Mr. Dudley.*

No. 9.]

FOREIGN OFFICE, *Lima, March 8, 1900.*

MR. MINISTER: I have received your excellency's note, No. 132, dated the 6th instant, in which you are pleased to inform me that the Senate of the United States, on the 8th of February last, approved the ratification of the treaty between Peru and the United States for the extradition of criminals, with an amendment of paragraph 6 in Article II. Your excellency incloses me a literal copy of the tenor of the amended paragraph.

As the treaty referred to by your excellency has already received the sanction of the Peruvian legislative body, and as any modification of the terms of a convention celebrated with a foreign power has to pass through the formalities to which the said convention has been submitted, I am compelled to await the next meeting of Congress, so as to submit the same to that body.

As soon as that has been done I shall have the pleasure to communicate with your excellency.

Be pleased, Mr. Minister, to accept, etc.,

E. DE LA RIVA-AGUERO.

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*Mr. Neill to Mr. Hay.*

No. 423.]

LEGATION OF THE UNITED STATES,

*Lima, Peru, November 8, 1900.*

SIR: I have the honor to inclose you a copy of a note from the foreign office announcing that the amendment in the treaty between the United States and Peru for the extradition of criminals, made by the Senate of the United States, has been accepted by the last Peruvian Congress.

On the 25th of October, after the close of the ordinary Peruvian Congress, I was informed by good authority that the said amendment had been approved in that body. I had no hesitation in communicating to you by telegram, as instructed, as follows:

Amendment extradition treaty accepted by Congress. When copy ready, will you forward me full power to make exchange?

The parliamentary labors of the Peruvian ordinary Congress of 1900 came to a close on October 25 last.

I herewith, also, inclose copy of my note acknowledging the receipt of Dr. Felipe de Osma's official notification in reference to the treaty amendment.

I have, etc.,

RICHARD R. NEILL.

[Inclosure 1.]

*Mr. de Osma to Mr. Neill*

[Translation.]

No. 37.]

LIMA, *November 7, 1900.*

MR. CHARGÉ: I have the pleasure to inform your honor that the national Congress, by virtue of its attributes, has approved the amendment introduced by the Senate of the United States of America in the treaty of extradition that was signed on November 28, 1899, by his excellency, Mr. Dudley, and the chief of this chancellery at that time.

The ratification documents are now ready for exchange.

I reiterate, etc.,

FELIPE DE OSMA.



[Inclosure 2.]

*Mr. Neill to Mr. de Osma.*

No. 165.]

LEGATION OF THE UNITED STATES,  
*Lima, November 8, 1900.*

MR. MINISTER: I have the honor to thank your excellency for the official notification just received, that the Peruvian Congress has approved the amendment in the treaty between the United States and Peru for the extradition of criminals, made by the Senate of the United States.

I had already notified my Government by telegram that this amendment had been accepted by the Peruvian Congress, and that when copy was ready, to transmit to me full power to make the exchange.

On this occasion I beg, etc.,

RICHARD R. NEILL.

**TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE  
REPUBLIC OF PERU PROVIDING FOR THE EXTRADITION OF  
CRIMINALS.**

*Signed at Lima, November 28, 1899.*

*Ratification with amendments advised by the Senate, February 8, 1900.*

*Ratified by the President of the United States, November 23, 1900.*

*Ratified by the President of Peru, January 23, 1901.*

*Ratifications exchanged at Lima, January 23, 1901.*

*Proclaimed January 29, 1901.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA,

A PROCLAMATION.

Whereas a treaty between the United States of America and the Republic of Peru providing for the extradition of criminals was concluded and signed by their respective Plenipotentiaries at Lima on the 28th day of November, one thousand eight hundred and ninety-nine, the original of which Treaty, being in the English and Spanish languages is, as amended by the Senate of the United States, word for word as follows:

The United States of America and the Republic of Peru, being desirous to confirm their friendly relations and to promote the cause of justice, have resolved to conclude a treaty for the extradition of fugitives from justice between the United States of America and the Republic of Peru, and have appointed for that purpose the following Plenipotentiaries:

The President of the United States of America, Irving B. Dudley, Envoy Extraordinary and Minister Plenipotentiary of the United States to Peru, and

The President of Peru, His Excellency Doctor Manuel María Gálvez, Minister of Foreign Relations of Peru, who, after having communicated to each other their respective full power, found in good and due form, have agreed upon and concluded the following articles:

ARTICLE I.

The Government of the United States and the Republic of Peru mutually agree to deliver up persons who, having been charged with or convicted of any of the crimes and offenses specified in the following article, committed within the jurisdiction of one of the contracting

parties, shall seek an asylum or be found within the territories of the other: Provided, that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offense had been there committed.

## ARTICLE II.

Extradition shall be granted for the following crimes and offenses:

1. Murder, comprehending assassination, parricide, infanticide, and poisoning; attempt to commit murder; manslaughter, when voluntary.

2. Arson.

3. Robbery, defined to be the act of feloniously and forcibly taking from the person of another, money or goods, by violence or putting him in fear; burglary.

4. Forgery, or the utterance of forged papers; the forgery or falsification of official acts of government, of public authorities, or of courts of justice, or the utterance of the thing forged or falsified.

5. The counterfeiting, falsifying or altering of money, whether coin or paper, or of instruments of debt created by national, state, provincial, or municipal governments, or of coupons thereof, or of bank notes, or the utterance or circulation of the same; or the counterfeiting, falsifying or altering of seals of state.

6. Embezzlement by public officers; embezzlement by persons hired or salaried, to the detriment of their employers; larceny, provided that the value of the property or the amount of money so embezzled or stolen is not less than \$200 or 420 soles.

7. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, or other person acting in a fiduciary capacity, or director or member or officer of any company, when such act is made criminal by the laws of both countries and the amount of money or the property misappropriated is not less than \$200 or 420 soles in value.

8. Perjury; subornation of perjury.

9. Rape; abduction; kidnapping; bigamy.

10. Willful and unlawful destruction or obstruction of railroads which endangers human life.

11. Crimes committed at sea:

(a) Piracy, by statute or by the law of nations.

(b) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

(c) Wrongfully sinking or destroying a vessel at sea, or attempting to do so.

(d) Assaults on board a ship on the high seas with intent to do grievous bodily harm.

12. Crimes and offenses against the laws of both countries for the suppression of slavery and slave trading.

Extradition is also to take place for participation, as accessories, accomplices or otherwise, in any of the crimes and offenses mentioned in this Treaty; provided, however, that extradition shall not be granted for any crime or offense hereinbefore enumerated or for participation therein unless such crime or offense, or such participation may be punished, in the United States as a felony, and in Peru by imprisonment for one year.

## ARTICLE III.

Requisitions for the surrender of fugitives from justice shall be made by the diplomatic agents of the contracting parties, or in the absence of these from the country or its seat of government, may be made by the superior consular officers; or, in the absence of both diplomatic and consular representatives from the country or its seat of government, may be made directly by the Government thus unrepresented upon the other.

If the person whose extradition is requested shall have been convicted of a crime or offense, a duly authenticated copy of the sentence of the court in which he was convicted, or if the fugitive is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime has been committed, and of the depositions or other evidence upon which such warrant was issued, shall be produced.

The extradition of fugitives under the provisions of this Treaty shall be carried out in the United States and in Peru, respectively, in conformity with the laws regulating extradition for the time being in force in the state on which the demand for surrender is made.

## ARTICLE IV.

In cases not admitting of delay, and especially in those where there is danger of escape, each of the two Governments may, by the most expeditious means, ask and obtain the arrest and provisional detention of the fugitive on condition of presenting a formal requisition, accompanied by the necessary evidence of his criminality under the stipulations of this Treaty within two months from the date of his provisional arrest or detention.

## ARTICLE V.

Neither of the contracting parties shall be bound to deliver up its own citizens or subjects under the stipulations of this Treaty.

## ARTICLE VI.

A fugitive criminal shall not be surrendered if the offense in respect of which his surrender is demanded be of a political character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offense of a political character.

No person surrendered by either of the high contracting parties to the other shall be triable or tried, or be punished, for any political crime or offense, or for any act connected therewith, committed previously to his extradition.

If any question shall arise as to whether a case comes within the provisions of this article, the decision of the authorities of the government on which the demand for surrender is made, or which may have granted the extradition, shall be final.

## ARTICLE VII.

Extradition shall not be granted in pursuance of the provisions of this Treaty, if legal proceedings or the enforcement of the penalty for

the act committed by the person claimed has become barred by limitation, according to the laws of the country to which the requisition is addressed.

#### ARTICLE VIII.

If the person claimed is accused or sentenced in the country where he may have taken refuge for a crime or misdemeanor committed in that country, his delivery may be delayed until the definitive sentence releasing him be pronounced, or until such time as he may have complied with the punishment inflicted on him in the country wherein he took refuge.

#### ARTICLE IX.

No person surrendered by either of the high contracting parties to the other shall, without the consent of the government which surrendered him, be triable or tried or be punished for any crime or offense committed prior to his extradition other than that for which he was delivered up, until he shall have had an opportunity of returning to the country from which he was surrendered.

#### ARTICLE X.

All articles seized which are in the possession of the person to be surrendered at the time of his apprehension, whether being the proceeds of the crime or offense charged, or being material as evidence in making proof of the crime or offense, shall, so far as practicable and in conformity with the laws of the respective countries, be given up when the extradition takes place. Nevertheless, the rights of third parties with regard to such articles shall be duly respected.

#### ARTICLE XI.

If the individual claimed by one of the high contracting parties, in pursuance of the present Treaty, shall also be claimed by one or several other powers on account of crimes or offenses committed within their respective jurisdictions, his extradition shall be granted to the state whose demand is first received: Provided, that the government from which extradition is sought is not bound by treaty to give preference otherwise.

#### ARTICLE XII.

The expenses incurred in the arrest, detention, examination, and delivery of fugitives under this Treaty shall be borne by the state in whose name the extradition is sought; Provided, that the demanding government shall not be compelled to bear any expense for the services of such public officers of the government from which extradition is sought as receive a fixed salary; And, provided, that the charge for the services of such public officers as receive only fees or perquisites shall not exceed their customary fees for the acts or services performed by them had such acts or services been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

#### ARTICLE XIII.

The present Treaty shall take effect on the thirtieth day after the date of the exchange of ratifications, and shall not operate retroactively.

The ratifications of the present Treaty shall be exchanged at Lima as soon as possible, and it shall remain in force for a period of six months after either of the contracting governments shall have given notice of a purpose to terminate it.

In witness whereof, the respective Plenipotentiaries have signed the above articles, both in the English and the Spanish languages, and have hereunto affixed their seals.

Done in duplicate, at the city of Lima this twentyeighth day of November in the year of our Lord one thousand eight hundred and ninety nine.

IRVING B. DUDLEY [SEAL.]  
M. M. GÁLVEZ [SEAL.]

And Whereas the said treaty 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 Lima, on the 23d day of January, 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, 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-ninth day of January in the year of our Lord one thousand nine hundred and one, and of the Independence of the United States the one [SEAL.] hundred and twenty-fifth.

WILLIAM MCKINLEY

By the President:

JOHN HAY  
*Secretary of State.*

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**CONDOLENCES ON GALVESTON DISASTER.**

*Señor Calderon to Mr. Hay.*

[Telegram.]

HOTEL DEL CORONADO, CALIFORNIA,  
*September 17, 1900.*

Allow me to express to Your Excellency the profound sorrow that the calamities of Galveston have produced on the people and Congress and the Government of Peru, and my personal sympathies for the unfortunate town.

MANUEL ALVAREZ CALDERON.

*Mr. Adee to Señor Calderon.*

No. 4.]

DEPARTMENT OF STATE,  
*Washington, September 18, 1900.*

SIR: I have the honor to acknowledge the receipt of your telegram of yesterday's date, advising the Department of the profound sorrow felt by the Government, the people of Peru, and yourself, in view of the disaster which has befallen the people of Texas.

Your telegram has been communicated to the President, and I am charged by him to express his sincere appreciation of the sympathetic message you have conveyed.

Accept, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

## PORTUGAL.

ARBITRATION IN THE MATTER OF THE DELAGOA BAY RAILWAY. PAYMENT BY PORTUGAL OF AMOUNT AWARDED BY ARBITRATOR. (FOR AWARD, SEE UNDER SWITZERLAND.)

### MEMORANDUM.

DEPARTMENT OF STATE,  
*Washington, June 25, 1900.*

The Portuguese chargé d'affaires called to ask whether it would be agreeable to the Government of the United States if the Portuguese Government should deposit in the Bank of England or some other safe depository the full amount of the Delagoa Bay award.

I told him that we had not yet received the complete text of the award, and that I was not able to give him an official assurance of the Government of the United States that it would be accepted, but that I saw no objection to the Portuguese Government making such a deposit as he referred to, subject to any claims or reclamation which the parties in interest might choose to make hereafter. I impressed upon him that what I said was in no sense a waiver of any rights which the parties in interest might have.

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### MEMORANDUM.

DEPARTMENT OF STATE,  
*July 21, 1900.*

The chargé d'affaires of Portugal states verbally that his Government will deposit to-day at the agency of the Comptoir d'Escomptes in London the full amount of the indemnity awarded by the arbitrators to the claimants in the Delagoa Bay arbitration, together with interest at 5 per cent from the 25th day of June, 1889, to the 21st day of July, 1900, consigned both to the order of the American and English Governments.

This is done in accordance with the award.

JULY 21.

The American claimant, Mrs. McMurdo Penfield, by her counsel has protested to this Government against its acceptance of the Delagoa Bay award. The matter is under consideration and until the Department makes a decision thereon, it regrets its inability to take any action which might be construed as an acceptance of the award, or as absolving the Portuguese Government from plenary liability. If any deposit is made it will be without prejudice to the rights of the American Government as heretofore stated.

*Mr. Duarte to Mr. Hay.*

[Translation.]

LEGATION OF PORTUGAL IN THE UNITED STATES,  
*July 21, 1900.*

By order of his excellency the minister and secretary of state for foreign affairs, I have the honor to inform your excellency for such effect as may be proper that on this day the Portuguese Government, in fulfillment of the award of the arbitral tribunal of Berne in the matter of the litigation relative to the Lourenço Marquez (Delagoa Bay) Railroad, and in order to effect a complete release from its responsibility, deposits in the branch office of the Comptoir d'Escompte, at London, to the joint order of the American and English Governments, under the terms of the award aforesaid, the sum corresponding to the awarded indemnity, augmented by the interest, at 5 per cent, computed from the 25th day of June, 1889, to the 21st of July, 1900.

I avail myself of this opportunity to reiterate, etc.,

E. DA COSTA DUARTE.

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*Mr. Thieriot to Mr. Hay.*

No. 44.]

LEGATION OF THE UNITED STATES,  
*Lisbon, July 24, 1900.*

SIR: I have the honor to state that I have received from the minister of foreign affairs a note advising me that payment has been made in London of the amount awarded by the Berne Court of Arbitration in the Lourenço Marquez Railway affair, with the interest thereon in addition.

I have inclosed herewith a translation of the note referred to, and I have the honor to be, etc.,

T. H. THIERIOT,

*In Charge of the Affairs of the Legation.*

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[Inclosure.]

*Mr. Arrogo to Mr. Thieriot.*

[Translation.]

FOREIGN OFFICE, *Lisbon, July 23, 1900.*

I beg to inform your excellency that His Majesty's Government made a deposit at the agency of the Comptoir National d'Escompte, in London, on the morning of the 21st instant, pursuant to the final award of the court of arbitration at Berne, payable to the order of the Government of the United States of North America, and to that of Her Britannic Majesty, and as a complete discharge from all responsibility on the part of Portugal, a sum equal to the indemnity by the aforesaid court, with the additional amount of interest at 5 per cent from the 25th June, 1889, to the 21st of the present month, the date of payment.

I embrace this opportunity to renew, etc.,

OAD A. ARROGO.



*Mr. Hay to Mr. Duarte.*

No. 87.]

DEPARTMENT OF STATE,  
*Washington, July 27, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 21st instant, informing me of the deposit of the money awarded by the Delagoa Bay arbitration.

As heretofore stated, the Government of the United States is not to be understood as authorizing or acquiescing in the making of said deposit, and in acknowledging the same it does so without prejudice and with reservation of all its rights, of whatever nature or character they may be, in the premises.

Accept, etc.,

JOHN HAY.

*Mr. Adee to Mr. Thieriot.*

No. 19.]

DEPARTMENT OF STATE,  
*Washington, August 10, 1900.*

SIR: I have to acknowledge the receipt of your No. 44 of the 24th ultimo inclosing the translation of a note from the minister of foreign affairs advising you of the deposit in London of the money awarded by the Delagoa Bay arbitration.

The like information was communicated to the Department by the chargé d'affaires ad interim of Portugal at Washington in a note dated the 21st ultimo.

I inclose for your information a copy of the Department's note<sup>1</sup> of July 27 by which the chargé was informed that the Government of the United States is not to be understood as authorizing or acquiescing in the making of said deposit, and in acknowledging the same it does so without prejudice and with reservation of all its rights, of whatever nature they may be, in the premises.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Viscount Santo Thyrso to Mr. Adee.*

[Translation.]

LEGATION OF PORTUGAL IN THE UNITED STATES,  
*Washington, August 21, 1900.*

MOST ILLUSTRIOUS AND EXCELLENT SIR: Mr. John Hay, in his note of the 27th ultimo, acknowledging the reception of the note of the 21st of the same month in which Mr. Costa Duarte informed him that the Government of His Majesty had deposited, at the branch office of the Comptoir d'Escompte in London, the sum awarded by the tribunal of Berne in the question of the Lourenço Marquez Railway, together with the interest at 5 per cent, computed from the 25th day of June,

<sup>1</sup> Printed ante.

1889, to the date of the notification of deposit, made the following statement:

As heretofore stated, the Government of the United States is not understood as authorizing or acquiescing in the making of said deposit, and in acknowledging the same it does so without prejudice and with reservation of all its rights, of whatever nature or character they may be, in the premises.

Your excellency will have no hesitation in acknowledging that by depositing in the Comptoir d'Escompte the amount awarded, the Government of His Majesty complied for its part with the provisions of the award, and I therefore presume that the reservations made in Mr. Hay's note exclusively refer to the sentence of the arbitral tribunal and not to its execution on the part of the Portuguese Government.

I should be much obliged if your excellency would inform me whether I am correctly interpreting the views of the Government of the United States, and I improve this opportunity to reiterate, etc.,

SANTO THYRSO.

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*Mr. Adee to Viscount Santo Thyrso.*

No. 91.]

DEPARTMENT OF STATE,  
*Washington, August 27, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 21st instant relating to the deposit by His Majesty's Government, at the branch office of the "Comptoir d'Escompte" in London, of the amount awarded to citizens of the United States and British subjects in payment of their claims on account of the rescision of the concession to the Lourenço Marquez Railroad. Referring to the note of the 27th ultimo of the Secretary of State, you quote his statement that "as heretofore stated, the Government of the United States is not understood as authorizing or acquiescing in the making of said deposit, and in acknowledging the same it does so without prejudice and with reservation of all its rights, of whatever nature or character they may be in the premises," and ask to be informed whether you interpret correctly the views of this Government when you say that you "presume that the reservations made in Mr. Hay's note exclusively refer to the sentence of the arbitral tribunal and not to its execution on the part of the Portuguese Government."

I have the honor to inform you that the protocol signed at Berne, June 13, 1891, provides distinctly in Article IV, in the third and in the fourth paragraphs that "the amount of the indemnity shall be paid by the Portuguese Government to the other two Governments" (the United States and Great Britain), and it is with reference to this provision that Mr. Hay, in his note of July 27, used the language which you ask to have interpreted. The Department intended by that language as well to preserve all rights with regard to the award itself as also to disclaim all responsibility regarding the deposit of the sum awarded by the tribunal at Berne at the Comptoir d'Escompte.

It is understood that the deposit was made at the "Comptoir" in pursuance of a permissive clause in the award, which was apparently designed to enable His Majesty's Government to stop the running of interest on the amount awarded.

Accept, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Viscount Santo Thyrso to Mr. Adee.*

[Translation.]

LEGATION OF PORTUGAL IN THE UNITED STATES,  
*Washington, August 28, 1900.*

MOST ILLUSTRIOUS AND EXCELLENT SIR: I received this day the note that your excellency did me the honor to send me yesterday touching the question of the Lourenço Marquez Railway.

As the object of my note of the 21st instant was to elucidate the situation, in view of the reservations made by Mr. Hay on the 27th of last month, I deem it expedient to declare also to your excellency that the Government of His Majesty, having deposited the sum awarded by the tribunal of Berne to the joint order of both the American and English Governments, considers itself released, under the terms of the protocol as well as of the arbitral sentence, from all its responsibilities in the premises.

I improve the opportunity to reiterate, etc.,

SANTO THYRSO.

## RUSSIA.

**ARBITRATION OF CLAIMS OF AMERICAN SEALING AND WHALING VESSELS AGAINST RUSSIA, AGREEMENT PROVIDING FOR. (SELECTION OF ARBITRATOR, SEE UNDER NETHERLANDS.)**

*Mr. Tower to Mr. Hay.*

No. 84.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, August 29, 1899.*

SIR: In compliance with the instructions contained in your dispatch No. 53<sup>1</sup> of the 22d of May, 1899, in relation to the proposed arbitration between the Government of the United States and the Government of Russia of the claims arising out of the seizure and detention by Russian cruisers of the American vessels *James Hamilton Lewis, C. H. White, Kate and Anna, and Cape Horn Pigeon*, I presented last June to the Count Mouravieff, Imperial minister of foreign affairs, a form of protocol upon which the proceedings of such arbitration should be established. This form, of which I have the honor to inclose to you a copy herewith, is made, in a general sense, to agree with those of former arbitrations of claims in America. It provides for the submission to the arbitrator of all the questions of law and fact brought into issue between the two Governments, together with copies of the correspondence, documents, and proofs which have already been submitted for the consideration of either Government in respect of these claims, and also for the appearance before the arbitrator of counsel for all the parties in interest, with authority to make oral arguments, at the discretion of the arbitrator, in addition to those written or printed, which were provided for.

The Russian Government, however, after having considered that method of procedure, has sent me a different form, which it prefers, a copy of which, and of Count Mouravieff's note of the 12th (24th) of August, which accompanied it, is respectfully submitted to you herewith.

This method provides only for written arguments before the arbitrator, in the form of memoranda and counter memoranda, by means of which each party shall set forth its case within limits as to time, which are specifically determined.

It is the same as that which is about to be employed for establishing the procedure in an arbitration of a similar case, soon to be held between Great Britain and Russia, and was originally proposed by the British Government to that of Russia for the purpose named.

The plan itself seems eminently a fair one for both parties. But I beg leave to suggest that, if it were accepted by the Government of the United States in the matter now under consideration, some modifi-

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<sup>1</sup>Not printed.

cations might be made in respect of certain details, as, for example, the compensation to be paid to the arbitrator ought to be fixed and an agreement established between the two Governments as to the share of it which each should pay. There should also be a limit of time within which the arbitrator should engage to render his final decision (the term of one year proposed by me was merely intended as a suggestion open to argument), and a limit of time within which the Government of Russia should engage itself to pay any indemnity awarded by the arbitrator.

It may, perhaps, be considered advisable also to inquire what the precise meaning is of the phrase relating to the arbitrator's decision which provides that, besides following the general principles of international law, he shall also follow "the spirit of international agreements bearing upon the subject." I understand that this provision is one that was suggested by Russia as a modification of the original plan presented by Great Britain, but has not as yet been accepted by the British foreign office.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure 1.]

MEMORANDUM FOR A PROTOCOL.

*Protocol of an agreement between the Imperial Russian minister of foreign affairs and the ambassador extraordinary and plenipotentiary of the United States of America, for submission to an arbitrator of the claims arising out of the seizure and detention of the American vessels C. H. White, James Hamilton Lewis, Kate and Anna, and Cape Horn Pigeon.*

The Government of His Majesty Nicholas II, Emperor of all the Russias, and the United States of America, through their representatives, the Count Mouravieff, Imperial Russian minister of foreign affairs, and Charlemagne Tower, ambassador extraordinary and plenipotentiary of the United States of America, have agreed upon and signed the following protocol:

Whereas the United States of America, having claimed indemnity from the Imperial Russian Government on behalf, respectively, of the owners, master, and crew of the schooner *C. H. White*, seized by the Imperial Russian cruiser *Zabiaca* in 1892; of the owners, master, and crew of the schooner *James Hamilton Lewis*, seized by the Imperial Russian cruiser *Aleute* in 1891; of the owners, master, and crew of the schooner *Kate and Anna*, seized by the Imperial Russian cruiser *Zabiaca* in 1892, and of the owners, master, and crew of the bark *Cape Horn Pigeon*, seized by an Imperial Russian armed vessel in 1892, it is agreed between the two Governments, with the consent of the said several parties in interest, given through their respective attorneys of record:

I. That the questions of law and of fact brought into issue between the two Governments in respect of each of these said several claims shall be referred to the decision of Monsieur T. M. C. Asser, doctor of laws, member of the Royal Council of State of the Netherlands, who is hereby fully authorized thereto as arbitrator.

II. That each Government shall submit to the arbitrator within three months from the day on which both Governments shall receive official notice from Monsieur T. M. C. Asser that he accepts the office of arbitrator by permission of his Government, copies of the correspondence, documents, and proofs which it has already submitted for the consideration of the other Government in respect of the said several claims.

III. That each Government may submit with the documents above described a separate argument, either written, typewritten, or printed, setting forth its own views in each of the said several cases respectively.

IV. The case of each of the said vessels shall be submitted separately to the consideration of the arbitrator, and each of the said cases shall be decided by him singly and separately upon its own merits as to the questions of law and of fact brought into

issue between the two Governments by the seizure and detention of the vessel to which it relates.

V. Each of the said several cases may be presented to the consideration of the arbitrator by separate counsel duly authorized thereto and empowered by either Government to act for it as counsel in such case, or the same counsel may be duly authorized and empowered by either Government to act for it in presenting two or more of the said several cases successively. And the arbitrator may, in his discretion, hear oral arguments of counsel in any or all of the said several cases in addition to the written or printed arguments above provided for. He may also call for evidence or arguments elucidating particular points not made clear to him if he shall deem it necessary to do so after having examined the documents submitted to him.

VI. The arbitrator shall render his decision as to all the said cases within one year from the date of the submission to him of the proofs, documents, and evidence by both parties. He shall decide whether, upon the proofs, documents, evidence, and arguments submitted to him, the owners, master, and crews, respectively, or any of them, of the said vessels, the *C. H. White*, *James Hamilton Lewis*, *Kate and Anna*, and the *Cape Horn Pigeon*, are or are not entitled to indemnification on the part of the Imperial Russian Government, and in the event that he shall decide this point affirmatively with respect to any or all of the said claimants, he will fix the amount of the indemnity to which each or either is entitled.

VII. Reasonable compensation to the arbitrator, and the other common expenses occasioned by the arbitration, shall be paid in equal moieties by the two Governments.

VIII. Any award made by the arbitrator shall be final and conclusive, and if in favor of the claimants or of either or any of them and of the contention of the United States of America, the amount or amounts so awarded shall be paid by the Imperial Russian Government not later than one year from the date of such award.

Done in duplicate at St. Petersburg this — day of —, 1899.

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[Inclosure 2.]

*Count Mouravieff to Mr. Tower.*

[Translation.]

No. 4131.]

MINISTRY OF FOREIGN AFFAIRS,  
*First Department, August 12, 1899.*

In supplement to the communication No. 3227, of the 26th of June, 1899, the imperial ministry of foreign affairs has the honor to announce to the embassy of the United States that the form of protocol to establish rules of procedure in the arbitration of claims arising out of the seizure by Russian cruisers of the American schooners *James Hamilton Lewis*, *C. H. White*, *Kate and Anna*, and *Cape Horn Pigeon* has been carefully examined by the ministry of foreign affairs and the ministry of marine.

In view of the fact that in the form submitted by the embassy the limit of expenses does not appear to be sufficiently defined, and since in a similar case the ministry has recently proposed to the British Government another plan of arbitration which seems better to serve the interests of both parties to the litigation, the ministry of foreign affairs, with the concurrence of the ministry of marine, has the honor to submit herewith a copy in French, with the request that the embassy will communicate to it the opinion of the Government of the United States in regard to that plan.

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[Subinclosure—Translation.]

The Imperial Government of Russia and the Government of the United States of America having agreed to invite M. Asser, member of the council of state of the Netherlands, to act as arbitrator in connection with the claims of the schooners *James Hamilton Lewis*, *C. H. White*, *Kate and Anna*, and *Cape Horn Pigeon*, arising out of their detention or seizure by Russian cruisers on the charge of having been illegally engaged in fur-seal fishing, the undersigned minister of foreign affairs of His Majesty the Emperor of Russia having been duly authorized thereto, has the honor to make

hereby the following declaration, in exchange with a similar declaration upon the part of the Government of the United States of America.

The arbitrator shall take cognizance of the claims for indemnity which have been presented to the Imperial Government of Russia by the Government of the United States on behalf of the parties in interest in the said schooners.

The party claimant shall present to the arbitrator, within three months from the date of the exchange of the present note with an identical one of the United States Government, a memorandum in support of its claim, and shall hand immediately a copy thereof to the party defendant.

Within three months from the date of the receipt of the said copy the party defendant shall present to the arbitrator a contramemorandum of which it shall hand immediately a copy to the party claimant.

Within three months after the receipt of such contramemorandum the party claimant may, if it sees fit to do so, present to the arbitrator a new memorandum, of which it shall hand immediately a copy to the party defendant; and the latter may also, within three months from the receipt thereof, present to the arbitrator a new contramemorandum, of which it shall hand immediately a copy to the party claimant.

The arbitrator shall be authorized at the request of either of the parties to extend for a period of not longer than thirty days any of the intervals of time hereinabove provided for.

After the exchange of memoranda as herein aforesaid no communication, either written or verbal, shall be addressed to the arbitrator, unless he shall request from the parties, or either of them, supplementary information to be given in writing.

The party so giving information to the arbitrator shall hand immediately a copy of its communication to the opponent, who may, if he thinks fit to do so, present in writing to the arbitrator, within one month from the date of his receipt thereof, comments relating to the subject-matter of the said communication, and a copy of such comments shall be sent immediately to the party opponent.

The arbitrator shall have authority to decide all questions that may arise in regard to procedure in the course of the arbitration.

In his decision, which shall be communicated by him to each of the two Governments interested, the arbitrator, following the general principles of international law and the spirit of international agreements bearing upon the subject, shall determine as to each claim brought against the Imperial Government of Russia, whether such claim is well founded; and, if he decides affirmatively, whether the facts upon which each of the said claims is based have been proven.

In that event the arbitrator shall fix the amount of the indemnity to be paid by the Russian Government in respect to the claims presented by the parties in interest in the said vessels.

If he wishes to do so without, however, lessening the obligation incumbent upon the party claimant to prove the damages suffered, the arbitrator may invite each Government to appoint a commercial expert to aid him in that capacity—in fixing the amount of the indemnity.

The Imperial Government of Russia declares itself ready, in exchange with a similar agreement upon the part of the Government of the United States, to assume all expenses which may or shall be incurred in the presentation of its side of the case in this matter; also to accept as a final judgment the decision pronounced by the arbitrator within the limits of the present agreement, and to submit thereto without any reservation whatsoever.

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*Mr. Hagerman to Mr. Hay.*

No. 94.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, September 7, 1899.*

SIR: I have the honor to call your attention to that part of Mr. Tower's dispatch No. 84, of August 29 last, in which he remarked that it might be considered advisable to inquire into the precise meaning of a certain phrase in the draft of protocol submitted by Russia for the arbitration of the claims arising out of the seizure of the *James Hamilton Lewis* and other American vessels by Russian cruisers. Mr. Tower stated that he understood that the phrase in question providing that the arbitrator in his decision, besides following the general prin-

ciples of international law, should also follow "the spirit of international agreements bearing upon the subject," had been suggested by Russia as a modification of the original plan presented by Great Britain.

I am able to state now that, according to reliable information given Mr. Tower immediately before his departure, this proposed modification is unacceptable to Great Britain, and that the Russian Government will be so advised.

I have, etc.,

HERBERT J. HAGERMAN.

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*Mr. Hill to Mr. Hagerman.*

No. 89.]

DEPARTMENT OF STATE,  
Washington, September 28, 1899.

SIR: I have to acknowledge the receipt of the ambassador's No. 84, of August 29 last, inclosing his draft and the Russian counterdraft of an agreement providing for the arbitration of the claims of American citizens growing out of the seizure of the vessels *James Hamilton Lewis, C. H. White, Kate and Anna, and Cape Horn Pigeon*; also of your No. 94, of the 7th instant, referring to a clause in the Russian counterdraft.

The draft proposed by the ambassador would be acceptable to this Government. The Russian counterdraft is also acceptable, with the modifications indicated in the accompanying memorandum.

I am, etc.

DAVID J. HILL,  
*Acting Secretary.*

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[Inclosure.]

MEMORANDUM.

The department suggests the insertion, after the words "*Cape Horn Pigeon*," in the first paragraph, of the words "their owners, officers, and crews," and the omission at close of the second paragraph of the words "in the said schooners."

In case of at least one of the vessels there is involved a claim of members of the crew for illtreatment during detention, so the arbitration should not be limited to parties having interest in the vessels.

After the fourth paragraph, on the second page of the Russian draft, the department suggests the insertion of the following paragraph:

"The arbitrator shall render his decision in all the cases within six months from the date of the delivery to him of the last memorandum or contramemorandum provided for in this agreement."

It would seem wisest to omit in the fifth paragraph on the second page the words "and the spirit of international agreements bearing upon the subject."

This Government has entered into an agreement with Russia, dated May 4, 1894 (not retroactive, however), to prohibit our citizens from hunting for seal within a zone of 10 nautical miles along the Russian coasts and within a zone of 30 nautical miles of the Commander Islands. Very likely Russia may have similar agreements with other governments.

Omit the closing words of the last paragraph on the second page of the Russian draft—"in the said vessels."

In the last paragraph (last page) of the Russian draft, after the word "matter," insert: "to pay one-half of the compensation of the arbitrator for his services."

The Department also suggests the insertion of the following provision:

"Any amount awarded by the arbitrator in favor of the claimants or either of them shall be paid by the Government of Russia within one year from the date of the award."



*Mr. Peirce to Mr. Hay.*

[Telegram.—Paraphrase.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, October 23, 1899.*

[Mr. Peirce reports the adherence of the Russian Government to the protocol of the Russian minister of foreign affairs relative to the arbitration of the Bering Sea cases, and the suggestion that both sides might be limited to memorandum and contramemorandum unless further argument is requested by the arbitrator; to retain the phraseology of the fourth paragraph, second page, but the word "general" to be inserted before "spirit," and the following clause inserted: "But no special agreement between governments shall be considered applicable to the principles involved herein." All other modifications indicated in Department's No. 89 will be accepted.]

Mr. Peirce asks if he is authorized to proceed on the basis outlined.]

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*Mr. Hay to Mr. Peirce.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, October 26, 1899.*

[Mr. Hay directs Mr. Peirce to endeavor to secure the omission of the provision proposed by the Russian Government, fourth paragraph, second page of the protocol, which is not acceptable to this Government; to proceed as indicated in instruction No. 89, and report the result of his efforts.]

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*Mr. Peirce to Mr. Hay.*

No. 133.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, October 27, 1899.*

SIR: I have the honor to acknowledge the receipt of your telegram<sup>1</sup> of the 26th instant, a copy of which I append upon the overleaf.

Acting upon the instructions therein contained, I have requested a further interview with Professor de Martens for the purpose of urging upon him the wishes of our Government that the phrase "and the spirit of international agreements bearing upon the subject" be omitted from the protocol of the arbitration of the claims of American citizens arising out of seizures of American vessels.

I have, etc.,

HERBERT H. D. PEIRCE.

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*Mr. Peirce to Mr. Hill.*

No. 134.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, October 27, 1899.*

SIR: Referring to your dispatch No. 89 of September 28, 1899, I have the honor to confirm my telegram<sup>1</sup> of October 23 last, a copy of which I append on the overleaf.

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<sup>1</sup> Printed ante.

I had mentioned the matter of the protocol for the arbitration of the Bering Sea cases to Count Lamsdorff, urging upon him the importance of arriving at a decision on the subject at an early date and requesting a discussion of certain points relative thereto in order that the matter might be finally adjusted without unnecessary delay.

Count Lamsdorff was good enough to refer me to Professor de Martens, counsel for the ministry of foreign affairs, who was expected back to St. Petersburg shortly, the Venezuela board of arbitration, of which he was the president, having finished its sittings. The count stated that, as Mr. Martens would in fact determine the position of the Imperial Government in the affair, the most expeditious means of arriving at an agreement would be to come to an understanding with him as to the form and wording of the protocol.

Accordingly, on Saturday last, the 21st instant, I had, by appointment, an interview with Professor de Martens and went over with him the whole matter in detail.

I found him immovable regarding the question of the argument of the cases before the arbitrator by counsel. He stated frankly that, were such course to be adopted, the minister would request him to name suitable counsel and that he really did not know of anyone whom he could recommend to act in that capacity; that the whole system of Russian education is such that the men at the disposal of the ministry are unaccustomed and unfitted for the oral presentation or argument of such questions, and that he could not see his way clear to assent to the procedure indicated in the ambassador's draft of the protocol, but he suggested, as tending to materially shorten the duration of proceedings, that each side be limited to a memorandum and a contramemorandum unless further argument should be called for by the arbitrator for his further enlightenment.

As Mr. de Martens's views on this subject seemed to be fully fixed, and as in your dispatch above referred to you expressed no special preference for one mode of procedure proposed over the other, I deemed it in the interests of dispatch not to further press for the adoption of the ambassador's draft as a basis.

We then took up the Russian draft of the protocol, and I pointed out that in the first paragraph of that document the *Cape Horn Pigeon* should not be described as a schooner engaged in fur sealing, but as a bark engaged in whaling. This was at once assented to, as was the striking out of the words "in the said schooners" at the end of the second paragraph; the insertion of the following paragraph after the fourth paragraph on the second page:

The arbitrator shall render his decision in all the cases within six months from the date of the delivery to him of the last memorandum provided for in this agreement.

The omission of the closing words of the last paragraph on the second page, "in the said vessels;" the insertion after the word "matter," in the last paragraph, of the words "to pay one-half of the compensation of the arbitrator for his services;" and the addition of a provision to read as follows:

Any amount awarded by the arbitrator in favor of the claimants, or either of them, shall be paid by the Government of Russia within one year from the date of the award.

With regard to the omission of the words "and the spirit of international agreements bearing upon the subject," which you have taken exception to in your dispatch above quoted, Professor de Martens

expressed himself as decidedly favoring their retention, but suggested modifying them by the insertion of the word "general" before "spirit" and the addition of an explanatory phrase to the following effect:

but no special agreement between governments shall be considered as applicable to the principles herein involved.

This suggestion was made by him, upon my pointing out to him that such an agreement as that existing between Russia and the United States prohibiting the hunting of seals within a zone of 30 nautical miles of Commander Islands might exist between Russia and other countries, but that the Government of the United States could not recognize any such agreements as bearing upon the cases in question. He replied that such an agreement did exist with Great Britain, but that this was a special agreement, as were all agreements of that nature, and that the modifications he suggested would exclude all such. I am aware that this leaves an undesirable element of vagueness, but as Professor de Martens seems to attach importance to the retention of the wording, indicating that in the guidance of the arbitrator the books upon the subject of international law are not alone to be relied upon, I consented to submit the modified phraseology to you for your decision.

If the desire of the Russian Government in the retention of this expression is only to include it for the guidance of the arbitrator, it is not, perhaps, improbable that they would agree to the following wording of the entire paragraph:

In his decision, which shall be communicated by him to each of the two Governments interested, the arbitrator, following the general principles of international law and the spirit thereof as defined in international agreements bearing upon the subject, it being understood that special agreements between Governments are not applicable to the principles herein involved, shall determine as to each claim brought against the Imperial Government of Russia whether such claim is well founded, and if he decides affirmatively, whether the facts upon which said claim is based have been proven, and the decision of the arbitrator thereon shall be final, both as regards the claims and the principles determining his judgment.

Submitting the above for your approval, I have, etc.,

HERBERT H. D. PEIRCE.

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*Mr. Peirce to Mr. Hay.*

[Telegram.—Paraphrase.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, October 30, 1899.*

[Mr. Peirce reports that the provision, fourth paragraph, second page of the protocol, which is objectionable to the Department, is to be omitted.]

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*Mr. Peirce to Mr. Hay.*

No. 139.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, October 30, 1899.*

SIR: In continuation of my dispatch No. 134 of the 27th instant, in relation to the protocol of arbitration on the seizure of American vessels by the Russian authorities in the Bering and Okhotsk seas, I have

the honor to confirm my telegram<sup>1</sup> of this date a copy of which please find appended on the overleaf.

Immediately upon the receipt of your telegram of the 26th of October, 1899, instructing me to endeavor to secure the omission of the phrase "and the spirit of international agreements bearing upon the subject" in the fifth paragraph of the second page of the Russian draft, I requested a further conference with Professor de Martens and received from him an appointment for this afternoon.

I found Professor de Martens, as I had anticipated, very loath to omit the provision to which you have taken exception, and he desired to know what I would propose to substitute for it. I replied that my Government desired its entire omission from the protocol without substitution of any provision of that nature, and I then asked him what purpose its retention could serve. He replied that it was intended for the guidance of the arbitrator in order that it might be understood that not the text-books on international law alone were to be considered as defining the principles of international law, but that the treaties between Governments should be recognized as one of its sources and one of the most important expressions of its principles.

I pointed out to Professor de Martens that in the choice of Mr. Asser as the arbitrator both Governments had been animated by the desire to refer the question to an unimpeachable authority upon international law, so that a decision might be arrived at in these cases in which absolute equity might, so far as possible, conform to the soundest theories of international rights, and that having, as we both believed, such an authority in Mr. Asser, it seemed to me unnecessary to instruct him as to the principles necessary for his guidance, but that we might with confidence leave the matter to his sound judgment, together with all the other and various points involved. This argument, touching as it did an "esprit du corps" which must of necessity exist between Professor de Martens and Mr. Asser, not only as high authorities upon their special subject, but as colleagues in their profession, seemed to produce the desired effect upon Professor de Martens's mind, for he at once admitted its force and agreed with me that the provision in question might safely be omitted from the protocol.

We then entered upon the subject of the language of the protocol, proceedings, and decision of the arbitrator. I had feared that the Russian Government, following their recent departure in regard to official communications, would insist upon the use of the Russian language for the protocol as official for them, to be accompanied by a translation into French, which should be of an unofficial character, and that it might be necessary for us also to accompany our memoranda with translations into French. Professor de Martens, however, assured me that Mr. Asser speaks and reads English fluently and correctly. I presume that he has not the same command of Russian, and that it was for these reasons that the professor proposed that throughout the arbitration, including the draft of the protocol, the official language for our side should be English and that of the Russian side French, and that the drafts of the two protocols should be carefully compared in order that it may be established that the sense and force of each is identical with the other.

I asked Professor de Martens what, if any, steps had been taken on the Russian side to inform Mr. Asser of the proposal to invite him to

<sup>1</sup> Printed ante.

arbitrate the cases. He replied that nothing had been done, and stated that it was important that the two Governments act simultaneously and in complete unison, at the same time providing against an embarrassing refusal by, as a preliminary, informally, but semiofficially, posing the question as to whether or not Mr. Asser can and will act in the desired capacity. It was Professor de Martens's opinion that this should also be done simultaneously by both Governments, and to this end he requested me to ask of you to instruct our representative at The Hague to go to the minister for foreign affairs at that capital upon a certain fixed date, such date to be in the near future, but affording sufficient time for the Russian Government to instruct its representative there to do the same and upon the same day, and to further request of you to notify this embassy by telegraph what the date will be in order that we may inform the imperial foreign office, and for our representative to verbally ask of the minister of foreign affairs that he inquire of Mr. Asser whether he will consent to act as arbitrator in the premises. Accordingly I have the honor to submit the above request.

Upon receipt of an affirmative answer to this informal inquiry it is Professor de Martens's opinion that notes should be drawn up by both of our Governments formally inviting Mr. Asser to arbitrate the disputed claims, and, to the end that the terms of these notes should be identical, that they be carefully compared before transmission, and that thereafter dates of mailing be agreed upon in order that they may arrive as nearly simultaneously as possible.

I have now the honor to inclose a copy of the amended draft of the Russian protocol for your approval, it being understood between Professor de Martens and myself that this amended draft is not to be considered as final until it has received the sanction of our respective Governments.

In the telegrams which have passed between the Department and the embassy the fifth paragraph on the second page has been, by an oversight, erroneously described as the fourth on the same page.

Submitting the above for your approval, I have, etc.,

HERBERT H. D. PEIRCE.

[Inclosure.]

The Imperial Government of Russia and the Government of the United States of America having agreed to invite Mr. Asser, member of the Council of State of the Netherlands, to act as arbitrator in connection with the claims of the schooners *James Hamilton Lewis*, *C. H. White*, *Kate and Anna*, and the bark *Cape Horn Pigeon*, their owners, officers, and crews, arising out of their detention or seizure by Russian cruisers on the charge of having been illegally engaged in fur-seal fishing, the undersigned minister of foreign affairs of His Majesty the Emperor of Russia, having been duly authorized thereto, has the honor to make hereby the following declaration, in exchange with a similar declaration upon the part of the Government of the United States of America:

The arbitrator shall take cognizance of the claims for indemnity which have been presented to the Imperial Government of Russia by the Government of the United States on behalf of the parties in interest.

The party claimant shall present to the arbitrator, within three months from the date of the exchange of the present note with an identical one of the United States Government, a memorandum in support of its claim, and shall hand immediately a copy thereof to the party defendant.

Within three months from the date of the receipt of the said copy the party defendant shall present to the arbitrator a contramemorandum, of which it shall hand immediately a copy to the party claimant.

Within three months after the receipt of such contramemorandum the party

claimant may, if it sees fit to do so, present to the arbitrator a new memorandum, of which it shall hand immediately a copy to the party defendant; and the latter may also, within three months from the receipt thereof, present to the arbitrator a new contramemorandum, of which it shall hand immediately a copy to the party claimant.

The arbitrator shall be authorized, at the request of either of the parties, to extend for a period of not longer than thirty days any of the intervals of time hereinabove provided for.

After the exchange of memoranda as herein aforesaid no communication, either written or verbal, shall be addressed to the arbitrator, unless he shall request from the parties, or either of them, supplementary information to be given in writing.

The party so giving information to the arbitrator shall hand immediately a copy of its communication to the opponent, who may, if he thinks fit to do so, present in writing to the arbitrator, within one month from the date of his receipt thereof, comments relating to the subject-matter of the said communication, and a copy of such comments shall be sent immediately to the party opponent.

The arbitrator shall have authority to decide all questions that may arise in regard to procedure in the course of the arbitration.

The arbitrator shall render his decisions in all the cases within six months from the date of the delivery to him of the last memorandum or contramemorandum provided for in this agreement.

In his decision, which shall be communicated by him to each of the two Governments interested, the arbitrator, following the general principles of international law, shall determine as to each claim brought against the Imperial Government of Russia, whether such claim is well founded; and, if he decides affirmatively, whether the facts upon which each of the said claims is based has been proven.

In that event the arbitrator shall fix the amount of the indemnity to be paid by the Russian Government in respect to the claims presented by the parties in interest.

If he wishes to do so, without, however, lessening the obligation incumbent upon the party claimant to prove the damages suffered, the arbitrator may invite each Government to appoint a commercial expert to aid him in that capacity in fixing the amount of the indemnity.

The Imperial Government of Russia declares itself ready, in exchange with a similar agreement upon the part of the Government of the United States, to assume all expenses which may or shall be incurred in the presentation of its side of the case in this matter, to pay one-half of the compensation of the arbitrator for his services, also to accept as a final judgment the decision pronounced by the arbitrator within the limits of the present agreement, and to submit thereto without any reservation whatsoever.

Any amount awarded by the arbitrator in favor of the claimants, or either of them, shall be paid by the Government of Russia within one year from the date of the award.

The official language of the party defendant throughout the proceedings of the arbitration, including the protocol thereof, shall be the French language, and the official language of the party claimant throughout the proceedings of the arbitration, including the protocol thereof, shall be the English language, and the decision of the arbitrator shall be given to each of the parties in the French and English language respectively.

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*Mr. Hay to Mr. Peirce.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, November 14, 1899.*

[Mr. Hay approves the protocol transmitted with Mr. Peirce's No. 139, except that the "*Cape Horn Pigeon*" should be described as having been engaged in whaling instead of sealing.]

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*Mr. Tower to Mr. Hay.*

No. 152.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, November 18, 1899.*

SIR: I have the honor to inform you that in compliance with the instructions contained in the dispatch No. 89 of Mr. Hill, Acting Sec-

retary, dated the 28th of September, 1899, in regard to certain modifications which the Government of the United States wished to have made in the wording of the protocol proposed by the Imperial Russian Government to be used in arbitrating the claims which have grown out of the seizure of the American vessels, *James Hamilton Lewis*, *C. H. White*, *Kate and Anna*, and *Cape Horn Pigeon*, the said modifications were duly presented to the Imperial Russian ministry of foreign affairs by Mr. Peirce, chargé d'affaires ad interim.

The modifications as contained in the memorandum which accompanied Mr. Hill's dispatch were apparently acceptable to the Russian Government, though, as Count Mouraviev, the Imperial minister of foreign affairs, was then abroad upon leave, the gérant of the ministry, Count Lamsdorff, requested Mr. Peirce to confer upon this subject with Professor de Martens, who acts as counsel for the ministry in similar cases.

Mr. Peirce thereupon saw Professor de Martens, with whom he discussed the modifications proposed by the United States Government, and obtained from him the impression that they would be found quite acceptable to the Imperial Government and would be introduced into the protocol.

Professor de Martens was very unwilling, however, to omit from the protocol the phrase, "and the spirit of international agreements bearing upon the subject," in connection with the method in which the arbitrator should arrive at his decision. But upon the representation that this phrase was not entirely acceptable to the Government of the United States he consented to waive it, and Mr. Peirce understood that he would so advise the Imperial minister of foreign affairs.

I have received to-day, however, from the Count Lamsdorff a note (a translated copy of which I have the honor to inclose to you herewith), in which he declares that the Imperial Government insists upon retaining the phrase, "and the spirit of international agreements bearing upon the subject," upon the ground that it is essential to the arbitration, and that the decision as to what is relevant to the subject in this connection should be left to the arbitrator himself to decide.

The Imperial Government also proposes that the arguments of each of the contestants shall be made in the French language, in order to facilitate the interchange of memoranda and give greater celerity to the transactions than if the American side were presented in English and the Russian in Russian.

I inclose, also, herewith a copy of Mr. Peirce's letter of the 20th of October to Professor de Martens, which is referred to in the note of Count Lamsdorff.

I request the instructions of the Government for my further direction in this negotiation.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure 1.]

*Count Lamsdorff to Mr. Tower.*

[Translation,]

No. 5719.]

IMPERIAL MINISTRY OF FOREIGN AFFAIRS,  
*First Department, November 5 (17), 1899.*

MR. AMBASSADOR: Mr. Privy Counsellor Martens has sent me the letter which Mr. Peirce had the goodness to address to him on October 20, transmitting to him a new draft for the protocol to be exchanged between the Imperial Government and that

of the United States on the subject of the arbitration procedure in the affair of the American vessels *James Hamilton Lewis, C. H. White, Kate and Anna, and the Cape Horn Pigeon.*

The Imperial Government has no objection to make for its part to the modifications contained in the new draft, except on the two following points: The draft in question does not contain the clause mentioned in the ministerial notice of August 16, stipulating that the arbitrator shall be guided by "the spirit of international agreements bearing upon the subject;" the imperial ministry of foreign affairs finds itself obliged to insist that the stipulation in question be introduced into the text of the protocol. In the opinion of the Imperial Government there can be no objection to the clause in question since it refers to agreements applicable to the subject. It is for the arbitrator to decide to what extent the agreements which might be cited could be made applicable to the present litigation.

The Imperial Government further considers that, with regard to the official languages to be employed in the course of the proceedings as regards the communications of the parties and the decision of the arbitrator, it is desirable, that uniformity be observed. To this end the use of the French language, as in general use in diplomatic correspondence, seems to it indicated in the present case, for otherwise, if each of the parties made use of his native language, this fact would impede the progress of the proceedings and render the task of the arbitrator more difficult.

Please to accept, etc.,

COUNT LAMSBORFF.

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[Inclosure 2.]

*Mr. Peirce to Professor de Martens.*

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, October 20 (November 1), 1899.*

YOUR EXCELLENCY: Referring to our recent conversations regarding the protocol of the arbitration between the Imperial Government and the Government of the United States to adjudicate the claims arising out of the seizure of certain American vessels by officials of the Imperial Government, I have the honor to inclose herewith an amended copy of the Russian draft of the protocol conforming to certain changes desired by my Government, and certain other changes which, in the course of our conversations on the subject have appeared to be advisable, to all of which we have mutually agreed, subject on the part of each of us to the approval of our respective Governments.

For convenience in comparison I have marked with red ink those passages in which the text of the original Russian draft has been altered.

I avail, etc.,

HERBERT H. D. PEIRCE.

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*Mr. Tower to Mr. Hay.*

No. 157.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, November 25, 1899.*

SIR: Since writing my dispatch No. 152 to you on the 18th of November, I have had an opportunity, during a personal interview, to discuss further with the Count Mouravieff, imperial minister of foreign affairs, the protocol submitted to the Government of the United States by the Imperial Russian Government in relation to the mode of procedure to be adopted in the arbitration of the claims arising out of the seizure of the American vessels, *James Hamilton Lewis, C. H. White, Kate and Anna, and Cape Horn Pigeon.*

I recalled to the imperial minister the fact that the United States Government has intimated its willingness to accept the form of protocol submitted by Russia, with the introduction of a few minor changes which have been adopted by the Imperial Government without objec-



tion; but that, while the United States Government has expressed its preference to eliminate the clause which stipulates, as to the method in which the arbitrator shall arrive at his conclusions, by taking note of the rules on international laws, in addition thereto "il aura à se régler sur l'esprit des accords internationaux applicables à la matière," the imperial ministry of foreign affairs has declared—in the note of the Count Lamsdorff, under date of the 5th (17th) of November, a copy of which I have already forwarded to you—that it finds itself obliged to insist upon the retention of that clause in the protocol.

I asked M. de Mouravieff to explain to me, in order that I might report it to you, what particular treaties or agreements this stipulation has reference to, and why it is considered to be of especial importance in connection with the subject-matter to which the arbitration relates.

He replied that it is the intention of the Russian Government to give the arbitrator in this controversy all the latitude possible, which shall be as fair to one side as to the other, in the admission of evidence and in coming to his decision; and that, in order to afford him this assistance, it is intended to allow him to take notice of the spirit and general tendency of international agreements applicable to the cases. He assured me that the Imperial Government has no purpose of relying upon the language of any particular agreement; and he gave me authority to say to you that he is ready to stipulate that no treaty or international agreement shall be presented in evidence before the arbitrator in order to prove any particular point of the argument, but merely to prove the spirit or general drift of international agreements applicable to the questions in dispute. He declared it to be his intention that the arbitrator alone shall be the judge as to the pertinence or applicability to the present litigation of such "spirit of international agreement."

Since I asked you in my dispatch, No. 152, for your instructions as to my future conduct in this negotiation, I beg now to submit this statement of the Count Mouravieff in further explanation of the view taken by the Imperial Russian Government.

I have, etc.,

CHARLEMAGNE TOWER.

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*Mr. Hay to Mr. Tower.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, December 5, 1899.*

[Mr. Hay states that the phrase proposed by the Russian Government, as reported in Mr. Tower's No. 152, is not acceptable, but that this Government would consent to strike out, in the paragraph referred to, the words "following the general principles of international law," so that it shall read: "The arbitrator shall determine as to each claim," etc. The change proposed in Department's cablegram of the 14th ultimo should be made, if the protocol is agreed to, and an express provision for the submission to the arbitrator of the evidence which has been presented in support of the claims should also be included.]

*Mr. Hay to Mr. Tower.*

No. 124.]

DEPARTMENT OF STATE,  
*Washington, February 12, 1900.*

SIR: I have to acknowledge the receipt of your No. 152, of November 18; No. 157, of November 25, and your No. 165, of December 9 last, relative to the modification of the protocol for the arbitration of the United States claims growing out of the Russian seizures of American sealing and whaling vessels.

The Department awaits the result of its telegraphic instruction of December 5 last relative thereto.

I am, etc.,

JOHN HAY.

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*Mr. Tower to Mr. Hay.*

No. 192.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, February 28, 1900.*

SIR: I have the honor to acknowledge the receipt of your dispatch No. 124, of the 12th of February, relative to the modification of the protocol for the arbitration of the claims of the United States growing out of Russian seizures of American sealing and whaling vessels, and I regret that I have not been able as yet to report fully upon that subject.

The delay had arisen from the unwillingness upon the part of the Russian Government to accept the phraseology proposed by us in connection with the method by which the arbitrator shall reach his decision. The Imperial minister for foreign affairs still insists upon the retention of the phrase to which I had the honor to refer in my dispatches to you, Nos. 152, of November 18, and 157, of November 25, 1899, "and the spirit of international agreements bearing upon the subject."

Upon receiving your telegram of the 5th of December, which instructed me that the United States Government will accept a modification which shall make the provision read: "The arbitrator shall determine as to each claim, etc.," I presented that suggestion to the minister for foreign affairs, and I have not fulfilled my promise to inform you of his reply because he has not as yet given me a definite reply.

I have discussed the subject with him upon several occasions personally and have presented it formally also in writing. He is not inclined to yield the point and I fear will not do so, though I can not say this finally at present.

The question of this modification has been referred, as I have already reported to you, to Professor Martens for decision, and I incline to believe that it is that gentleman who is stubbornly resisting our offer, although I have repeatedly urged that "instead of restricting the judgment of the arbitrator to any express mode of determination, our plan will leave the questions involved to be decided by his wisdom and learning, without qualification of any kind."

I shall not fail to attend diligently to this subject.

I have, etc.,

CHARLEMAGNE TOWER.

*Mr. Hay to Mr. Tower.*

No. 131.]

DEPARTMENT OF STATE,  
*Washington, March 16, 1900.*

SIR: I have to acknowledge the receipt of your No. 192, of the 28th ultimo, relative to the modification of the protocol for the arbitration of the whaling and sealing claims against Russia.

The action of the Russian Government in indicating its willingness to adopt the principle of arbitration for the settlement of the claim growing out of the seizure of American sealing and whaling vessels was peculiarly gratifying to the Government of the United States. It was regarded as one of the most auspicious steps recently taken in the interest of peace and justice among nations, both on account of its importance as a precedent and because it gave fresh evidence of the sentiment of mutual friendship which has ever happily characterized the relations of the two countries, and it inspires in the Government of the United States its entire confidence in reaching a satisfactory and reasonable basis of arbitration equally just and honorable to the contracting parties. It is of the essence of law, which is ordained to establish justice in governing the relation of individuals as well as of State, that it should consist of positive and certain rules by which they may regulate their conduct. It therefore follows that a law should be enacted to operate in futuro, so that those who are to be affected by it may have cognizance of it and govern their actions accordingly. To enact a rule and give it at the same time a retroactive operation is inconsistent with the most rudimentary ideas of justice, inasmuch as those who are most loyal and law abiding might thereby be subjected to penalties and losses for their very observance of the laws by which their conduct was scrupulously regulated and in the protection of which they confided. Such conception of law is impossible, because obedience to it was impossible; it is the abnegation of law and therefore of justice. At the time of the seizure complained of the vessels were subject to and governed by certain defined and well-known rules of law. It never entered into the minds of the parties that their conduct could be judged by any vague and indefinable "spirit of international agreement bearing upon the subject" which was nonexistent or was so vague and indefinable that it could afford no criterion of human conduct. The phrase is objectionable from a judicial standpoint for the reason that its meaning lacks definition. It seems difficult or entirely impracticable to understand its precise meaning as a criterion of human action and judgment. If it were adopted, the arbitrator in forming his decision would be compelled to give to the spirit substance by the formulation of a rule of conduct that would first come to the knowledge of the parties when announced by the arbitrator—a rule which, if differing from the positive law in force and governing the vessels when they were seized, could not be accepted as intrinsically just, and which, if accordant with any such positive law, it is unnecessary and superfluous to embody in the agreement.

The Government of the United States regrets its inability to assent to the incorporation in the agreement of the proposed phrase, unless it is defined and reduced to terms which will express a conception of some definite and tangible rule. If the phrase has any useful function this should be possible, inasmuch as the law of human conduct does not reside in mysteries and metaphors, but is capable of expression in

clear and precise terms. The spirit of law could not be said to exist independently of the law itself. A rule of law, where its meaning is in doubt, may be interpreted strictly or liberally, in accordance with the general intendment or spirit of the law. But this supposed intendment or spirit is resorted to never for the establishment of a positive rule of law, but sometimes as a supposed aid in interpreting such law already in force. The positive rules governing the action of the parties when the seizures were made should be the rules governing the decision of the controversy. They are found in the common law of nations, which itself affords complete canons for its own interpretation.

The Government of the United States confides in the just disposition of the Government of His Imperial Majesty; and as it would not expect the latter to enter into an agreement having the effect to bind its subjects to abide by any real or imaginary rules of conduct found in the treaties or in the spirit of treaties of the United States with foreign States, or even in its treaties with Russia, except so far as the latter were in force at the time when the controversy arose, it cherishes the belief that His Majesty's Government will not unwillingly accord to the citizens of the United States the same measure of justice which itself would reasonably expect for its own subjects.

If the Russian Government, after the matter has been presented in this light by you, is inflexible in its adherence to the phrase, you may suggest that the Government of the United States will assent to its inclusion on condition that the following language, in substance, be added, to wit:

But in rendering his decision the arbitrator shall be governed by the law actually in force and binding upon the parties to the controversy at the time when the seizures were respectively made.

You will represent the matter in this sense to the Imperial minister for foreign affairs, and you are at liberty, in the exercise of your discretion, if requested to do so, to furnish him a copy of this instruction.

I am, etc.,

JOHN HAY.

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*Mr. Tower to Mr. Hay.*

No. 206.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, March 31, 1900.*

SIR: I have the honor to acknowledge the receipt of your dispatch No. 131, of the 16th of March, 1900, in relation to the modification of the protocol for the arbitration of the whaling and sealing claims against the Russian Government.

Immediately upon receiving these instructions I went to see the Count Mouravieff, Imperial minister for foreign affairs, to whom, in a personal interview, I repeated the contents of your dispatch.

I informed him that the Government of the United States is unwilling to accept the phrase which it has been proposed to introduce into the wording of the protocol, providing that the arbitrator should be governed by the "spirit of international agreements applicable to the subject," because the purpose of it is obscure, and, from a juridical standpoint, the phrase is objectionable for the reason that its meaning

lacks definition. I repeated to him also your statement, that if this provision were adopted—

the arbitrator, in forming his decision, would be compelled to give to the spirit the substance by the formulation of a rule of conduct that would first come to the knowledge of the parties when announced by the arbitrator, a rule which, if differing from the positive law in force and governing the vessels when they were seized, could not be accepted as intrinsically just, and which, if accordant with any such positive law, it is unnecessary and superficial to embody in the agreement.

I added further that the Government of the United States wished this language made to express, more precisely than it does in its present form, what specific class of international agreements the arbitrator shall be authorized to consult in order to determine the spirit which is applicable to the subject now in hand, and that it can not be supposed that rules of law which may be recognized to-day, but were unknown then, can be given a retroactive force so as to make them apply to the occurrences which took place at a time when these rules were not yet accepted as law.

No more could any international agreement now existing be made, *ex post facto*, to govern the cases which relate to conditions prior to its existence. And if the spirit of international agreements is to be regarded as applicable to this subject, it must relate only to the spirit of such international agreements as were actually in force and applicable to the subject at the time when these seizures took place.

M. de Mouravieff did not question the justice of this argument. But he was still unwilling to abandon entirely the provision which allowed the arbitrator to take note of the "spirit of international agreements."

I availed myself, therefore, of the authority given me by you in your dispatch of the 16th of March, and suggested to him that the Government of the United States will assent to the retention of that phrase, provided that the following language, in substance, be added:

But, in rendering his decision, the arbitrator shall be governed by the law actually in force and binding upon the parties to the controversy at the time when the seizures were respectively made.

I have not yet the reply to this which the minister for foreign affairs promised soon to make; but I shall not fail to communicate it to you immediately upon its receipt.

I have, etc.,

CHARLEMAGNE TOWER.

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*Mr. Tower to Mr. Hay.*

No. 214.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, April 14, 1900.*

SIR: Subsequently to my conversation with the Imperial Russian minister for foreign affairs, the purport of which I had the honor to communicate to you in my dispatch No. 206, of the 31st of March, relating to the modification, in the proposed protocol for the arbitration of the whaling and sealing claims against the Russian Government, of the phrase "and of international agreements applicable to the subject," I addressed to the Count Mouravieff, on the 29th of March, a note of which I respectfully inclose a copy herewith.

I repeated in that note, as he had requested me to do, the objections to that phrase expressed by you on account of its lack of definiteness,

and I called his attention once more to the unwillingness of the United States Government to accept a provision of the agreement to arbitrate which was so obscure of purpose as this, or to bind itself by an expression which left it quite uncertain from our point of view what specific kinds of agreements are to be held to be applicable.

I argued also that it could not be supposed that either international agreements subsequently made, or principles of international law subsequently accepted as such, could be made retroactive and applicable to the cases in hand if they were not in existence and not recognized at the time when the seizures of these vessels actually took place.

But I offered, under the authority already given to me by you, of which I had availed myself previously in my personal interview with the minister for foreign affairs, to accept the phrase on behalf of the United States Government, provided the following language, in substance, should be added:

But, in rendering his decision, the arbitrator shall be governed by the law actually in force and binding upon the parties to the controversy at the time when the seizures were respectively made.

On the 22d of March (4th of April) M. de Mouravieff replied to me by a note, of which I have the honor to inclose to you a copy herewith.

He declares, as you see, that, while the Imperial Government appreciates the readiness of the United States to admit the phrase now under discussion, since "it is undeniable that the arbitrator must be governed by such international agreements as he may consider applicable to the subject. The Imperial Government does not hold it to be necessary to make the addition proposed," because, in the opinion of the Government, "it is important to avoid going into any detailed specification as to what agreements the arbitrator shall base his decision upon, in order not to restrict in the least his freedom of judgment, which is to be considered in law and in fact as absolute."

The Russian Government is thus exceedingly tenacious of its point of view, and has again refused to accept any modification of this objectionable phrase, even upon the liberal basis upon which we have offered to treat; for you will recall the fact that before proposing the perfectly just qualification, that no international agreements shall be given a retroactive force in order to make them applicable in the sense here understood, we have offered heretofore to cut out the phrase entirely, and leave the decision to the learning and wisdom of the arbitrator without any qualification whatever.

We are met now, however, by the objection that we must not restrict the freedom of judgment of the arbitrator. And I regret to say that we are again temporarily held in check, and unable to take up the more important questions of the arbitration and the arguments of counsel for the parties in interest and the Government itself.

I do not despair, however, even yet, of reaching ultimately an agreement as to this small and troublesome difference which shall be satisfactory to both participants in the controversy; and I shall confer with the imperial minister of foreign affairs immediately to that end.

I beg leave in the meantime to report to you the exact position of the matter to-day.

And in this connection I venture to suggest that as this question has developed to such an extent that it has attained the proportions of an international litigation, and is so regarded by the Russian Government, the Government of the United States will of course so consider it and

so direct the proceedings of the arbitration. These cases are likely to be argued with very great skill upon the Russian side—the note, of which I inclose a copy herewith, may serve to forecast this—and, while I have no information as to whom the Government intends to select as counsel to watch the interest of the United States, I trust I may not be going too far if I refer to the necessity of intrusting that duty to an international lawyer whose skill and experience in matters of this kind may enable him to face any adversary he may encounter in the course of this contest.

Another point to which I ask permission to refer is the adoption of French as the language of intercourse during the proceedings before the arbitrator. I have reported to you heretofore the request of the Russian Government that this should be done, but as yet I have not received your reply in regard to it. There can be no doubt that by adopting the French language the progress of the arbitration will be greatly facilitated; for if we insist upon making our arguments in English—which of course we may do—the Russian arguments will all be sent to us in Russian, a not very agreeable anticipation for the counsel either of the Government or of the respective individual parties in interest.

I have, etc.,

CHARLEMAGNE TOWER.

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[Inclosure 1.]

*Mr. Tower to Count Mouravieff.*

EMBASSY OF THE UNITED STATES,  
St. Petersburg, March 16 (29), 1900.

EXCELLENCY: In compliance with your request made yesterday when I had the honor to discuss with you the question of the form of protocol intended to be used in the arbitration between the Imperial Russian Government and that of the United States in regard to the seizure of certain American vessels, I beg leave to confirm what I then announced to your excellency, that the Government of the United States, appreciating the willingness of the Imperial Government to adopt the principle of arbitration in this case, which it regards as one of the most auspicious steps recently taken in the interest of peace and justice among nations, earnestly hopes that the slight difference of opinion as to one phrase in the language of the protocol may be speedily adjusted to the complete agreement and satisfaction of both high contracting powers.

This phrase, as your excellency will remember, is that which provides that the arbitrator, in giving his judgement upon the questions submitted to him by the parties in interest, shall take note of the rules of international law, and also of the "spirit of international agreements applicable to the subject."

The Government of the United States, upon mature consideration of the protocol which I had the honor to transmit to Washington in accordance with your excellency's request, regards this phrase as not sufficiently definite in meaning. It would have this language made to express more precisely than it does in its present form what specific class of international agreements the arbitrator shall be authorized to consult in order to determine the spirit which is applicable to the subject now in hand.

I have already had the honor upon several occasions to call your excellency's attention to this wish of the United States Government.

I venture to believe that your excellency has been constantly in accord with me in the discussion of the principles here involved, in so far, at least, as to agree that, in considering the questions of law submitted to him in this arbitration, the arbitrator must take cognizance of the rules of international law as they existed at the time when the seizures of the vessels occurred.

It is not understood that rules of law which may be recognized to-day but were unknown then can be given a retroactive force so as to make them apply to the

occurrences which took place at a time when these rules were not yet accepted as law.

No more could any international agreement now existing be made *ex post facto* to govern the cases which relate to conditions prior to its existence. And if the spirit of international agreements is to be regarded as applicable to this subject, I have the honor to submit to your excellency that it must apply only to the spirit of such international agreements as were actually in force and applicable to the subject at the time when these seizures took place.

This is the view taken of the question by the Government of the United States, which I venture to believe does not differ in principle from that of your excellency.

I have already had the honor to propose in my note addressed to you on the 29th December, 1899 (12th January, 1900), that the phrase relating to the "spirit of international agreements" might be eliminated entirely from the language of the protocol. But as the Imperial Government has hitherto insisted upon the retention of that provision I beg to suggest that the Government of the United States will assent to its inclusion on condition that the following language, in substance, be added:

"But in rendering his decision the arbitrator shall be governed by the law actually in force and binding upon the parties to the controversy at the time when the seizures were respectively made."

I avail myself, etc.,

CHARLEMAGNE TOWER.

[Inclosure 2.]

*Count Mouravieff to Mr. Tower.*

(Translation.)

No. 1652.]

IMPERIAL MINISTRY FOR FOREIGN AFFAIRS,  
*First Department, March 22 (April 4), 1900.*

MONSIEUR L'AMBASSADEUR: I have had the honor to receive your excellency's note of the 16th (29th) of March announcing the acceptance by the Government of the United States of the clause suggested by the Russian Government, in the protocol for the arbitration relating to the seizure of the American schooners, which provides that the arbitrator shall be governed by the general principles of international law and by international agreements applicable to the subject, but asking, at the same time, that the following language shall be added:

"But in rendering his decision the arbitrator shall be governed by the law actually in force and binding upon the parties to the controversy at the time when the seizures were respectively made."

The Imperial Government appreciates highly the spirit of justice with which the Government of the United States has embraced the opportunity to admit into the text of the protocol the passage setting forth expressly, as one of the bases of the arbitrator's decision, the principle, which appears to be unquestionable, that the arbitrator shall be governed by such international agreements as he may consider applicable to the subject.

But the Imperial Government does not hold it to be necessary to add the language proposed in the note of the 16th (29th) March, because, in its opinion, it is important to avoid any detailed specification of the international agreements upon which the arbitrator shall base his decision, in order not to restrict in the least his liberty of action, which ought to be, in law and in fact, absolute.

This was the view of the character of an arbitrator called upon to decide international differences which was taken at the peace conference held last year at The Hague.

The Imperial Government is solicitous to such a degree in maintaining in practice this view that it must insist upon the complete independence of the arbitrator's judgment and upon the high station reserved for the arbitrator himself, charged as he is by the confidence of both parties to settle the differences which have arisen between them.

We hope, therefore, that these reasons will not escape the enlightened judgment of the United States Government, and that it will appreciate the circumstances which have made it impossible for the Imperial Government to enter in advance into an examination of the specific grounds upon which the arbitrator shall render his final decision after having heard the arguments presented to him by the parties on both sides.

I avail, etc.,

COUNT MOURAVIEFF.



*Mr. Hay to Mr. Tower.*

No. 150.]

DEPARTMENT OF STATE,  
Washington, May 24, 1900.

SIR: I have received your dispatch No. 214, of the 14th ultimo, relative to the protocol for the arbitration of the whaling and sealing claims, in which you transmit a copy of the reply of the Russian Government to your note, wherein you stated that this Government would assent to the inclusion in the protocol of the phrase "the spirit of international agreements" on condition that the following be added:

But, in rendering his decision, the arbitrator shall be governed by the law actually in force and binding upon the parties to the controversy at the time when the seizures were respectively made.

Count Mouravieff states that his Government does not hold it to be necessary to add the language proposed in your note, because, in its opinion, "it is important to avoid any detailed specification of the international agreements upon which the arbitrator shall base his decision, in order not to restrict in the least his liberty of action, which ought to be in law and in fact absolute." "This," he continues, "was the view of the character of an arbitrator, called upon to decide international differences, which was taken at the peace conference held last year at The Hague." He adds that his Government is so solicitous of maintaining in practice this view that it "must insist upon the complete independence of the arbitrator's judgment," and that it is impossible for his Government "to enter in advance into an examination of the specific grounds upon which the arbitrator shall render his final decision."

Count Mouravieff's note conveys the impression that this Government is seeking to restrict the liberty of action of the arbitrator. As you are well aware, the reverse is true. The draft of the protocol originally proposed by this Government in June, 1899 (see your dispatch No. 84, of August 29, 1899), provided for the submission of the claims to the decision of the arbitrator without any restriction or qualification. The Russian Government, in its counterdraft of August 12, 1899, embodied the following language:

In his decision the arbitrator, following the general principles of international law and the spirit of international agreements bearing upon the subject, shall determine as to each claim, etc.

After some discussion between the two Governments in relation to the phrase "the spirit of international agreements bearing upon the subject," this Government objecting to its inclusion without modification or explanation, and the Russian Government insisting that it be included in the form proposed by it, this Government proposed to strike out also the words "following the general principles of international law," so that it should read:

"The arbitrator shall determine as to each claim," thus submitting the matter unreservedly to the judgment of the arbitrator.

The Department is at a loss to understand the attitude taken by the Russian Government in this matter. It has declined to accept the proposition of this Government to refer the claims to the arbitrator leaving the matter absolutely to his decision, without qualification, and it refuses to eliminate or in any way modify or explain the qualifying phrase proposed by it, which clearly restricts the liberty of action of the arbitrator. And the reason assigned by the Russian

Government for its refusal to assent to the modification by this Government is its desire to maintain the complete independence of the arbitrator.

You will point out to the Russian Government the apparent inconsistency of the position assumed by it. You will inform Count Mouravieff that the Government of the United States does not find the reasons advanced by His Majesty's Government sufficient to justify its assent to the inclusion of the phrase "the spirit of international agreements" without the addition of some such language as that proposed in your last note. At the same time you may inform him that your Government will, as it has heretofore proposed, agree to the omission of all the language in the paragraph of the protocol under discussion which restricts the freedom of action of the arbitrator. This would leave the matter absolutely to the judgment of the arbitrator without limitation, and would thus meet the view advanced by Count Mouravieff. In view of the insistence of the Russian Government upon the complete independence of the arbitrator's action, it is not perceived how it can refuse to assent to this proposition.

In response to your suggestion concerning the language of intercourse during the proceedings before the arbitrator, I would refer you to Mr. Peirce's dispatch No. 139, of October 30, 1899.

The Department would suggest that you informally ascertain, so far as practicable, from the diplomatic representative of Great Britain at St. Petersburg, the status of the negotiations for settlement by arbitration similar claims of British subjects against the Russian Government, and whether a similar stipulation is embodied, or proposed to be so, in any agreement or arbitration.

I am, etc.,

JOHN HAY.

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*Mr. Tower to Mr. Hay.*

No. 230.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, June 1, 1900.*

SIR: In supplement to my dispatch No. 214, of the 14th of April, in regard to the wording of the protocol proposed for the arbitration of the whaling and sealing claims made by the Government of the United States against the Government of Russia, I have the honor to inform you that, as the result of considerable further negotiation by means of which the intention of both high contracting powers to seek merely the ends of justice and equity through such an arbitration has made itself perfectly clear, the gratifying decision has been reached by the Imperial Government that it will consent to modify the phrase, "The arbitrator shall be governed by the general principles of international law and by international agreements applicable to the subject," by adding to it the following passage:

It is understood and agreed that this stipulation shall have no retroactive force, and that the arbitrator shall apply to the cases now in litigation the principles of international law and of international agreements which were in force and binding upon the parties to this litigation at the moment when the seizures aforementioned took place.

I inclose to you herewith a copy of the note which I addressed upon this subject to the Imperial minister of foreign affairs upon the 4th of April and a copy and translation of his reply to it, dated the 17th

(30th) of May, in which he announces the readiness of the Russian Government to modify the phrase to which objection has been made hitherto.

I have promised the Imperial minister to submit to you this announcement and to inform him immediately upon the receipt of instructions from you as to its acceptance by the Government of the United States.

I have the gratification to believe that with the modification thus proposed the language of the protocol will now be acceptable to both Governments, and that the more serious questions relating to the litigation may be taken up in due course.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure 1.]

*Mr. Tower to Count Mouravieff.*

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, April 3/16, 1900.*

EXCELLENCY: I beg leave to acknowledge the receipt of your excellency's note, No. 1652, of the 22d of March (4th of April) in reply to one which I had the honor to address to your excellency on the 16/29th March, relating to the wording of the protocol proposed for the arbitration of the cases which have arisen out of the seizure of certain American vessels.

I hasten to express to your excellency the gratification which I feel in being able, both from the statements contained in this esteemed note and from the tenor of the personal interviews which I have recently been privileged to have with your excellency, to confirm my belief that the Imperial Government and the Government of the United States are substantially in accord in regard to submitting the cases in question to the judgment of an arbitrator who shall be satisfactory to both high contracting powers.

As I have already had the honor to inform your excellency, the United States Government is prepared to accept the conditions in the protocol suggested by the Imperial Russian Government, except that it wishes for a more definite statement as to the exact meaning of the phrase, "and the spirit of international agreements applicable to the subject."

The United States Government is not averse to the retention in the protocol of this phrase, provided, as I have heretofore had the advantage of explaining to your excellency, the intention of this language can be clearly defined, and that it may be understood to mean such international agreements and such rules of international law as may, by a just and fair interpretation, be found to be applicable to the subject.

As I have the personal assurance of your excellency that the purpose of the Imperial Government is no other than this, it is quite evident that the only difference still remaining between the two high contracting powers in this connection is one of expression and not of meaning, and that neither of the powers has the intention of applying either the principles of international law or the spirit of international agreements in a retroactive sense so as to make them relate to the questions now to be considered by the arbitrator, unless they were actually in existence and binding upon the parties in interest at the time when the seizures of the American vessels respectively took place.

This being the fact, it seems that there ought to be no difficulty in reaching an accord upon the subject. For that purpose, therefore, and with the earnest desire of forwarding the interests of all parties concerned in this litigation, I have the honor to request your excellency that you will authorize me to report officially to the Government of the United States in regard to the provision suggested in the protocol—"the general principles of international law and the spirit of international agreements applicable to the subject"—the following statement: "It is understood and agreed that this stipulation shall have no retroactive force and that the arbitrator shall apply to the cases now in litigation the principles of international law and the spirit of such international agreements only as were in force and binding upon the parties hereto at the moment when the seizures in question took place."

If your excellency will favor me with this statement I shall not fail to communicate it forthwith to the Government of the United States for its approval and acceptance.

I avail, etc.,

CHARLEMAGNE TOWER.

[Inclosure 2.—Translation.]

*Count Mouravieff to Mr. Tower.*

No. 2614.]

MINISTRY FOR FOREIGN AFFAIRS,  
*First Department, May 17 (30), 1900.*

MONSIEUR L'AMBASSADEUR: Having had the honor to receive your excellency's note of the 3d (16th) of April, I hasten to inform you that the Imperial Government, as a proof of its desire to arrive at an understanding in regard to the wording of the protocol in the arbitration of the cases relating to American vessels, is disposed to admit in the text of the protocol, in conformity with the wish expressed in the above-mentioned note, the following phrase: "It is understood and agreed that this stipulation shall have no retroactive force, and that the arbitrator shall apply to the cases now in litigation the principles of international law and of international agreements which were in force and binding upon the parties to this litigation at the moment when the seizures aforementioned took place."

This phrase is to follow the passage which reads: "The general principles of international law and the spirit of international agreements applicable to the subject."

I beg you to accept, etc.,

COUNT MOURAVIEFF.

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*Mr. Hay to Mr. Tower.*

[Telegram.—Paraphrase]

DEPARTMENT OF STATE,  
*Washington, June 15, 1900.*

[Mr. Hay directs Mr. Tower to conclude the protocol, the proposition conveyed in dispatch No. 230 having been approved.]

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*Mr. Tower to Mr. Hay.*

No. 234.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, June 6, 1900.*

SIR: I beg leave to inclose to you herewith a draft of the protocol suggested by the Russian Government in the arbitration of the claims arising out of the seizure by Russian armed ships of the American vessels *James Hamilton Lewis, C. H. White, Kate and Anna, and Cape Horn Pigeon.*

This draft includes, as you will observe, the minor corrections of the original language which have been accepted by the Imperial minister for foreign affairs, as well as the qualifying clause added to the phrase: "And the spirit of international agreements applicable to the subject."

As soon as I shall have been instructed by you of your assent to this form of the protocol, I shall notify the Russian Government accordingly and request that the negotiations may further proceed.

I understand that, after the signing of the protocol in due form, it is the desire of the Russian minister for foreign affairs that a note shall be addressed by each Government through its representative at The Hague, upon the same day, to Mr. Asser requesting him to act as arbitrator in these cases.

I await your further instructions in regard to that.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure.]

The Imperial Government of Russia and the Government of the United States of America, having agreed to invite Mr. Asser, member of the council of state of the Netherlands, to act as arbitrator in connection with the claim of the schooners *James Hamilton Lewis*, *C. H. White*, *Kate and Anna*, their owners, officers, and crews, arising out of their detention or seizure by Russian cruisers on the charge of having been illegally engaged in fur-seal fishing, and the claim of the whaling bark *Cape Horn Pigeon*, her owners, officers, and crew, arising out of her detention or seizure by a Russian cruiser, the undersigned minister for foreign affairs of His Majesty the Emperor of Russia, having been duly authorized thereto, has the honor to make hereby the following declaration in exchange with a similar declaration upon the part of the Government of the United States of America.

The arbitrator shall take cognizance of the claims for indemnity which have been presented to the Imperial Government of Russia by the Government of the United States on behalf of the parties in interest.

The party claimant shall present to the arbitrator, within three months from the date of the exchange of the present note with an identical one of the United States Government, a memorandum in support of its claim, and shall hand immediately a copy thereof to the party defendant.

Within three months from the date of the receipt of the said copy, the party defendant shall present to the arbitrator a contramemorandum, of which it shall hand immediately a copy to the party claimant.

Within three months after the receipt of such contramemorandum the party claimant may, if it sees fit to do so, present to the arbitrator a new memorandum, of which it shall hand immediately a copy to the party defendant; and the latter may also, within three months from the receipt thereof, present to the arbitrator a new contramemorandum, of which it shall hand immediately a copy to the party claimant.

The arbitrator shall be authorized, at the request of either of the parties, to extend for a period of not longer than thirty days, any of the intervals of time hereinabove provided for.

After the exchange of memoranda as herein aforesaid, no communication, either written or verbal, shall be addressed to the arbitrator, unless he shall request from the parties, or either of them, supplementary information to be given in writing.

The party so giving information to the arbitrator shall hand immediately a copy of its communication to the opponent, who may, if he thinks fit to do so, present in writing to the arbitrator within one month from the date of his receipt thereof comments relating to the subject-matter of the said communication, and a copy of such comments shall be sent immediately to the party opponent.

The arbitrator shall have authority to decide all questions that may arise in regard to procedure in the course of the arbitration.

The arbitrator shall render his decisions in all the cases within six months from the date of the delivery to him of the last memorandum or contra memorandum provided for in this agreement.

In his decision, which shall be communicated by him to each of the two Governments interested, the arbitrator following the general principles of international law and the spirit of international agreements applicable to the subject, shall determine as to each claim brought against the Imperial Government of Russia whether such claim is well founded; and, if he decides affirmatively, whether the facts upon which each of the said claims is based have been proven. It is understood and agreed that this stipulation shall have no retroactive force, and that the arbitrator shall apply to the cases now in litigation the principles of international law and of international agreements which were in force and binding upon the parties to this litigation at the moment when the seizures aforementioned took place.

The arbitrator shall fix the amount of any indemnity to be paid by the Russian Government in respect to the claims presented by the parties in interest.

If he wishes to do so, without, however, lessening the obligation incumbent upon the party claimant to prove the damage suffered, the arbitrator may invite each Government to appoint a commercial expert to aid him in this capacity in fixing the amount of the indemnity.

The Imperial Government of Russia declares itself ready, in exchange with a similar agreement upon the part of the Government of the United States, to assume all expenses which may or shall be incurred in the presentation of its side of the case in this matter, and to pay one-half of the compensation of the arbitrator for his services; also to accept as a final judgment the decision pronounced by the arbitrator within the limits of the present agreement, and to submit thereto without any reservation whatsoever.

Any amount awarded by the arbitrator in favor of the claimants, or either of them, shall be paid by the Government of Russia within one year from the date of the award.

*Mr. Hay to Mr. Tower.*

No. 154.]

DEPARTMENT OF STATE,  
*Washington, June 18, 1900.*

SIR: I have to acknowledge the receipt of your No. 230 of the 1st instant, reporting the assent of the Imperial Government to add to the phrase which reads, "the general principles of international law and the spirit of international agreements applicable to the subject," the following phrase:

It is understood and agreed that this stipulation shall have no retroactive force, and that the arbitrator shall apply to the cases now in litigation the principles of international law and of international agreements which were in force and binding upon the parties of this litigation at the moment when the seizures aforementioned took place.

The Department understands that the substantial terms of the protocol have now been fixed by agreement of the two Governments, and I take this opportunity to express my cordial appreciation of the high sense of justice and equity manifested by the Imperial Government in fixing the terms of the arbitration. You will accordingly proceed to the conclusion of the negotiations and to the embodiment of the protocol in definite form.

I am, etc.,

JOHN HAY.

*Mr. Hay to Mr. Tower.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, June 19, 1900.*

[Mr. Hay, referring to his telegram of December 5, 1899, states that the protocol, as forwarded with Mr. Tower's dispatch No. 234, should contain provision for the submission to the arbitrator of evidence which has been presented in support of the claims.]

*Mr. Tower to Mr. Hay.*

[Telegram.—Paraphrase.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, June 20, 1900.*

[Mr. Tower reports the readiness of the Russian Government to sign protocol, and its insistence upon the use of French as the language of arbitration; otherwise communications will be made by Russia in Russian and by us in English.

Refers to dispatch No. 214, of April 14, 1900, and requests instructions in the matter.]

*Mr. Hay to Mr. Tower.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, June 22, 1900.*

[Mr. Hay directs that Mr. Tower exercise his discretion in the selection of language for arbitration.]

*Mr. Tower to Mr. Hay.*

No. 256.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, June 26, 1900.*

SIR: Upon the receipt on the 20th of June of your telegram, I called upon the Count Mouravieff, imperial minister for foreign affairs, with whom I had already reached the understanding that all evidence heretofore submitted by the Government of the United States to the Russian Government in connection with the seizure by Russian armed ships of American vessels should be presented in full at the arbitration. I informed M. de Mouravieff of the instructions I had just received, which obliged me to ask for a specific provision in the protocol as to the admission of this testimony. He expressed some surprise and reminded me that he had discussed that question with me in detail, and that he had repeatedly declared that the admission of all the testimony on both sides was provided for by the clause in the protocol, which reads as follows:

The arbitrator shall take cognizance of the claims for indemnity which have been presented to the Imperial Government of Russia by the Government of the United States on behalf of the parties in interest.

But as I answered that my later instructions were direct and that I must therefore request of him an express statement as to the intention and understanding of the Imperial Government in this matter, he agreed to an interchange of notes with me which should completely remove any doubt as to the point raised by the United States, declaring at the same time that Russia is quite as anxious to submit her whole case to the arbitrator as we are, and he appointed the hour of 12 o'clock upon the following day, Thursday, the 21st of June, for the signing by himself and me of the protocol.

His sudden death, however, on the morning of the 21st instant has temporarily checked further proceedings, though the subject is one with which the Count Lamsdorff, the present gerant of the ministry for foreign affairs, is entirely familiar, and I have no doubt the few remaining details will be readily carried out by him.

I received your telegram of the 23d of June authorizing me to use my discretion in regard to making French the language of the arbitration. But as I expect to have the honor of seeing you in Washington within a short time, I will leave that question open, with your permission, until I may be able to discuss it with you personally.

I have, etc.,

CHARLEMAGNE TOWER.

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*Mr. Peirce to Mr. Hay.*

No. 259.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, June 29, 1900.*

SIR: Referring to Mr. Tower's dispatch, No. 256, of June 26, 1900, regarding the protocol of arbitration upon the Bering Sea seizures, and especially to the last paragraph thereof, a few words of explanation seem to me desirable.

On April 14 last, Mr. Tower, in his dispatch, No. 214, referred to the desirability of the employment of French as the language of the

arbitration. In your reply thereto, No. 150, of May 24, 1900, you referred the ambassador to my dispatch, No. 139, of October 30, 1899.

In that dispatch I reported an interview which I had had with Professor de Martens, permanent counselor of the Imperial Russian minister of foreign affairs, in which he expressed the belief that English would be accepted as the language on our side, the Russian side employing French.

As was pointed out in my dispatch, however, both Professor de Martens and myself made the reservation that our negotiations were subject to the approval of our respective Governments.

On November 19, 1899, a note was received from the Russian foreign office, dated November 5 (17), 1899, insisting upon the importance of employing French as the language of the arbitration and intimating that otherwise it would result in the inconvenience of each of the parties communicating in his own language. Thus Professor de Martens's agreement as to the language fell to the ground. A copy of this note was inclosed in the dispatch of the ambassador, No. 152, dated November 18, 1899.

Speaking in my unofficial capacity as associate counsel for the claimants, I may be permitted to say that the employment by Russia of the Russian language in the arbitration might, in my opinion, be dangerous to the interests of the claimants as well as complicating the proceedings and increasing their expense. For, as it is improbable that the arbitrator is familiar with the Russian language, as certainly the claimants are not, each would have to be provided with a translation, and while the Russian Government might and probably would, by courtesy, furnish Mr. Asser with a translation into French, they would hardly do so as regards us, unless we reciprocated. Thus, either there would be two versions of the Russian case, or we should have to supply a translation into French, which would in effect, so far as the cost of the proceedings is concerned, at any rate, amount to the same thing as if we wrote in French at the outset.

I have, etc.,

HERBERT H. D. PEIRCE.

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*Mr. Peirce to Mr. Hay.*

No. 260.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, June 30, 1900.*

SIR: Referring to the ambassador's dispatch, No. 256, of June 26, 1900, and in continuation of my dispatch, No. 259, of June 29, I have the honor to say that I see no reason to anticipate any difficulty in finally settling the few remaining details of the protocol of arbitration regarding the seizures of American vessels in the North Pacific Ocean.

The protocol makes no provision for the manner of presentation to the arbitrator of the various memoranda and counter memoranda, which will no doubt be subject to further understanding.

From conversations which I had with the late Count Mouravieff and Professor de Martens, some time ago, I am inclined to believe that it is not impossible that the Russian Government may hold with some tenacity to the view that all communications should be officially delivered to the arbitrator, and that they will consider the respective legations at The Hague as appropriate channels through which such communications should be made.



In case this question should arise, I would like to be provided with your instructions upon this point, in order that there may be no delay in the proceedings on this account.

I have, etc.,

HERBERT H. D. PEIRCE.

*Mr. Hay to Mr. Tower.*

No. 159.]

DEPARTMENT OF STATE,  
*Washington, July 3, 1900.*

SIR: Referring to your No. 214, of April 14 last, I inclose herewith for your information copy of a letter<sup>1</sup> from Mr. E. W. S. Tingle, relating to the appointment of counsel to represent the Government of the United States in the arbitration proceedings with Russia. I have received similar communications from the other claimants in the cases to be submitted for arbitration, and I have given my consent to the appearance of Mr. Peirce as counsel for the Government of the United States in the affair. This has been done with the understanding that for the services thus rendered by counsel no compensation shall be paid by the Government. You are therefore authorized, if it should become necessary to do so, to inform the Imperial Government that this Government's interests in said arbitration will be represented by Mr. H. H. D. Peirce as its counsel.

I am, etc.,

JOHN HAY.

*Mr. Hay to Mr. Peirce.*

No. 167.]

DEPARTMENT OF STATE,  
*Washington, July 17, 1900.*

SIR: I have to acknowledge the receipt of your No. 260, of the 30th ultimo, inquiring as to the method of presentation to the arbitrator in the sealing and whaling cases of the necessary communications.

In reply I have to say that the Department perceives no objections, unless you do, to the view that all communications in the Bering Sea cases should be officially delivered to the arbitrator, and that the respective legations of the United States and Russia at The Hague be considered the appropriate channels through which such communications should be made. In the event that view prevails, which you may adopt unless you see objections to it, it would be convenient to stipulate that a duplicate of all such official communications should be delivered at the same time for the opposing counsel, and it would serve your convenience, and perhaps the convenience of the counsel for the Russian Government, if the United States Embassy at St. Petersburg and the Russian foreign office acted respectively as the medium for the delivery of such duplicates.

I am, etc.,

JOHN HAY.

<sup>1</sup> Not printed.

*Mr. Peirce to Mr. Hay.*

[Telegram.—Paraphrase.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, August 2, 1900.*

[Mr. Peirce reports the receipt, on the 1st instant, from the Russian minister for foreign affairs, of the final draft of the protocol of arbitration of Bering Sea claims of citizens of the United States, with a clause inserted admitting the introduction of all evidence which has already been presented, or which has appeared in the correspondence between the official representatives of the two high contracting powers; and that a clause has been added providing that the decision of the arbitrator shall be rendered in French, that language being recognized as the official language of the arbitration. With the exceptions noted the draft of the protocol is identical with that inclosed with dispatch No. 234, of June 6. As the Russian Government is ready to sign the protocol at once, Mr. Peirce asks if he is authorized by the Department to sign.]

*Mr. Peirce to Mr. Hay.*

No. 276.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, August 3, 1900*

SIR: I have the honor to acknowledge the receipt of your dispatch, No. 159, of July 3, informing the ambassador of my selection as counsel for the Government of the United States in the arbitration upon the seizures of certain American vessels in the Bering and Okhotsk seas by the Russian authorities.

Deeply appreciating the trust reposed in me by this selection, and with profound gratification that my efforts on behalf of these claimants during the past six years has been so satisfactorily recognized, I have delayed replying to this dispatch in the daily expectation of being able in my reply to report material progress regarding the protocol of arbitration.

I now have much satisfaction in confirming my telegram<sup>1</sup> of yesterday's date, a copy of which I append upon the overleaf, announcing the fact that on Wednesday last, the regular reception day of Count Lamsdorff for the diplomatic corps, his excellency handed me the final draft of the protocol of arbitration, into which a clause had been inserted providing for the admission in the testimony presented to the arbitrator of all evidence previously submitted or contained in the correspondence between the representatives of the two Governments.

The translation of the text of the Russian draft,<sup>2</sup> which is in French, which I inclose, gives this clause in its entirety, as well as the final paragraph, which I referred to in my telegram, which states that—

French being recognized as the official language of the arbitration, the decision of the arbitrator should be rendered in that language.

In regard to this, I had presented to Count Lamsdorff as strong a plea as I was able to obtain an agreement, specified in the protocol,

<sup>1</sup> Printed ante.

<sup>2</sup> Final draft printed, page 883.

that the language employed by the United States, in presenting its cases, should be English, the Russian replies being in French.

In handing me the draft of the protocol Count Lamsdorff remarked that the clause in question referred to the decision of the arbitrator, but that it was his interpretation of it that each side could use its discretion regarding language. I then asked him if the United States should present its memoranda in English, whether the Russian Government would reply in French. To this he replied that he supposed it would, as the arbitrator does not speak or read Russian, but I was unable to get him to absolutely and explicitly commit himself on this point. He was, however, explicit in categorically replying in the affirmative to my question whether if the American side is presented in French the Russian reply would be in the same language.

In view of the specific stipulation in the protocol that copies of the communications made by the respective parties to the arbitrator shall be furnished to the other side, I can not see how a translation of a Russian memorandum could be given to the arbitrator without furnishing a copy of the translation to the American side. It, however, seems to me to be on the whole better that the memoranda should all be in French, as we shall thereby avoid any danger of complication on this account, and as I have been able to make an arrangement with a competent translator to translate the memoranda into French at the rate of 3 roubles (about \$1.50) a page, the expense to the various claimants will not be excessive. According to my estimate, it will be about \$60 a case, on an average.

I have now finished the English draft of the memorandum presenting each of the cases, and these have, in two of them, viz, the *Cape Horn Pigeon* and the *James Hamilton Lewis*, been submitted to the claimants and returned with their approval. They are now being recopied and will be forwarded to you for examination and amendment very shortly. The case of the *C. H. White* has been forwarded to the claimants, who have not yet replied, and that of the *Kate and Anna* is now being copied from my first draft.

Replying to your dispatch, No. 167, of July 17, 1900, the receipt of which I have the honor to acknowledge, I beg to say that the suggestions therein contained regarding the presentation to the arbitrator seem to me to completely meet the case, and will, I have no doubt, be acceptable to the Russian Government. The stipulation calling for the delivery of a duplicate of all communications made by either party to the arbitrator, suggested by you, should certainly be agreed upon, and this will still further strengthen the position that translations presented to the arbitrator must be furnished to the counsel for the United States.

The suggestion that this embassy and the Russian foreign office be the agreed medium for the delivery of the duplicates is both in the line of convenience and dispatch and will be duly acted upon in arranging for the procedure, regarding which, doubtless, a separate protocol will be found advisable.

Referring to the remarks contained in your dispatch, No. 154, of June 18, it is an interesting fact, worthy of remark, that the present is, I believe, the first arbitration to which Russia has ever been a party.

I have, etc.,

HERBERT H. D. PEIRCE.

*Mr. Adee to Mr. Peirce.*

No. 170.]

DEPARTMENT OF STATE,  
Washington, August 4, 1900.

SIR: I confirm your telegram<sup>1</sup> of the 2d instant.

Judge Embry, attorney in the case of the *C. H. White*, thinks that some of his evidence is wanting to the proof of his case. He will write to you the particulars.

Whenever the evidence is completed in all the cases, and has been presented in such form as to make it admissible and competent for the consideration of the arbitrator, you may sign the protocol.

I am, etc.,

ALVEY A. ADEE,  
*Acting Secretary.*

*Mr. Peirce to Mr. Hay.*

[Telegram.—Paraphrase.]

EMBASSY OF THE UNITED STATES,  
St. Petersburg, August 24, 1900.

[Mr. Peirce acknowledges the receipt of instruction No. 170, and the letter of Judge Embry, and states that questions as to insufficient evidence are covered by the addition to the third paragraph of the draft of the protocol which accompanied his dispatch No. 276, of the following: "As well as all evidence relating to the questions in litigation," which has been agreed to by the ministry. Claimants can, therefore, complete evidence after the signing of the protocol. Mr. Peirce fears that embarrassment may be caused by great delay.]

*Mr. Adee to Mr. Peirce.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, August 25, 1900.

[Mr. Adee authorizes Mr. Peirce to sign the protocol with the addition indicated in his cablegram of the 24th instant.]

*Mr. Peirce to Mr. Hay.*

[Telegram.—Paraphrase.]

EMBASSY OF THE UNITED STATES,  
St. Petersburg, September 8, 1900.

[Mr. Peirce reports the signature at noon this day of the protocol of the arbitration of the claims of United States citizens for the seizure by Russia of vessels in the North Pacific.]

<sup>1</sup> Printed ante.

*Mr. Peirce to Mr. Adee.*

No. 310.]

EMBASSY OF THE UNITED STATES,  
*St. Petersburg, September 8, 1900.*

SIR: I have the honor to confirm my telegram<sup>1</sup> of this day, a copy of which I append upon the overleaf, informing you that the protocol of the arbitration of the claims of American citizens for the seizure of their vessels in the North Pacific Ocean by Russia was signed at noon to-day.

I inclose herewith a copy of the protocol as signed by me, except that in the original the text was given in French only. I have caused the English and French to be typewritten in parallel columns in the copy for convenience in reference.

The final paragraph states that the protocol has been signed in four copies. This is to be interpreted as meaning two copies on each side.

After signing the protocol it was agreed to between Count Lamsdorff, who signed for the Russian Government, and myself verbally—

1. That the various memoranda and contramemoranda shall be handed to the arbitrator by the respective ministers plenipotentiary of the two signatory powers at The Hague.

2. That the respective ministers plenipotentiary aforesaid shall simultaneously, as a preliminary measure, make inquiries through the medium of the minister for foreign affairs of the Netherlands whether, if Mr. Asser is invited to act as arbitrator in the premises, he will consent to do so, and what amount of compensation he would consider adequate.

3. That if Mr. Asser intimates that he will consent to act as arbitrator, if invited, that then the aforesaid respective ministers plenipotentiary shall simultaneously invite Mr. Asser to act as arbitrator upon the claims and shall convey the invitation simultaneously, in identical notes to be drawn up after conference between them and compared.

I have the honor, therefore, to respectfully request that his excellency the minister plenipotentiary of the United States at The Hague be requested to confer with the Russian minister plenipotentiary at the same court, with a view to agreeing upon a time for simultaneously making these preliminary inquiries, and upon receipt of the affirmative answer and after approval by the respective Governments, for the draft and simultaneous presentation of the note inviting Mr. Asser to act as arbitrator.

I have, etc.,

HERBERT H. D. PEIRCE.

[Inclosure.]

Le Gouvernement des Etats-Unis d'Amérique et le Gouvernement Imperial de Russie, s'étant mis d'accord pour inviter Mr. Asser, Membre du Conseil d'Etat des Pays-Bas, à prononcer comme arbitre dans le différend relatif aux affaires des schooners *James Hamilton Lewis*, *C. H. White*, *Kate and Anna*, leurs armateurs, propriétaires, officiers et équipages, arrêtés ou saisis par des croiseurs Russes sous prévention de s'être livrés à la chasse illicite des phoques à fourrure, et à l'affaire du navire baleinier *Cape Horn Pigeon*, ses armateurs, propriétaires, officiers et équipage arrêté ou saisi par un vaisseau Russe, le soussigné, Chargé d'Affaires des Etats-Unis d'Amérique, dûment autorisé à cet effet, a l'honneur par la présente note de déclarer ce qui suit, en échange d'une déclaration identique du Gouvernement Impérial de Russie.

<sup>1</sup>Printed ante.

L'arbitre aura à prendre connaissance des réclamations d'indemnité qui ont été présentées au Gouvernement Impérial de Russie par le Gouvernement des Etats-Unis au nom des ayants-droits.

Il est bien entendu que cette clause doit être interprétée comme admettant la présentation, de part et d'autre, dans le témoignage soumis à l'arbitre, de toute preuve qui a déjà été présentée ou qui a paru dans la correspondance entre les représentants officiels des deux Hautes Puissances contractantes, aussi bien que toute évidence se rapportant aux questions en litige.

La Partie demanderesse remettra à l'arbitre dans un délai de trois mois à partir de l'échange de la présente note contre une note identique du Gouvernement Impérial de Russie, un memorandum à l'appui de sa demande, et en fera parvenir immédiatement une copie à la Partie défenderesse.

Dans un délai de trois mois après la réception de la dite copie, la Partie défenderesse remettra à l'arbitre un contre-memorandum dont elle fera parvenir immédiatement une copie à la Partie demanderesse.

Endéans trois mois après la réception du contre-memorandum susmentionné, la Partie demanderesse pourra, si elle le juge utile, remettre à l'arbitre un nouveau memorandum, dont elle fera parvenir immédiatement une copie à la Partie défenderesse, laquelle pourra également, endéans trois mois après la réception de cette copie, remettre à l'arbitre un nouveau contre-memorandum, dont elle fera parvenir immédiatement une copie à la Partie demanderesse.

L'arbitre est autorisé à accorder à chacune des parties qui le demanderait, une prolongation de trente jours au maximum par rapport à tous les délais mentionnés plus haut.

Après l'échange des memorandums susindiqués, aucune communication ni écrite ni verbale ne pourra être adressée à l'arbitre, à moins que celui-ci ne s'adresse lui-même aux Parties ou à l'une d'entre elles pour obtenir des renseignements supplémentaires par écrit.

La Partie qui donnera un renseignement à l'arbitre fera parvenir immédiatement copie de sa communication à l'autre Partie, et celle-ci pourra, si bon lui semble, endéans un mois après la réception de cette copie, transmettre par écrit à l'arbitre des observations au sujet du contenu de cette communication; ces observations seront immédiatement communiquées en copie à la Partie adverse.

Il appartiendra à l'arbitre de statuer sur toutes les questions qui pourraient surgir relativement à la procédure dans le cours de l'arbitrage.

L'arbitre rendra sa sentence dans toutes les causes de l'arbitrage dans un délai de six mois à partir de la réception du dernier memorandum ou contre-memorandum mentionné dans ce protocole.

Dans sa sentence qui sera communiqué par lui aux deux Gouvernements intéressés, l'arbitre en se réglant sur les principes généraux du droit des gens et sur l'esprit des accords internationaux applicables à la matière, devra décider à l'égard de chaque réclamation formulée à la charge du Gouvernement Impérial de Russie, si elle est bien fondée, et, dans l'affirmative, si les faits sur lesquels chacune de ces réclamations est basée, sont prouvés.

Il est bien entendu que cette stipulation n'aura aucune force rétroactive, et que l'arbitre appliquera aux cas en litige les principes du droit des gens et les traités internationaux qui étaient en vigueur et obligatoires pour les Parties impliquées dans ce litige, au moment où la saisie des navires susmentionnés a eu lieu.

Dans ce cas l'arbitre fixera la somme de l'indemnité qui serait due par le Gouvernement Russe pour le compte des réclamations présentées par les ayants-droits.

Sans préjudice de l'obligation incombant à la Partie demanderesse de justifier les dommages soufferts, l'arbitre pourra, s'il le juge opportun, inviter chaque Gouvernement à désigner un expert commercial pour l'aider, en sa dite qualité, à fixer le montant de l'indemnité.

Le Gouvernement des Etats-Unis se déclare prêt, en échange d'un engagement semblable du Gouvernement Impérial de Russie, à prendre à son compte toutes les dépenses qui seraient faites ou auraient été faites pour soutenir son point de vue dans cette affaire, à payer la moitié de la compensation à l'arbitre pour ses offices, de même qu'à accepter comme jugement en dernier ressort la décision prononcée par l'arbitre dans les limites du présent accord et à s'y soumettre sans aucune réserve.

Toute somme décrétée par l'arbitre aux réclamants, ou à l'un d'entre eux, sera payée par le Gouvernement Impérial Russe au Gouvernement des Etats-Unis dans un délai d'un an à partir de la date du décret.

La langue française étant reconnue comme la langue officielle de l'arbitrage, la sentence arbitrale devra être rendue dans cette langue.

Fait en quatre exemplaires à St. Petersburg, le 26 Aout (8 Septembre), mil neuf cent.

HERBERT H. D. PEIRCE.  
LAMSDORFF.

[Translation.]

The Government of the United States of America and the imperial Government of Russia, having agreed to invite Mr. Asser, member of the council of state of the Netherlands, to act as arbitrator in connection with the claim of the schooners *James Hamilton Lewis*, *C. H. White*, *Kate and Anna*, their charterers, owners, officers, and crews, arising out of their detention or seizure by Russian cruisers on the charge of having been illegally engaged in fur-seal fishing, and the claim of the whaling bark *Cape Horn Pigeon*, her charterers, owners, officers, and crew, arising out of her detention or seizure by a Russian vessel, the undersigned chargé d'affaires of the United States of America, having been duly authorized thereto, has the honor to make hereby the following declaration in exchange with a similar declaration upon the part of the imperial Government of Russia.

The arbitrator shall take cognizance of the claims for indemnity which have been presented to the imperial Government of Russia by the Government of the United States on behalf of the parties in interest.

It is understood and agreed that this provision is to be construed as permitting the introduction on both sides into the testimony submitted to the arbitrator of any and all evidence which may have already been presented or appeared in the correspondence between the official representatives of the two high contracting powers, as well as all evidence relating to the questions in litigation.

The party claimant shall present to the arbitrator, within three months from the date of the exchange of the present note with an identical one of the imperial Government of Russia, a memorandum in support of its claim, and shall hand immediately a copy thereof to the party defendant.

Within three months from the date of the receipt of the said copy the party defendant shall present to the arbitrator a contramemorandum, of which it shall hand immediately a copy of the party claimant.

Within three months after the receipt of such contramemorandum the party claimant may, if it sees fit to do so, present to the arbitrator a new memorandum, of which it shall hand immediately a copy to the party defendant, and the latter may also, within three months from the receipt thereof, present to the arbitrator a new contramemorandum, of which it shall hand immediately a copy to the party claimant.

The arbitrator shall be authorized, at the request of either of the parties, to extend for a period of not longer than thirty days any of the intervals of time hereinabove provided for.

After the exchange of memoranda as herein aforesaid no communication, either written or verbal, shall be addressed to the arbitrator, unless he shall request from the parties, or either of them, supplementary information to be given in writing.

The party so giving information to the arbitrator shall hand immediately a copy of its communication to the opponent, who may, if he thinks fit to do so, present in writing to the arbitrator, within one month from the date of his receipt thereof, comments relating to the subject-matter of the said communication, and a copy of such comments shall be sent immediately to the party opponent.

The arbitrator shall have authority to decide all questions that may arise in regard to procedure in the course of the arbitration.

The arbitrator shall render his decisions in all the cases within six months from the date of the delivery to him of the last memorandum or contramemorandum provided for in this agreement.

In his decision, which shall be communicated by him to each of the two governments interested, the arbitrator, following the general principles of international law and the spirit of international agreements applicable to the subject, shall determine as to each claim brought against the imperial Government of Russia whether such claim is well founded; and, if he decides affirmatively, whether the facts upon which each of the said claims is based have been proven.

It is understood and agreed that this stipulation shall have no retroactive force, and that the arbitrator shall apply to the cases now in litigation the principles of international law and of international agreements which were in force and binding upon the parties to this litigation at the moment when the seizures aforementioned took place.

The arbitrator shall fix the amount of any indemnity to be paid by the Russian Government in respect to the claims presented by the parties in interest.

If he wishes to do so without, however, lessening the obligation incumbent upon the party claimant to prove the damage suffered, the arbitrator may invite each Government to appoint a commercial expert to aid him in this capacity in fixing the amount of the indemnity.

The Government of the United States declares itself ready, in exchange with a similar agreement upon the part of the imperial Government of Russia, to assume all expenses which may or shall be incurred in the presentation of its side of the case in

this matter and to pay one-half of the compensation of the arbitrator for his services; also to accept as a final judgment the decision pronounced by the arbitrator within the limits of the present agreement and to submit thereto without any reservation whatsoever.

Any amount awarded by the arbitrator in favor of the claimants, or either of them, shall be paid by the imperial Government of Russia to the Government of the United States within one year from the date of the award.

French being recognized as the official language of the arbitration, the decision of the arbitrator should be rendered in that language.

Done at St. Petersburg, August 26 (September 8), 1900, in four copies.

HERBERT H. D. PEIRCE.  
LAMSDORFF.

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*Mr. Hill to Mr. Peirce.*

No. 185.]

DEPARTMENT OF STATE,  
*Washington, September 25, 1900.*

SIR: I have received your No. 310 of the 8th instant, inclosing a copy of the convention providing for the arbitration of the claims of the American vessels therein named against Russia.

A copy of the dispatch and of the English text of the convention has been sent to the minister of the United States to the Netherlands, with instructions to act concurrently with the Russian minister to that Government in endeavoring to secure the acceptance by Mr. Asser, member of the Netherlands council of state, of the office of arbitrator, and to inform the Department by cable as soon as Mr. Asser's answer may have been given.

I am, etc.,

DAVID J. HILL,  
*Acting Secretary.*



## SPAIN.

**TREATY BETWEEN THE UNITED STATES AND SPAIN FOR THE  
CESSION TO THE UNITED STATES OF ANY AND ALL ISLANDS  
OF THE PHILIPPINE ARCHIPELAGO LYING OUTSIDE OF THE  
LINES DESCRIBED IN ARTICLE III OF THE TREATY OF PEACE  
OF DECEMBER 10, 1898.**

*Signed at Washington November 7, 1900.*

*Ratification advised by the Senate January 22, 1901.*

*Ratified by the President January 30, 1901.*

*Ratified by Spain February 25, 1901.*

*Ratifications exchanged at Washington March 23, 1901.*

*Proclaimed March 23, 1901.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

### A PROCLAMATION.

Whereas a Convention between the United States of America and Spain, providing for the cession to the United States of any and all islands of the Philippine Archipelago lying outside of the lines described in Article III of the Treaty of Peace concluded by them at Paris on December 10, 1898, was concluded and signed by their respective plenipotentiaries at the City of Washington on the seventh day of November, 1900, which Convention, being in the English and Spanish languages, is word for word as follows:

The United States of America and Her Majesty the Queen Regent of Spain, in the name of Her August Son, Don Alfonso XIII, desiring to remove any ground of misunderstanding growing out of the interpretation of Article III of the Treaty of Peace concluded between them at Paris the tenth day of December, one thousand eight hundred and ninety eight, whereby Spain cedes to the United States the archipelago known as the Philippine Islands and comprehending the islands lying within certain described lines, and having resolved to conclude a Treaty to accomplish that end, have for that purpose appointed as their respective plenipotentiaries:

The President of the United States, John Hay, Secretary of State of the United States;

and Her Majesty the Queen Regent of Spain, the Duke de Arcos, Envoy Extraordinary and Minister Plenipotentiary of Spain to the United States;

who, having met in the city of Washington and having exchanged their full powers, which were found to be in due and proper form, have agreed upon the following sole article:

#### SOLE ARTICLE

Spain relinquishes to the United States all title and claim of title, which she may have had at the time of the conclusion of the Treaty of

Peace of Paris, to any and all islands belonging to the Philippine Archipelago, lying outside the lines described in Article III of that Treaty and particularly to the islands of Cagayan Sulú and Sibutú and their dependencies, and agrees that all such islands shall be comprehended in the cession of the Archipelago as fully as if they had been expressly included within those lines.

The United States, in consideration of this relinquishment, will pay to Spain the sum of one hundred thousand dollars (\$100,000) within six months after the exchange of the ratifications of the present Treaty.

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 Her Majesty the Queen Regent of Spain, after approval by the Cortes of the Kingdom, and the ratifications shall be exchanged at Washington as soon as possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Treaty and have hereunto affixed our seals.

Done in duplicate at the city of Washington, the 7th day of November, in the year of Our Lord one thousand nine hundred.

JOHN HAY [SEAL]  
ARCOS [SEAL]

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of Washington on the twenty-third day of March, 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 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 23rd day of March, in the year of Our Lord one thousand nine hundred and one, and  
[SEAL] of the Independence of the United States the one hundred and twenty-fifth.

WILLIAM MCKINLEY

By the President:

JOHN HAY

*Secretary of State.*

**REGISTRATION OF SPANISH SUBJECTS IN THE PHILIPPINE ISLANDS.<sup>1</sup>**

*Protocol of agreement extending, as to the Philippine Islands, for six months from April 11, 1900, the period fixed in Article IX of the treaty of peace between the United States and Spain, signed at Paris December 10, 1898, during which Spanish subjects, natives of the peninsula, may declare their intention to retain their Spanish nationality.*

*Signed at Washington, March 29, 1900.*

*Advice and consent of the Senate, April 27, 1900.*

*Proclaimed, April 28, 1900.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a protocol of agreement extending, as to the Philippine Islands, for six months from April 11, 1900, the period fixed in Article IX of the Treaty of Peace between the United States and Spain, signed at Paris on the tenth day of December, 1898, during which Spanish subjects, natives of the Peninsula, may declare before a court of record their intention to retain their Spanish nationality, was signed at Washington on March 29, 1900, by the Honorable John Hay, Secretary of State of the United States, and the Duke de Arcos, envoy extraordinary and minister plenipotentiary of Spain at Washington, the original of which protocol of agreement being in the English and Spanish languages, is word for word as follows:

Whereas by the ninth Article of the Treaty of Peace between the United States of America and the Kingdom of Spain, signed at Paris on December 10, 1898, it was stipulated and agreed that Spanish subjects, natives of the Peninsula, remaining in the territory over which Spain by Articles I and II of the said treaty relinquished or ceded her sovereignty could preserve their allegiance to the Crown of Spain by making before a court of record within a year from the date of the exchange of ratifications of said treaty, a declaration of their decision to preserve such allegiance;

And whereas the two High Contracting Parties are desirous of extending the time within which such declaration may be made by Spanish subjects, natives of the Peninsula, remaining in the Philippine Islands;

The undersigned Plenipotentiaries, in virtue of their full powers, have agreed upon and concluded the following article:

SOLE ARTICLE.

The period fixed in Article IX of the Treaty of Peace between the United States and Spain, signed at Paris on the tenth day of December, 1898, during which Spanish subjects, natives of the Peninsula, may declare before a court of record their intention to retain their Spanish nationality, is extended as to the Philippine Islands for six months beginning April 11, 1900.

<sup>1</sup> See Foreign Relations, 1899, p. 714, et seq.

In witness whereof, the respective Plenipotentiaries have signed the same and have thereunto affixed their seals.

Done in duplicate at Washington the 29th day of March, in the year of Our Lord one thousand nine hundred.

JOHN HAY  
ARCOS

And whereas the Senate of the United States, by its resolution of April 27, 1900, (two-thirds of the Senators present concurring therein,) did advise and consent to the proclamation of the said protocol of agreement:

Now, therefore, I, William McKinley, President of the United States of America, have caused the said protocol of agreement to be made public to the end that every article and clause thereof may be observed in good faith by the United States and the citizens thereof.

In testimony whereof, I have set my hand and caused the seal of the United States to be hereunto affixed.

Done at the City of Washington this twenty-eighth day of April, in the year of our Lord one thousand nine hundred, and  
[SEAL.] of the independence of the United States the one hundred and twenty-fourth.

WILLIAM MCKINLEY

By the President:

JOHN HAY

*Secretary of State.*

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**CONDOLENCES ON GALVESTON DISASTER.**

*Duke Arcos to Mr. Hay.*

[Translation.]

LEGATION OF SPAIN IN WASHINGTON,  
*Washington, September 12, 1900.*

MR. SECRETARY: I am charged by the Government of His Majesty to lay before that of the United States the expression of its sentiments of deep sympathy for the awful disasters caused by the recent cyclone in Texas.

Her Majesty the Queen Regent equally joins in these expressions of sympathy for such horrible calamities by which Her Majesty and her Government have been painfully affected.

I improve, etc.,

ARCOS.

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*Mr. Adee to Duke de Arcos.*

No. 114.]

DEPARTMENT OF STATE,  
*Washington, September 17, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 12th instant, in which you transmit an expression of the deep sympathy felt by His Majesty's Government and by Her Majesty the Queen Regent in view of the terrible disaster in Texas.

Your note has been communicated to the President, who charges me to express his sincere appreciation of the sympathetic message transmitted by your Government.

Accept, etc.,

ALVEY A. ADEE.

**PASSPORTS ISSUED BY MILITARY AUTHORITIES TO CITIZENS OF PORTO RICO, CUBA, AND THE PHILIPPINES.**

*Mr. Storer to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,  
*Madrid, October 22, 1900.*

[Mr. Storer reports that ruling on the following question is requested by the consul-general of the United States at Barcelona: Joint passport issued by alcalde in Porto Rico to husband, wife, and minor children, as citizens of Porto Rico, United States of America. The father, to visit Cuba, will be compelled to carry the aforesaid passport. What sort of official certificate should the consul-general issue to the family remaining at Barcelona for its identification and protection?

Mr. Storer is of the opinion that it would be advisable for the Department to issue general instructions regarding passports from Cuba and Porto Rico.]

*Mr. Storer to Mr. Hay.*

No. 280.]

LEGATION OF THE UNITED STATES,  
*Madrid, October 22, 1900.*

SIR: I have the honor to report that the consul-general of the United States at Barcelona has asked the advice and ruling of this legation in a case substantially as follows: A native of Porto Rico, one José Pou Rios, now at Barcelona, holds a passport issued to himself, his wife, and his five minor children, jointly, by the alcalde of San Juan de Porto Rico. The entire family are described as "citizens of Porto Rico, United States of America," and I inclose a copy of this passport<sup>1</sup> as sent me by the consul-general. The father of this family is compelled to visit the island of Cuba and can not land there without the production of this document, which he must take with him. His wife and children remain meantime in Barcelona, and ask that some official document of equal force and effect with the said passport for their identification, obligatory under Spanish law, and their protection during the absence of the husband and father be granted them by the consul-general.

The consul-general points out that the Department circular of May 2, 1899, while recommending the exercise of "good offices for the protection" of this class of persons, prohibits the issuance of any kind of passport or any paper having such effect, and apparently limits his official act to the indorsement of any cedula that may be presented. It would seem that cedula, properly so called, are no longer issued in

<sup>1</sup> Not printed.

Porto Rico, and the above form of passport is now for the first time presented. This legation, no more than the consul-general, has never been informed of what is now the procedure of official identification adopted in Cuba or in Porto Rico for the citizens of those islands, to take the place of the cedula de vecindad, and therefore must transmit the case to the Department for instructions. It would be well, in view of the probable frequent occurrence of similar questions, for the Department to consider the possibility of giving by a new circular letter addressed to all diplomatic and consular officers, especially in Spain, clear and definite information as to what is the course established in Cuba and Porto Rico for the issuing of certificates of identity and protection, under whatever name, what officers have the power to issue them, and the consideration to be awarded them on presentation for recognition and visé at legations and consulates.

I have to-day sent you by cable<sup>1</sup> a request for instructions in the above matter.

I have, etc.,

BELLAMY STORER.

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*Mr. Hay to Mr. Storer.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, October 24, 1900.

[Mr. Hay states that the consul-general at Barcelona may certify to a copy of the Porto Rican paper, and, if necessary, visé same.]

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*Mr. Storer to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,  
Madrid, November 5, 1900.

[Mr. Storer reports that the civil provincial governors in Cuba, and the municipal authorities in Porto Rico, issue in lieu of cedula papers of very different forms and wording, purporting to be passports, which are presented for registration and visé; and that, if the legation and consulates are to continue to extend their good offices, definite instructions are absolutely necessary as to what officers are authorized to issue passports, and in what form.]

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*Mr. Storer to Mr. Hay.*

No. 306.]

LEGATION OF THE UNITED STATES,  
Madrid, November 6, 1900.

SIR: On the same general matter and with the same object that my dispatch No. 280, of October 22, was written, I have cabled you to-day as follows:<sup>1</sup>

The reason for thus asking instructions is sufficiently clear in view of the terms and extent of the circular letter of the Department of May 2, 1899, and the facts stated.

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<sup>1</sup> Printed ante.

The passports from Porto Rico are, as will be seen from the inclosure of my dispatch 280, signed by the president of the municipal council and alcalde, sealed with the seal of the municipality, and viséed by the Spanish consulate, and have no personal identification blanks to be filled out. Those presented from Cuba at this legation are signed only by the civil governor of the province, without visé or consular signature; have personal identification blanks to be filled out, and bear the signature of the person to whom issued, somewhat like our United States passports. For all we know these papers may be entirely manufactured, as neither the legation nor the consular officers have any information as to what are the laws or regulations of the provisional government of Cuba or of those applicable to Porto Rico, and have no information, save hearsay, that the "cedula de vecindad" is no longer issued in either Cuba or Porto Rico. The bearers all claim that they are informed by the agents of steamship lines that no passage tickets to these islands will be sold in Spain or persons allowed to embark without the official visé of either the legation or a consulate of the United States.

The consul-general at Barcelona unofficially gave me to understand that while he had, for lack of instructions, been refusing to visé anything not clearly covered by the circular letter of May 2, 1899, and had been assured in each case that the person could not embark without this ceremony, he never yet has heard of any person who actually had been on that account compelled to remain in Spain, and evidently the difficulty had been arranged in some way. The official understanding, as I reported to you on my arrival in Spain in June, 1899, still is that no Cuban or Porto Rican can embark on a Spanish vessel without a "cedula" or other paper viséed by a United States officer, and it probably is only a dereliction of official duty somewhere that has allowed such illegal embarkations to be made. At any time great hardship may arise from the lack of information and consequent supposed lack of authority to visé on the part of some of our diplomatic and consular officers.

I have, etc.,

BELLAMY STORER.

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*Mr. Hay to Mr. Storer.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,

*Washington, November 6, 1900.*

[Mr. Hay directs that all passports or cédulas presented by citizens of Porto Rico and Cuba, and all passports or cédulas presented by natives of the Philippines, when issued or countersigned by the military authorities of the United States in these islands, shall be registered and viséed.]

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*Mr. Hay to Mr. Storer.*

No. 244.]

DEPARTMENT OF STATE,

*Washington, November 9, 1900.*

SIR: I have to acknowledge the receipt of your No. 280, of the 22d ultimo, and to confirm your telegrams of November 3 and 5, and that

of the Department of November 6, all in relation to protection to citizens of Cuba, Porto Rico, and the Philippine Islands.

The limit within which you may act is defined in the last paragraph of the Department's circular instruction of May 2, 1899, herewith enclosed.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Protection to native inhabitants of Cuba and Porto Rico in foreign countries.*

DEPARTMENT OF STATE,  
Washington, May 2, 1899.

*To the Diplomatic and Consular Officers of the United States.*

GENTLEMEN: In view of the frequency of requests by diplomatic and consular officers for instructions as to the treatment of native Cubans and Porto Ricans temporarily sojourning in foreign countries who may apply to the missions or consulates for passports or registration as citizens of the United States, or for other protection, by reason of the results of the recent war between the United States and Spain, it is deemed proper to send you appropriate instructions so far as they can be generally framed to meet the cases arising.

The treaty of peace between the United States and Spain, signed at Paris December 10, 1898, the ratifications of which were exchanged on the 11th ultimo, provides (article 9) that "the civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress." The treaty is silent as to the status of the native inhabitants of the territories relinquished and evacuated by Spain. The occupation of the island of Cuba as a relinquished territory is temporarily under the administration of the military authorities of the United States. While the native inhabitants of Cuba have effectively ceased to be the subjects of Spain, they have not acquired a distinct status, either independent or dependent upon the United States as the custodian of the territory.

They are not citizens of the United States, nor can any scheme of provisional registration be adopted with a view to such a contingency. They may, however, during the interregnum, when temporarily sojourning in a foreign country, be protected through the exercise of good offices by the representatives of the United States in case of need upon due establishment of their nativity and of their merely temporary absence from Cuba and intention to return to and permanently reside in that island.

As to the status of the native inhabitants of Porto Rico and the islands adjacent thereto which have been ceded to the United States, the Congress has not yet legislated with regard to their civil and political rights, so that even as respects the native inhabitants residing in that island there is no present formality or procedure provided for the attestation of their citizenship; but in the interim every bona fide citizen of the ceded islands is entitled to the protection of the United States as against every foreign government.

The treaty is silent as to the status of natives of the ceded islands who are not actually inhabitants thereof—that is, dwellers within the ceded territory. It can not be presumed that native inhabitants of Porto Rico temporarily sojourning for a brief time in another country thereby abandon their status as such inhabitants, and it is proper that the civil and political rights which they may have by virtue of the treaty should be guarded, and that they should be represented by the diplomatic and consular agencies of the United States in matters involving relation with the power in whose territory they may be temporarily sojourning.

Under these circumstances the diplomatic and consular officers of the United States in foreign countries are authorized to register in their legations and consulates as such the names of native inhabitants of Cuba or Porto Rico who may be temporarily sojourning within their jurisdiction, and to exercise good offices for the protection of such native Cubans and Porto Ricans as may seek it for some well-established cause.

They will give official protection to native Porto Ricans so registered in all matters where a citizen of the United States similarly situated would be entitled thereto, being careful to have it appear that they are protected as native inhabitants of Porto Rico and not as citizens of the United States.

As to native inhabitants of Cuba so registered, the intervention of diplomatic and consular officers by way of good offices shall be exercised for their protection should they seek it for some well-established cause.



In registering Cubans and Porto Ricans the diplomatic and consular officers of the United States should be careful to require full establishment by satisfactory evidence that the applicant is in fact a native inhabitant of Cuba or Porto Rico; that he has not lost that quality by naturalization in any other country or by assuming therein obligations inconsistent with his original allegiance; and, in the case of an inhabitant of Porto Rico, or the adjacent ceded islands, that it is his purpose in good faith either to return to his native territory to reside or to come to the United States, with a view in either case to availing himself of the privilege of citizenship which may be hereafter established by act of Congress. Care should be taken to distinguish between the applications of native Cubans and native Porto Ricans. As indicated above, the treaty makes no provision for the future status of the inhabitants of the Spanish territories as to which Spain has relinquished her sovereignty, so far as concerns their acquisition of any other citizenship. The sole proviso (article 9) is that in case "Spanish subjects, natives of the Peninsula," remain in the relinquished territory, "they may preserve their allegiance to the Crown of Spain by making, before a court of record, within a year from the date of the exchange of ratifications of this treaty, a declaration of their decision to preserve such allegiance; in default of which declaration they shall be held to have renounced it and to have adopted the nationality of the territory in which they may reside." Obviously the diplomatic and consular representatives of the United States in foreign countries have no function whatever as respects the taking of such declaration of conservation of Spanish allegiance. All that they can do is to take provisional cognizance of any declaration of a native inhabitant of Cuba that it is his intention to return to Cuba and identify himself with that relinquished territory.

As to Porto Ricans, there is enjoined upon you the importance of clear and satisfactory evidence of the Porto Rican nativity of any applicant for registry and protection. Should an applicant be found to be merely a native of the peninsula residing until recently in Porto Rico, you should be careful to advise him that your instructions do not authorize you to register him in the legation or consulate as a *native inhabitant*, nor to accept from him any declarations of adoption of the nationality of the *ceded* territory in which he may have resided. Actual residence within the ceded territory at the time of the cession and during one year thereafter are, under the treaty, required to establish the adoption of the nationality of such ceded territory.

Diplomatic and consular officers will be careful to report to the Department from time to time the names of persons who may have applied for registration as native Cubans, for the purpose of temporary protection, or of native inhabitants of Porto Rico, seeking to establish their relation to that ceded territory for eventual contingencies as above indicated, accompanying such list by a note of the evidence of native status produced by the applicant.

The issuance to such registered person of any certificate or other paper having constructively the effect of a passport is not authorized, but if the applicant possesses documentary evidence of his native status, in either Cuba or Porto Rico, such as a personal certificate of matriculation, commonly called "*cédula de vecindad*," or other proof of recent date, the diplomatic or consular officer may indorse upon the same "*Noted in the legation*" (or consulate, as the case may be) "*of the United States at \_\_\_\_\_*," attaching the signature and date, and affixing the official seal.

I am, gentlemen, your obedient servant,

JOHN HAY.

## SWEDEN AND NORWAY.

**SAMOAN CLAIMS.—ACCEPTANCE BY THE KING OF SWEDEN AND NORWAY OF JOINT INVITATION TO ACT AS ARBITRATOR. (SEE ALSO UNDER FRANCE, GERMANY, AND GREAT BRITAIN.)**

*Mr. Hay to Mr. Thomas.*

No. 77.]

DEPARTMENT OF STATE,  
*Washington, January 22, 1900.*

SIR: I inclose for your information copy of a note<sup>1</sup> from the British ambassador at this capital, communicating the substance of dispatches received by the British Government from Her Majesty's minister at Stockholm, relative to the proposed request for arbitration of the Samoan claims by His Majesty the King of Sweden and Norway.

I am, etc.,

JOHN HAY.

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*Mr. Hay to Mr. Thomas.*

No. 83.]

DEPARTMENT OF STATE,  
*Washington, April 23, 1900.*

SIR: I have to inform you that by arrangement with the British ambassador and the German ambassador at Washington it has been agreed to address identic notes requesting that the King of Sweden and Norway may graciously please to act as arbitrator on the Samoan claims in the arbitration arranged for by the tripartite convention of November 7, 1899, between the United States, Great Britain, and the Imperial Government of Germany. You are hereby instructed to confer with the representatives of Great Britain and Germany at Stockholm and with them to prepare a request in accordance with this agreement when they have received from their respective Governments instructions to the same effect.

I am, etc.,

JOHN HAY.

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*Mr. Thomas to Mr. Hay.*

No. 146 B.]

LEGATION OF THE UNITED STATES,  
*At Stockholm (now at Portland, Me.), June 4, 1900.*

SIR: I have the honor to inform you that while journeying to America on leave of absence in the early part of May last I was arrested at Paris by a telegram from Stockholm acquainting me with the receipt at the legation, on May 6, of your Instruction No. 83 of April 23, requesting me, after conference with my British and German colleagues at Stockholm, to address an identic note to the Government of Sweden and Norway, requesting that His Majesty the King be graciously pleased to

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<sup>1</sup>Not printed.

act as arbitrator on the Samoan claims in the arbitration arranged for by the tripartite convention of November 7, 1899, between the United States, Great Britain, and Germany.

Having anticipated that such an instruction might arrive during my absence on leave, I had already, prior to my departure, conferred with my British and German colleagues and agreed substantially with them on the form of such an identic note.

After further brief conference with them by telegraph, I prepared and forwarded to the minister for foreign affairs at Stockholm an identic note, a copy of which is inclosed herewith, requesting His Majesty the King of Sweden and Norway to accept the office of arbitrator on the Samoan claims above mentioned.

This note was presented to the minister for foreign affairs on May 17, and at the same time identic notes were presented by my German and British colleagues.

I have, etc.,

W. W. THOMAS, JR.

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[Inclosure.]

*Mr. Thomas to Mr. Lagerheim.*

LEGATION OF THE UNITED STATES,  
*Stockholm, May 17, 1900.*

SIR: I have the honor to inform your excellency that on the 7th of November, 1899, a tripartite convention was concluded and signed at Washington by the plenipotentiaries of the United States, Great Britain, and Germany, providing for the settlement by arbitration of certain claims put forward by citizens or subjects of the three countries on account of losses suffered in consequence of unwarranted military action, if this be shown to have occurred, on the part of American, British, or German officers in Samoa.

By Article II of this convention, a copy of which is inclosed herewith, it is agreed that the three Governments shall request His Majesty the King of Sweden and Norway to accept the office of arbitrator.

In accordance with this agreement I am instructed to address the formal request of my Government to His Majesty the King that he will be graciously pleased to accept the office of arbitrator on the claims arranged for in the tripartite convention above mentioned.

While discharging the duty imposed upon me by my Government, I gladly avail myself of the opportunity to renew to your excellency, etc.

W. W. THOMAS, JR.

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*Mr. Thomas to Mr. Hay.*

No. 148.]

LEGATION OF THE UNITED STATES,  
*Stockholm, July 31, 1900.*

SIR: Referring to my dispatch No. 146 B, of June 4 last, inclosing copy of the identic note addressed by me and my British and German colleagues to the foreign office, requesting His Majesty the King of Sweden and Norway to act as arbitrator in the matter of the Samoan claims, I have the honor to inclose herewith copy of a note from the minister for foreign affairs, received at this legation on the 28th instant, accompanied by a translation thereof, in which his excellency states that he has brought the note to the notice of the King and that His Majesty consents to act as arbitrator upon the questions which, according to the convention signed at Washington on the 7th of

November last by the plenipotentiaries of the United States, Great Britain, and Germany, the three powers propose to submit to his decision.

I have, etc.,

W. W. THOMAS, JR.

[Inclosure—Translation.]

*Mr. Lagerheim to Mr. Thomas.*

STOCKHOLM, July 14, 1900.

MR. MINISTER: I have had the honor to receive the note which you have been pleased to address me, dated the 17th of May last, informing me that, by a convention signed at Washington on the 7th of November last by the plenipotentiaries of the United States of America, Great Britain, and Germany, with a view of bringing about a decision by arbitration of certain questions of indemnity put forward by the subjects or citizens of the three signatory powers at Samoa, and relative to losses which, since the 1st of January, 1899, up to the arrival of the mixed commission at Samoa, the claimants pretend to have suffered in consequence of unwarranted military action of either American, British, or German officers, it has been agreed to request His Majesty the King of Sweden and Norway, my August Sovereign, to accept the office of supreme arbitrator provided by Article II of the convention.

Conformably to the desire you have been pleased to express, I have made it my duty to bring this communication to the notice of the King.

By order of His Majesty, I have the honor to inform you that he consents to act as arbitrator upon the questions which, according to the convention above mentioned, the three powers propose to submit to his decision.

In requesting you to kindly convey this determination of the King to the knowledge of your Government, I avail, etc.,

LAGERHEIM.

*Mr. de Stråle to Mr. Hill.*

[Translation.]

LEGATION OF SWEDEN AND NORWAY,  
Washington, September 24, 1900.

MR. SECRETARY OF STATE: His excellency the minister of the United States at Stockholm has been informed by my Government that His Majesty the King has deigned to accept the invitation of the three Governments parties to the convention of Washington, of November 7, 1899, to assume the office of supreme arbitrator in the cases of indemnity claimed by subjects or citizens of the three powers in the Samoan Islands, and growing out of losses which the claimants allege they have sustained from the 1st of January, 1899, until the arrival of the joint commission, in consequence of an unjustified military operation of officers of the three powers.

His Majesty the King having subsequently heard that, in addition to these claims, certain persons who are not under the jurisdiction of any of the signatory powers are said to have preferred claims growing out of the same military operation, His Majesty wishes to know whether it is agreeable to the three signatory Governments to cause these claims to be also submitted to His Majesty's arbitration. If so, the King would be willing to extend his arbitral jurisdiction to any claim submitted to his decision by an alien resident of the Samoan Islands, with the assent of the States that have signed the convention at Washington.

In order to enjoy this advantage the claimant should, however, make a formal declaration that he will accept the arbitral award as a final and absolute settlement.

While praying your excellency kindly to bring the foregoing to the knowledge of the Government of the United States, I have the honor

to add that His Majesty the King looks for a communication of the three signatory States concerning the decision that they may arrive at in regard to claims of that nature.

Be pleased, etc.,

G. DE STRÅLE.

*Mr. Hill to Mr. de Stråle.*

No. 223.]

DEPARTMENT OF STATE,  
*Washington, September 27, 1900.*

SIR: I have to acknowledge the receipt of your note of the 24th instant, stating that His Majesty is prepared to undertake his task as arbitrator in the settlement of claims in Samoa arising under the convention of November 7, 1899, between the Governments of the United States, Great Britain, and Germany, and inquiring as to the disposition of the Government of the United States touching certain claims growing out of the recent disturbances in Samoa preferred by persons not under the jurisdiction of either of the signatory powers.

This class of claims was informally brought to the Department's attention by the French chargé d'affaires ad interim December 26, 1899, and by a memorandum from the British ambassador under date of June 19, 1900, wherein he referred to the wish of the French Government to have the claims of its citizens included in the arbitration before His Majesty the King of Sweden and Norway.

Reply was made July 25, 1900. After reciting the request, it continued as follows:

The Secretary of State agrees that the French claims do not properly fall under the provisions of Article III of that convention, since they are not claims of persons, not natives, who are under the protection of either of the three Governments parties to the tripartite agreement; but the Secretary of State believes that the application of the French Government is one that should be equitably treated. Hence the Government of the United States readily consents, in case both Great Britain and Germany agree, that claims of French citizens growing out of occurrences in Samoa may be included in those to be submitted to the King of Sweden and Norway as arbitrator.

It is presumed that these are the claims to which His Majesty refers.

On the 26th of June last the views of the Government of the United States on this subject were formally communicated to the embassies of the Governments of France and Germany at this capital.

The Department is without any intelligence from the German Government touching the matter, but, according to Lord Pauncefoot's memorandum, that Government was disposed to do everything possible to procure the admission of the French claims. Hence, in case the British and German Governments are willing that the claims of French citizens shall be included in the proposed arbitration, it will be entirely agreeable to the Government of the United States to have them so disposed of.

Accept, etc.,

DAVID J. HILL.  
*Acting Secretary.*

*Mr. Hay to Mr. Thomas.*

No. 96.]

DEPARTMENT OF STATE,  
*Washington, October 23, 1900.*

SIR: I inclose for your information and files copy of a correspondence,<sup>1</sup> indicated below, showing substantial agreement between the

<sup>1</sup> Printed under respective countries.

Government of the United States, Great Britain, and Germany, parties to the convention of November 7, 1899, for the settlement of certain claims in Samoa by arbitration, permitting those of all foreigners arising out of the military operations in Samoa to be submitted to arbitration, since His Majesty the King of Sweden and Norway has expressed a willingness to consider them in connection with the claims of citizens or subjects of the three treaty powers.

In agreeing to the proposition it will be perceived that my note to Lord Pauncefote of October 13, 1900, concluded as follows:

The Government of the United States accordingly assents to the proposition, in case Great Britain and Germany do likewise. It believes, however, that each Government should insist upon knowing the number and character of these claims before their final submission to the arbitrator, and that the Government desiring this special privilege on behalf of its citizens or subjects should prefer its request to each of the signatory powers, so that they may have an opportunity to know what is to be presented to the arbitrator. The claim of a national whose Government is not responsible for its presentation in this way should be excluded.

I have thought it prudent, in view of the special privileges thus accorded, to invite particular attention to the above paragraph in my note to the German chargé d'affaires ad interim of the 22d instant. I have also added:

This Government believes that this condition should prevail, and sees no just reason why the foreign Government desiring to avail itself of this special provision should not take the steps to do so in the manner indicated.

You may inquire of your British and German colleagues at Stockholm whether they have been apprised of the nature of this correspondence, and, if so, whether due notification thereof has been made to His Majesty the King of Sweden and Norway through the minister for foreign affairs. If not, it would be well, it seems to the Department, to suggest the propriety of simultaneous notification; but in case notification has already been made on the part of Great Britain and Germany, or either of them, you are authorized to take early occasion to acquaint His Majesty, through the proper channel, of the consent of the Government of the United States, as disclosed in this correspondence.

I am, etc.,

JOHN HAY.

*Mr. Thomas to Mr. Hay.*

No. 165.]

LEGATION OF THE UNITED STATES,  
*Stockholm, November 5, 1900.*

SIR: I have the honor to acknowledge the receipt this day of your instruction No. 96 of October 23 last, and inclosed correspondence, showing substantial agreement between the Government of the United States, Great Britain, and Germany, parties to the convention of November 7, 1899, for the settlement of certain claims in Samoa by arbitration, permitting those of all foreigners arising out of the military operations in Samoa to be submitted to arbitration, since His Majesty the King of Sweden and Norway has expressed a willingness to consider them in connection with the claims of citizens or subjects of the three treaty powers.

I lost no time in calling upon and conferring with my British and German colleagues at Stockholm on the subject.

The British minister informs me that he is instructed to convey to

His Majesty the assent of Great Britain to the admission of the claims of French citizens to the arbitration (but of no others) whenever his American and German colleagues convey a like assent.

The German chargé d'affaires ad interim states that he has received no instructions concerning any claims outside of those of citizens or subjects of the three treaty powers.

Each of my colleagues has agreed to write to his Government to-morrow requesting instructions upon the subject. Should both or either of them receive like instructions to my own I will immediately carry out your directions in full by acquainting His Majesty, in a simultaneous note to the minister for foreign affairs, of the assent of the United States to the admission of the claims of all foreigners arising out of military operations in Samoa to arbitration, subject to the conditions expressed in your instructions, and will at once inform you of my action.

I have, etc.,

W. W. THOMAS, JR.

*Mr. Thomas to Mr. Hay.*

No. 167.]

LEGATION OF THE UNITED STATES,  
*Stockholm, November 23, 1900.*

SIR: Referring to your instruction No. 96 of October 23 last, and my dispatch No. 165 of the 5th instant, in reference to the Samoan claims arbitration, I have the honor to inform you that I have just been apprised by the British minister here that he has received instructions from his Government similar to those contained in your instruction, and that in accordance therewith he has notified the minister for foreign affairs of the assent of Great Britain to the admission of the claims of all foreigners arising out of the military operations in Samoa to arbitration, subject to substantially the same provisos as those contained in your instruction.

Immediately on receipt of this information I addressed a note to the foreign office, a copy of which is inclosed herewith, requesting the good offices of the minister for foreign affairs in bringing to the knowledge of His Majesty the assent of our Government to the admission of the above claims to arbitration, subject to the conditions set forth in your correspondence, and to the concurrence of Great Britain and Germany.

I beg to add that my German colleague has not received as yet any instructions from his Government on the subject of these claims.

I have, etc.,

W. W. THOMAS, JR.

[Inclosure.]

*Mr. Thomas to Mr. Lagerheim.*

LEGATION OF THE UNITED STATES,  
*Stockholm, November 23, 1900.*

EXCELLENCY: I have the honor to inform your excellency, by direction of the Secretary of State, that a substantial agreement has been reached between the Government of the United States, Great Britain, and Germany, parties to the convention of November 7, 1899, for the settlement of certain claims in Samoa by arbitration, permitting those of all foreigners arising out of the military operations in Samoa to be submitted to arbitration, since His Majesty the King of Sweden and Norway has expressed a willingness to consider them in connection with the claims of citizens or subjects of the three treaty powers.

The Secretary of State, in agreeing to this proposition in a note to Lord Pauncefote, of October 13, 1900, concluded as follows:

"The Government of the United States accordingly assents to the proposition in case Great Britain and Germany do likewise. It believes, however, that each Government should insist upon knowing the number and character of these claims before their final submission to the arbitrator, and that the Government desiring this special privilege on behalf of its citizens or subjects should prefer its request to each of the signatory powers, so that they may have an opportunity to know what is to be presented to the arbitrator. The claim of a national whose Government is not responsible for its presentation in this way should be excluded."

The Secretary of State furthermore, in view of the special privileges thus accorded, invited particular attention to the above paragraph in his note to the German chargé d'affaires ad interim at Washington of the 22d of October last. The Secretary also added:

"This Government believes that this condition should prevail, and perceives no just reason why the foreign government desiring to avail itself of this special provision should not take the steps to do so in the manner indicated."

In compliance with instructions from the Secretary of State I have the honor to request the good offices of your excellency in bringing to the knowledge of His Majesty the consent of the Government of the United States to the above proposition, subject to the conditions set forth in the foregoing extracts quoted from the correspondence of the Secretary, and subject also to the concurrence of Great Britain and Germany.

I beg to renew, etc.,

W. W. THOMAS, Jr.

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*Mr. Hay to Mr. Thomas.*

No. 100.]

DEPARTMENT OF STATE,  
Washington, December 5, 1900.

SIR: Referring to instruction No. 96 of October 23 last, I now inclose for your information a copy of a note<sup>1</sup> sent to the chargé d'affaires ad interim of the French Republic at this capital, informing him that you have been instructed to act in concert with your German and British colleagues touching the inclusion of such claims of foreigners as arose in the Samoan group of islands in the arbitration to be submitted to His Majesty the King of Sweden and Norway.

I am, etc.,

JOHN HAY.

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*Mr. Thomas to Mr. Hay.*

No. 169.]

LEGATION OF THE UNITED STATES,  
Stockholm, December 12, 1900.

SIR: Referring to your instruction No. 96 of October 23, and my dispatches, No. 165 of November 5, and No. 167 of November 23 last, relating to the Samoan claims arbitration, I have the honor to inform you that my German colleague here has just apprised me that he yesterday received instructions from his Government similar to my own, and that in compliance therewith he has notified the minister for foreign affairs, in a note of this date, of the assent of Germany to the admission of the claims of all foreigners arising out of the military operations in Samoa to arbitration, subject to substantially the same conditions as those contained in your instruction, and set forth in my note to Mr. Lagerheim of November 23, a copy of which was inclosed in my dispatch No. 167.

I have, etc.,

W. W. THOMAS, Jr.

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<sup>1</sup>Printed, p. 476.



## SWITZERLAND.

### ARBITRATION IN THE MATTER OF THE DELAGOA BAY RAILWAY. AWARD OF COURT DESIGNATED BY SWISS FEDERAL COUNCIL. (SEE ALSO UNDER PORTUGAL.)

*Decision and final award of the Delagoa Bay court of arbitration.*

#### DECISION.

In view of the prayers of the two plaintiffs of November 7, 1899, and February 26, 1900, asking that a supplementary appraisal be made, by experts, of the lands granted by the contract of concession of December 14, 1883; the second of these prayers petitioning, moreover, the court of arbitration to decide, without further delay, the fundamental question forming the main subject in litigation, and to postpone, until it shall be more fully informed, the fixing of the amount of the indemnity due for the lands;

In view, on the other hand, of the prayer of the Portuguese Government, bearing date of December 12, 1899, petitioning the court, if it (the court) shall decide to cause supplementary inquiries to be made, to permit it also to have such inquiries held on such points as it shall think proper again to elucidate,

The Delagoa Bay court of arbitration, after due deliberation in regular session, decides as follows:

1. The court denies all prayers for a supplementary inquiry; it declines, furthermore, to separate the award concerning the principal matter in litigation and that relative to the indemnity due for the lands.

It decides, furthermore, to render, at this present session, its final award on the fundamental question, and to communicate to each of the parties an authenticated copy of the text of said award, and the award in full, together with a statement of the reasons of fact and law, will soon be communicated to them.

The court, the three members present unanimously concurring, thereupon rendered its final award, the text of which follows:

#### FINAL AWARD.

The Delagoa Bay court of arbitration, created by the arbitration convention signed at Berne, June 13, 1891, by the representatives of Portugal, the United States of North America, and Great Britain, being charged by said convention with the duty of "fixing, as it shall deem most just, the amount of the compensation due from Portugal to the claimants of the two other countries in consequence of the cancellation of the concession of the Lourenco-Marques Railway and of

the taking possession of said railway by the Portuguese Government," said court being composed of the three arbitrators designated by the Swiss Federal Council, to wit: Joseph Bläsi, at that time vice-president, and now a member of the federal court at Lausanne, president; Andreas Heusler, LL. D., professor of law at the University of Basel; Charles Soldan, at that time president of the council of state of the canton of Vaud, and now a member of the federal court at Lausanne; after the preparation of the case, after an examination of the papers exchanged and of the documents produced in the course of the proceedings, and also of the reports of the technical experts appointed by the court; deciding concerning the fundamental question, after hearing the arguments of the parties, says and pronounces as follows:

1. The Government of Portugal, the defendant, is sentenced to pay to the Government of the United States of North America and that of Great Britain, the plaintiffs, in addition to the £28,000 paid on account in 1890, the sum of 15,314,000 francs in Swiss lawful money, with simple interest on said sum, at the rate of 5 per cent per annum, from the 25th day of June, 1899, to the day on which payment shall be made.

2. This sum, after the deduction of what shall be necessary to meet the costs of the arbitration, which are payable by the plaintiffs, and, besides, the balance remaining due of the amount on which £28,000 were paid on account in 1890, shall be applied to the payment of the holders of the debenture bonds of the Delagoa Bay Company, and to the payment of other creditors of said company, if any there be, according to the category of each.

The plaintiffs shall prepare, to this effect, a schedule of distribution.

The Government of Portugal shall pay to that of the United States the sum which, according to said schedule, Mrs. McMurdo, who is represented by the latter Government, shall be entitled to receive as a holder of first and second debenture bonds.

It shall pay the remainder to the Government of Great Britain for the account of all the other claimants.

3. The period of six months, fixed by the last paragraph of Article IV of the arbitration convention, shall begin to-day.

4. As to the expenses: The expenses incurred by each party shall be paid by it. The costs of the arbitration, according to the statement to be furnished in conformity with Article V of the convention, shall be equally borne by the three parties concerned; that is to say, one-third by each of them.

5. The petitions of the parties, so far as they differ from the above conclusion, are rejected.

6. An authentic copy of this award shall be transmitted, through the Swiss Federal Council, to each of the three parties concerned.

Thus decided at a session of the court of arbitration, and issued at Berne this 29th day of March, 1900.

BLÄSI.

A. HEUSLER.

CHARLES SOLDAN.

*Arbitrators.*

BRUSTLEIN,

*Secretary.*

## PROTECTION OF FILIPINOS.

*Mr. Leishman to Mr. Hay.*

No. 220.]

LEGATION OF THE UNITED STATES,  
*Berne, Switzerland, December 8, 1900.*

SIR: I respectfully beg leave to inclose copy of correspondence with the Concordia Institut, Zurich, in regard to two young men, Joaqui Ibanez Aldecoa and Zoilo Ibanez Aldecoa, aged 15 and 14 years, respectively, who, according to documents produced, "cedula personal" as per copy herewith,<sup>1</sup> are citizens of Manila temporarily residing in Switzerland in order to receive their education at above-mentioned institution.

As the Department's circular of May 2, 1899, makes no mention of the native inhabitants of the Philippine Islands, I would be pleased to receive your instructions as to what action you desire me to take in regard to the above, and also any similar cases that may be presented.

Awaiting your advice and instructions, I have, etc.,

JOHN G. A. LEISHMAN.

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*Mr. Hay to Mr. Leishman.*

No. 209.]

DEPARTMENT OF STATE,  
*Washington, December 28, 1900.*

SIR: The Department has received your No. 220 of the 8th instant, inclosing "cedulas personales" of two native Filipinos, students in Switzerland.

Referring to the Department's circular instruction of May 2, 1899, which makes no mention of native inhabitants of the Philippine Islands, you ask to be informed what attitude you should take in your capacity as representative of this Government in a foreign country in the case of these two young men, and in other like cases.

The reasons for not including a provision relative to natives of the Philippines in the circular of May 2, 1899, still exist. These were (1) the fact that Congress, which is authorized by the treaty to determine the civil rights and political status of the native inhabitants, has not yet acted.; (2) the existence of insurrection by the Filipinos against the authority of the United States, which still further complicates the matter.

With particular reference to the two young men who are named in your dispatch, there is no objection to your stating that they are natives of the Philippine Islands temporarily residing in Switzerland, and as such are entitled to the protection of the United States.

You have omitted to transmit a copy of the correspondence with the Concordia Institute, to which your dispatch refers.

I am, etc.,

JOHN HAY.

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<sup>1</sup> Not printed.

## TURKEY.

NEGOTIATIONS FOR THE SETTLEMENT OF INDEMNITY CLAIMS OF UNITED STATES CITIZENS. (SEE FOREIGN RELATIONS, 1899, P. 765 ET SEQ.)

*Mr. Hay to Mr. Straus.*

No. 196.]

DEPARTMENT OF STATE,  
*Washington, January 11, 1900.*

SIR: The Government of the United States has waited with great patience for the fulfillment by the Government of the Sublime Porte of its obligation to pay the claims of American missionaries for damages inflicted upon the persons and property of American citizens during the Armenian troubles, as well as the claim for indemnity for the murder of Frank Lenz and the gross miscarriage of justice in the failure to punish the guilty parties. The merits and the status of the former claims have been so frequently the subject of consideration and discussion, and the liability is so clearly established on principles of international law, that nothing in that regard remains to be said.

Frank Lenz was slain in May, 1894, and although the governor-general of Eezerum, in whose province Lenz met his death, was informed, in September, 1894, by the British consul, R. W. Graves, that Lenz had entered Turkish territory from Persia, near Bayazid, about May 5, 1894, and had not been heard of alive since leaving the village of Chilkani, no serious steps were taken by the Turkish authorities to ascertain his fate until September, 1895. The information gathered by Mr. Graves and evidence collected by Mr. Sachtleben, who came to Eezerum on behalf of the mother of Mr. Lenz in May, 1895, which was supplied to Shakir Pasha, the Imperial commissioner of reforms, pointed to the Kurds of Chilkani as the murderers of Lenz. And although the evidence taken by Shakir Pasha indicated Mustanesseh, the leader of the Kurds, as the instigator or author of the crime, shortly after his arrest the doors of his prison were left open, and on his escape no attempt was made to rearrest him. Finally, on December 27, 1897, Mustanesseh and three Armenians were tried and condemned, under section 174 of the criminal law, to fifteen years' imprisonment in chains for murder without premeditation, although from the circumstances shown in evidence it is certain that the murder was premeditated. But even this penalty was not actually inflicted, the culprits all being allowed to escape.

It is evident from a review of the history of this case, from the time of the commission of the crime down to the present moment, that only the forms of justice have been observed, the substantial pursuit thereof having been grossly ignored or neglected. You will therefore again energetically urge the payment of all these claims, and the Government of the United States will support you in whatever measures may be necessary to secure their prompt settlement.

I am, etc.,

JOHN HAY.

*Mr. Griscom to Mr. Hay.*

No. 156.]

LEGATION OF THE UNITED STATES,  
*Constantinople, January 27, 1900.*

SIR: I have the honor to acknowledge the receipt of your instruction No. 196 of the 11th instant to Mr. Straus, in which you recapitulate the claims of American citizens for damages inflicted upon their persons and property during the Armenian troubles, as well as the claim for indemnity for the murder of Frank Lenz, and direct that this legation again energetically urge the payment of all these claims.

In compliance with your instructions I have this day addressed to the minister for foreign affairs a note, copy of which is inclosed herewith, demanding an immediate reply to the note of Mr. Straus of the 16th ultimo, in which he set forth at length the status of our relations with the Ottoman Government. Mr. Straus's note, a copy of which was transmitted to the Department in his No. 136,<sup>1</sup> of the 20th ultimo, is of a character requiring a prompt response, and forty days having now elapsed I have made a peremptory demand for a reply, at the same time renewing the request for payment of all the indemnity claims. I have endeavored to make the wording of my note slightly stronger than that of Mr. Straus's while refraining from committing the United States Government to anything definite.

Should a reply be called forth I will immediately communicate it to the Department.

I have, etc.,

LLOYD C. GRISCOM.

[Inclosure.]

*Mr. Griscom to the Minister for Foreign Affairs.*

UNITED STATES LEGATION,  
*Constantinople, January 27, 1900.*

EXCELLENCY: In conformity with peremptory instructions from my Government received this day I have the honor to refer you to Mr. Straus's note of the 16th ultimo, in which he sets forth at length the important questions now at issue between the Government of the United States and the Ottoman Empire. More than a month has elapsed since the note was addressed to your excellency, and no response being forthcoming I am obliged to call the matter to your attention and request that an immediate reply be given. I would submit to your excellency that the arguments of my Government, presented with all courtesy and patience by its accredited envoy, can not be allowed to remain longer unanswered.

Mr. Straus in the above-mentioned note sets forth the solemn promise of His Imperial Majesty the Sultan to pay the indemnity claims of American citizens for losses arising out of the Armenian troubles and the failure to fulfill it. Authorization has been asked to rebuild the American college buildings at Harpoot, destroyed with the cooperation of imperial soldiers during the same troublous period.

On the day of Mr. Straus's departure, December 20, His Imperial Majesty sent a chamberlain to Mr. Straus to inform him that an irade authorizing the rebuilding of the college at Harpoot would be issued that day. Thirty-five days have passed, and the irade has not been issued, and upon recent inquiry the first secretary of the Sultan informed the dragoman of this legation that the matter is indefinitely postponed until after Ramazan. I need not point out to your excellency that this deliberate breach of promise has seriously aggravated the situation and threatens to disturb the cordial relations which have hitherto existed between the two Governments.

I desire hereby urgently to present to the Ottoman Government and to demand the immediate payment of all claims of American citizens for damages inflicted during the Armenian troubles upon their persons or property, as well as the claim for indem-

<sup>1</sup> See Foreign Relations, 1899, p. 772 et seq.

nity for the murder of Frank Lenz and the gross miscarriage of justice in the failure to punish the guilty parties.

The patience shown by my Government in waiting so long without receiving a definite reply or any satisfaction being given to its demands has been stretched to its utmost, and I feel confident that to your excellency's high sense of justice and wise statesmanship it will be evident that to avoid the serious situation which seems imminent action must at once be taken by the Ottoman Government in conformity with the demands of the United States and His Majesty's solemn promise to accede thereto.

I shall await your excellency's prompt reply in order to telegraph my Government the decision of His Imperial Majesty.

Accept, etc.,

LLOYD C. GRISCOM.

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*Mr. Hay to Mr. Griscom.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, April 23, 1900.*

[Mr. Hay directs Mr. Griscom to officially communicate to the minister for foreign affairs and unofficially to the palace that the President relies upon the Turkish Government promptly paying £20,000 indemnity for value of property of American citizens destroyed in 1895. Promise of payment made in December, 1898, should be fulfilled without further postponement, and when irade is issued to cable the Department.]

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*Mr. Hay to Mr. Griscom.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, May 19, 1900.*

[Mr. Hay states that the President is confident that His Majesty the Sultan will keep the promise so long ago made to pay indemnity of £20,000, thereby removing all differences between the two Governments and confirming their friendly relations.

Mr. Griscom is directed to ask that an early day be set for the payment of the sum due, and to once more invite the attention of His Majesty and of the Sublime Porte to the serious nature of the representations made by him on April 24.]

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*Mr. Griscom to Mr. Hay.*

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,  
*Constantinople, June 15, 1900.*

[Mr. Griscom reports that he is assured by the secretary of the Sultan that indemnity claims will be settled within three or four months, that some indirect method of payment is referred to, and that he has requested an official answer from the minister for foreign affairs.]

*Mr. Hay to Mr. Griscom.* .

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, June 18, 1900.*

[Mr. Hay acknowledges Mr. Griscom's cable of the 15th instant, and directs him to thank the Sultan for his assurances, but to press urgently both at palace and porte for an early date of payment. It is necessary for us to know immediately what our relations are to be, and is of great importance to us and to Turkey that the matter be settled and our friendly relations be resumed and strengthened.)

**TREATY OF 1830. INTERPRETATION OF ARTICLE IV.**

*Mr. Griscom to Mr. Hay.*

No. 162.]

LEGATION OF THE UNITED STATES,  
*Constantinople, February 6, 1900.*

SIR: I have the honor to inclose herewith a copy and translation of a note from the porte, of the 26th of December last, relative to article 4 of the treaty of 1830. The porte contends therein that in signing the protocol of 1874 with regard to real estate, the United States conceded certain of their extraterritorial rights and admitted the jurisdiction of the Ottoman courts over American citizens in criminal cases as well as in those arising from the holding of real property.

The contention would seem to be without the slightest foundation, but in want of special instructions from the Department, I do not deem myself authorized to make a reply.

I have, etc.,

LLOYD C. GRISCOM.

[Inclosure.—Translation.]

Note verbale.]

SUBLIME PORTE MINISTERE DES AFFAIRES ETRANGERES,  
*December 26, 1899.*

The imperial ministry of foreign affairs has the honor once more to draw the attention of the legation of the United States of America to the long-pending question of the prosecution of American citizens guilty of offenses in the Empire against the persons or the property of Ottomans; in other words, to the controversy arising from the interpretation of article 4 of the treaty of 1830.

The imperial ministry does not wish to repeat the arguments it has already adduced to justify its own point of view. It has stated and developed them so many times in the official correspondence already exchanged that it considers it really useless to repeat them here.

The imperial ministry limits itself to recalling the fact that the Turkish text of the above-mentioned treaty differs very much in its substance from the French draft; that it does full justice to the indisputable sovereign rights of the territorial jurisdictions; that it limits the privileges to be granted to American citizens solely to the most-favored-nation clause, which, moreover, is likewise provided to some extent in the said French text; that finally, after many discussions, it has been acknowledged that the Turkish text alone must be binding, for the reason that it was formally recognized as the only authentic one by the chargé d'affaires of the United States at the time of the exchange of ratifications of the said act of 1830.

The imperial ministry thinks it its duty to remark as a supplementary "considering" (preamble) that the Washington Cabinet assented to the Ottoman point of view—that is to say, to the right of the courts of the Empire to try mixed cases between

natives and Americans—by signing the protocol annexed to the law of the 7th Sefer 1284, granting to foreigners the right to hold real estate in Turkey.

This protocol provides, in fact, that “in localities more distant than nine hours’ travel from the residence of the consular agent foreigners shall be tried without the assistance of the consular delegate by the council of elders \* \* \* and by the tribunal of the Caza, both in actions not involving more than 1,000 piasters and for offenses entailing a fine of not more than 500 piasters. Foreigners shall have in every case the right of appeal to the tribunal of the Sandjak against judgments rendered as above stated, and the appeal shall be carried up and tried with the assistance of the consul in conformity with the treaties.”

This text, by establishing for the localities more than nine hours distant from a consular residence, an exception to the rule of the dragoman’s assistance and by expressly prescribing the system of appeal in these suits, admits the competency of the Ottoman jurisdiction over Americans guilty of reprehensible acts toward Ottoman subjects. In fact, if appeals in the case of suits arising at a place more than nine hours distant are to be tried before the Ottoman tribunal with consular assistance, a fortiori, it must be the same for suits to be tried in first instance in places where there is a consulate, with this difference: That the court trying them would be one of the first degree.

Now, the United States Government signed this protocol without making any reservation, maintaining its claims based upon the interpretation it gives to article 4 of the treaty of 1830. It therefore consented to allowing its citizens to be tried by the territorial authorities in their relations with the natives, and, furthermore, it tacitly admitted that the treaty does not involve a special extension or interpretation, but simply the most-favored-nation clause.

The imperial ministry remarks with regret that the present controversy has had the effect of causing a serious disturbance of public order in the Empire. Every time that an American citizen commits a crime or offense he is assured of impunity. The consulate claims the right of trying him. The local judicial authorities plead their rights; and the guilty party, taking advantage of this disagreement, remains perfectly at ease, free from uneasiness with regard to the proceedings instituted against him, and this to the great detriment of the public tranquillity and peace. It is but right, then, to inquire if this state of things, so little in harmony with the requirements of justice, is to continue indefinitely for the sole reason that the United States Government does not consent to abandon a view which is not only debatable, but which is seriously and fundamentally controverted.

If in former times this question was of hardly any importance, by reason of the small number of Americans residing in the Empire, to-day it is quite different, their number having increased to such an extent that the failure to punish their criminal acts can no longer be regarded as an inconvenience that can be overlooked. Complaints are frequently brought to the imperial ministry from the competent authorities of the capital and the provinces tending to show that American culprits escape public prosecution through the refusal of the United States consulates to assist the territorial jurisdictions in the same manner as those of the other powers.

The Sublime Porte does not need to state at length the inevitable effects of a situation which permits the greatest impunity and free circulation in the Empire to a number of persons charged in the courts with crimes or offenses and which situation of itself is a sufficient reason for denouncing such a defective agreement. The Porte calls attention to the fact that, if it has not made use of its right to expel from the Empire offenders of this kind, it is because it desired and still desires to see this question settled by frank and final agreements between the two Governments.

Already, in the course of the negotiations going on at Washington, the secretary of state for foreign affairs proposed a compromise by which the right of the Ottoman courts to try cases would be placed beyond dispute, provided the rights of the consulates to inflict the penalty were recognized. This proposition, which is partially in accordance with the Ottoman view as to the prosecution and conviction of American offenders, considerably reduced the scope of the controversy, and the Sublime Porte cherishes the hope that the most-favored-nation treatment, which it wants to apply in the premises to American citizens will be appreciated to its full value by the United States Government, and on this ground the imperial ministry begs the legation to kindly examine this question anew, with due consideration for the territorial rights which are at stake with regard to its citizens enjoying the hospitality of the territory of the Empire, and to help to end a dispute which the Sublime Porte is desirous of settling on an equitable basis, as one of the last messages of the President of the United States likewise appeared to direct.



*Mr. Griscom to Mr. Hay.*

No. 215.]

LEGATION OF THE UNITED STATES,  
*Constantinople, May 29, 1900.*

SIR: I have the honor to send herewith inclosed a copy and translation of a note from the Porte of the 26th ultimo relative to the interpretation of Article IV of the treaty of 1830.

It will be seen from the note that the Porte again urges that the question of the interpretation to be given to Article IV of the treaty of 1830 be taken up and settled.

It presents as an instance of the wrong worked by the present situation the case of one Antoine Proche at Smyrna, wherein the United States consul refused to serve a summons on an American citizen to appear in an action brought against him in the criminal court of Smyrna.

I requested Consul Lane to give me the facts in that case, and I inclose herewith his reply, wherein it is set forth that he did refuse to serve a summons on one Antonio Prossen, an American citizen, cited to appear in the criminal court of Smyrna.

As it appears to me that the consul acted in accordance with our rights under the treaty, I have not complied with the Porte's request that the consul be invited to serve the summons without delay.

I have made no answer to the Porte's note, having deemed it advisable to submit the matter to your consideration.

I have, etc.,

LLOYD C. GRISCOM.

[Inclosure.—Translation.]

Note verbale.]

SUBLIME PORTE, MINISTRY OF FOREIGN AFFAIRS,  
*April 26, 1900.*

By its note verbale of December 20 (26?), 1899, No. 35669/20, the ministry of foreign affairs, after having stated in detail its point of view regarding the interpretation to be given to Article IV of the treaty of 1830, has shown the necessity to smooth down finally the difference existing on this score between the Sublime Porte and the Government of the United States.

The above-mentioned note has remained up till now without reply, and it results, according to information received at the Sublime Porte, that the delay in settling this question has given rise without cessation to difficulties which have for effect nothing less than to stop the action of justice and to secure the impunity of American citizens charged with crimes or offenses. For instance, lately, in consequence of the refusal of the consul of America at Smyrna to serve on his fellow-citizen Antoine Proche, charged with defaming an Ottoman subject, a summons to appear, which was destined to him, the suit brought against him remains up to this day in suspense.

As this situation, which impairs the indisputable rights of the Imperial Government, can not continue without serious inconvenience from the point of view of public order and security, the imperial ministry requests once more the legation of the United States to kindly take the necessary steps so as the matter in question should finally receive a solution in conformity with the principles of law and justice, and to instruct at the same time its agent at Smyrna to serve without delay, for the required ends, on the above-mentioned American citizen the summons to appear, which is destined for him.

[Inclosure 2.]

*Mr. Lane to Mr. Griscom.*

CONSULATE OF THE UNITED STATES,  
*Smyrna, May 1, 1900.*

SIR: In reply to your No. 229, received to-day, would say that I know no such person as Antonio Proche. We have, however, an American citizen named Antonio Prossen, who I presume is the same person. About a year ago there seems to have

been some trouble between him and his father-in-law, resulting in the father-in-law bringing an action against Prossen in the criminal court of Smyrna. As we do not recognize the right of the Turkish criminal court to judge Americans, I returned the summons and informed the authorities that any criminal action against Prossen must be brought in this consulate.

I am, etc.,

RUFUS W. LANE,  
*United States Consul.*

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*Mr. Griscom to Mr. Hay.*

No. 322.]

LEGATION OF THE UNITED STATES,  
*Constantinople, February 13, 1901.*

SIR: I have the honor to transmit herewith inclosed a copy and translation of a note verbale received from the Sublime Porte on the 3d ultimo in relation to the disputed interpretation of article 4 of the treaty of 1830. The Porte transmitted therewith a document in Turkish, a translation of which is also inclosed herewith, purporting to be a list of cases wherein American citizens have escaped justice owing to the refusal of our consuls to serve summons. The Porte asks that the legation send communications to the proper persons in order that the question may at last receive a definite solution.

I have requested the consul-general to make a report on the various cases mentioned, and as soon as it is received I will transmit it to the Department. The only case mentioned of which the legation has knowledge is the one of Dr. Andrus at Mardin, in which the charges against him have long ago been withdrawn and the case dropped.

I have, etc.,

LLOYD C. GRISCOM.

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[Inclosure—Translation.]

*Minister of foreign affairs to Mr. Griscom.*

Note verbale.]

SUBLIME PORTE,  
MINISTRY OF FOREIGN AFFAIRS,  
*January 2, 1901.*

By its notes verbales dated January 23, 1894, No. 7470/4, December 24 (26?), 1899, No. 35669/20, and April 26, 1900, No. 37147/13, the ministry of foreign affairs besought the legation of the United States of America to give the official notice necessary to put an end to the difference existing between the two Governments on the subject of the interpretation of article 4 of the treaty of 1830.

These communications have remained without response, and there results, according to information coming to the Sublime Porte, that the delay caused to the settlement of this question gives rise incessantly to difficulties tending to stop the progress of justice and to assure impunity to American citizens apprised of misdemeanors.

In transmitting herewith inclosed to the legation of the United States a list containing the names of American citizens who, accused of different misdemeanors, find themselves, by favor of this divergence, under cover from all judiciary prosecution, the imperial ministry is persuaded that it (the legation) will be willing to recognize itself in its sentiments of high equity, that this question can not without grave inconveniences remain in suspense, and will be willing to send everywhere to the proper persons the communications necessary in order that it (the question) may at last receive a definite solution.

Name.	Nature of misdemeanor.	Court.	Remarks.
Artin Soba .....	Insulting the police..	Djisir-i-Ergéné..	Said Artin Soba accused of insulting Suleiman Agha, captain of the caza of Djisir-i-Ergéné, while on official duty; but the accused being an American subject, summons could not be served, and the manner in which the man will be taken to court is under correspondence.
Andon Proshiti .....	Libel and insult.....	Smyrna .....	Accused of having insulted Mahounadji Yaco Missi, but consulate refuses to serve summons on the ground that the accused is an American subject. The matter is under correspondence.
Socrati, son of Seferiadi	Homicide .....	Nazelli .....	Accused of homicide by mistake, and inquiring magistrate decided that there was lien of prosecution. Application was made to the consulate, but it was replied that penal actions against American subjects come within the jurisdiction of the consulate. The matter is therefore under correspondence.
Mr. Andrus, of Mardin.	Disturbance of public peace.	Mardin .....	Accused of disturbing public peace and security. The ordinance of the chambre de mise en accusation quashed by the court of cassation. Dossier referred by the chambre de mise en accusation to a special inquiring magistrate.
Sirder, son of Yacoub..	Battery on both sides.	Haifa.....	Case of battery between said and Ibrahim es Saati, Russian subject. Although examination of the case is within the jurisdiction of the Ottoman courts, the man was not sent to the court on the ground of the fourth article of the existing treaty.
John Bardo.....	Battery .....	Bitlis .....	Said American is accused of a case of battery. As the British consulate protects American subjects, dragoman of the British consulate invited to be present in the examination and trial of the case, and they (the British) inform that the matter has been referred to the embassy and a reply arrived (?); but as they do not send the dragoman, the case is not heard.
Emmanuel .....	Willfully causing damages.	Pera.....	Legation having informed that the said Emmanuel had gone to Greece, and that, both parties being foreign subjects, the consular court would be competent in the matter, the matter is under correspondence.
Dr. Constantine Lambrinides.	Libel .....	do .....	Said Lambrinides having in newspapers published (articles) against Garabed Ef. Papoudjian, said Lambrinides was condemned, the dragoman being present at the hearing of the case in virtue of the twenty-fourth article of the press law, to the payment of a fine of L. T. 4 and judiciary expenses. The dragoman signed said decision.
Yaco .....	Attempt to steal.....	do .....	The said having been prosecuted, the office of the inquiring magistrate had summons issued, but information was given that the man, in conformity with the fourth article of the existing treaty, could not be sent; and as the matter is under correspondence, the case has not come to an issue.
Captain Yani.....	Arson .....	Scutari .....	The said requested to be sent to be examined as accused of having burned a casino belonging to the civil list department, but, on account of the same treaty, not sent by the consulate.

Name.	Nature of misdemeanor.	Court.	Remarks.
Leon .....	Assault, battery; inquiry.	Scutari .....	The said having assaulted and injured Dimitri, a Hellenic subject, it was decided that as both were foreign subjects, the matter was within the jurisdiction of their consulates.
Monsieur Jacques .....	Wounding.....	Constantinople.	Said Jacques wounded Rifat Bey, first inspector of the bureau of esnaf of the prefecture of the city, while the latter was performing his official duties, and the inquiring magistrate having served summons to examine the accused, it has been replied that the matter must be examined by the consulate and that the Ottoman courts have no jurisdiction in it. Therefore the matter is under correspondence with the legation.

*Mr. Hay to Mr. Griscom.*

No. 363.]

DEPARTMENT OF STATE,

*March 16, 1901.*

SIR: I have to acknowledge the receipt of your dispatches Nos. 162, 215, and 322, dated, respectively, February 6, 1900, May 29, 1900, and February 13, 1901, on the subject of the controversy between the Government of the United States and the Ottoman Government respecting the true interpretation of Article IV of the treaty of 1830.

Inasmuch as the question of the interpretation of that article has been the subject of voluminous correspondence between the two Governments, I inclose herewith a copy of an instruction, No. 142, dated December 22, 1890, from Mr. Blaine to Mr. Hirsch, in which the question is elaborately summed up. There is nothing that has since been adduced by the Porte which is not already fully answered by the facts and arguments developed in the said instruction. It is there shown that the basis on which the argument of the Porte is built is largely characterized by error of fallacious assumption, and that the superstructure of said argument is wanting in solid foundation.

In addition to the foregoing observations, it has not escaped the attention of the Porte that the extraterritorial right in question also belongs to the United States in virtue of the most-favored-nation clause of the treaty. This right was given, in all the breadth of its assertion by this Government, by the Ottoman Porte to Belgium by Article VIII of the treaty signed August 3, 1838, and reaffirmed by Article I of the treaty between those States signed February 1, 1862. The same right was granted to Portugal in Article VIII of its treaty with the Porte, signed in the French and Portuguese languages at London, March 20, 1843, and fully confirmed by Article I of the treaty signed in the Portuguese language at Paris, February 23, 1868.

In the last two treaties there appears to be no question of the reading or interpretation of any Turkish text, and the lucidity of the French text leaves no possible doubt as to the nature and extent of the right conceded, and that that right is adhered to in all its extent by the Governments of Belgium and Portugal the Government of the United States has not the slightest doubt.

These considerations seem to fortify and render impregnable the position of this Government as stated in Mr. Blaine's instruction to Mr. Hirsch.

I am, etc.,

JOHN HAY

[Inclosure.]

*Mr. Blaine to Mr. Hirsch.*

No. 142.]

DEPARTMENT OF STATE,  
*Washington, December 22, 1890.*

SIR: I have to acknowledge the receipt of your Nos. 168, 174, 178, and 186, of the 19th and 28th of October and the 5th and 18th of November, respectively, in relation to the arrest, by the Ottoman authorities, of Siropé Gurdjian, a naturalized citizen of the United States of Turkish origin, his subsequent delivery over to the consul-general of the United States, and the demands since made by the Porte for his production before the Turkish tribunals.

The facts in regard to Mr. Gurdjian, as ascertained by you and reported in your dispatches, are that he was born at Cæsarea, in Asia Minor, on the 13th of September, 1848, and in 1865 came to the United States. From that time until 1872 he resided in the State of New Hampshire as a student. He then entered Bowdoin College, where, in 1877, he was graduated. On the 3d of March, 1874, he was admitted to citizenship of the United States before the United States district court for the district of Massachusetts.

In 1878 a project was formed in this country for founding a university near Constantinople, and Mr. Gurdjian was invested with power by a board, comprising a number of prominent citizens of the United States, to proceed to Turkey and enter into negotiations for the purchase of land and the obtainment of an imperial irade for the establishment of the school. It is stated that, with a view to facilitate the accomplishment of the plan, Aristarchi Bey, then Turkish minister at this capital, furnished Mr. Gurdjian with letters to high Ottoman authorities.

On reaching Constantinople Mr. Gurdjian was registered at the United States consulate-general as an American citizen. His passport is No. 10427, issued on November 8, 1878, by Mr. Evarts, then Secretary of State. After remaining in that city for more than a year, he returned, in 1880, to this country. In 1881, however, he went again to Turkey, where he has since resided. The university project was not successful, and Mr. Gurdjian, who had acquired some knowledge of geology, chemistry, and other sciences, embarked in coal-mining enterprises and also worked as chemist and photographer in Turkey.

At 8 o'clock on the evening of Wednesday, the 15th of October last, an agent of the secret police of Pera, accompanied by two gendarmes, presented himself at the house of Mr. Gurdjian and ordered him to accompany them to the neighboring police station. Mr. Gurdjian alleged his American nationality, and said that when they wanted him they should address the American authorities. The police officer replied that in case he resisted he would be compelled to remove him by force, and Mr. Gurdjian was obliged to submit. It is stated that he was not allowed time to get his boots or change his clothes, but was forced away, half clad, to the police station, where questions were addressed to him respecting his name, surname, and his past nationality. He again showed his passport, and was then taken to the mutaserifate of Galata Serai.

The same formalities were gone through with before the mutaserifate, Mr. Gurdjian again exhibiting his passport. He was then sent with two gendarmes, followed by the police agent, to the central police station in Stamboul, where, after submitting to summary interrogation before the superior official, he once more produced his passport. He was then thrown into a dungeon, where he passed the night. At 9 in the morning he was again brought before the superior officer, who, after having made new inquiries as to his nationality, said that those who had arrested him had made a mistake, and directed that he be forthwith escorted to the United States consulate. He was accordingly sent to the consulate. At the same time a citation was, on the 16th of October, addressed to the consul-general for the appearance of Gurdjian, accompanied by the consular dragoman, before the council of police at Stamboul.

On being informed of these facts, you at once addressed a note, on the 17th of October, to the Turkish minister of foreign affairs, from which may be quoted the following passages:

"The legation can not see its way to permitting the appearance of an American citizen before the Ottoman police authorities without having first been furnished with a statement of the reasons for which he may be summoned, and in this case, in addition to such statement, ample satisfaction for the conduct of the police is an indispensable preliminary to the appearance of Siropé Gurdjian.

"Your excellency, I am persuaded, will agree with me that the occurrence of such an event in the capital itself, without being followed by swift and exemplary punishment of those responsible for the arrest and false imprisonment of an American

citizen, and in spite of the most sacred clause of the capitulations and treaties, is of itself a fact of exceeding gravity. With all possible good disposition with which this abuse by the police may be considered, a mistake can not be admitted as sufficient excuse, inasmuch as since the conquest of Constantinople it is a fact known to all that the domicile of a foreigner is inviolable and may not be entered save in the presence of his consul or the consul's deputy. Therefore, if those charged with the public security during the night at the stations of Hendek, at the mutaserifate of Galata, and at the central station in Stamboul are not sufficiently instructed in their duties and their rights your excellency will concede that such a state of affairs is indeed to be lamented.

"The legation is constrained, therefore, to protest in the most vigorous language and in the most formal manner against such intolerable infringement of the primitive civil rights of the individual, and to demand that His Majesty's Government take steps for the immediate punishment of the offenders and for securing reparation to the victim commensurate with the enormity of the injury inflicted upon him."

To this note a reply was made on the 22d of the same month. In his reply the minister of foreign affairs expresses regret that the subordinate agent of the police should have effected the arrest without demanding the presence of the consular representatives of the United States, but alleges that this omission arose from the authorities being ignorant that they had to do with an American citizen, and that the name of the person arrested was not of a nature to enlighten them. The minister further said:

"Your excellency will nevertheless do us this justice to recognize that as soon as informed of his character (as American citizen) the superior authorities delivered him to his consulate. Measures having been taken to prevent a repetition of similar mistakes, I allow myself to hope that your excellency will, on your part, be pleased to give orders that Seropé Gurdjian may be brought before the police authorities whenever he may be required."

On the 28th of October you replied to this note, dissenting from the view that what was done was satisfactorily explained as a mistake, Mr. Gurdjian having exhibited his passport. You further observed that no statement of the reasons why the consulate had been asked to produce Mr. Gurdjian had been furnished. And you informed his excellency that the punishment of those who may have been responsible for the outrage was a matter for consideration before the question of Mr. Gurdjian's further appearance. Replying on the 5th of November, the minister of foreign affairs states that the crime of which Mr. Gurdjian is accused consists in his participating in a revolutionary committee, the seal of which he is charged to have made. With this statement, the minister of foreign affairs renews his request that orders be issued for bringing Gurdjian before the police authorities whenever his presence shall be required. The minister further said: "As to the agent guilty of having committed the irregular acts referred to by the legation, he will not fail from being punished."

In consequence of the demands of the Ottoman authorities for the production of Mr. Gurdjian you telegraphed to the Department to ascertain whether he ought to be produced. The Department replied that it could not authorize you to produce Mr. Gurdjian to the Turkish authorities and instructed you to report the facts fully by mail. It was after the sending of this telegram that your reports of the case were received.

In your last dispatch, No. 186, of the 18th of November, you inform the Department that on the forenoon of that day the vice-consul-general called on you with a summons from the police authorities requiring him to produce Mr. Gurdjian for examination on the following day. The vice-consul was accompanied by Mr. Dongian, a naturalized citizen of the United States, recently from this country, who stated that he had, at Mr. Gurdjian's request, called on him and prescribed for him; that he found him in a very deplorable state, suffering from heart and spinal trouble and nervous prostration. The doctor expressed the opinion that it would be impossible for Mr. Gurdjian to leave his bed for several weeks, and that, even were he out of Turkey and free from mental anxiety, he would require two months to rally from the shock he had received. You instructed the vice-consul-general not to produce Mr. Gurdjian without further orders from the legation.

In concluding your last dispatch you observe that you have treated Gurdjian as being innocent of any connection with the proceedings of the Armenian committee, as well as innocent of the charge of cutting the seal. Mr. Gurdjian still maintains his innocence; nevertheless, he now makes an admission that the engraving of the seal was done in his room by another man.

In a letter written on the 3d of November to the vice-consul-general Mr. Gurdjian,

still maintaining ignorance of the real cause of his arrest, suggested that a Masonic design which hung upon his wall may have excited suspicion. In a letter, however, addressed to you on the 13th of November, just ten days later, he makes a full statement as to the engraving of the seal, though professing ignorance as to the character of the seal and the purpose for which it was engraved. But it appears that the seal was actually engraved in his room.

It is not within the province of the Department, nor would it be proper for the Department under the present circumstances, to comment upon the latest letter of Mr. Gurdjian and express an opinion as to the truth of the various statements on the ground either of consistency or of probability. But while made nearly a month after his arrest, they relate to matters that occurred prior to that time and disclose knowledge which was in his possession from the beginning of his difficulties and of which the legation might at once have been informed.

In proceeding to the consideration of the legal aspects of the case, the Department desires to express its high appreciation of your conduct throughout the whole translation. Your representations to the Turkish Government have been characterized by a clear appreciation of the questions at issue and by a just determination to insist upon proper reparation at the hands of the Ottoman authorities. And they have had the effect of obtaining an expression of regret for the wrong done and a promise of punishment of the offenders.

Apart from the consideration of jurisdiction, your refusal to order the production of Mr. Gurdjian before the Ottoman tribunals is amply justified by his physical condition. Especially is this so when that condition is the result of the illegal and violent action of the Turkish authorities. In view, however, of the probable recovery of Mr. Gurdjian from the effects of the shock he has received, it is necessary to consider what the duty of this Government would be in that event.

You are aware of the controversy that the Ottoman Porte has raised in regard to the fourth article of the treaty of 1830. According to the English version of that article, as published among the treaties of the United States, the disputed provision reads as follows:

"Citizens of the United States of America quietly pursuing their commerce, and not being charged or convicted of any crime or offense, shall not be molested, and even when they may have committed some offense they shall not be arrested and put in prison by the local authorities, but they shall be tried by their minister or consul and punished according to their offense, following in this respect the usage observed toward other Franks."

This text was proclaimed in 1832, and it stood without objection on the part of the Turkish Government until 1868, a period of more than thirty-five years. In that year the Turkish Government declared, in respect to a case then pending before the minister of the United States in Constantinople, that the English text was not an accurate reproduction of the Turkish, which was admitted to be the standard, and that according to the latter the minister and consuls did not possess the right to try. Thereupon this Government obtained a large number of translations of the Turkish text, by which it appeared that while the English text published by this Government was not an exact literal translation of the Turkish original, it preserved its tenor and substance. The accuracy of these translations not being admitted by the Ottoman Government, the Government of the United States invited it to submit a correct translation, in order that there might, if possible, be an undisputed basis of discussion. Such a translation was never furnished until the 24th of August, 1888, when Mavroyeni Bey, by authority of his Government, presented the following translation in French:

"Les citoyens Américains vaquant paisiblement aux affaires de leur commerce ne seront point molestés sans motif tant qu'ils n'auront pas commis quelque délit ou quelque faute; même en cas de culpabilité, ils ne seront pas emprisonnés par les juges et les agents de la sûreté, mais ils seront punis par les soins de leur ministre et consul à l'instar de ce qui se pratique à l'égard des autres Français."

"American citizens peaceably attending to matters of commerce shall not be molested without cause so long as they shall not have committed any offense or fault. Even in case of culpability they shall not be imprisoned by the judges and police agents, but they shall be punished through the agency of their ministers and consuls, according to the practice observed in regard to other Franks."

After submitting his French translation, Mavroyeni Bey addressed several notes to this Department, in which he advanced the contention that since the treaty did not say "they shall be tried and punished" instead of "they shall be punished," the right to try belonged to the Porte. This Government replied on the 25th of February that the right to try was involved in and incident to the right to punish, and that the English version of the article, which had stood unchallenged for so many years,

merely expressed the obvious meaning of the Turkish text of the treaty as officially translated by that Government. As a measure, however, of concession to a friendly power, I offered to yield the right of trial and to accept the treatment accorded to certain European powers, under which the case is tried by local authorities, the dragoman of the legation being present. It was, however, discovered that this contention would settle nothing, since the Turkish minister at once proceeded to contest our right to punish. His position on this subject, as I stated in a note to him of the 25th of February last, was based upon two grounds—one inside the treaty and the other outside of it, which did not appear to be consistent. One was that if the treaty gave the right to punish it granted inadvertently more than was intended to be given. To state this argument seemed to me to answer it, for if the treaty gives the right it is futile to argue that the right does not exist. The minister also argued that the treaty did not give the right, contending that the express concession of it in the words, "they shall not be imprisoned by the judges and police agents, but they shall be punished through the agency of the minister and consul," was restricted by the clause, "according to the practice observed in regard to other Franks." This contention was based by the minister upon the statement that in 1830 the ministers and consuls of the Franks did not exercise the right to punish unless "abusively." The information in the possession of the Department led to the conclusion that at that time they habitually exercised the right to try and punish as a matter of common usage. It was also observed that the provisions both as to trial and punishment in the English version of the treaty with the United States were repeated in later treaties concluded by the Porte with Belgium and Portugal. The French text, however, of these treaties is contested by the Ottoman Government.

But, apart from the historical questions and conventional provisions which the Turkish Government contested, I pointed out the impossibility of limiting, by an executive interpretation given to a general and subsidiary clause, a clearly expressed and unequivocal stipulation. "Even in case of culpability," the stipulation reads, "they (American citizens) shall not be imprisoned by the judges or police agents, but they shall be punished through the agency of their ministers and consuls;" the right to punish, as thus stated, being at once forbidden to the porte and secured to the ministers and consuls of the United States. But I proposed, as a means of ending controversy while expressly conceding the right to try, to permit the rest of the article to stand without interpretation and to be enforced by this Government should occasion arise. This proposition was declined. To my note of the 25th of February the Turkish minister replied on the 28th of the same month. But after careful consideration of his reply, I was unable to perceive that it contributed anything to the solution of the controversy, or that it met the arguments advanced by this Government. The minister inquired whether it was not evident that I must admit, above all and after all, that what the United States secured by the treaty of 1830, even as regarded the right to punish, was not more than was claimed by other Franks at that time. I did not find myself either required or able to make such an admission. The intent of the treaty seemed to me to be so clear and explicit as not to admit of reasonable controversy, and I was consequently compelled to decline to put upon it an interpretation which the language did not admit of, and thus to substitute by executive agreement a new treaty for that which actually exists. The posture into which the negotiation was brought by the extraordinary contentions of the Turkish minister was described in my note to him of the 25th of February as follows:

"Sincerely, therefore, as I desire to settle the long-pending controversy now under consideration, I find myself wholly unable to meet your views. I could not, even were I so disposed, first yield everything that can be made the subject of comprehensible controversy, and then enter upon a discussion as to whether I shall maintain what can not by any conceivable method of reasoning be desired."

To my last note of the 15th of March of the same year no reply was made, probably for the reason that I had clearly indicated that it would be useless to attempt to continue the discussion upon the lines on which the minister had sought to conduct it.

For the reasons above stated, this Government is unable to comply with the request of the Turkish minister of foreign affairs for the production of Mr. Gurdjian before the Ottoman tribunals.

It remains therefore to consider what course the Government of the United States, exercising its rights and performing its obligations under the treaty, ought to pursue in disposing of the complaint made against Mr. Gurdjian. In adopting legislation to give effect to the extraterritorial rights of the United States in certain countries Congress did not fail to provide for the punishment of offenses against the governments of those countries. Such a provision was obviously essential; for, as our citizens were not to be subject to the local jurisdiction, it was necessary for this Govern-



ment to take cognizance of possible offenses against the local governments. Hence it was provided by the act of June 22, 1860, section 24, which is now embodied in section 4090 of the Revised Statutes, that "Capital cases for murder and insurrection against the Government of either of the countries hereinbefore mentioned, by citizens of the United States, or for offenses against the public peace amounting to felony under the laws of the United States may be tried before the minister of the United States in the country where the offense is committed, if allowed jurisdiction."

By section 15 of the same act, now embodied in section 4102 of the Revised Statutes, it was provided that "insurrection or rebellion against the Government of either of these countries, with intent to subvert the same, and murder, shall be capital offenses, punishable with death."

These provisions sufficiently illustrate the purpose of the legislation of Congress in respect to offenses against the local government. The duty of enforcing this legislation rests upon the Government of the United States, both as a matter of conventional obligation and as a matter of obedience to our own laws. To have left the punishment of offenses against the local government unprovided for would have left that government exposed and defenseless against the machinations of foreign residents. On the other hand, to have conceded the trial and punishment of such offenses to the local tribunals would have been, in effect, to deprive our citizens, upon the mere allegation of offense and without trial, of their right of extraterritoriality and to abandon them to the local tribunals on charges the most likely to excite passion and prejudice, and therefore most liable to abuse. For these reasons the Government of the United States in the fulfillment of its obligations, assumed the duty of punishing its citizens for offenses against the governments of the countries in which the right of extraterritoriality was exercised.

Such being the law it will be your duty to receive the complaints of the Turkish Government against Mr. Gurdjian and any evidence that may be submitted in support of these complaints with a view to his trial by you as the minister of the United States, clothed by act of Congress with judicial functions in such cases. While it is the duty of the Department to give you these general instructions in regard to the discharge of your functions, it would be improper for it to undertake to interfere with or influence your judicial judgment. For that reason it has abstained, as you have already perceived, from expressing any opinion as to the effect of the admissions made to you by Mr. Gurdjian in his letter of the 13th of November. For the same reason, as well as for the reason that the information now before it is defective, the Department is unable to give you specific instructions in regard to the formulation of charges, if, upon examination of the evidence submitted to you, you should be of opinion that Mr. Gurdjian ought to be put upon his trial.

If upon further investigation you should be of opinion that the facts presented do not constitute a violation of any specific statutory provision, but that Mr. Gurdjian has been guilty of culpable acts affecting the Ottoman Government, for the punishment of which our legislation is defective, it will be necessary to inform him that the protection of the United States can not be extended so as to enable him to continue his residence in the Ottoman dominions.

The policy of the Government of the United States is to deal with other governments fairly and honorably, and to abstain from interference in their domestic politics. It can not countenance a different course of conduct on the part of its citizens. It can not admit that a person who has come to the United States and secured admission to citizenship and then returned to the country of his origin may be permitted to abuse his privileges as an American citizen by taking part in the political affairs or plotting against the government of the country with which he has declared the severance of his political connection.

These observations are not made upon the supposition that they will be found to be applicable to the case of Mr. Gurdjian. It is hoped that the suspicions that have been raised against him will be found to be destitute of foundation; but it is proper and indeed necessary, in view of the questions which have been created, that this Department should furnish you, as minister of the United States, with clear and precise instructions as to the principles which must guide this Government and its ministers, and control the conduct of its citizens, in countries in which they enjoy the rights of extraterritoriality.

I am, etc.,

JAMES G. BLAINE.

**CONSULAR IMMUNITIES. ARREST OF CAVASS OF THE UNITED STATES CONSULATE AT SMYRNA.**

*Mr. Hay to Mr. Straus.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, December 29, 1899.*

[Mr. Hay states that instructions have been issued to the consul at Smyrna to report to Mr. Straus in regard to alleged violence to a consular officer. Mr. Straus is directed to demand immediate protection if danger exists.]

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*Mr. Griscom to Mr. Hay.*

[Telegram.—Paraphrase.]

UNITED STATES LEGATION,  
*Pera, December 30, 1899.*

[Mr. Griscom reports the arrest of the cavass of our consulate at Smyrna while officially protecting merchandise of our consular dragoon against illegal seizure. The cavass has been released but his arms retained.]

Mr. Griscom entered a strong protest against infringement of treaty rights in an interview had to-day with the minister for foreign affairs, who has telegraphed ordering immediate delivery of our arms and full explanations.

Pending instructions from the Department, right to demand reparation has been reserved.]

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*Mr. Hay to Mr. Griscom.*

No. 193.]

DEPARTMENT OF STATE,  
*January 4, 1900.*

SIR: I have to acknowledge the receipt of your telegram<sup>1</sup> of the 30th ultimo, a translation of which is appended hereto, reporting the arrest of the cavass of the United States consulate at Smyrna, and your action thereon.

In reply I have to say that you seem to have acted discreetly.

Further instructions will be sent, if necessary, on receipt of a full report of the incident. In the meantime, the legation will claim any and all privileges that inure to the representatives of the United States under treaty, or that are enjoyed by the consuls of other nations.

I am, etc.,

JOHN HAY.

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<sup>1</sup>Printed ante.

*Mr. Griscom to Mr. Hay.*

No. 144.]

LEGATION OF THE UNITED STATES,  
*Constantinople, January 8, 1900.*

SIR: I have the honor to acknowledge the receipt on the 30th ultimo of a telegram<sup>1</sup> from you.

This legation had not been previously informed as to the incident, but a few hours later the consul-general transmitted a telegram received from Consul Lane, at Smyrna, reading as follows:

SMYRNA, *December 29.*

AMERICAN CONSUL, *Constantinople:*

By my orders, while protecting property of dragoman of this consulate against illegal action of Turkish courts in the interior, the cavass has been arrested and held by Turkish authorities.

Owing to lack of courtesy of governor here I believe the persons and interests of United States citizens to be in danger and have cabled such to Washington.

LANE.

The same day I received also the following telegram directly from Consul Lane:

SMYRNA, *December 30.*

AMERICAN MINISTER, *Constantinople:*

Court in interior seized goods of American dragoman without notice. I applied to governor for release. Many promises; no satisfaction. Sent cavass to release goods. Release expected. Next day cavass seized by officers by order of the governor, arms removed, cavass in prison twenty-four hours, sent to Smyrna with guard, in prison four hours, now released, arms not released. Such violence to an officer of a Christian government by the governor here makes it unsafe for all Christians, particularly Americans. Goods again seized. Advise what course to pursue.

LANE.

From the brief statements contained in the above messages it appeared to me that there were at least three separate and distinct subjects of complaint against the Turkish Government: First, the seizure, without assistance of the consul, of merchandise belonging to a person entitled to protection as an American citizen; second, the invasion of an American domicile by an armed force of Turkish soldiers, and, third, the arrest of the cavass of the American consulate while acting in his official capacity. The cavass had been released from imprisonment, but his arms, taken from him on arrest, were not returned.

I proceeded immediately to the porte and had an interview with the minister for foreign affairs. I laid before him the circumstances of the incident as outlined in the above telegram and presented the three breaches of our treaty rights as above set forth and entered a strong protest against each. I demanded an investigation of the seizure of merchandise and that the arms of the cavass be immediately returned to the consulate. The minister for foreign affairs promised that telegraphic orders would be immediately sent to the governor of Smyrna demanding an explanation of the seizure and directing the return of the arms of the cavass to the consulate.

I notified the minister that I would reserve all rights to suitable reparation and damages, pending a thorough investigation of the incident and until such time as I shall have ascertained the views of my Government on the subject.

I then sent you a telegram<sup>1</sup> setting forth as briefly as possible the circumstances related above.

<sup>1</sup>Printed ante.

I also telegraphed to Consul Lane at Smyrna as follows :

DECEMBER 30.

LANE, *American Consul, Smyrna:*

Porte has telegraphed ordering immediate delivery of arms of cavass to you and explanations of seizure of merchandise. You will see Vali and telegraph me result. Your written report awaited.

GRISCOM.

On January 3 I received from Consul Lane his written report, a copy of which is inclosed herewith, giving the circumstances of the case which may be summarized as follows:

On December 10 a quantity of licorice root, the property of Avedis S. Avedikian, third dragoman of the United States consulate at Smyrna, and stored in a building rented by him, was seized by the Turkish court at Magnesia, a town some 40 miles from Smyrna. The seizure was made without notice to the consul or to the dragoman. Mr. Lane, upon being informed of the seizure, wrote to the governor-general of the vilayet, setting forth the facts, and asking the release of the goods. On the 16th ultimo the consul received a summons from the court at Magnesia to transmit to Mr. Avedikian, notifying the latter that his goods had been seized, and citing him to appear for trial. The consul, regarding the seizure as illegal, declined to transmit the summons, and returned it to the governor-general. He then made a verbal request to the governor-general that the sequester be at once broken, but the latter replied he had no authority over the court and could only "invite" it to release the merchandise. A further answer was promised, but not made. On the 25th idem the governor-general transmitted a report of the court at Magnesia, giving its reasons for the seizure.

Consul Lane declined to accept any explanation of a violation of our treaty rights until the violation had been rectified. Believing it impossible to obtain such rectification by further application to the Turkish authorities, he sent his cavass, with an interpreter and the flag, to the house in question, where, by his orders, they removed the seals of the Turkish court and took possession of the premises. The cavass was left in charge of the property until two days later. A force of Turkish soldiery, acting upon an order of the governor-general of Smyrna, entered the building, arrested the cavass, and took him to the prison at Magnesia. There they removed his sword, revolver, and cartridge belt, of which, it is noted, he at no time attempted to make use in self-defense. After an imprisonment of twenty-four hours he was sent under guard to Smyrna, where, after being again imprisoned for four hours, he was released. His arms were retained.

Consul Lane transmits with his dispatch four inclosures, being copies of three communications addressed by him to the vali of Smyrna, and of his telegram to this legation. He does not forward copies of the letters received by him from the vali, and I therefore telegraphed him on the 2d instant as follows:

LANE, *American Consul, Smyrna:*

Telegraph me when arms are delivered. Send copies of all correspondence from vali on controversy. Was Avedikian in partnership with anyone?

GRISCOM.

I received in reply the next day a telegram, as follows:

AMERICAN MINISTER, *Constantinople:*

Arms not yet delivered. Understand your telegram that I am to see vali after delivery.

LANE.

On the 4th instant I sent a written instruction, a copy of which is inclosed, to the consul, in which I directed him to make a full report of the exact use made by him of the American flag, and his reasons for employing it in the manner briefly described in his report. I further asked replies to certain questions tending to throw light on the title of Avedikian to the licorice root in question, the extent of his participation in the licorice-root business, and any partnership in which he might be involved. Consul Lane's reply has not yet reached this legation.

Yesterday morning I received from the minister of foreign affairs an unofficial transcript or summary of a telegram received from the governor-general of Aidin. The Turkish authorities allege that the dragoman, or Avedikian, with three other persons, took possession of a quantity of licorice root belonging to Hadji Daoud and stored it in the courtyard of the house of one Photi in the village of Hamidieh. At the request of the said Daoud the court of Magnesia placed a sequester upon the merchandise in question, and summoned the various persons interested to appear. It is alleged that there being no consul of the United States at Magnesia, the seizure was in conformity with treaty rights. The remainder of the statement agrees with the account given by Consul Lane, but the arrest of the cavass is passed lightly over by saying he "was dislodged and sent to Smyrna, followed by his arms, which were returned to him, with the exception of his revolver." The governor-general closes his report by expressing the wish that the United States minister could be here to judge for himself of the attitude of the young consul.

From this report of the governor-general of Aidin I felt satisfied that the seizure of the merchandise had been effected in a manner clearly contrary to treaty. Dragomans of our consulates are accepted by Ottoman statute to be privileged persons and allowed the same protection as may be accorded American citizens. It is a matter for the United States Government to decide in what measure they will extend this protection. By our treaty the Turkish courts are prohibited from seizing the property of American citizens without the assistance of the nearest United States consul. I therefore felt justified in presenting a demand for the immediate release of the goods.

On the 6th instant I addressed a formal note, copy of which is inclosed, to the minister for foreign affairs.

After recapitulating the circumstances as related to him verbally in my previous interview, I made three demands:

1. That the sequester of the court at Magnesia, for the second time placed upon the merchandise, be at once removed.
2. That the house leased by Avedikian be evacuated and given over to his possession.
3. That the arms of the cavass be immediately delivered to the consul at Smyrna.

I presented this note in person to his excellency the minister for foreign affairs, and after a careful reading he expressed himself as satisfied with the reason and moderation of the demands therein contained and gave his assurance that they would be acceded to and appropriate orders at once telegraphed. He tacitly admitted that the local Turkish authorities are in the wrong, and I was given to understand that the matter would at once be remedied in the manner indicated by me.

I will further inform the Department of the result of the promises stated above.

I have the honor to call your attention to the question as to how far the United States Government will protect the dragomans of consulates in their conduct of a private mercantile business, and how many dragomans in each consulate will be entitled to such protection.

In the present incident it will be noted that Avedikian is third dragoman.

The question of protecting the dragomans of our consulates in all cases which may arise from their private relations as merchants is a matter of considerable importance and open to much doubt. I would be glad to have the instructions of the Department on the subject.

In regard to the arrest of the cavass, I would beg to point out that the injury to the Government of the United States is serious. The cavasses are privileged persons, free from arrest under the Turkish law, whose function is to insure the safety of the persons and property of the official representatives of foreign powers in the Turkish Empire. If they may be arbitrarily arrested and imprisoned their value ceases. I made a strong point against the action of the governor-general of Aidin, and, as stated, have been assured that orders have been issued for the return of the arms of our cavass. If any demand for further reparation is deemed advisable I would respectfully request the instructions of the Department.

I have, etc.,

LLOYD C. GRISCOM.

[Inclosure 1.]

*Mr. Lane to Mr. Straus.*

CONSULATE OF THE UNITED STATES,  
*Smyrna, December 30, 1899.*

SIR: On December 10 a quantity of licorice root bought and paid for by Avedis S. Avedikian, third dragoman at this consulate, and stored in a building rented by him, was illegally seized by the Turkish court at Magnesia, which is some 40 miles in the interior. The seizure was made without any notice to me or to the dragoman, which is a direct violation of our treaty rights, since interpreters acting as such by permission of the Sultan enjoy the same protection as American citizens. Mr. Avedikian learned of this seizure through his employees and at once communicated the facts to me. I immediately (December 12) "wrote, as per inclosed copy," to his highness the governor of this vilayet, setting forth the facts and asking the release of the goods. On the 16th following I received a summons from the court at Magnesia to transmit to Mr. Avedikian, notifying him that his goods had been seized and ordering him to appear for trial. This summons I declined to transmit, as the goods were seized in violation of the treaty, and I returned it to the governor, as per inclosures No. 2-3, having received no reply to my note of the 12th. I called in person upon the governor December 20 and laid the case before him. I showed the leases, contracts, and other papers of Mr. Avedikian all in order, and demonstrated beyond a doubt that the goods were really those of Mr. Avedikian. I demanded that the seizure be broken at once. The governor replied that "he knew the treaty had been violated," that the court had made a mistake, but that he had no authority over the court and could only "invite" them to release the goods. He promised me an answer in two days. None came. I then sent dragoman (Agadjanian) to inquire of governor. Agadjanian reported that governor promised to order release of goods at once. Monday, 25th, I received a note from the governor transmitting a report of the court at Magnesia as to why they arbitrarily seized the goods. This is anything but courteous on the part of the governor, for he knows that I am not accredited to any court in the interior and my note was to him personally. Nor could I accept any explanation for a violation of our treaty rights until that violation had been rectified. I at once sent for the first dragoman of the consulate, Mr. Mavrodee, who has been in the service of our Government twenty-eight years, and whose experience is valuable. We discussed the situation and agreed that as the governor had

admitted there was a violation of the treaty and had further said he could not order the matter corrected, that the only way to protect our rights was to send the cavass with an interpreter and the flag to remove the seals of the Turkish court and take possession of the premises. This I did, and the dragoman returned the same day with the flag, but left the cavass in charge. Two days later there arrived at this house, which was in possession of the American officer, fifteen mounted Turkish soldiers. Then, regardless of the protest of the American officer, the Turkish captain (named Sadika) with two men of his force entered the building and seized the cavass and took him to prison at Magnesia. There they removed his sword, revolver, and cartridge belt, which he had at no time attempted to use in defense of himself.

They kept him in prison twenty-four hours; then sent him to Smyrna and kept him in prison four hours. They then released him, but kept his arms, which they still have. When the captain and his two men forced their way into this house, which domiciled an American officer, they showed the officer an order from the governor of Smyrna for his arrest.

At present we do not only stand confronted with several violations of the treaty—i. e., first, the seizure of the goods of an American officer without an American dragoman being present; second, forcible entrance of a house domiciling an officer of the United States consulate; third, seizure of said officer and imprisoning him—but we have had an insult at the hands of the Turkish authorities and consequent loss of standing, which, if not adequately punished, will result in no respect for our treaty by Turkish officials here and lays Americans liable to open insult and violence at the hands of any Turkish subject. The cause for all this lies in the fact that there is a monopoly in the trade of licorice root, and those interested in this monopoly resort to any means to obtain their end. Though it is a matter impossible of proof, I am convinced that the Turkish officials concerned in this matter are in the pay of this monopoly. I further believe that the governor is also under many obligations to this monopoly. In my conversation with him he showed marked partiality in behalf of this concern, and repeatedly tried to trap me into recognizing the illegal action of the Turkish court. I also believe that the governor would not have dared to offer us such an open affront if he did not rely upon the intercession in his behalf of the British embassy, which has protected him before. Doubly so, as the agents of the licorice monopoly here are British subjects.

I have had much trouble recently in protecting American citizens, as the official Turk is constantly resorting to petty annoyances, and unless they are given a salutary lesson, and some of these corrupt officials made an example of, it will be practically impossible for Americans here to carry on their business, as is shown by the fact that as soon as the cavass was arrested and removed the goods were again seized.

I inclose copy of my telegram of this date, which, together with this report, is sent in accordance with instructions from Secretary Hay, to whom I cabled yesterday.

I am, etc.,

RUFUS W. LANE.

[Subinclosure 1.]

*Mr. Lane to the Pasha.*

CONSULATE OF THE UNITED STATES,  
*Smyrna, December 12, 1899.*

HIGHNESS: I have the honor to inform your highness that on the 10th instant the authorities in Magnesia arbitrarily proceeded to the seizure of a certain quantity of licorice root belonging to Mr. Avedis Avedikian, dragoman of this consulate.

The aforesaid goods are in the building situated at Hamidie, canton of Magnesia, which is held on lease by Mr. Avedis Avedikian, as shown by a contract of lease duly certified by the municipality of Magnesia.

This fact constitutes a flagrant violation of domicile and of the treaties in force between our Governments. I herewith request your highness to kindly give the necessary orders in the proper quarter for the immediate removal of the seizure illegally practiced on the goods of my dragoman, while I hold the authorities of Magnesia responsible for this grave state of things.

Accept, etc.,

RUFUS W. LANE.

[SEAL.]

[Subinclosure 2.]

*Mr. Lane to the Pasha.*

[Translation.]

CONSULATE OF THE UNITED STATES,  
*Smyrna, December 18, 1899.*

HIGHNESS: In reply to your communication of the 1st (13), sub No. 911, containing a protest to be transmitted to Mr. Avedis Avedikian, I regret to have to return to you herewith the said protest and not to be able to transmit it to Mr. Avedis Avedikian, dragoman of this consulate, as long as the seizure illegally and arbitrarily executed by the authorities of Magnesia on the merchandise belonging to Mr. Avedis Avedikian, which is in a house of which he is the sole tenant, be not withdrawn.

I remark, moreover, that said protest is addressed to Mr. Avedis Avedikian and Mr. Keuleyian and Co., a partnership of which I have no knowledge whatever.

Accept, etc.,

[SEAL.]

RUFUS W. LANE.

[Subinclosure 3.]

*Mr. Lane to the Pasha.*

[Translation.]

CONSULATE OF THE UNITED STATES,  
*Smyrna, December 23, 1899.*

HIGHNESS: In reply to your communication dated the 8th (20th) instant, No. 930, containing a summons, to be served on Mr Avedis Avedikian, dragoman of this consulate, I return herewith the said summons, as I can not serve it upon Mr. Avedikian inasmuch as the authorities of Magnesia have acted arbitrarily and illegally toward him.

Accept, etc.,

[SEAL.]

RUFUS W. LANE

[Inclosure 2.]

*Mr. Griscom to Mr. Lane.*UNITED STATES LEGATION,  
*January 4, 1900.*

SIR: On December 30 I received the following telegram:

"AMERICAN MINISTER, *Constantinople*:

"Court in interior seized goods of American dragoman without notice; I applied to governor for release; many promises, no satisfaction; sent cavass to release goods; release effected; next day cavass seized by officers by order of the governor; arms removed; cavass in prison twenty-four hours; sent to Smyrna with guard; in prison four hours; now released; arms not released. Such violence to an officer of a Christian government by the governor here makes it unsafe for all Christians, particularly Americans. Goods again seized; advise what course to pursue.

"LANE."

Acting on the information as given by you in the above telegram, I had an interview with the minister for foreign affairs the same day and entered a strong protest against such infringement of our treaty rights. I demanded that an investigation at once be made of the seizure of merchandise, and an explanation given this legation; and, further, that the arms of the cavass be immediately delivered to you. The minister promised that telegraphic instructions would at once be sent to the vali, ordering the immediate delivery of the arms, and asking for an explanation of the seizure. I deferred any demand for the release of the merchandise until further informed on the subject.

I then telegraphed you as follows:

"DECEMBER 30, 1899.

"LANE, *American Consul, Smyrna*:

"Porte has telegraphed ordering immediate delivery of arms of cavass to you and explanations of seizure of merchandise. You will see vali and telegraph me result. Your written report awaited.

"GRISCOM,"



On the 1st instant the consul-general transmitted to me your written report dated December 30, with four inclosures.

Yesterday I received from you the following telegram:

"Arms not yet delivered; understand your telegram that I am to see vali after delivery.

"LANE."

You evidently misunderstood my telegram, as my intention was that you should at once see the vali and find out if he had received the telegraphic orders of the Porte. As it was not a matter of great importance I did not repeat the instruction.

Yesterday I telegraphed you as follows:

"JANUARY 3, 1900.

"LANE, *American Consul, Smyrna.*

"Telegraph me when arms are delivered. Send copies of all correspondence from vali on controversy. Was Avedikian in partnership with anyone?

"GRISCOM, *Chargé.*"

In your written report you did not transmit copies of the communication received by you from the vali, and I am thus left in ignorance of the contention of the Turkish authorities and their reasons for acting as they have. The report by the vali to the Porte has been received but has not yet been communicated to me.

I would like to be informed by telegraph of the delivery of the arms to the consulate, and if it is not done within a reasonable time, I will make further representations to the Porte.

I note that you sent the flag with the cavass when he broke the seals of the court. You will please make a report of the exact use made by you of the flag, and your reasons for so doing.

I would also like to be informed more particularly as to the title of Avedikian to the licorice root in question, i. e., first, by whom, for whom, and of whom was it purchased; second, how long has he been the owner? third, who disputes his title? fourth, in whose name and by whom were the contracts for the purchase of the licorice root made? fifth, since when has Avedikian been the lessee of the store in question? sixth, had he a store before he leased the present one? seventh, how long has he been engaged in the licorice-root trade?

You will also inform me of the reasons given by the Turkish authorities for seizing the goods and arresting the cavass.

I am, etc.,

LLOYD C. GRISCOM.

[Inclosure 3.]

*Mr. Griscom to the Pasha.*

UNITED STATES LEGATION,  
*Constantinople, January 6, 1900.*

EXCELLENCY: I have the honor of bringing to your attention the following circumstances:

On the 10th of December last the Turkish court at Magnesia in the province of Aidin seized and sequestered a quantity of licorice root, the property of Avedis S. Avedikian, third dragoman of the United States consulate at Smyrna, and stored by him in a building which he rented. This seizure was made without any notice to the United States consul at Smyrna. The latter immediately upon learning of the circumstances addressed a letter to his highness, the governor-general of Aidin, setting forth the facts and asking the release of the goods. On the 16th of the same month the consul received a summons from the court at Magnesia to transmit to Mr. Avedikian notifying him that his property had been seized and citing him to appear for trial. The consul declined to transmit this summons, being unwilling to take cognizance of legal proceedings against his dragoman which had been begun without first notifying the consul. On the 20th idem the consul called upon the governor-general and laid the case before him, exhibiting the leases, contracts, and other papers of Mr. Avedikian, demonstrating that the merchandise was the property of Avedikian and stored in a building leased by him. The governor-general declared that he had no authority over the court, and could only "invite" it to release the goods. The consul then waited five days in order to give the authorities ample time to set right the wrong which has been done, or at least give adequate explanation. No reply to his repeated requests being forthcoming, on the 25th ultimo he sent his cavass, accompanied by an interpreter, to the building in question, where they

removed the sequester of the Ottoman court and took possession of the premises. Two days later a force of soldiers appeared and, acting on an order of the governor-general of Smyrna, entered the building, seized and arrested the cavass and took him to the prison at Magnesia. There they removed his arms, which at no time had he attempted to use in self-defense. He was kept imprisoned twenty-four hours, sent to Smyrna under guard and again imprisoned four hours, after which he was released, but his arms retained.

I have the honor to call your excellency's attention to the following points:

1. The proceedings of the Ottoman court at Magnesia in sequestering merchandise of the dragoman of a United States consulate without notice to the United States consul at Smyrna, is in contravention of established treaty rights. Magnesia is easily within the limits of jurisdiction of the consul at Smyrna.

2. The forcible entry by Ottoman soldiers into a building leased by a dragoman of a United States consulate constitutes an invasion of American domicile.

The arrest of a cavass of a United States consulate is an infringement of treaty rights and constitutes a grave affront upon my Government.

I have no doubt but that to your excellency's high sense of justice the truth and accuracy of the propositions as stated above will at once be apparent, and I therefore submit the following requests to which I trust His Majesty's Government will at once and readily accede.

1. That telegraphic orders be sent without delay directing that the sequester upon the merchandise of the dragoman Avedikian be at once removed. After this act of reparation has been accomplished appropriate proceedings may be taken by the Ottoman court at Magnesia, with the assistance of the United States consul. Acting thus in conformity with our treaty rights a sequester may be placed, if necessary, upon the licorice root in question until such time as the title is determined by legal decision.

2. That the building leased by Avedikian be immediately evacuated and given over to the possession of the lessee.

3. That telegraphic orders at once be sent directing the delivery of the arms of the cavass to the United States consul at Smyrna.

The arms of the cavass are the property of the United States and their confiscation and retention aggravates the serious affront which has been placed upon my Government by the arrest of its servant.

I am confident that your excellency upon being fully informed as to this grave incident will see the various errors which have been committed by the Ottoman authorities in the province of Aidin, and will appreciate the expediency of acting immediately upon the moderate and reasonable demands herein presented.

Pending a thorough investigation of the circumstances of the incident, and until such time as I may have ascertained the views of my Government at Washington, I reserve the right to present further demands for such reparation as my Government may deem proper.

Accept, etc.,

LLOYD C. GRISCOM.

*Mr. Griscom to Mr. Hay.*

No. 148.]

LEGATION OF THE UNITED STATES,

*Constantinople, January 13, 1900.*

SIR: Referring to my dispatch No. 144 of the 8th instant in relation to the sequester of merchandise belonging to Dragoman Avedikian and the arrest of the cavass of our consulate at Smyrna, I have the honor to further report:

On the 10th instant I received from Consul Lane the following telegram:

AMERICAN MINISTER, *Constantinople*:

Same court at Magnesia has again illegally ordered seizure of more American goods. Two employees of Avedikian arrested. Turkish soldiers sent into the country to prevent his purchasing goods. Useless to apply to vali for protection.

LANE.

This further illegal action on the part of the local Turkish authorities appeared to me very serious in view of the repeated assurances of the

minister for foreign affairs, as already reported, that orders had been issued by the Porte in conformity with my request for the immediate adjustment of the affair. I at once called on the minister for foreign affairs at his residence, showed him Consul Lane's telegram, and protested in a forcible manner against the renewed illegal action of the court at Magnesia and the failure to fulfill the promises made me as to the original offense. The minister at once sent a telegraphic order marked "urgent" to the governor of Aidin demanding an immediate reply giving full explanation of the situation and the failure to execute the Porte's previous orders.

I therefore telegraphed Consul Lane as follows:

Porte has again sent instructions to vali to remove sequester and return cavass's arms. You will see vali at once and ascertain what action he has taken. Telegraph result.

GRISCOM, *Chargé.*

Within a few hours the minister sent for Mr. Gargiulo, the dragoon of this legation, and submitted to him two telegraphic replies just received by him from the governor of Aidin. They were in Turkish, but Mr. Gargiulo was permitted by the courtesy of the minister to make unofficial translations, copies of which are herewith inclosed.

From the first reply of the governor of Aidin it will be seen that he received the orders of the Porte directing an immediate amicable adjustment of the affair, and with this end in view he requested Consul Lane to confer with him, in order to jointly determine the action to be taken. Consul Lane at first accepted the invitation of the vali to confer, but subsequently sent him word that he would not discuss with him the subject of the licorice root. After this refusal of Consul Lane to meet and confer the vali considered that he could not adjust the matter administratively, and left it in the hands of the court.

It is not clear to me upon what grounds the consul refused the friendly invitation of the vali to a conference to be held with the object of arranging for the settlement of all the difficulties, but it is evident that such refusal has rendered futile the efforts of this legation for the past ten days to secure an immediate and satisfactory adjustment of the affair.

In this connection I would like to call the attention of the Department to my telegram, previously reported, to Consul Lane, of December 30, as follows:

Porte has telegraphed ordering immediate delivery of arms of cavass to you and explanations of seizure of merchandise. You will see vali and telegraph me result. Your written report awaited.

GRISCOM, *Chargé.*

To which he replied:

Arms not yet delivered. Understand your telegram that I am to see vali after delivery.

LANE.

In my written dispatch of the 4th instant, previously reported, I called the consul's attention to the fact that he had placed a wrong construction upon my telegram, my intention being that he should see the vali immediately upon the receipt of my message.

The second telegram of the governor to the minister for foreign affairs is in explanation of the incident reported in Consul Lane's telegram set forth above. Avedikian is accused of attempting to seize licorice root belonging to an English merchant named Forbes, and such

seizure being resisted the employees of Avedikian beat the workmen of Forbes, and wounded the mouktar or chief of the village of Elgi, and took possession by force of the goods belonging to Forbes. The employees of Avedikian were then arrested by order of the caimakam (subgovernor).

I am not in possession of any further details of this incident, but the title to the licorice root in question is clearly a matter for settlement in the Turkish courts, and if Avedikian has acted in an arbitrary and illegal manner he will not receive the protection of this legation.

In my dispatch to the Department, No 144, of the 8th instant, I had the honor to submit to the Department the question of the protection to be given dragomans of consulates in the transaction of their private mercantile business. The incident, reported by Consul Lane, of the arrest of Avedikian's employees is an illustration of the difficulties which will surround the situation should the United States Government determine to protect the dragomans. On the other hand it is perhaps well to point out that if the honorary dragomans attached to the many consulates are deprived of the protection which they are supposed hitherto to have enjoyed, they will in all probability no longer continue to serve the United States Government without pay.

Assistant Secretary of State Porter, in an instruction, No. 170, of May 8, 1885, to the consul-general at Constantinople, laid it down in a positive manner that the dragomans were not entitled to protection except in the discharge of their official functions and at the place of their consulate. This decision is not known to the dragomans, nor is it a matter of common knowledge throughout the consular service.

I therefore respectfully submit the question for the renewed consideration of the Department.

I have, etc.,

LLOYD C. GRISCOM.

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[Inclosure 1.—Telegram.]

*The vali of Aidin to the Porte.*

DECEMBER 30, 1899 (JANUARY 11, 1900).

On the receipt of your telegram of the 24th (O. S.), in conformity with your instruction, desiring to settle the matter in an amicable way, together with the public prosecutor we decided to first of all remove the sequester, and then, in accordance with the rules and with the consent of the American consul, proceed to the fulfillment of the judiciary formalities; upon which I invited the consul to come to see me in order to decide conjointly what was to be done. The consul sent me word that he would come, but later on he refused to come, stating that he could not come on the question of the licorice root, and consequently nothing was possible to be done, administratively, and the matter remains in the hands of the court.

THE VALI OF AIDIN.

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[Inclosure 2.—Telegram.]

*The vali of Aidin to the Porte.*

JANUARY 11, 1900.

The American consul having refused to arrange the matter in an amicable way, the court of Magnesia continues its action. A telegram from the caimakam of Koula, received this morning, states that the interference of Avedikian with licorice root belonging to Forbes, an English merchant, having been prevented, the employees of Avedikian beat the workmen of Mr. Forbes and wounded the mouktar (head) of the

village of Elgi and took possession by force of the goods belonging to Forbes. Upon this occurring, the caimakam sent to the spot some policemen to arrest the aggressors. Avedikian raised the same difficulties in the district of Alasheir on account of licorice roots belonging to an Austrian merchant. This Avedikian, who was a short time ago appointed honorary dragoman of the consulate, takes advantage of the protection of the consulate and tries to divert to his own profit the trade in licorice root in the sandjak (district) of Sarouhan. It is evident by the attitude of Avedikian in this question that his action has been premeditated, and I would desire that the first dragoman of the American legation be sent here in order to ascertain by observation what is going on.

THE VALI OF AIDIN.

DECEMBER 30, 1899 (JANUARY 11, 1900).

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*Mr. Griscom to Mr. Hay.*

No. 149.]

LEGATION OF THE UNITED STATES,  
*Constantinople, January 13, 1900.*

SIR: Referring to my Nos. 144 and 148 of the 8th and 13th instants, respectively, in relation to the seizure of merchandise belonging to the dragoman and the arrest of the cavass of the United States consulate at Smyrna, I have the honor to further report:

From the correspondence of Consul Lane and my interviews with the minister for foreign affairs, it is evident that the relations between the consul and the vali of Aidin have become so strained that an amicable adjustment of the affair is made difficult. I have therefore called Consul-General Dickinson into consultation and recommended him to proceed to Smyrna in order to make a thorough investigation of the question and endeavor to come to an amicable agreement with the vali. The consul-general has left this day for Smyrna.

I have, etc.,

LLOYD C. GRISCOM.

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*Mr. Griscom to Mr. Hay.*

No. 164.]

LEGATION OF THE UNITED STATES,  
*Constantinople, February 9, 1900.*

SIR: Referring to the legation's No. 149 of the 13th ultimo relative to the seizure of certain licorice root belonging to the dragoman and the arrest of the cavass of the consulate at Smyrna, I have the honor to inclose herewith a copy of the report of Consul-General Dickinson of the result of his visit to Smyrna.

From this report it is seen that the consul-general succeeded in restoring the amicable relations between Consul Lane and the vali of Aidin, which, as previously reported by this legation, had become considerably strained. The minister for foreign affairs had acceded to the legation's demand that the illegal sequester placed by the court at Magnesia upon the licorice root of Dragoman Avedikian be removed, but the vali of Aidin reported that it was impossible to carry out the orders of the Porte owing to the refusal of the American consul to confer with him. The consul-general, upon arriving at Smyrna on the 15th ultimo, at once had an amicable conference with the vali, and on the 18th idem, without further difficulty, the sequester was raised by the court at

Magnesia and the house rented by Avedikian restored to the "status quo ante."

The first two points made by this legation in its note to the Porte, No. 70, of the 6th ultimo, already reported, were thus acceded to.

In regard to the arrest of the cavass and the seizure and retention of his arms, the vali promised the consul-general that the arms would be delivered to the consulate on the 19th ultimo, but the promise was not fulfilled. On the 31st ultimo I telegraphed Consul Lane as follows:

LANE, *American consul, Smyrna*:

You will make a demand for the arms of cavass and telegraph result.

GRISCOM.

Yesterday I received the following telegram from the consul:

GRISCOM, *Constantinople*.

Arms recovered to-day.

LANE.

The third and last point made by this legation has thus been conceded and all the demands executed.

In regard to the arrest of the cavass, I have had the honor already to submit to the Department the question of a demand for reparation. Although the prestige of our consulate at Smyrna has suffered and the cavass has been severely humiliated, yet I can not but feel that the offense received by the United States Government is offset by the arbitrary action of the consul in breaking the seal of a Turkish court without first exhausting all diplomatic and administrative intervention. There is little doubt but that the incident could have been avoided had the consul referred the question to this legation at any time during the fifteen days that elapsed between the illegal placing of the sequester, December 10, and the breaking of the seals of the court, December 25. I would therefore respectfully suggest that the incident be dropped without further demands upon the Porte.

The accompanying report of the consul-general sets forth at length the private business enterprises of the dragoman, Avedikian, entered into with the expectation of enjoying the same protection accorded to an American citizen. In the present incident this legation, influenced by the other incidents connected with the case and the necessity of maintaining the prestige of our consulate, has accorded him such protection. With a view to possible cases arising in the future, and in order that the legation may be guided as to the amount of protection to be extended to consular dragomans in the conduct of their private mercantile business, I have in the legation's No. 144, of 8th ultimo, asked the instructions of the Department.

I have, etc.,

LLOYD C. GRISCOM.

[Inclosure.]

*Mr. Dickinson to Mr. Griscom.*

No. 199.]

CONSULATE-GENERAL OF THE UNITED STATES,  
January 26, 1900.

SIR: It appearing from your personal note of the 11th instant and my subsequent conferences with you, that it was advisable for me to proceed to Smyrna and make a personal examination touching the complaints of Consul Lane in regard to the seizure of the property of Avedikian, a dragoman of the Smyrna consulate, I started for that place on the 13th instant and reached there on the morning of the 15th. I found that Consul Lane had gone to Constantinople to have a conference with you, but he returned to Smyrna on the 18th.

In the afternoon of the day of my arrival I called upon the vali and had a full discussion of the situation. I found him inclined to treat the matter with courtesy and fairness, and it was arranged that on the following morning he should send the procurator-general to the court at Magnesia and urge the court to set aside the sequesters under which the licorice root belonging to the dragoman had been seized. Upon such action being taken by the court I was to be immediately advised.

The procurator-general went to Magnesia on the morning of the 16th, but not obtaining favorable advices from him as early as we had expected, I went to Magnesia on the 17th, had a conference with the plaintiff's attorney, and made a careful examination of the whole situation, including the buildings and inclosures rented by Avedikian and the licorice root in dispute.

I found that the real property was rented by Avedikian in his own name, the leases legalized by the Turkish authorities at Magnesia; and my conclusion was and is that the claims set up by Hadji Daoud and others, upon whose motion the sequesters were issued, were fictitious and intended to harass and annoy Avedikian, and thus discourage him from purchasing licorice roots, and thereby perpetuate the monopoly which Daoud and others had enjoyed for years. Avedikian has entered into competition with Daoud and others in the purchase of licorice roots, has leased about 6,000 Turkish acres in that region for from four to five years, and the result of this competition is that the price of digging licorice roots in that locality has advanced from 8 paras per oke to more than 24 paras per oke. As a consequence, everyone in Magnesia, except the officials, is pleased and anxious to encourage the competition.

Before I left Magnesia, on the evening of the 18th, it was arranged that a further conference should be had between the judge, the procurator-general, and the attorneys for the respective parties, and the prospect was that the judge would consent to set the sequesters aside. It should be noted, however, that while the vali and all the attorneys are substantially in accord that the sequesters were illegally issued, the judge was very reluctant to vacate the sequesters unless I would agree, on behalf of Avedikian, to conditions which did not seem proper to accept. My undertaking with the vali was that the sequesters should be set aside without any condition, and that the plaintiffs might then proceed in the regular way by giving notice to the Smyrna consulate and we would submit ourselves to the jurisdiction of the proper court.

Upon the afternoon of the 18th I called again upon the vali and was informed by him that he had just received a telegram from the procurator-general that the sequesters had been released, and this information was confirmed by private advices from Magnesia on the following day. I then paid my farewell visit to the governor, accompanied by Consul Lane, and there was every assurance and every indication that the cordial relations which had existed between the consul and the vali were restored. It was understood that on the morning of the 20th a dragoman of the consulate and the attorney of Avedikian should go to Magnesia and appear in any proper proceedings which might be instituted by Daoud and others against Avedikian for the recovery of the property in dispute.

In one of my later interviews with the vali I urged upon him the importance of promptly returning to the consulate the arms which were taken from the cavass at the time he was arrested when in charge of the disputed property under the consul's orders. The vali promised that the arms should be returned to the consulate the following morning (the 19th), but I am informed they were not so returned up to the time I left Smyrna on the afternoon of the 19th. The cavass feels very keenly the humiliation of having been arrested and imprisoned by the Turkish officials, that he has lost caste and prestige with the other consulates in Smyrna and it may be desirable to give him employment in one of our consulates outside of that city.

The incident here referred to is an unfortunate one, and if passed without vigorous remonstrance or ample apology I fear it will form a precedent which will seriously affect our consular protection and authority. While urging this view I can not in fairness lose sight of the fact that the seizure of the property by the cavass seems to have been premature. Such a radical invasion and disregard of the authority of the Turkish court should not have been resorted to until diplomatic and other resources were exhausted.

I should state further that I went to Smyrna with some prejudice against the dragoman, Avedikian. It seemed to me that he had created an acute condition and unnecessarily involved the consular authority in protecting his personal property. By my examination at Smyrna these prejudices were removed. I found that Avedikian had been invited to become a dragoman of the consulate with the hope that he would be useful in the development of American business. He is a Turkish subject of Armenian origin, a merchant and banker of very considerable means, and enjoys an excellent reputation.

Since his appointment as dragoman he has bought a piece of land at Cordelio, on the bay opposite Smyrna; has filled the ground with rock down to deep water; has built an expensive iron and stone pier capable of accommodating seagoing vessels; has erected a large stone and iron warehouse capable of holding 70,000 cases of petroleum and other commodities; has connected this warehouse with a railroad siding near by, and contemplates using this warehouse and other business in introducing American products in Smyrna and the region round about. He has made all these preparations and this outlay with the expectation that he would enjoy the protection of the consulate in all proper ways, and I can not see that he asks or expects any protection which has not heretofore been extended to the dragomans of other consulates in the Turkish Empire. Altogether, he and his business undertaking impress me as substantial and important factors in the development of American commerce. Undoubtedly his capital would not have come out of its hiding places if it had not been led to expect consular protection, and it would be unfair to him and most unfortunate if this protection were now withdrawn.

I am, etc.,

CHARLES M. DICKINSON.

**PASSPORTS TO BE REFUSED BY LEGATION TO PERSONS OF OTTOMAN ORIGIN RETURNING TO TURKEY UNPROVIDED WITH AMERICAN PASSPORT OR AUTHENTICATED NATURALIZATION PAPERS.**

*Mr. Straus to Mr. Hay.*

No. 135.]

LEGATION OF THE UNITED STATES,  
*Constantinople, December 15, 1899.*

SIR: I have the honor to submit for the decision of the Department an application for a passport, typical of a class of cases of like character. The circumstances are as follows:

Consul Ravndal, at Beirut, Syria, has been forwarding to this legation during the past year a number of applications for passports from naturalized American citizens of Turkish (Syrian) origin, but in each case the applications were made upon recently issued naturalization certificates unaccompanied by any previous passport. The circumstances appeared to me suspicious that so many Syrians, native-born Turkish subjects, well knowing the requirements of the Turkish regulations about passports, should leave the United States for a visit to Turkey without first obtaining an American passport. I wrote to the consul-general on December 6, 1898, asking for an explanation of this circumstance and calling his attention to the Department's decision, a copy of which dispatch is inclosed, also the consul's reply of February 17 last, to the effect that the applicants had entered Turkey on Turkish passports, they alleging that before leaving New York they were informed (by whom is not stated) that neither American passports nor naturalization certificates were recognized in Turkey. I inclose herewith the affidavit which accompanied the application for a passport of Abdou Sowma, a naturalized American citizen, received at this legation on the 5th instant, in which Sowma certifies that before leaving the United States in December, 1897, he was instructed to provide himself with a Turkish passport, such being absolutely necessary; that he purchased a Turkish passport, by means of which he entered the Turkish Empire; that immediately after his arrival he registered himself at the American consulate. I inclose herewith an affidavit to the same effect by one George Joseph, which also accompanied the application of Sowma.



The issuing of a Turkish passport is only granted on application and is predicated upon the applicant being a subject, the applicant presenting his certificate of birth (hamidieh) with the implied, if not the expressed, assumption that such applicant has always been and still is a loyal Ottoman subject.

The question is thereby presented, Have not such persons, by applying for and receiving an Ottoman passport regardless even of the form of such application, voluntarily abandoned their acquired American citizenship and their right to protection as such? In the event of the intervention of our diplomatic or consular agents for the protection of such persons naturalized in the United States, who having returned to Turkey, their country of origin, with Ottoman passports, or tezkerehs, our agents would be confronted with the statements of the applicants that they are Turkish subjects. So by their own acts it would seem they are estopped from claiming the protection of the United States.

The question has assumed considerable importance, as eleven similar applications have been received by this legation during the past year, and it will be seen from Consul Ravndal's letter to the consul-general, of the 24th ultimo, a copy of which is inclosed, that there is a prospect of many more such cases recurring. Pending your decision upon the class of cases hereby submitted, I have declined to issue passports to the applicants in question.

I have, etc.,

OSCAR S. STRAUS.

[Inclosure 1.]

*Mr. Straus to Mr. Dickinson.*

UNITED STATES LEGATION,  
Constantinople, December 6, 1898.

SIR: I have to acknowledge the receipt of your No. 70, of the 13th instant, containing, with other inclosures, the passport applications of Saleem Jereissati and Mansour J. Urmott and 50 postage stamps of 1 piaster each.

I inclose herewith a passport for Saleem Jereissati and return his certificate of naturalization.

A passport can not be issued to Mr. Urmott on the strength of a letter from Mr. Edson C. Marschall stating that he had forwarded by registered letter his passport and naturalization certificate, but which did not reach their destination. In order to procure a new passport from the legation Mr. Urmott should obtain from America a certified copy of his naturalization certificate and forward it to this office.

It is a suspicious circumstance that Mr. Urmott, a Turkish subject of origin, naturalized in the United States, on setting out from New York for Syria on November 5, 1897, should have deliberately left behind his passport, a document whose chief utility is for foreign travel, with instructions that it be forwarded to him at his journey's end some ten or fifteen days later.

How he managed to enter Turkey without an American passport or any document to prove his nationality the legation is not advised.

As instances have come to the knowledge of this legation where naturalized Americans of Turkish origin returning to Turkey have suppressed the fact of their acquired citizenship and have entered Turkey under their old passports as Ottoman subjects, in order to avoid bringing in question their disputed nationality, it is desirable that the consul at Beirut should make a searching inquiry upon what papers or in what character as to his citizenship Mr. Urmott arrived in Tripoli on December 5, 1897, or in Beirut, presumably a day or two earlier. Should it prove to be the case that Mr. Urmott entered the country as a Turkish subject, our Government is absolved from the obligation to extend protection to him. On this point I would refer our consul at Beirut to this legation's dispatch No. 232, of April 20, 1894, and the Department's instruction No. 181, of May 10, 1894, printed in the Foreign Relations for 1894, pages 757, 758, and 761.

The position of our Government in the instruction referred to is stated as follows: "The return of a naturalized Turk to Turkey as an Ottoman subject, under Turkish passport and with submission to Turkish authorities over him as a subject, clearly dissolves the obligation of his adopted country to protect him longer as a citizen, and the obligation can certainly not be revived by the assertion or admission of the individual that his re-assumption of his original allegiance has been colorable merely and in bad faith, with deliberate intent to deceive. The agencies of the United States in Turkey can not be privy to such a deception."

I return herewith Mr. Urmott's duplicate application, the letter addressed to him by Mr. Edward C. Marschall, and 25 piasters in postage stamps.

I am, etc.,

OSCAR S. STRAUS.

[Inclosure 2.]

*Mr. Ravndal to Mr. Dickinson.*

UNITED STATES CONSULATE,  
*Beirut, February 17, 1899.*

SIR: I have to inclose herewith three applications for passports and \$3 in French stamps, also two certificates of naturalization.

With reference to the two naturalized Americans of Syrian origin applying for passports, it is my duty to report that they both landed in Syria on the strength of Turkish passports.

I refused a few days ago to entertain an application for a new passport in such a case (Khalil Zainy, naturalized by the court of common pleas, Lucerne County, Pa., December 1, 1890). Knowing, however, that there will appear a great number of such applicants during the approaching season, I have decided to bring the matter before you before taking a final stand.

Why did these people secure a Turkish passport instead of an American one?

They invariably tell me that they were informed before leaving New York that neither American passports nor naturalization certificates would be recognized in Turkey; that frequently such papers were torn up and destroyed by Turkish landing-place officials; that they never heard until now of any American consul in Beirut as being in position to protect naturalized Syrians as Americans; that such American Syrians who returned to Turkey as avowed Americans were almost without exception insulted and molested; that they were compelled for some urgent reason to return for a time to Syria, and that they therefore bought a Turkish passport to avoid trouble, not knowing that such a course would be considered a repudiation of their American obligations and a renunciation of their American rights. Now they are anxious to return to the United States. Such is their story.

Mr. Charles Saleeby has two brothers and a brother-in-law in America and sends occasional Syrian goods thither to supply their store, he being a partner in the business. He came to United States when 16 years of age and speaks English fluently. He is very concerned over his doubtful status.

I am, etc.,

G. BIE RAVNDAL,  
*United States Consul.*

[Inclosure 3.]

I, the undersigned, Abdou Sowma, do hereby solemnly declare, under oath, that I left the United States December, 1897; that before leaving I made inquiries as to the requirements for entering Syria; that I was instructed to provide myself with a Turkish passport, as such passport would be absolutely necessary; that I came to Syria on a Turkish passport; that I registered myself at the American consulate on my arrival in Syria, and that I do not intend to submit to Turkish authority over me as a subject, but shall remain a loyal American.

ABDOU SOWMA.

CONSULATE OF THE UNITED STATES.  
*Beirut, November 15, 1899.*

Subscribed and sworn to before me this day and year next above written.

G. BIE RAVNDAL.

[Inclosure 4.]

I, the undersigned, George Joseph, do hereby solemnly declare, under oath, that I left the United States July 8, 1899; that before leaving I made several inquiries as to the requirements for entering Syria; that I was instructed to provide myself with a Turkish passport, as such passport would be absolutely necessary; that I came to Syria on a Turkish passport; that I do not intend to submit to Turkish authority over me as a subject, but shall remain a loyal American.

GEORGE JOSEPH.

CONSULATE OF THE UNITED STATES,  
*Beirut, Syria, November 15, 1899.*

Subscribed and sworn to before me this day and year next above written.

G. BIE RAVNDAL.

[Inclosure 5.]

*Mr. Ravndal to Mr. Dickinson.*

No. 70.]

CONSULATE OF THE UNITED STATES,  
*Beirut, Syria, November 24, 1899.*

SIR: In answering the inquiries made by the legation through your dispatch No. 44, dated October 26, 1899, the receipt of which I hereby have the honor to acknowledge, I beg to refer to my No. 45, dated February 17, 1899, in which are summed up the reasons why so many Syrians naturalized in the United States fortify themselves with Turkish passports on returning to their native land. Much misinformation prevails both at home and abroad in regard to the efficacy of American passports and American authorities to protect Syrians returning to their original home after acquiring naturalization in the United States. As stated at the close of my No. 69, I am inclined to think the practice will soon abate. But before such a result can be obtained, hundreds of citizens will be affected by the final position to be taken in this matter by those in authority. In many cases the loyalty of the Syrian applicants for American passports presenting themselves in this office is unquestionable. Many of them own considerable property in America, and while some appear ignorant and more or less indifferent, and while it may be found necessary to adopt a strict policy in order to wipe out the present abuses, I am, to say the least, impressed with the gravity of the situation. It may not be amiss to add that most of those naturalized Syrians who have this year applied for passports through this office have departed for the United States.

It is a fact which should perhaps not be overlooked in the consideration of the present question that quite a number of returning citizens land here clandestinely without possessing passports of any description.

In regard to the nine applicants mentioned in your Nos. 42 and 44, they are to be classed with George Youseph, whose affidavit I inclose for the sake of illustration.

Other affidavits accompany the applications (in duplicate) of Abdou Sowma, of Buffalo, N. Y., and Alex. Mansur, of Detroit, Mich., which are herein inclosed, along with their certificates of naturalization and the usual fees.

I am, etc.,

G. BIE RAVNDAL,  
*United States Consul.*

*Mr. Hay to Mr. Griscom.*

No. 197.]

DEPARTMENT OF STATE,  
*Washington, January 11, 1900.*

SIR: I have to acknowledge the receipt of Mr. Straus's No. 135, of the 15th ultimo, reporting that many naturalized American citizens of Turkish birth have recently returned to Turkey with Ottoman passports, and asking if he is to regard such persons as having abandoned their American citizenship, and, therefore, to issue passports to them.

In reply I have to say that a person receiving a Turkish passport is not entitled to receive a passport from the United States.

The legation should refuse passports to all persons of Turkish origin who do not present an American passport or authenticated naturalization papers; and it should regard the possession of a Turkish passport as sufficient evidence that the holder should not receive one from the United States.

I am, etc.,

JOHN HAY.

**PROTECTION OF PERSONS OF OTTOMAN ORIGIN NATURALIZED  
IN THE UNITED STATES. TURKISH GOVERNMENT REFUSES  
TO RECOGNIZE SUCH NATURALIZATION.**

*Mr. Hay to Mr. Griscom.*

No. 211.]

DEPARTMENT OF STATE,  
*Washington, February 19, 1900.*

SIR: I inclose for your convenient information copies of correspondence exchanged between the Department and H. D. Garabedian, a naturalized Armenian, touching the status of persons of Ottoman origin, naturalized in the United States, who may return to their native country. I also inclose copy of a memorandum on this subject, prepared by Mr. Straus, who is at present in this city.

I am, etc.,

JOHN HAY.

[Inclosure 1.]

*Mr. Garabedian to Mr. Hay.*

63 EAST TWENTY-THIRD STREET,  
*Chicago, Ill., February 9, 1900.*

DEAR SIR: I see by the press that Hon. Oscar S. Straus, minister to Turkey from the United States, arrived on the 8th instant, and he informs the public in an interview that "American citizens can travel everywhere in Turkey."

I am an Armenian and an American citizen for ten years, and I have my citizenship paper.

I would like to know whether or not I would be protected by the Government of my adopted country, the United States of America, if I go to my old home in Armenia for the purpose of finding out about my father's estate, which was confiscated in the time of the massacre. If you will kindly write me about the particulars of the report of Minister Straus I will be more than gratified to you.

Yours, most respectfully,

H. D. GARABEDYAN.

[Inclosure 2.]

*Mr. Hay to Mr. Garabedian.*

DEPARTMENT OF STATE,  
*Washington, February 19, 1900.*

SIR: I have to acknowledge the receipt of your letter of the 9th instant, calling attention to a newspaper publication of the 8th instant purporting to give a reporter's interview with Minister Straus upon his return from Turkey, to the effect that United States citizens may now travel in Turkey, as the interdiction against this, caused by the Armenian troubles, was removed eight months ago. In view of this

you ask whether you would be protected by this Government if you, being a naturalized Armenian, should revisit your old home in Armenia.

Mr. Straus's statement was here understood to relate only to the removal of the inhibition of the travel of American citizens, missionaries, and others of non-Turkish origin in Armenia during the late disturbances in that quarter, and this understanding is confirmed by Mr. Straus himself, who is now in Washington. As to our naturalized citizens of Armenian or other Ottoman origin, the situation remains the same, in the absence of a treaty of naturalization between the two countries, the Turkish Government refusing to recognize the naturalization of a Turkish subject naturalized abroad without imperial consent since the promulgation of the Ottoman law of citizenship in 1869. The United States controverts this position, but unavailingly. In international law the status of such persons comes under the doctrines of dual allegiance, each Government claiming and exacting the allegiance of its naturals within its own jurisdiction and each being incapable of enforcing its own municipal law of citizenship within the jurisdiction of the other. Such conflicts have been adjusted in many instances by conventions between the United States and foreign powers, with the result of a mutual recognition of the validity of the naturalization of a citizen or subject of the one country within the jurisdiction and according to the domestic law of the other; but the conclusion of such a convention with the Ottoman Empire appears to be remote. As the consent of the Ottoman Government to the expatriation of a subject by naturalization in another country is only given upon the alternative condition that the applicant for release from Turkish allegiance shall either stipulate never to return or agree that in the event of return he will regard himself as an Ottoman subject, it follows that the case of permitted naturalization seldom occurs, and that when it does occur it is attended with features which prevent this Government from using a free hand in dealing with a question growing out of the return of such a naturalized citizen to Turkish jurisdiction.

While the Department and its diplomatic and consular agents in the Turkish dominions will use every effort now as always to protect any naturalized citizen of Turkish origin who returns to Turkey, it can not foresee that he will be permitted to enter the Empire, or that having entered he will escape molestation or expulsion.

I am, etc.,

JOHN HAY.

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[Inclosure 3.]

*Memorandum by Mr. Straus in regard to letter of H. D. Garabedian, February 9, 1900.*

After the Armenian troubles of 1895 the subjects of foreign powers in the Ottoman Empire were interdicted from traveling in the interior of Asiatic Turkey without a local passport or *teskeré*, which *teskeré* was either refused or the granting indefinitely postponed.

On my arrival in Constantinople in October, 1898, a number of foreigners—English, Americans, and Italians—were prevented from returning to their destination—Harpoot, Marash, Sivas, etc. I insisted upon our treaty rights and authorized our citizens—American missionaries—to join their post of duty, and insisted with the Porte that they should not only not be molested but accorded the usual protection. The minister for foreign affairs wired instructions to the governors or *valis* of the provinces to give the necessary protection.

A few weeks later I had an interview with the Sultan, and he caused orders to be issued removing the restrictions, that applications for *teskerés* should be made as usual, and if it appeared the applicants were neither anarchists nor disturbers of the peace the *teskerés* should be promptly granted. This order has been generally carried out.

So much for foreign subjects whose citizenship is not questioned or in dispute.

In view of the fact that we have no treaty of naturalization with Turkey—and the fact that in 1869 a law was promulgated denying the right of Ottoman subjects to acquire foreign naturalization without the previous written consent of the Sultan—such Ottoman subjects of origin who in violation of this law have acquired foreign nationality, their acquired citizenship, upon their return to Ottoman territory, is not recognized, and it is not advisable, especially for Armenians, who are mostly regarded as suspects on returning from foreign countries to Turkey, to come under Ottoman jurisdiction. Each returning subject of origin raises the question of the conflict of sovereignty, with the advantages in favor of the Turkish Government while its subject of origin is within Ottoman jurisdiction.

This question seldom arises in respect to other powers, as they either will not protect naturalized citizens on their return to Turkey, their country of origin, or they refuse to naturalize them except upon producing the written consent of Ottoman authorities. As that consent is only given upon the applicant stipulating either not to return or in the event of his return to agree to regard himself as a Turkish subject, it follows that the question seldom arises.

Pending the absence of a treaty of naturalization, Turkish subjects of origin will come under the disadvantage caused by the conflict of sovereignty.

WASHINGTON, D. C., *February 16, 1900.*

## URUGUAY AND PARAGUAY.

### COURTESIES SHOWN BY URUGUAYAN OFFICIALS AT FUNERAL OF LIEUT. COMMANDER F. E. GREENE, U. S. N.

*Mr. Hay to Mr. Finch.*

No. 147.]

DEPARTMENT OF STATE,  
*Washington, March 10, 1900.*

SIR: I inclose copy of a letter from the Secretary of the Navy, reporting the courtesies paid by officers of the Government of Uruguay on the occasion of the funeral of the late Lieut. Commander F. E. Greene, U. S. N.

You will express to the minister of foreign affairs this Government's high appreciation of the tribute of respect paid by himself, the captain of the port, and the Uruguayan military and naval officers to the memory of the deceased officer.

I am, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Long to Mr. Hay.*

NAVY DEPARTMENT, *Washington, March 5, 1900.*

SIR: I have the honor to inclose herewith, for the information of the State Department, a copy of a letter from the commander in chief of the United States naval forces on the South Atlantic Station concerning the courtesies of Uruguayan officials on the occasion of the funeral of the late Lieut. Commander F. E. Greene, U. S. N.

I have, etc.,

J. D. LONG, *Secretary.*

[Subinclosure.]

*Rear-Admiral Schley to Mr. Long.*

SOUTH ATLANTIC STATION,  
U. S. FLAGSHIP CHICAGO, 1ST RATE,  
*Ensenada, Argentina, January 21, 1900.*

SIR: 1. I have the honor to inform the Department that on the occasion of the funeral of the late Lieut. Commander F. E. Greene, U. S. N., and during the preparations therefor, the Uruguayan officials at Montevideo evinced a desire to facilitate the matter in every possible way.

2. Those most directly concerned were the minister of foreign affairs, Señor Don Manuel Herrera y Espinosa, and the captain of the port, Col. Carlos Gaudencio. In addition to the force landed from the *Chicago* and *Montgomery*, the cortege was accompanied to the cemetery by a number of Uruguayan officers.

3. I take this opportunity of bringing this to the attention of the Department as indicative of the desire of the officials of Uruguay to promote the friendly relations existing between the two countries.

Very respectfully,

W. S. SCHLEY,  
*Rear-Admiral, U. S. N., Commander in Chief.*

## CONDOLENCES ON GALVESTON DISASTER.

*Mr. Finch to Mr. Hay.*

No. 369.]

LEGATION OF THE UNITED STATES,  
*Montevideo, Uruguay, September 18, 1900.*

SIR: Yesterday the inclosed card of sympathy was delivered at the legation, with the request that its contents be repeated to you.

It is an expression of sympathy by the Government and people of Uruguay for the sufferers by the terrible disaster at Galveston, Tex.

Respectfully,

WILLIAM R. FINCH.

[Inclosure—Translation.]

The minister of foreign affairs has the honor to salute his excellency, the envoy extraordinary and minister plenipotentiary of the United States of North America, and express to him the painful impression caused in the spirit of this Government and of Uruguayan society by the news of the horrible catastrophe suffered by the population of Galveston, for which sad event he begs you to please accept and transmit to your worthy Government the condolence of this Republic.

MONTEVIDEO, *September 17, 1900.**Mr. Hay to Mr. Finch.*

No. 172.]

DEPARTMENT OF STATE,  
*Washington, October 29, 1900.*

SIR: I have to acknowledge the receipt of your No. 369, of the 18th ultimo, inclosing copy of a note from the foreign office, expressing sympathy in view of the Galveston disaster.

Copies of your dispatch and its inclosure have been forwarded to the governor of Texas.

This Government cordially appreciates the sympathetic message communicated by that of Uruguay.

I am, etc.,

JOHN HAY.



## VENEZUELA.

### CONSULAR IMMUNITIES—ATTACK ON THE WIFE OF UNITED STATES CONSUL AT LA GUAIRA, VENEZUELA.

*Mr. Loomis to Mr. Hay.*

No. 388.]

LEGATION OF THE UNITED STATES,  
*Caracas, February 1, 1900.*

SIR: I have the honor to inclose a copy of a letter addressed to me by the consul of the United States at La Guaira. Consul Goldschmidt came to Caracas to state the case orally to me, and later I had him put the facts into writing.

I have sent a statement of these incidents to the minister of foreign affairs and asked for an immediate investigation of the case, suggesting that prompt and adequate reparation will be expected if the facts are as stated, and there is no reason to doubt that they are otherwise.

A similar request has been presented to the Venezuelan Government by the British minister, based upon the forcible detention and searching of the British vice-consul at La Guaira.

I have, etc.,

FRANCIS B. LOOMIS.

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[Inclosure.]

*Mr. Goldschmidt to Mr. Loomis.*

CONSULATE OF THE UNITED STATES,  
*La Guaira, January 19, 1900.*

SIR: As per request, I report the following two incidents, of a very disagreeable nature, which happened to me in La Guaira. On January 1, 1900, at about 6 o'clock p. m., while walking up the "Calle de Leon" to my residence with my wife, one of the soldier police met us, and when within about 4 or 5 yards from us he fired his carbine, without cause or reason.

This was sufficient cause to frighten any woman, and my wife immediately said to me that she felt a pain in her chest, as though something had struck her. I replied that probably she only imagined this, as I thought the man had fired toward the ground. However, when we reached our home my wife opened her dress and showed me a bleeding scar, left by something which had struck her, and also showed me that whatever it was cut through the dress and the underdress, cutting the skin.

Although the wound was not a serious one, it took about two weeks to heal. I immediately sent Mr. Schunck to the jefe civil of the district, as he is more conversant with Spanish than I am, and requested him to explain the incident, which he did.

The next day I called upon the jefe civil personally and inquired if anything had been done to that soldier, and he replied that the man was in prison, and that he (the jefe civil) was investigating the matter to find out whether the gun had been fired purposely or accidentally, adding that he should be punished accordingly, as they (the police) were forbidden to carry loaded weapons.

He (the jefe civil) never expressed any regrets at the occurrence, nor made any apologies for the conduct of his inferior.

I should have allowed the matter to pass without reporting the same if another incident had not occurred to me last night which demands attention.

Yesterday, January 18, 1900, at about 9 o'clock p. m., after a walk downtown, in company of my wife, I returned home, and when I reached the church "Del Carmen," which is very near my residence and directly in front of the house of Mr. Aristides Bello, "prefecto de policia," I was stopped by a soldier or policeman, who asked me whether I carried any arms, as he had orders to search everybody for arms.

I told him that I was the American consul, that I lived close by, and that I should not allow him to search me, protesting at the outrage. He, however, insisted and tore open my coat in spite of my protest, and did not permit me to proceed for some time. I then asked the man for his name, as I wished to report him, but he did not comply with my wish. However, I know him very well by sight.

This outrage happened immediately in front of the residence of the said "Prefecto" Aristides Bello, and his family were sitting in the window at the time. Furthermore, his son came to the door, but never said a word, which might have been the means of avoiding all this had he done so.

This police being stationed directly in front of the residence of the said "prefecto," as a sort of personal bodyguard for his house and family, and, as I observed, they were in constant communication with them, it appears to me that the "prefecto" is entirely responsible for the action of these men, and should certainly be made to feel that such things can not pass with impunity.

After reaching my house I immediately called the jefe civil by telephone and explained what had happened, telling him that if the offenders were not punished I should forward a claim to my Government, as these annoyances were getting rather too frequent.

He replied by telephone that it was a "barbaridad" and that he should immediately withdraw the men from there and punish them.

This morning, January 19, at about 6.30 a. m., the "commissario mayor" of the police called at my house and offered the regrets of the jefe civil at the incident, and said that the jefe civil would punish the men, who had not carried out his orders, as the orders were to search country people going to and from the hills.

I told the "commissario" that I doubted whether the jefe civil was to blame, remarking that in my opinion the blame lay on Mr. Aristides Bello. However, I can not judge of this myself.

Upon my return from Caracas this afternoon, one of the first policemen I encountered was the one that committed the assault upon me, carrying a gun, as usual, evidently on duty in this city.

This fact leads me to believe, and the certainty, that the jefe civil was not sincere when he said he would punish the offender, and I therefore request that you make a protest in my name to the Venezuelan Government against the treatment I received at the hands of their officials, requesting that the guilty person be punished, whoever it may be.

I am, etc.,

LOUIS GOLDSCHMIDT,  
*United States Consul.*

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*Mr. Loomis to Mr. Hay.*

No. 449.]

LEGATION OF THE UNITED STATES,  
*Caracas, May 21, 1900.*

SIR: I have the honor to inclose a copy of a letter addressed to me by the United States consul at La Guaira, in which he describes several unpleasant episodes of recent occurrence.

As soon as I received Consul Goldschmidt's letter I telephoned to the foreign office and arranged for an interview with the minister of foreign affairs. Then I secured a version of the incident from the British vice-consul, which I found corroborated in every way the report made by Mr. Goldschmidt. I saw the minister on Tuesday, the 15th of May, and read most of the consul's letter to him, and then told him that I must ask an immediate investigation and that the delays to which we had had to submit upon former occasions ought not to occur again. I asked him to go to General Castro and request

him to send a telegram to La Guaira in connection with the case, directing an immediate investigation. The minister promised to do this and agreed to give me copies of all pertinent correspondence between the President and the local authorities at La Guaira. He also asked me to send him a note containing the gist of my remarks. I inclose a copy of my note.

About noon the next day I received from the foreign office a copy of General Castro's telegram to the jefe civil at La Guaira, which I inclose.

This telegram did not appear to me to be explicit enough, so, in acknowledging its receipt, I sent another short note to the minister of foreign affairs, a copy of which I also transmit.

Later I received the answer from the jefe civil and a communication from General Rivas, who was the jefe civil when the incidents complained of by Mr. Goldschmidt occurred.

Mr. Goldschmidt writes that he is not at all satisfied with what has been done, but I do not see that I can go further in the matter without instructions from the Department, and I have therefore submitted the case to your consideration.

I think, under a strict interpretation of the penal code, all has been done by the authorities that may be done, unless the consul desires to enter upon a regular prosecution.

What seems hard and inconsistent to the consul, doubtless, is that for an alleged political offense men are imprisoned indefinitely here, while one who threatens his life, in the presence of his family, suffers no more than six days of detention. The consul also insists that the "would-be" assailant was not in prison six days.

I have, etc.,

FRANCIS B. LOOMIS.

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[Inclosure 1.]

*Mr. Goldschmidt to Mr. Loomis.*

CONSULATE OF THE UNITED STATES,  
*La Guaira, May 12, 1900.*

SIR: I have this day forwarded to the State Department at Washington a request that I be transferred from this consulate to that of a country where one may enjoy the rights and protection against crime usually extended in civilized countries to the most humble citizen of foreign nations who may happen to be residing in such countries.

I regret to be obliged to take this step just now, as the salary attached to this consulate has just been increased by Congress, and I should certainly have remained, but matters are assuming such a disagreeable turn that I can not stand it any longer, and I owe it to my self-respect, I owe it to my wife, to take her out of a place where daily insults are offered without the authorities even showing the slightest disposition to protect the representative of a friendly foreign nation, or his family, and where, if you happen to protest against such treatment, they only laugh and connive at the doings of the transgressors, who, in any other country, would not be allowed to roam free and unhindered among the society of men.

I have at frequent intervals had causes for complaints and have made complaints which have not received the attention from the Venezuelan authorities which they should have received, but, owing partly to the politically troublous times and conditions which from the extraordinary seem to have reached the normal state, I have allowed them to pass over unnoticed and have never made the slightest report to the Department, always hoping that with peace returning conditions would be altered and one might, after all, be allowed to live and breathe unmolested from daily annoyances;

but my hopes have been vain, and I now know that I can not expect protection to life for myself and wife and that insults and annoyances are only encouraged by the authorities rather than to punish the aggressors.

I have been forced to these conclusions by the following facts, which are the plain, unvarnished truth:

1. On Friday evening, May 4, at about 6.30 p. m., while returning to my residence, accompanied by Mrs. Goldschmidt, we reached a point near the Carmen Church where the street is only about 6 feet wide. Right at that point four young men were loitering, talking, and completely occupying the passage, with the exception of a few inches on either side of them, which we had to choose to pass through.

We succeeded in passing, when one of the four loudly asked why I had pushed against a boy who was standing with them. I replied that if they were gentlemen they would have allowed a lady to pass without so much trouble and adding that I had not pushed the boy. Thereupon my interlocutor began to abuse foreigners in general and ourselves in particular. After a few words from me I started to push him aside and go on, when the same fellow jumped with a motion to his hips as if to draw a revolver.

I did not give him time to draw, but struck him with my cane, and he desisted and troubled us no more. I gave him but one stroke, and it is possible that that stroke was a hard one, but I felt myself justified in doing so when a man threatens to shoot (I myself never carry arms of any kind).

This, I had supposed, closed the incident. I did not know my aggressor, but found out the next day that he was a son of a Mr. Golding and a nephew of the former vice-consul at this place, and that he was a leper, although he showed no outward signs of it.

On May 7 the following clipping appeared in "La Mañana," a local paper:

[Translation.]

MR. PREFECT OF THE DISTRICT OF VARGAS, Present:

SIR: A few days ago one of my younger brothers was assaulted in a cowardly and unjust manner by Mr. Louis Goldschmidt, the American consul.

As this is a most disagreeable matter to me and as I am disposed to carry same to the farthest limit, I wish to make public the fact that a memorandum will be sent to your office to-day requesting that you make the necessary investigation and administer justice.

Relying on the justice of your acts and trusting that you will be impartial and unbiased in this matter, I am,

Yours, respectfully,

GENARO G. GOLDING.

LA GUAIRA, May 7, 1900.

On the same day that this appeared I called on the jefe civil and explained the incident as it happened and told him that I should not have made any mention of the matter except for the false accusation in the paper.

The jefe civil admitted that the streets should be free to circulation and that no groups should be allowed to impede free passage to anyone.

2. On May 9, Wednesday last, while taking a walk along the sea wall at about 5.30 p. m., accompanied by my wife, Mrs. R. Schunck, and two children, a young man alighted from a bicycle directly in front of us all and at about a distance of 10 yards drew his revolver from his belt (which he carried in plain sight) and amid curses said he was going to shoot me.

Continuing brandishing his revolver, he frightened the ladies accompanying me to such a degree as to almost completely prostrate them from nervous excitement, when a man stepped up from behind and took his arm and, with another man who arrived later, succeeded in starting him away from the scene without disarming him.

This fellow turned out to be another son of the same Golding, under the influence of liquor, a fellow who is a noted "rough" and who has been mixed up in many nasty frays before, but who up to now escaped punishment.

I went to the prefecto of police with the ladies, and the prefecto told us that he would immediately have the man locked up and promised to notify us of his capture. Two days went along without hearing a word from the police. I called on the prefecto again yesterday morning, May 11, to inquire what had been done about the man, and they told me that he had been arrested and sent away from the city and that two men had given bonds for his nonappearance here, and that he thought that that was the best way of settling the matter, as they could not hold him in prison long enough to be effective.

Although the matter was not settled to my liking, as I know the constant worry

my wife will be in as long as the man is at large, I thought that possibly, after all, it might be well done.

I concluded to let the matter pass unnoticed, when, in the afternoon at 3 p. m., I walked down from my house to the office and encountered my assailant at the corner of a street quietly talking with two men and apparently in perfect security against molestation of any kind.

My astonishment was great at the discovery that either the prefecto had deliberately lied to me or that they were making sport of the matter, and I made inquiries which confirm me in the belief that absolutely nothing was done by the police and that they care absolutely nothing about myself, about my safety, and about the safety of my wife.

I called immediately upon the jefe civil, General Rivas, and requested Mr. Schunck to accompany me, as I wished to have a witness.

I inquired of the jefe civil what had been done about the man, and he replied that they had decided to expel him for four months at least and that two responsible persons in La Guaira had gone bond for his nonappearance, and that we rest quiet; that he would not molest us again, and that he was sent away yesterday, the 10th.

I then told him that I had just met the fellow at a street corner and that he better take steps to bring in his bondsmen.

He again promised to have him arrested immediately and put in jail.

All this with apparently the greatest indignation, thus "rubbing it in," as we say.

I requested him to advise me by telephone when they captured him, which he promised to do, but up to now I have not heard a word from them, and over twenty-four hours have again passed by and I am quite certain that nothing has been done.

Such is justice done in La Guaira, and such is public security against crime.

You can not wonder at my decision when such farces are enacted with the American consul and when neither his life nor that of his family can for one minute be considered safe; and if the authorities laugh at such proceedings, what can be expected from the ordinary Venezuelan citizen, whose hatred for any foreigner is very marked, and who take particular pains to show their hatred upon every occasion in La Guaira.

I have had enough of it, and I shall, when returning to the United States in July (leave of absence has been granted me), make a clean breast of it to the Department, who may then do as they please.

\* \* \* \* \*

With all due regard for your efforts in my behalf in the past, and believing that it is my duty as American consul to report to my superior the treatment I am receiving here, to enable him to know existing conditions accurately, and believing that the United States expects her representatives abroad to be decently treated,  
I am, etc.,

LOUIS GOLDSCHMIDT,  
*United States Consul.*

[Inclosure 2.]

*Mr. Loomis to Dr. Palacio.*

LEGATION OF THE UNITED STATES,  
*Caracas, May 16, 1900.*

MR. MINISTER: Yesterday I called, by special appointment, at the foreign office and had the honor of reading to your excellency a letter from the consul of the United States at La Guaira, in which he stated that his life had been threatened by a person of notoriously bad character in that city, and that an attempt to shoot him had been made in the presence of his wife and the wife of the British vice-consul. The consul also said that, owing to the laxness of the local authorities in prosecuting his assailant, he considered the situation so unpleasant and so unsafe that he had asked to be transferred to another post.

A few weeks ago it was my unpleasant duty to forward to your excellency two complaints from the United States consul at La Guaira. One was to the effect that a police officer of the Venezuelan Government had deliberately fired his carbine a few yards in front of Mrs. Goldschmidt, the wife of our consul at La Guaira, thereby frightening her and causing a pebble to be thrown from the ground, which struck her with such force as to penetrate her clothing and inflict a slight flesh wound near the shoulder.

About the same time Consul Goldschmidt was stopped in the street, in full view of

the house and certain responsible members of the prefect's family, and forcibly searched.

After long delay the man who fired the shot in front of Mrs. Goldschmidt was dismissed from public service.

In the case of the policeman who forcibly searched Mr. Goldschmidt and the prefect who permitted it, notwithstanding my repeated protests and representations on the subject, nothing has been done. As a sequel to this indifference on the part of the authorities, I have now to complain of the recent attempted assault on the American consul at La Guaira and the apparent purpose of the officials at that port to take no efficient steps toward the prevention of its repetition. If a proper degree of protection can not be given our consular officers at La Guaira, it seems to me that eventually they will have to be recalled or a war vessel sent to secure them from attack and annoyance.

Your excellency kindly promised to make a strong representation to General Castro on the subject of Consul Goldschmidt's letter of complaint, and assured me that the Supreme Chief of the Republic would immediately send a vigorous telegram to La Guaira, directing the authorities there to take special precautions to see that the consul of the United States should enjoy immunity from further annoyance. Also your excellency promised to give me a copy of this telegram and of any other correspondence of interest bearing on the case.

I hope to hear within twenty-four hours that effective measures have been taken to give to Mr. and Mrs. Goldschmidt adequate protection. I inclose the salient passages of Consul Goldschmidt's letter. His wife, I am just informed by telephone, is prostrated as a result of the violent experiences to which she has lately been subjected. I am also informed, by telephone, that as late as Sunday morning last the man who threatened to shoot Consul Goldschmidt was still at large in La Guaira.

I take this opportunity to assure, etc.,

FRANCIS B. LOOMIS.

[Inclosure 3.]

*Mr. Castro to the civil and military commander of La Guaira.*

[Translation.]

MINISTRY OF EXTERIOR RELATIONS, FOREIGN LAW DEPARTMENT,  
*Caracas, 16th of May, 1900.*

SIR: From a confidential note which I have just received from the minister of exterior relations, and which is signed by the American minister, Mr. F. B. Loomis, I learn that the American consul at your port complains of insults he has suffered from a citizen of La Guaira, to which fact I most earnestly call your attention, not only in order that you may carry out the regulations of the police code in case of a repetition of the act by a Mr. Golding, the party accused, but that you may make an investigation into the action taken by your predecessor in this matter.

Acknowledge receipt of this communication.

CAPRIANO CASTRO.

The above is an exact copy.

The Director.

MANUEL FOMBONA PALACIO.

[Inclosure 4.]

*Mr. Loomis to Dr. Palacio.*

LEGATION OF THE UNITED STATES,  
*Caracas, May 16, 1900.*

MR. MINISTER: I am in receipt of the copy of the telegram addressed to the civil and military commander at La Guaira by General Castro, the Supreme Chief of the Republic, and beg leave to thank you for forwarding same to me and for the prompt action taken in this important and unfortunate matter.

I should like to be advised that the jefe civil military at La Guaira had been directed to take immediate steps to prevent a repetition of the attack upon Mr.

Goldschmidt, if that has not already been done. General Castro's telegram, it will be observed, orders the enforcement of the regulations of the police code in case of a repetition of the assault, but unfortunately does not seem to plainly direct prompt and severe measures to be taken to prevent such repetition.

I also in this connection desire to call the attention of your excellency to the fact that it is not of mere insults which the consul of the United States complains, but of an actual contemplated and violently threatened attack upon his life.

I should think, in view of the facts now in your possession, another and more explicit telegram should be sent to the authorities at La Guaira.

I take this opportunity, etc.,

FRANCIS B. LOOMIS.

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[Inclosure 5.—Translation.]

*Mr. Palacio to Mr. Loomis.*

CARACAS, *May 17, 1900.*

MR. MINISTER: Referring to your note received yesterday afternoon, in which you informed me of the receipt of a copy of a telegram sent by General Castro to the civil and military commander of La Guaira concerning the matter of Consul Goldschmidt, I inclose herewith copies of two documents for your excellency's information, one from that same local official and the other from the outgoing civil chief, by means of which you will learn of the conclusion of the affair and of some of the circumstances of the same from its beginning until its end.

I renew, etc.,

R. ANDUEZA PALACIO.

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[Inclosure 6.—Telegram.]

*Mr. Casañas to General Castro.*

MINISTRY OF EXTERIOR RELATIONS,  
FOREIGN LAW DEPARTMENT,  
*Caracas, May 16, 1900.*

SIR: By information obtained from my predecessor, and unprejudiced data about the matter of Consul Goldschmidt and Golding, I find that a personal quarrel took place between them, with fault on both sides. Golding has suffered a six days' arrest, double the regular police punishment, and I have set him free to-day, so that he may go to work on a plantation near here, for, having spoken with the consul and explained our laws to him, in order that he might undertake the necessary prosecution, he answered that he would do this and that all he desired was not to be attacked anew.

JUAN CASAÑAS.

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[Inclosure 7.]

*Mr. Rivas to General Castro.*

MINISTRY OF EXTERIOR RELATIONS,  
DEPARTMENT OF FOREIGN LAW,  
*Caracas, May 16, 1900.*

SIR: I have just seen your telegram to the new civil chief, in reference a claim of the American minister, in the case of occurrences at this port connected with the consul of the same nation.

As this telegram alludes to events during the time that I held the position of civil chief, I think it my duty to send you a special report on the matter, not only to render it clear, but to protect my reputation as a magistrate.

In the first hours of the evening a few days ago a disagreeable personal quarrel took place between the American consul and a young man, a minor, by the name of Golding.

Owing to this incident, the father of the young man complained against the consul, who, according to the complainant, had struck his son a hard blow with his cane,

which felled him to the ground, and who, moreover, used offensive language toward his son.

The consul, in turn, gave his version of the matter, referring to abusive language made use of by the young man in the presence of his (the consul's) wife, and he did not deny that owing to the feeling aroused in him by that lack of politeness, especially toward his wife, he had used his cane to give the blow. For reasons obvious alike to yourself and to the honorable minister and consul of the United States I endeavored to find a solution to the affair which might be satisfactory to both parties and which might be unofficial in character. I informed the consul of this, and he seemed well satisfied with my good offices. I had the young man's father appear before me, and he also seemed contented with my intentions and authorized me to end the question by decorous and friendly methods. But hardly had I decided upon a conciliatory solution, when an elder brother of Golding unfortunately met the consul on the street, with his family, and wished to bring him to account for the incident with his brother, for which end he drew his revolver with hostile demonstrations. Although the quarrel thus provoked did not place, the police took immediate action against Golding. It was agreed that he should leave La Guaira for a period not less than four months, but as Golding did not carry out the agreement, he was arrested by the police and handed over by me to the new civil chief, with the necessary explanation of his case.

The statement that he has been seen at large since then is erroneous, and I can not allow it to pass without protest. This is the true relation of what has passed, narrated in brief, and which proves how great my desire has been to merit, as a magistrate, evidences of approval instead of complaints on account of my conduct, by which I spared the consul the police trial, at which, to my mind, he would not have had the best part, and by which I took the necessary measures to prevent the repetition of the threat before mentioned.

JOSE M. RIVAS.

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*Mr. Loomis to Mr. Hay.*

No. 451.]

LEGATION OF THE UNITED STATES,  
*Caracas, May 23, 1900.*

SIR: Referring to my dispatch No. 449, I have the honor to inclose a letter from the United States consul at La Guaira, in which he criticises in detail the statements made to General Castro by the jefes civiles at La Guaira respecting his recent unpleasant experiences at that port.

This letter only reached me to-day.

I have, etc.,

FRANCIS B. LOOMIS.

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[Inclosure.]

*Mr. Goldschmidt to Mr. Loomis.*

CONSULATE OF THE UNITED STATES,  
*La Guaira, May 20, 1900.*

SIR: I beg to acknowledge receipt of your note of May 18, with inclosure of copies (dispatches to General Castro) by Jefes Civiles Rivas and Casañas.

You request me to let you know in detail and at once whether they depart from the facts of the case.

In reply thereto I take the liberty to refer you to my previous dispatches on the matter and judge whether they are truthful or not.

However, to prove to you that the statements of both jefes civiles "depart from the facts," I will begin by dissecting that of Señor Rivas first and point out some of its inconsistencies:

1. There was no disagreeable quarrel between me and the young man, "a minor," by the name of Golding.

2. I simply defended myself from insult to myself and wife and after being obliged to squeeze my way through a crowd of men who obstructed the whole street (purposely, I think).



3. I did not strike Golding until he jumped back and threatened to pull a weapon from his pocket.

4. I did not use offensive language (and certainly would not use such in presence of my wife), nor am I able to use such, as my command of Spanish is limited.

5. The above matter was considered closed, as per statement of Jefe Civil Rivas, who seems to deplore that the elder brother of Golding (who is very little older) threatened my life.

6. When the jefe civil says "the quarrel thus provoked" he "departs from the facts" again, as I had never before met this Golding who threatened to shoot me.

7. The police did not take immediate action against Golding No. 2, but permitted him to roam free and unmolested from the 9th until the 11th of May, when I personally saw him, and not before the 12th at night did the jefe civil report to Mr. Schunck that he was arrested, leaving out the probability that he was in church the 13th, when Mrs. Schunck saw him.

I have no reason to doubt Mrs. Schunck.

As to the jefe civil "sparing me a police trial" at which, in his mind, I would not have had the best part, shows conclusively prejudice against me, as, according to the jefe civil's own statement, the first matter was settled, and I believe that the attempt against my life by Golding No. 2 was entirely a different matter, which, far from receiving the apparent sanction of the jefe civil, should have been condemned and the culprit should have been punished, which I here again reiterate was not done.

He did not, as he says, "take the necessary measures to prevent the repetition of the threat before mentioned," because he allowed the fellow his freedom from the 9th to the 11th undoubtedly.

During these two days he might again have attempted the same crime.

Now I will take up the dispatch of Señor Casañas, who finds that "a personal quarrel took place between them, with fault on both sides."

I will again say that the first time I ever met Golding No. 2 was when he faced me, Mrs. Goldschmidt, Mrs. Schunck, and two children with a revolver directly pointed at us, a fact which might have had serious consequences had a man not taken his arm in time.

Señor Casañas "departs from the facts" when he states that the man had suffered six days' arrest, because I met him at 3 p. m. of the 11th instant, and in his (Casañas's) reply to my note of the same date, May 16 (their own statement), "y que dicho Señor ha recobrado su libertad con el afrecimiento de que partirá mañana para Barlovento en el vapor de esa línea."

He again "departs from the fact:" when he says that I agreed to letting Golding free in our interview, as my note to him and his reply thereto clearly demonstrates that I was to see him again before he should do this, after talking to my minister.

He showed indecent haste in liberating a criminal, which he should not have done for my safety and in respect to his promise.

I will make no further remarks on the case, except to here again reiterate that the local authorities here have denied me the right of protection due to a citizen, and particularly when that citizen is a consul of a foreign nation.

To this end I will but quote a few lines from Wharton's International Law, volume 1, Chapter IX, page 121<sup>1</sup> (Mr. Forsyth, Secretary of State, to Mr. Hunter, April 14, 1837, etc.):

"Ministers and consuls of foreign nations are the means and agents of communication between us and those nations, and it is of the utmost importance that while residing in the country they should feel a perfect security so long as they faithfully discharge their respective duties and are guilty of no violation of our laws. This is the admitted law of nations, and no country has a deeper interest in maintaining it than the United States. Our commerce spreads over every sea and visits every clime, and our ministers and consuls are appointed to protect the interests of that commerce, as well as to guard the peace of the country and maintain the honor of its flag. But how can they discharge these duties unless they be themselves protected? and, if protected, it must be by the laws of the country in which they reside. And what is due to our own public functionaries residing in foreign nations is exactly the measure of what is due to the functionaries of other Governments residing here. As in war the bearers of flags of truce are sacred, or else wars would be interminable, so in peace ambassadors, public ministers, and consuls charged with friendly national intercourse are objects of especial respect and protection, each according to the rights belonging to his rank and station."

I am, etc.,

LOUIS GOLDSCHMIDT,  
*United States Consul.*

<sup>1</sup> Quotation should be vol. 1, Ch. V, Sec. 121, p. 781.

*Mr. Hay to Mr. Loomis.*

No. 343.]

DEPARTMENT OF STATE,  
*Washington, June 7, 1900.*

SIR: I have to acknowledge receipt of your Nos. 449 and 451 of May 21 and May 23, 1900, touching the complaint of Mr. Louis Goldschmidt, consul of the United States at La Guaira, that his life had been threatened, and that the local authorities had afforded him inadequate protection. I deem it unnecessary to review the several statements found in the correspondence accompanying your dispatches, but I can not refrain from saying that they have been read with surprise and regret, because of the apparent indifference of the local authorities at La Guaira, in view of the action of the Federal Government of Venezuela, based upon your representations, to afford Mr. Goldschmidt that measure of personal protection which is his due. It is difficult to comprehend how such acts as those complained of are permitted. The threatening of the life of a peaceable citizen, and that man a consular representative of a friendly power, can not be treated with indifference or lightly pushed aside, and the Government of the United States will hold that of Venezuela to a strict accountability for any harm or insult that may be wantonly inflicted on Mr. Goldschmidt.

You may say as much to the minister for foreign affairs, adding that the conduct of the local authorities in this case has been most disappointing, and that the treatment of a consular officer in the manner disclosed by Mr. Goldschmidt in his complaint is not calculated to inspire that respect for law and order or that regard for the individual rights or personal liberties of peaceable, law-abiding citizens which they have a right to demand, and which the Government of the United States thinks justly and properly due to one of its citizens who is, at the same time, the official representative accredited to Venezuela.

It may be true that Mr. Goldschmidt was not entirely blameless or sufficiently patient under the circumstances, but even so, this fact can not alter the circumstance that his personal liberties and rights are clearly recognized under international law, and that any complaint that they are abridged or of insult offered should be treated on its merit. This is all that is asked, and is all that the Government of the United States expects or demands.

I am, etc.,

JOHN HAY.

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*Mr. Loomis to Mr. Hay.*

No. 490.]

LEGATION OF THE UNITED STATES,  
*Caracas, July 23, 1900.*

SIR: In compliance with your instruction of June 7, No. 343, I conveyed to the Government of Venezuela your opinion and comment upon the case of Louis Goldschmidt, United States consul at La Guaira, who had complained through this legation that he was not adequately protected by the local authorities and that his life had been threatened.

The characteristic answer of the minister of foreign affairs (inco-

sure 1) seemed to insinuate rather plainly either that all of the correspondence in the case had not been submitted by me to the Department or that the Department had not considered it all. I thought it well to try to correct any misapprehension that may have arisen upon this point, and I therefore sent a second note, a copy of which I inclose.

I have, etc.,

FRANCIS B. LOOMIS.

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[Inclosure 1.]

*Mr. Palacio to Mr. Loomis.*

[Translation.]

CARACAS, July 12, 1900.

MR. MINISTER: Your excellency's note of the 9th instant, in which you transmit the Department of State's opinion of the complaints made before your legation last May by Mr. Goldschmidt, consul in La Guaira, and which caused the investigation communicated to your excellency on the 17th of that month, was received in this office yesterday. Owing, doubtless, to the fact that this opinion is based on the assertions of one only of the parties concerned, the Government's endeavors to discover the genuine circumstances of the case are not mentioned. For this reason the friendly interest shown by your excellency in informing the Department of State that since that time Mr. Goldschmidt has had no motives for complaint has been viewed with especial satisfaction, to which this ministry begs to add that the authorities have special orders to prevent everything that may give rise to complaints of this sort, in compliance with their own wishes, with those of the General Government, and with the prescriptions of law which protects the rights of natives and foreigners in this country in an effective and thorough manner.

I beg, etc.,

R. ANDUEZA PALACIO.

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[Inclosure 2.]

*Mr. Loomis to Mr. Palacio.*

LEGATION OF THE UNITED STATES,  
Caracas, July 13, 1900.

MR. MINISTER: I am in receipt of your excellency's communication of the 12th instant, relating to the opinion of my Government respecting the case of Consul Goldschmidt and the action of the local authorities at La Guaira in the matter.

I judge from the tenor of your excellency's note that possibly you have formed one or two misapprehensions concerning the views of the Government of the United States which I had the honor of reporting to you in my note of the 9th instant.

Your note says: "Owing doubtless to the fact that this opinion is based on the assertions of one only of the parties concerned, the Government's endeavors to discover the genuine circumstances of the case are not mentioned."

I have the honor to say in this connection that every fact and circumstance in regard to the case was forwarded to Washington, and that the correspondence between the two civil jefes at La Guaira and the supreme chief of the Republic, as well as all of your excellency's communications on the subject, were sent to Washington and there carefully considered by my Government, and that its opinion was formed after reviewing all of the facts and the alleged facts in the case. I furthermore desire to say that the Government at Washington had everything before it that came to the notice and knowledge of this legation. The Secretary of State, moreover, distinctly says, and I have so quoted him in my note of the 9th, that he had read with surprise and regret the correspondence, because of the apparent indifference at La Guaira in view of the action of the Federal Government of Venezuela based upon representations of this legation. So, you will here see, due note was made of what the Government of Venezuela did in the matter, while at the same time the course of its officials at La Guaira causes keen regret and disappointment.

I take this opportunity, etc.,

FRANCIS B. LOOMIS.

**CITIZENSHIP OF A WOMAN BORN IN CUBA AND RESIDING IN  
VENEZUELA.**

*Mr. Loomis to Mr. Hay.*

No. 444.]

LEGATION OF THE UNITED STATES,  
*Caracas, May 17, 1900.*

SIR: Dr. Rojas Paul, a former president of Venezuela, called at this legation recently and stated that about eight years ago, while visiting Habana with his wife, they adopted a little girl. The child, who is now about 11 years of age, is a native of Cuba.

Dr. Rojas asks if any step can be taken by him to preserve the Cuban citizenship of his adopted daughter, as he prefers not to have her a citizen of this country. At his request I agreed to submit the case to the Department.

I have, etc.,

FRANCIS B. LOOMIS.

*Mr. Hay to Mr. Loomis.*

No. 344.]

DEPARTMENT OF STATE,  
*Washington, June 8, 1900.*

SIR: I have to acknowledge the receipt of your No. 444, of the 17th ultimo, stating that Dr. Rojas Paul, a former president of Venezuela, is anxious to preserve the Cuban citizenship of an adopted daughter who is a native of that island.

In reply I have to say that the question will be one for the determination of the Cuban authorities when a definitive government shall be established in Cuba.

I am, etc.,

JOHN HAY.

**CONDOLENCES ON GALVESTON DISASTER.**

*Señor Pulido to Mr. Adee.*

[Translation.]

LEGATION OF THE UNITED STATES OF VENEZUELA,  
*Washington, September 17, 1900.*

SIR: I share, with profound grief, the mourning of the Government and people of the United States for the awful calamity that has occurred at Galveston, and I present, as the interpreter of the sentiments of my Government, the expression of its most sincere sympathy to your excellency in this grievous juncture.

Accept, etc.,

AUGUSTO F. PULIDO.

VENEZUELA.

955

*Mr. Hill to Señor Pulido.*

No. 120.]

DEPARTMENT OF STATE,  
*Washington, September 21, 1900.*

SIR: I have the honor to acknowledge the receipt of your note of the 17th instant, in which you advise the Department of the regret with which your Government has learned of the terrible disaster in Texas, and convey your own sympathy in view thereof.

In reply I have the honor to say that the Government of the United States sincerely appreciates the sympathetic message thus communicated.

Accept, etc.,

DAVID J. HILL,  
*Acting Secretary.*



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